

立法會 *Legislative Council*

LC Paper No. CB(1)147/09-10(01)

Ref. : CB1/SS/1/09

Subcommittee on Building (Minor Works) (Fees) Regulation

Meeting on 28 October 2009

Background brief

Purpose

This paper gives a summary of the deliberations of the Bills Committee on Buildings (Amendment) Bill 2007 ("the Bills Committee"), the Panel on Development and the Subcommittee on Building (Minor Works) Regulation ("the B(MW)R Subcommittee") on the registration system for minor works contractors under the minor works control system ("MWCS").

Background

2. Under the existing building control system, all building works, despite their scale and complexity, are regulated under one single regime. Prior approval of building plans and consent to commence building works must be obtained from the Building Authority ("BA") before commencement of such works. This control system does not differentiate building works relating to the construction of a new building from minor building works carried out in existing buildings (e.g. erection of supporting frames for air conditioners) which are simple in nature. As a result, many minor building works have been carried out without complying with the law and are therefore unauthorized building works.

3. With the passage of the Buildings (Amendment) Ordinance 2008 (20 of 2008) ("BAO 2008") on 18 June 2008, a new MWCS was introduced to the Buildings Ordinance (Cap. 123) ("the Ordinance") to simplify the existing building control system to provide a lawful, simple, safe and convenient means for building owners to carry out minor works.

4. Certain provisions of the BAO 2008, including the enabling provision for the Secretary for Development to make regulations in respect of minor works, commenced on 15 December 2008 through the Buildings (Amendment)

Ordinance 2008 (Commencement) Notice 2008 (L.N. 225) gazetted on 13 October 2008. The modus operandi of the MWCS was set out in the Building (Minor Works) Regulation (L.N. 51 of 2009) ("B(MW)R"), which was introduced by the Secretary for Development in March 2009 and amended by a resolution of the Legislative Council ("LegCo") (L.N. 113 of 2009) passed at the Council meeting on 20 May 2009.

The Minor Works Control System

5. The B(MW)R provides for the classification of minor works and details of minor works items, simplified requirements for carrying out minor works, registration and provisional registration of Registered Minor Works Contractors ("RMWCs") as well as duties of building professionals and registered contractors in carrying out minor works. Minor works have been classified by the B(MW)R into three classes according to their nature, scale and complexity as well as the risk to safety they pose. The works under each class are further classified into types and items that correspond to the specialization of works in the industry.

6. Minor works could only be carried out by prescribed registered contractors ("PRCs") (i.e. a registered general building contractor ("RGBC"), registered specialist contractor ("RSC") or RMWC). As Class I minor works are relatively more complicated, they require higher technical expertise and more stringent supervision, and thus should be designed and supervised by authorized persons ("APs") (with the assistance of registered structural engineers ("RSEs") or registered geotechnical engineers ("RGEs") as necessary) and carried out by PRCs. The other two classes of minor works can be carried out by PRCs without the involvement of APs. The following table summarizes the requirements under the B(MW)R for carrying out different classes of minor works:

Class of Minor Works	Class I	Class II	Class III
Requirement			
Appointment of building professionals and contractors	AP (and RSE/RGE as the case maybe) and RGBC, RSC or Class I RMWC	- RGBC, RSC or Classes I or II RMWC	- RGBC, RSC or Classes I, II or III RMWC

Class of Minor Works	Class I	Class II	Class III
Requirement			
Provision of simple notification and submission of plans and documents to the BA before commencement of works	required	required	not required
Submission of record plans, certificates and documents to the BA after completion of works	required	required	required

7. According to the registration system for qualified RMWCs provided in the BAO 2008, contractors applying for registration as RMWCs could be body corporate, partnerships, sole proprietorships or individuals (for Class III minor works only), and they have to satisfy BA that their personnel possessed the necessary technical qualifications and work experience before they could be registered under the Ordinance. For practitioners applying for registration as RMWCs operating as firms, their applications would be assessed based on their representatives' formal qualifications and/or relevant experience, comprehension of the statutory requirements, as well as professional experience in the management and supervision of works projects. Practitioners who apply for registration as Class III RMWCs operating as individuals will be required to prove their formal qualifications and/or relevant experience.

8. A transitional period and a two-year provisional registration arrangement would be put in place to allow time for the existing minor works practitioners to prepare for registration. The provisional registration would only be available to applicants operating as firms. As for individual applicants, provisional registration was not required because such individual applicants could obtain the registration by virtue of either qualifications or experience and after attending a one-day top-up course.

Major views and concerns

9. When scrutinizing the Buildings (Amendment) Bill 2007, the Bills Committee generally supported the policy intent of introducing the MWCS, as the new system would streamline the existing buildings control regime in respect

of minor works, facilitate the general public to carry out minor works in a more convenient and economical manner, and enable more efficient use of Government resources.

10. The Bills Committee considered that the registration system should be kept simple and the Administration should devise measures to help eligible practitioners to understand the registration system and apply for registration according to their need and preference. Consideration should be given to streamlining the registration system to facilitate RMWCs' operation. The Bills Committee was concerned that applying for multi-task registration would increase RMWCs' operation cost. The Bills Committee noted the proposed registration and renewal fees for minor works contractors (Annex C to LC Paper No. CB(1)609/07-08(01)).

11. At the meeting of the Panel on Development on 24 February 2009, the Administration briefed members on the major areas that would be covered by the B(MW)R to be made by SDEV. Panel members in general supported the Administration's proposal and urged the Administration to implement the MWCS as soon as possible. Some members considered that in enhancing public safety, the implementation of the MWCS should not be too strict and complicated, and should not cause too much disturbance to the public.

