

**立法會**  
**Legislative Council**

LC Paper No. LS3/11-12

**Paper for the House Committee Meeting  
on 4 November 2011**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 28 October 2011**

**Date of tabling in LegCo** : 2 November 2011

**Amendment to be made by** : 30 November 2011 (or 21 December 2011 if extended by resolution)

**PART I MANDATORY BUILDING AND WINDOW INSPECTION**

**Buildings Ordinance (Cap. 123)**

**Building (Inspection and Repair) Regulation (L.N. 146)**

**Building (Administration) (Amendment) Regulation 2011 (L.N. 147)**

**Building (Minor Works) (Amendment) Regulation 2011 (L.N. 148)**

**Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011 (L.N. 149)**

L.N. 146 to L.N. 148 were made by the Secretary for Development (the Secretary) under section 38 of the Buildings Ordinance (Cap. 123) (BO) whereas L.N. 149 was made under section 2 of the Buildings (Amendment) Ordinance (16 of 2011).

2. Ordinance 16 of 2011 was passed by the Legislative Council at its meeting on 29 June 2011. It amends BO to require building owners to carry out regular inspections and repair works in respect of their buildings and the windows of their buildings under the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS). L.N. 146 to L.N. 149 were made to implement the two schemes.

3. L.N. 146 was made to provide for the detailed procedural and technical requirements of the MBIS and MWIS. It provides, among other things, for –

- (a) the scope and standard of a prescribed inspection and a prescribed repair;
- (b) the meaning of "projection" for the purpose of section 30B(5) of the BO<sup>1</sup>;
- (c) the general and specific duties of registered inspectors (RIs), qualified persons (QPs) and registered contractors when carrying out prescribed inspections and prescribed repairs; and
- (d) the documents to be submitted by RIs and QPs to the Building Authority at different stages of prescribed inspections and prescribed repairs.

4. L.N. 146 will come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

5. L.N. 147 amends the Building (Administration) Regulations (Cap. 123 sub. leg. A) to set out the qualifications and requirements for a person to be included in the register of inspectors. It also provides that a RI must not deal in building materials, etc., without disclosing such dealing in writing to his client. Similar restriction is also imposed on authorized persons, registered structural engineer or registered geotechnical engineer under regulation 5 of the Building (Administration) Regulations. L.N. 147 will come into operation on 30 December 2011.

6. L.N. 148 amends the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) to provide for the appointment of a RI for any prescribed repair work that is class I minor works and to amend Schedule 1 in relation to the types of minor works to reflect that some minor works may also be prescribed repair. L.N. 148 will come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

7. By L.N. 149, the Secretary has appointed 30 December 2011 as the day on which most of the provisions of Ordinance 16 of 2011 come into operation. The other provisions are mainly concerned with the implementation of MBIS and MWIS. According to paragraph 24 of the LegCo Brief, they will fully commence operation when an adequate number of RIs is available in the market.

---

<sup>1</sup> Section 30B is introduced by section 20 of Ordinance 16 of 2011. It has not yet come into operation.

## Consultation with LegCo

8. The Administration briefed the Panel on Development on 25 October 2011 on the key features of MBIS and MWIS to be covered by the above items of subsidiary legislation.

9. Some members expressed concern about the possible shortage of RIs in the market during the initial stage of the implementation of the two schemes for carrying out prescribed inspections and repairs of aged buildings, as the shortage might lead to soaring costs for building inspections and repairs. They called upon the Administration, together with the Hong Kong Housing Society and the Urban Renewal Authority, to provide technical advice and financial assistance to owners in need, in particular, on the tendering procedures for the engagement of RIs and contractors. Some members suggested that the Administration should ensure that the Home Affairs Department would offer assistance to the owners of buildings without owners' corporations in complying with the statutory notices that they receive under the two schemes. Panel members also requested the Administration to provide more details such as the requirements for registration as RIs and QPs, training courses offered by the Vocational Training Council that would enable interested persons to be qualified as RIs and QPs, and the fees for such training courses.

10. Members may refer to the LegCo Brief (File Ref.: DEVB (PL-CR) 2/15-08) issued by the Development Bureau in October 2011 for further information.

11. In view of the concerns raised by at the meeting of the Panel, Members may wish to consider studying the above items of subsidiary legislation in detail.

## **PART II FEE REVISION**

### **Import and Export Ordinance (Cap. 60)**

### **Import and Export (Fees) (Amendment) Regulation 2011 (L.N. 150)**

12. L.N. 150 was made by the Secretary for Financial Services and the Treasury (SFST) under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1)<sup>2</sup> by virtue of section 31 of the Import and Export

---

<sup>2</sup> Section 29A provides that where the amount of any fee or charge is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, the Financial Secretary (the expression includes SFST under section 3 of the Interpretation and General Clauses Ordinance) may by similar subsidiary legislation vary the fees.

Ordinance (Cap. 60)<sup>3</sup> to amend the Schedule to the Import and Export (Fees) Regulations (Cap. 60 sub. leg. B) (the Fees Regulations).

13. According to the LegCo Brief, the fees charged by the Government for various services should in general be set at levels sufficient to recover the full costs of providing the services.

14. A recent costing review on textiles-related fees has shown that two items in the Schedule to the Fees Regulations exceed the full costs of providing the services. L.N. 150 therefore reduces the amount of the fees for –

- (a) the annual registration fee for the Textiles Trader Registration Scheme (TTRS) (item 13 of the Schedule) from \$718 to \$349 (a reduction of about 51%); and
- (b) the fee for submitting an import notification or an export notification on paper by a person registered as a textiles trader under TTRS (item 13A of the Schedule) from \$3.8 to \$2.9 (a reduction of about 24%).

15. The costing review also shows that the fees payable for two items in the Schedule are not adequate to recover the full costs of providing the relevant service. L.N. 150 therefore increases the fees for –

- (a) Production Notification (PN) for cut and sewn garments submitted on paper (item 14(a) of the Schedule) from \$57 to \$66 (an increase of about 16%); and
- (b) the same type of PN submitted electronically (item 14(b) of the Schedule) from \$41 to \$47 (an increase of about 15%).

16. According to paragraph 4 of the LegCo Brief, an approach to achieve full cost recovery gradually within three to seven years through an annual fee increase by about 15% has been adopted for item 14(a) and (b) of the Schedule.

#### Consultation with LegCo Panel

17. At the meeting of the Panel on Commerce and Industry held on 19 July 2011, the Administration briefed members on the fee revision proposal. The Panel supported in principle the Administration's proposal and the necessary legislative amendments.

---

<sup>3</sup> Section 31(1)(x) provides that the Chief Executive in Council may make regulations for the purpose of prescribing fees to be collected by the Commissioner of Customs and Excise or the Director-General of Trade and Industry in respect of any matter arising under the Import and Export Ordinance.

18. L.N. 150 will come into operation on 23 December 2011.
19. Members may refer to the LegCo Brief (File Ref.: CITB CR 13/39/3 (14)) issued by the Commerce and Economic Development Bureau in October 2011 for further information.
20. No difficulties relating to the legal and drafting aspect of L.N. 150 have been identified.

Prepared by

LEE Ka-yun, Kelvin  
Assistant Legal Adviser  
Legislative Council Secretariat  
2 November 2011