

**For discussion
20 January 2009**

LEGISLATIVE COUNCIL PANEL ON DEVELOPMENT

Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

Regulation of Service Providers

PURPOSE

This paper seeks Members' views on the regulation of service providers under the proposed Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS).

BACKGROUND

2. In view of Hong Kong's aging building stock, it is necessary to ensure that building owners would take up their building maintenance responsibility on a regular basis to uphold building safety. Based on the community consensus obtained through a two-stage public consultation, we briefed the then Panel on Planning, Lands and Works on 22 May 2007 and 24 July 2007 of our intention to put in place the proposed MBIS and MWIS by way of legislation. Members were generally supportive of the introduction of the two mandatory schemes as a practicable long-term solution to the problem of building neglect. Key features of the two Schemes are summarised at Annex.

3. We are preparing the necessary legislation to implement the MBIS and MWIS through amendments to the Buildings Ordinance (Cap. 123) (BO) and its regulations. We aim to introduce an amendment bill into the Legislative Council (LegCo) within 2009. To expedite the legislative process, it is our intention to consult Members on certain key operational aspects of the two proposed Schemes so that Members' comments can be incorporated into the draft legislation at an earlier stage. We have previously sought Members' views on the selection of target buildings, inspection items and operational procedures under the two proposed schemes on 24 June 2008 through Panel paper no. CB(1)1602/07-08(05). As a second round of discussion, this paper seeks Members' views on the regulation of service providers under the two proposed Schemes. We will solicit Members' views on other aspects of the two Schemes in due course.

REGULATION OF SERVICE PROVIDERS

4. During the two previous rounds of public consultation, there were comments from various stakeholders that the Government should proactively step up the regulation of service providers for the MBIS and MWIS. Suggested measures include the vetting of inspection reports submitted by service providers and introduction of codes of practice to stipulate clear guidelines for service providers on the scope and standards of the two proposed schemes. To allow more choices for building owners and to enhance market competition, the pool of service providers for MBIS and MWIS should be expanded from authorised persons (APs) and registered structural engineers (RSEs), as in the case of full-scale building works, to other suitably qualified professionals with adequate relevant experience. Such arrangement would also better meet market demand as many old buildings will need to have their common areas and windows inspected upon implementation of the two schemes.

5. We are mindful of the concerns of the community that it is important to establish a clear standard for inspection and repair works and to ensure the quality of service providers. We have carefully considered the views solicited during the public consultations in mapping out the way forward. Our proposals outlined below reflect the comments from the general public as well as relevant stakeholders in the building and construction fields.

MBIS

Registration of Registered Inspectors

6. Currently, it is a statutory requirement under the BO that building works have to be undertaken by APs and RSEs. This requirement involves submission of building plans and coordination of the whole building development process. We recognise that under the MBIS, the inspection and repair works should be relatively simple. The demand for service will also be high as all buildings over 30 years old will be covered by the MBIS and inspected once every ten years. Currently, there are about 1,800 APs and RSEs in total registered under the BO. We envisage many of them may focus on major development projects of new buildings and may not have spare capacity to provide inspection service to existing old buildings. To meet the need for inspection and supervision of repair works for 2,000 buildings to be covered by the MBIS each year and to enhance competition, we consider it desirable to expand the pool of service providers for the Scheme. It is proposed that under the MBIS, building inspection and supervision of building repair works shall be carried out by a new class of professionals to be registered under the BO. We propose to call them “registered inspectors (RIs)”. The Building Authority (BA) will maintain a register of RIs.

7. In order to expand the pool of service providers and enhance market competition, we propose that, apart from APs and RSEs, other suitably qualified professionals with adequate relevant professional experience may also apply for inclusion in the register of RIs. Having carefully examined the qualification and expertise of the registered professionals in the building and construction industry, we consider that registered architects, registered professional engineers of relevant disciplines and registered professional surveyors of relevant disciplines, who are registered with their respective statutory boards and possess relevant work experience in building construction, repair or maintenance, will satisfy the requirements. They should be sufficiently competent to conduct building inspections and supervise repair works under the MBIS. With the above expansion, the pool of potential RI candidates will become about 6,500, which should be adequate to meet the market demand upon implementation of the MBIS and at the same time promote competition. The Buildings Department has been in liaison with the professional institutes regarding the above idea to expand the pool and they have so far raised no adverse comments.

8. The quality of the RIs will not be compromised by the expansion of the pool. We suggest to establish registration committees, comprising representatives from relevant building professions and tertiary institutions, to provide advice to the BA in vetting applications for registration as RIs. The committees will scrutinise the qualifications and experience of applicants. They may conduct interviews with the applicants to ensure their professional competence, and recommend to the BA on whether to accept, defer or reject the applications for inclusion in the register of RIs. Upon recommendation by a registration committee, the BA may accept an application for registration for a period of five years. Upon expiry of registration, an RI may apply for retention of his name on the register for another five years. Such arrangement is in line with the existing registration mechanism for building professionals such as APs and RSEs under the BO.

Duties of RIs

9. An RI appointed by building owners shall carry out building inspections personally, assess the conditions of the building and devise an appropriate repair proposal as necessary. The RI shall also submit the inspection report and repair proposal to the BA on behalf of the building owners. If repair works are required, the RI shall provide supervision to ensure that such works are properly carried out to render the building safe until the next cycle of inspection in ten years. The RI shall also conduct any necessary testing or compliance checks for the repair works. Upon completion of the repair works, he shall certify and submit the completion report to the BA.

