

香港特別行政區政府

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22 June 2010

Mr WONG Siu-yee  
Clerk to Bills Committee  
Legislative Council Building  
8 Jackson Road, Central

Dear Mr WONG,

**Bills Committee on Buildings (Amendment) Bill 2010  
Administration's Response to Follow-up Issues**

In response to Members' discussions at the previous meetings of the Bills Committee on the Buildings (Amendment) Bill 2010 (the Bill), I am pleased to provide information in relation to the matters about which Members enquired.

Current Enforcement Policy against Unauthorised Building Works

At the meeting of the Bills Committee on 27 May 2010, Members asked about the current enforcement policy against unauthorised building works (UBWs). The current enforcement policy against UBWs was promulgated in April 2001 after public consultation. It seeks to achieve the dual purpose of protecting public safety and containing the problem of UBWs, yet optimising use of the available resources. Details of the policy are set out in the pamphlet at [Annex A](#).

## Financial Assistance Schemes

At the meeting of the Bills Committee on 8 June 2010, Members asked about the details of the various existing building safety related financial assistance schemes and the subsidy for the first building inspection under the Mandatory Building Inspection Scheme (MBIS).

Currently, the Government and our partner organisations, namely the Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA), provide various financial schemes to assist building owners to carry out building maintenance. These schemes include –

- (a) Comprehensive Building Safety Improvement Loan Scheme (administered by the Buildings Department (BD));
- (b) Building Maintenance Grant Scheme for Elderly Owners (administered by the HKHS);
- (c) Building Maintenance Incentive Scheme (HKHS);
- (d) Building Management Incentive Scheme (HKHS);
- (e) Home Renovation Loan Scheme (HKHS);
- (f) Building Rehabilitation Materials Incentive Scheme (URA); and
- (g) Building Rehabilitation Loan Scheme (URA).

Details of these schemes are set out at **Annex B**.

As explained in the Bills Committee paper on “Selection of Target Buildings and Assistance to Owners in Need in Mandatory Building and Window Inspection Schemes” (Paper No. CB(1)1787/09-10(01)), we are exploring how to consolidate the various schemes above. Our objectives are to – (a) better promote timely maintenance and proper management of private buildings; (b) create synergy among available resources of various organisations to comprehensively assist more owners’ corporations and individual owners; and (c) align the eligibility criteria and streamline application procedures of the various schemes and provide one-stop service to building owners. We are actively discussing with the HKHS and URA the details of the consolidation arrangement.

As explained in the aforementioned paper and our reply of 20 May 2010 (Paper No. CB(1)1983/09-10(01)), we have secured the commitment of the HKHS and URA for the provision of full subsidy, subject to a cap, to eligible owners for the first-time (i.e. first time participating in the inspection) building inspection under the MBIS. The two organisations will also provide technical and financial assistance to owners in need to carry out inspection and repair works under the MBIS and MWIS, and the HKHS will launch the Voluntary Building Classification Scheme. Together with associated staff and administration costs, the two organisations have initially reserved a total funding of around \$1.2 billion to support the implementation of the MBIS and MWIS.

#### Enforcement against Registered Professionals and Contractors

Further to our replies of 14 April 2010 (Paper No. CB(1)1624/09-10(01)) and 4 June 2010 (Paper No. CB(1)2168/09-10(01)), at the meeting of the Bills Committee on 8 June 2010, Members requested further details about the enforcement against registered professionals and contractors under the Buildings Ordinance (Cap. 123) (BO).

As mentioned in our reply of 14 April 2010, since 1990, there have been 110 prosecutions under the BO against registered professionals and contractors. Among them, 7 prosecutions were against authorized persons (APs), 7 were against registered structural engineers (RSEs) and 96 against registered contractors (RCs). On the other hand, there have been 18 disciplinary proceedings, among which 3 were against APs, 1 against RSEs and 14 against RCs. None of these prosecution or disciplinary proceedings involved registered professional or contractor allowing his practice licence to be used by a third party.

Members also asked for the number of prosecution or disciplinary proceedings instigated as a result of the BD's monitoring mechanism and that as a result of the BD's investigation upon complaints or incidents. The BD does not maintain such statistics but have nevertheless examined the case files of some of the cases in detail in order to try to find out the information. Among the 61 prosecutions examined, 15 were instigated as a result of the BD's monitoring mechanism and 46 were as a result of the BD's investigation upon complaints or incidents, while the numbers are 13 and 5 respectively among the

18 disciplinary proceedings examined.

