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Bills Committee on Buildings Legislation (Amendment) Bill 2011

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 12 January 2012**

Purpose

This paper provides background information on the Buildings Legislation (Amendment) Bill 2011 ("the Bill") and a summary of the views and concerns expressed by Members during relevant deliberations of the Subcommittee on Building Safety and Related Issues under the Panel of Development and the Bills Committee on Buildings (Amendment) Bill 2010.

Background

2. Building neglect has been a long-standing problem in Hong Kong. The presence of aging buildings lacking proper care and maintenance poses potential threats to residents and the public at large. Defects such as structural deterioration and concrete spalling pose safety hazards not only to the building occupants, but also to other building users and pedestrians nearby.

3. On 29 January 2010 at about 1:40 pm, the front portion of the building at 45J Ma Tau Wai Road collapsed, causing four deaths and two injuries. The incident aroused wide public concerns, and different sectors of the community urged the Administration to take immediate steps to enhance building safety in the territory.

4. The Chief Executive announced in his 2010-2011 Policy Address on 13 October 2010 that the Administration would adopt a new multi-pronged approach to enhance building safety. The approach covered four major areas which were legislation, enforcement, support and assistance to owners, as well as publicity and public education. The Administration introduced the

Buildings (Amendment) Bill 2010 ("Amendment Bill") into the Legislative Council ("LegCo") on 3 February 2010 for the implementation of a mandatory building inspection scheme ("MBIS") and a mandatory window inspection scheme ("MWIS") and the Amendment Bill was enacted by LegCo at its meeting of 29 June 2010. The Chief Executive further announced in his 2011-2012 Policy Address on 12 October 2011 that the Administration would introduce amendments to the Buildings Ordinance (Cap. 123) and the Buildings (Amendment) Ordinance 2011 (16 of 2011) to further enhance its building safety control regime.

The Bill

5. The Administration introduced the Bill into LegCo on 7 December 2011 to bring in the following five new measures to further enhance building safety -

- (a) surcharge on defaulted works;
- (b) penalty against persons who refuse to share cost of works by owners' corporation ("OC") for compliance with statutory orders or notices;
- (c) warrant for entry into interior of individual premises ("warrant proposal");
- (d) signboard control system; and
- (e) registered inspectors to comprehensively report exterior unauthorized building works under MBIS.

Key features of the five new measures are detailed in the LegCo Brief on the Bill (DEVB(PL-B)30/30/122). These new measures had previously been proposed as Committee Stage amendments ("CSA") to the Amendment Bill. However, as advised by the legal adviser to the Bills Committee on Building (Amendment) Bill 2010, the Amendment Bill was intended to provide for MBIS and MWIS only while the five proposed new measures appeared to be unrelated to MBIS and/or MWIS. The Administration had subsequently decided to take out these proposed CSAs and pursue the provisions of these proposed measures through a separate bill.

Deliberations by the Subcommittee on Building Safety and Related Issues and the Bills Committee on Buildings (Amendment) Bill 2010

6. The Administration consulted the Subcommittee on Building Safety and Related Issues the legislative proposals to further enhance building safety (i.e. the five new measures mentioned in paragraph 5 above). Subcommittee members noted the Administration's plan to incorporate proposals into the Buildings (Amendment) Bill 2010 which was then under scrutiny by a Bills Committee. Subcommittee members expressed support for the legislative proposals in principle.

7. Some members of the Subcommittee were of the view that instead of helping aged buildings to set up OCs, the Administration should be more flexible in helping aged buildings with no OCs in repair and maintenance works. The Urban Renewal Authority and the Hong Kong Housing Society should be engaged to play a far more active role in assisting owners in dealing with building repair and maintenance problems.

8. Members of the Subcommittee considered that the Administration should facilitate the registration of signboard workers as registered minor works contractors, and step up publicity and public education on the proposed signboard control scheme to enhance public knowledge. They also expressed concern about the increase of additional manpower in the Building Department as well as the intended skill-mix of building professionals such as engineers and surveyors as arising from the proposed measures.

9. The Administration briefed the Bills Committee on Buildings (Amendment) Bill 2010 at its meeting on 11 February 2011 on the five new measures proposed to be incorporated in the Amendment Bill by way of CSAs. Members of the Bills Committee in general supported the principles of the proposed measures except the warrant proposal. Members had expressed divergent views towards the warrant proposal. While some members considered the warrant proposal useful in enhancing the Buildings Department's efficiency and effectiveness in tackling problems such as building works associated with sub-divided units, some other members were concerned that this might provide the Building Authority with too wide a power and might infringe private property rights of individual owners. These members suggested that the public and stakeholders should be further consulted before taking forward the proposed measures in a separate law amendment exercise.

10. As regards the proposed signboard control scheme, some members of the Bills Committee held the view that the consent of the owner/OCs concerned should be obtained prior to the erection and validation of signboards in the common parts of the buildings to help ensure safety of the works and better protect the interests of owners.

Relevant papers

11. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
11 January 2012

Relevant papers on measures for enhancing building safety

| Meeting | Date of meeting | Paper |
|--|-----------------|---|
| Panel on Planning, Lands and Works | 27.1.2004 | Agenda Minutes CB(1)830/03-04(01) |
| | 22.5.2007 | Agenda Minutes CB(1)1643/06-07(03) |
| | 24.7.2007 | Agenda Minutes CB(1)2148/06-07(01) |
| Panel on Development | 24.6.2008 | Agenda Minutes CB(1)1602/07-08(05) |
| | 16.2.2009 | Agenda Minutes CB(1)570/08-09(06) CB(1)570/08-09(07) |
| Subcommittee on Building Safety and Related Issues | 13.1.2011 | Agenda Minutes CB(1)681/10-11(01) |
| Bills Committee on Buildings (Amendment) Bill 2010 | 7.6.2011 | Agenda CB(1)2373/10-11(01) Report |
| Legislative Council | 29.6.2011 | Resumption of second reading debate on the Bill at the Council meeting - Official Record of Proceedings Pages 178 - 291 |