10. Such duties of the RIs will be stipulated in the legislation by way of amendments to the BO and its regulations.

Carrying Out of Building Repair Works

11. If repair works for a building are confirmed to be required after inspection by an RI under the MBIS, the owners concerned shall appoint a registered general building contractor (RGBC) or registered minor works contractor (RMWC)¹ of the appropriate class and type to carry out the necessary building repair works. The repair works shall be based on the repair proposal compiled by the RI, and in accordance with the BO and code of practice in relation to the MBIS. To avoid conflict of interest, an RI appointed for the inspection of a building shall not act as a contractor for the repair works for the same building or project, even if the RI possesses the qualification for conducting building repair works.

MWIS

Registration of Qualified Persons

12. Similar to the arrangements for the MBIS, we propose to expand the pool of service providers for the MWIS. The demand for inspection of windows will be even higher than that for buildings under the MBIS as buildings over ten years old will be required to have their windows, in both common areas and individual flats, inspected once every five years. We propose that under the MWIS, window inspection and supervision of repair works shall be carried out by a new class of registered practitioners under the BO, namely “qualified persons (QPs)”. The BA will maintain a register of QPs.

13. Window inspection and repair works should be relatively more straightforward and simpler, and we envisage that most of such works will be minor in nature. We consider that APs, RSEs, RIs, RGBCs or RMWCs of the appropriate class and type are competent to become QPs for window inspections. They may apply to the BA for inclusion in the register of QPs. As such personnel have already been registered under their relevant disciplines and their qualifications should enable them to conduct window inspections under the MWIS, no separate registration committee is proposed for QPs. The BA will accept applications from qualified candidates upon proof of prescribed qualifications.

¹ The minor works control system aims to simplify the statutory procedures for the carrying out of small-scale building works. Under the system, certain building works will be designated as “minor works” and will be categorised into classes and types. No prior approval of building plans and consent by the BA will be required for carrying out such minor works. A statutory register of “registered minor works contractors” of different classes and types will be established under the BO. The Buildings (Amendment) Ordinance 2008, providing for the framework of the minor works control system, was passed by LegCo in June 2008. We are working on the relevant subsidiary legislation which will be introduced into LegCo in early 2009.

Duties of QPs

14. Inspection of windows is required for both common areas and individual flats of a building. A QP appointed by building owners shall carry out the window inspections personally and assess the conditions of the windows to determine whether repair works are required. If repair works are needed, they shall be carried out in a proper manner so as to render the windows safe until the next cycle of inspection in five years. The QP shall provide continuous supervision and submit certificates of completion of repair works to the BA. Similar to the MBIS, the duties and obligations of a QP will be stipulated in the legislation.

Carrying Out of Window Repair Works

15. If window repair works are confirmed to be required upon inspection by a QP, the owners shall appoint an RGBC or RMWC of appropriate class and type to carry out the necessary repair works. The repair works shall be based on the findings of the QP, and in accordance with the BO and code of practice in relation to MWIS. As window repair works are relatively more straightforward and can generally be completed within a short time, to save the owners' needs for hiring separate personnel for conducting the repair works, if a QP who carries out the window inspection is an RGBC or RMWC, we propose to allow the same QP to carry out the window repair works for the same building or project.

GUIDELINES AND SANCTIONS

16. The BA will issue codes of practice to provide guidelines to the service providers. The codes will stipulate the technical standards, practices and procedural requirements relating to building and window inspections and repair works. The procedural requirements and duties of service providers will also be provided for in the relevant subsidiary legislation. The statutory provisions and codes aim to provide guidance to the RIs, QPs, RGBCs and RMWCs under the MBIS and MWIS. The clear stipulation of the requirements and duties also facilitates the service providers to better understand their responsibilities, and gives building owners a better idea about the duties of the personnel they hire. The BD will also issue practice notes, guidelines and pamphlets for the service providers, owners' corporations and individual owners to facilitate their understanding of and compliance with the MBIS and MWIS.

17. In carrying out the inspection and repair works, RIs, QPs, RGBCs and RMWCs shall observe the BO, and the relevant regulations and codes of practice. They should ensure the safety of the buildings or windows for which they inspect and repair. They shall report to the BD of any cases of emergency in relation to building or window safety. The BD will conduct audit checks on both the inspection and repair works to ensure compliance with the requirements

of the MBIS and MWIS. An RI, QP, RGBC or RMWC who fails to abide by the above requirements may be fined, imprisoned, removed from the respective registers or reprimanded. We will make reference to the penalties for the building professionals and contractors in the existing BO and its regulations in determining the level of sanctions for the RIs and QPs.

ADVICE SOUGHT

18. Members are invited to provide views on the regulation of service providers under the proposed MBIS and MWIS.

**Development Bureau
January 2009**

Key Features of the MBIS & MWIS**MBIS**

Features	Proposals
Target Buildings	Private buildings aged 30 years or above (except domestic buildings of 3 storeys or less)
Inspection Items	Common parts of buildings and features on the external walls
Inspection Cycle	10 years
Registered Inspectors	APs, RSEs and other registered professionals in the relevant field with relevant experience
Registered Contractors	RGBCs or RMWCs of the appropriate class and type
Penalty towards RI and Contractors	Fine, imprisonment, removal from register or reprimand

MWIS

Features	Proposals
Target Buildings	Private buildings aged 10 years or above (except domestic buildings of 3 storeys or less)
Inspection Item	Openable and fixed windows in both common parts of buildings and individual private premises
Inspection Cycle	5 years
Qualified Persons	APs, RSEs, RIs, RGBCs or RMWCs of the appropriate class and type
Registered Contractors	RGBCs or RMWCs of the appropriate class and type
Penalty towards QP and Contractors	Fine, imprisonment, removal from register or reprimand