### Legal Liabilities of Registered Professionals

At the meeting of the Bills Committee on 27 May 2010, Members asked about the legal liability of a registered professional who, after inspecting a building, fails to report to the Building Authority (BA) a potential defect which subsequently causes injury.

Under the proposed MBIS, a registered inspector (RI) who has carried out a prescribed inspection in respect of a building is required to submit to the BA upon completion of the prescribed inspection a report on the findings of the prescribed inspection and, where s/he has found any building defects, a proposal of prescribed repair. Upon completion of the prescribed repair, the RI who has supervised the prescribed repair is required to submit to the BA a completion report and certified that the building in his/her opinion is safe after the completion of the prescribed repair.

The BD will issue a code of practice to the service providers to clearly specify the requirements on prescribed inspection and repair as well as the standards and requirements for compliance with the notices. The BD will carry out audit checks on the reports and other documents submitted by the RIs to ensure compliance. The BD will also investigate into reported building incidents. Where malpractice and irregularities are identified, the BD will consider instigating prosecution and disciplinary proceedings as appropriate against RIs.

Under the Bill, it would be an offence if – (a) an RI fails to carry out prescribed inspection personally unless otherwise exempted by the regulations; (b) an RI knowingly misrepresents a material fact in any report or certificate submitted to the BA; (c) an RI permits or authorises to be incorporated in or used in the carrying out of any inspection or works any materials which are defective or do not comply with the provisions of the BO or have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under the BO; or (d) an RI appointed to supervise a prescribed repair in respect of a building fails to ensure that the building is safe.

On the other hand, disciplinary proceedings may be instigated against an RI if s/he – (a) has been convicted of the abovementioned offences; (b) has been negligent or has misconducted himself/herself in a professional way; or (c) fails to discharge the duties or abide by the requirements imposed on an RI under the BO, for example, failure to notify the BA of any case of emergency revealed during prescribed inspection and prescribed repair.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Harry LIN', written in a cursive style.

(Harry LIN)

for Secretary for Development

c.c. DD/BD  
LD/DoJ

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# 屋宇署清拆僭建物政策

## Buildings Department's Enforcement Policy Against Unauthorized Building Works

香

港僭建物問題嚴重，屋宇署估計全港約有七十五萬個僭建物。僭建物影響樓宇安全，業主為本身的利益著想，應主動安排清拆樓宇內的僭建物。至於樓宇公用地方的僭建物，大廈內所有業主應齊心合力，將之拆掉。

什麼是僭建物？僭建物は違例建築工程（違建工程）。凡未經建築事務監督事先批准的樓宇改建或改動，如鐵籠、空調機冷卻塔、簷篷、平台構築物、天台搭建物、分間單位、結構改動、渠管接駁等，均屬違建工程。所有違建工程均須拆除。

以屋宇署目前的資源，實難同時處理所有違建工程，故集中處理新建或對生命構成迫切危險的工程。業主有責任確保其物業沒有任何違例建築工程，以免對住客和公眾人士構成危險。

屋宇署集中資源優先清拆下列類別的僭建物：

- a 對生命財產明顯構成威脅或迫切危險的僭建物；
- b 新建的僭建物，不論主體樓宇的落成日期；
- c 位於樓宇內外、平台、天台、天井或後巷而被建築事務監督列為嚴重危害健康或對環境造成滋擾的僭建物(包括違例地盤平整工程)；
- d 個別大型僭建物；
- e 個別樓宇內外滿布的僭建物；
- f 大規模行動或維修計劃所涉及的個別或一組目標樓宇的僭建物；以及
- g 在採用環保設計並獲建築事務監督批准豁免計入建築樓面面積的樓宇部分(例如露台、空中花園或平台花園)的違例改建或違例工程。

屋宇署每年都會進行一連串「大規模清拆行動」，一次過清拆數以百計樓宇的外牆僭建物；這些行動有效地促使更多業主遵從本署的規定。屋宇署會以此模式進行大規模行動，尤其是清拆在樓齡20至40年樓宇外牆的僭建物，以及一些位於樓宇平台及天台、天井或後巷的僭建物。預計在五至七年內可以清拆15萬個至30萬個僭建物。

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he problem of unauthorized building works (UBWs) is serious in Hong Kong. The Buildings Department estimates that there are about 750,000 UBWs in Hong Kong. UBWs affect the safety of buildings. Owners should, in their own interest, take the initiative to organize for the demolition of UBWs in their premises. For UBWs erected in the common areas of a building, the co-owners of the building should co-ordinate for demolishing the UBWs.