12. Panel members noted that minor works practitioners, upon payment of relevant fees, may apply for registration as RMWCs for the relevant classes, types or items of minor works as appropriate according to their qualifications and experience. Panel members also noted that there would be arrangements for provisional registration.

13. When scrutinizing the B(MW)R gazetted on 27 March 2009, the B(MW)R Subcommittee noted that subject to the passage of the B(MW)R, another regulation for registration-related fees would be prepared and introduced into the LegCo for Members' consideration. The B(MW)R Subcommittee also noted the proposed fee schedule for registration, renewal, etc. (Annex B to LC Paper No. CB(1)1468/08-09(01)). In response to the view of the B(MW)R Subcommittee that the Administration should explore alternative channels for an applicant to lodge an appeal before bringing a case to the Court of First Instance, the Administration agreed to provide a review mechanism to re-consider unsuccessful application cases upon the applicants' request. The B(MW)R was subsequently amended by a LegCo resolution (L.N. 113 of 2009) passed at the Council meeting on 20 May 2009. The amendments, which were made in response to the comments of the B(MW)R Subcommittee, were mainly related to the time limits for BA to make application referral and consider renewal and restoration; and the establishment of a review mechanism as mentioned above.

The Building (Minor Works) (Fees) Regulation

14. The Building (Minor Works) (Fees) Regulation (L.N. 178 of 2009) ("the Fees Regulation") was gazetted on 9 October 2009 and tabled at LegCo on 14 October 2009. The Fees Regulation sets out the level of fees for the various applications by RMWCs under the B(MW)R, including new registration, renewal of registration, restoration of name to register, registration of additional class, type or item of minor works, nomination of additional authorized signatory, review of unsuccessful case and provisional registration. The proposed fee structure is summarized in Annex E to the LegCo Brief (File Ref.: DEVB(PL-B) 30/30/120) issued by the Development Bureau on 7 October 2009. According to the Administration, the proposed fee structure is established on the basis of recovering the full cost of administering the registration system. To cater for review of decisions on registration applications, the fees currently proposed by the Administration under the Fees Regulation also include the relevant fees.

Relevant papers

15. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
27 October 2009

Minor Works Control System

List of relevant papers

Date	Meeting/Event	References
7 December 2007	<p>A Bills Committee was formed at the meeting of the House Committee to study the Buildings (Amendment) Bill 2007.</p> <p>The Bills Committee reported to the House Committee on 6 June 2008.</p>	<p>Legislative Council Brief (File Ref.: DEVB(PL-B) 30/30/120) http://www.legco.gov.hk/yr07-08/english/bills/brief/b14_brf.pdf</p> <p>The Bill http://www.legco.gov.hk/yr07-08/english/bills/b0711231.pdf</p> <p>Legal Service Division Report (LC Paper No. LS17/07-08) http://www.legco.gov.hk/yr07-08/english/hc/papers/hc1207ls-17-e.pdf</p> <p>LC Paper No. CB(1)609/07-08(01) http://www.legco.gov.hk/yr07-08/english/bc/bc01/papers/bc010122cb1-609-1-e.pdf</p> <p>Bills Committee Report (LC Paper No. CB(1)1868/07-08) http://www.legco.gov.hk/yr07-08/english/bc/bc01/reports/bc010618cb1-1868-e.pdf</p>
18 June 2008	Passage of the Buildings (Amendment) Bill 2007 at the Council meeting	<p>Hansard (pages 293 to 314) http://www.legco.gov.hk/yr07-08/english/counmtg/hansard/cm0618-translate-e.pdf</p>
24 October 2008	House Committee considered the Buildings (Amendment) Ordinance 2008 (Commencement) Notice 2008 (L.N. 225)	<p>Legal Service Division Report (LC Paper No. LS6/08-09) http://www.legco.gov.hk/yr08-09/english/hc/papers/hc1024ls-6-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(2)197/08-09) http://www.legco.gov.hk/yr08-09/english/hc/minutes/hc20081024.pdf</p>

Date	Meeting/Event	References
24 February 2009	Panel on Development	<p>Information paper (LC Paper No. CB(1)816/08-09(07)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0224cb1-816-7-e.pdf</p> <p>Background brief (LC Paper No. CB(1)861/08-09(01)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0224cb1-861-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)1633/08-09) http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20090224.pdf</p>
17 April 2009	<p>A Subcommittee was formed at the meeting of the House Committee to study the Building (Minor Works) Regulation.</p> <p>The Subcommittee submitted its written report the House Committee on 13 May 2009.</p>	<p>Legislative Council Brief (File Ref.: DEVB(PL-B) 30/30/120) http://www.legco.gov.hk/yr08-09/english/subleg/brief/51_brf.pdf</p> <p>The Regulation http://www.legco.gov.hk/yr08-09/english/subleg/negative/ln051-09-e.pdf</p> <p>Legal Service Division Report (LC Paper No. LS51/08-09) http://www.legco.gov.hk/yr08-09/english/hc/papers/hc0417ls-51-e.pdf</p> <p>LC Paper No. CB(1)1468/08-09(01) http://www.legco.gov.hk/yr08-09/english/hc/sub_leg/sc07/papers/sc070430cb1-1468-1-e.pdf</p> <p>Subcommittee Report (LC Paper No. CB(1)1555/08-09) http://www.legco.gov.hk/yr08-09/english/hc/papers/hccb1-1555-e.pdf</p>