What are UBWs? Any additions or alterations to buildings without the prior approval of the Building Authority are regarded as UBWs, such as metal cages, air-conditioning cooling towers, canopies, flat roof structures, rooftop structures, subdivision of flats, structural alterations, drainage connections, etc. All UBWs are liable to be demolished.

In view of the very large number of UBWs in Hong Kong, the Buildings Department takes immediate enforcement action against all new UBWs and UBWs which pose an obvious hazard to life or property. Priority will be given to the removal of the following types of such works :-

- a items constituting obvious or imminent danger to life or property;
- b new items, irrespective of the date of completion of the building where they have been carried out;
- c items in or on buildings, on podiums and rooftops, in yards and lanes (including unauthorized site formation works) constituting a serious hazard or a serious environmental nuisance, as determined by the Building Authority;
- d major individual items;
- e items in or on individual buildings with extensive unauthorized building works;
- f items identified in buildings or groups of buildings targeted for large-scale operations or maintenance programmes; and
- g unauthorized alterations to or works in environmentally friendly features of a building (e.g. balconies, sky or podium gardens) for which exemption from calculation of gross floor area has been granted by the Building Authority.

Every year the Buildings Department launches a series of "blitz" operations to clear at one go all external unauthorized works on hundreds of buildings. This has considerably raised owners' compliance. The Buildings Department will adopt this approach for major clearances, particularly those items on the external walls of buildings 20 to 40 years old and some on podiums and rooftops or in yards and lanes. These operations will remove 150,000 to 300,000 unauthorised building works in five to seven years.

**Details of Existing Building Safety Related Financial Assistance Schemes**

**Comprehensive Building Safety Improvement Loan Scheme**

The Comprehensive Building Safety Improvement Loan Scheme is administered by the Buildings Department (BD). With a rolling fund of \$700 million, this Loan Scheme provides loans to individual owners of private buildings to carry out works voluntarily, or in compliance with statutory orders, including building and slope repairs, maintenance and upgrading works on fire services installations, lift installation, electrical installation and gas risers, regular slope maintenance works and removal of unauthorized building works. Any building owner of any type of private building may apply for an interest-bearing loan of up to \$1,000,000 without any means test. Recipients of the Comprehensive Social Security Assistance (CSSA) or Normal Old Age Allowance (NOAA) or owners passing the prescribed means test may apply for interest-free loans. Repayment period is normally up to 36 months. If the borrower is elderly (i.e. aged 60 or above) or disabled or eligible for interest-free loan, the repayment period may be extended to 72 months or even for an unspecified period until the transfer of title of the property or death of the borrower, whichever is the earlier.

**Building Maintenance Grant Scheme for Elderly Owners**

The Building Maintenance Grant Scheme for Elderly Owners was launched in May 2008 to provide financial assistance to elderly owner-occupiers to repair and maintain their buildings and improve building safety. This Grant Scheme is administered by the Hong Kong Housing Society (HKHS). Owner-occupiers aged 60 or above receiving CSSA or NOAA or passing means test may apply for a grant of up to \$40,000 within a period of five years to carry out building safety related maintenance works in his/her self-occupied residential flat and/or in common areas of the building or repay outstanding loans with the BD, HKHS or Urban Renewal Authority (URA) in relation to building maintenance. The scope of works is similar to that covered by the Comprehensive Building Safety Improvement Loan Scheme.

**Building Maintenance Incentive Scheme**

The Building Maintenance Incentive Scheme is one of the three financial assistance schemes under the Building Management and Maintenance Scheme (BMMS) of the HKHS. This Incentive Scheme provides cash subsidy to encourage owners' corporations (OCs) to carry out repairs and maintenance works related to safety, hygiene and environmental protection in common areas



of the buildings. Eligibility criteria includes (i) private residential or composite buildings; (ii) buildings aged 20 years or above; (iii) average rateable value of residential units not exceeding \$100,000 per annum for a building in urban areas (including Hong Kong Island, Kowloon, Shatin, Kwai Tsing and Tsuen Wan) or \$76,000 per annum for a building in other areas; (iv) estate/building comprising no more than 400 residential units; and (v) buildings with OCs. Eligible OCs may receive maintenance incentive for works in the common areas of the building. For buildings with 20 residential units or below, the incentive amount is 30% of the total repair cost up to \$150,000 per building; for buildings with 21 to 49 residential units, the incentive amount is 20% of the total repair cost up to \$150,000 per building; for buildings with 50 to 400 residential units, the incentive amount is 20% of the total repair cost up to \$3,000 per residential unit. Eligible OCs may also receive subsidy amounting to 50% of the authorized person or professional consultant fee for the repairs and maintenance works. Upon completion of the works, a subsidy of 50% of the insurance premium for third party risks insurance for common areas of the building will be granted, subject to a ceiling of \$6,000 per annum for not more than three consecutive years.

#### Building Management Incentive Scheme

The Building Management Incentive Scheme is another scheme under the BMMS of the HKHS to encourage owners of private buildings to participate in building management and procure third party risks insurance in relation to the common parts of the building. All private residential and composite buildings without OCs may apply for subsidy under this Incentive Scheme. Each OC successfully formed under this Incentive Scheme in compliance with the Building Management Ordinance (Cap. 344) will be granted \$3,000 as well as a subsidy of 50% of the insurance premium for third party risks insurance for common areas of the building subject to a ceiling of \$6,000 per annum for not more than three consecutive years.

#### Home Renovation Loan Scheme

Under the BMMS of the HKHS, the Home Renovation Loan Scheme provides loans to help flat owners carry out flat interior repairs and maintenance works related to safety and hygiene of the premises, e.g. replacement of flat window, electrical cable, drainage installations and removal of unauthorized building works. Building owners of private residential properties aged 20 years or above and with a rateable value not exceeding \$100,000 per annum for a building in urban areas (including Hong Kong Island, Kowloon, Shatin, Kwai Tsing and Tsuen Wan) or \$76,000 per annum for a building in other areas may apply for an interest-free loan under this Loan Scheme up to \$50,000 without

means test. For elderly aged 60 or above who is recipient of CSSA or passing means test may receive a subsidy of 50% of the loan amount up to \$10,000. Repayment period is 36 months.

### Building Rehabilitation Materials Incentive Scheme

The Building Rehabilitation Materials Incentive Scheme is operated by the URA. Free incentive materials such as external/internal wall paint; piping materials for drainage, flushing water and public water supply; water-proofing materials for re-roofing work; fire protection materials and environmental friendly materials will be provided for rehabilitation works to the common areas of the buildings. Eligibility criteria includes (i) private residential or composite buildings within the Scheme Area of the URA; (ii) buildings aged 20 years or above; (iii) buildings subject to statutory actions by the BD; and (iv) buildings with OCs. The ceiling of costs of incentive materials is 30% of the total contract sum up to \$150,000 per building for buildings with five to 20 residential units; 20% of the total contract sum up to \$150,000 per building for buildings with 21 to 49 residential units; and 20% of the total contract sum up to \$3,000 per residential unit for buildings with 50 or more residential units. After deducting actual incentive materials costs, the remaining balance of the ceiling will be released to the OCs as cash subsidy for the rehabilitation works. Recipients of CSSA, or elderly or disabled owners passing means test, may receive additional grants up to \$10,000. Upon completion of the works, a subsidy of 50% of the insurance premium for third party risks insurance for common areas of the building will be granted, subject to a ceiling of \$6,000 per annum for not more than three consecutive years.

### Building Rehabilitation Loan Scheme

The URA's Building Rehabilitation Loan Scheme provides loans to building owners to carry out rehabilitation works to the common areas of the buildings and works to the interior of the properties in association with the works to the common area of the whole buildings. Eligibility criteria includes (i) private residential or composite buildings within the Scheme Area of the URA; (ii) buildings aged 20 years or above; (iii) buildings without statutory order or advisory letter from Government departments; and (iv) buildings with OCs. Owners of eligible buildings may apply for an interest-free loan of up to \$100,000 without any means test. Repayment period is up to 60 months. Recipients of CSSA, or elderly or disabled owners passing means test, may receive grants up to \$10,000. Upon completion of the works, a subsidy of 50% of the insurance premium for third party risks insurance for common areas of the building will be granted, subject to a ceiling of \$6,000 per annum for not more than three consecutive years.