

立法會
Legislative Council

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**Background brief on
The subsidiary legislation for the implementation of
Mandatory Building Inspection Scheme and
Mandatory Window Inspection Scheme**

Purpose

This paper provides background information on the Mandatory Building Inspection Scheme ("MBIS") and Mandatory Window Inspection Scheme ("MWIS"), and summarizes the views and concerns expressed by members during previous discussion on the subject.

Background

2. Under the existing Buildings Ordinance (Cap. 123) ("BO"), it is only when a building becomes dangerous or is liable to become dangerous or there is defect or dilapidation in a building that the Building Authority ("BA") may order the owner to carry out repair and rectification works. BO does not empower BA to require the owner to carry out periodic inspections and conduct necessary preventive repair works for the regular maintenance of the building.
3. After public consultation conducted in 2003 and 2005, the Administration announced in mid-2007 its plan to introduce the mandatory inspection schemes for buildings and windows through legislation to ensure that building owners would undertake the responsibility for keeping their buildings in good conditions, including shouldering the financial commitment.
4. On 3 February 2010, the Administration introduced the Buildings (Amendment) Bill 2010 into the Legislative Council ("LegCo"). The Bill aims to provide for matters relating to the regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe, by empowering BA to require owners to carry out such inspections and repairs through the introduction of MBIS and MWIS. The Bill also provides for

matters relating to the appointment, control and duties of Registered Inspectors ("RIs") and Qualified Persons ("QPs") who were to deal with such inspections and repairs.

5. A bills committee has been formed to study the Buildings (Amendment) Bill 2010 ("the Bills Committee"). The Bill was passed by LegCo at the meeting of 29 June 2011 and was enacted as Buildings (Amendment) Ordinance 2011. It is necessary to make subsidiary legislation to stipulate the detailed procedural and technical requirements of MBIS and MWIS for their implementation.

Deliberations of the Bills Committee on Buildings (Amendment) Bill 2010

Issues discussed by the Bills Committee

6. While members of the Bills Committee supported in general the policy intent of the Bill to empower BA to require owners to carry out periodic inspections and repairs of their buildings through the introduction of MBIS and MWIS to ensure a better and safer building environment, they discussed with the Administration and raised concerns on a number of issues. The major ones included: control of unauthorized building works and internal alteration works in buildings, definitions and meanings of "projection" from buildings, qualifications and experience requirements for RIs, supply of service providers of acceptable quality, legal liabilities of owners/owners' corporations ("OCs")/property managers and related penalties, assistance to OCs and owners, legal liabilities and responsibilities of professionals, and additional works on top of prescribed repairs, etc. The details of the deliberations are set out in the report of the Bills Committee¹.

The Administration's proposal to introduce another Buildings Amendment Bill to include new building safety initiatives

7. The Bills Committee has discussed proposed Committee Stage Amendments ("CSAs") to the Buildings (Amendment) Bill 2010 to incorporate new initiatives to further strengthen the existing statutory safety control regime. The new initiatives included --

- (a) extension of the surcharge for defaulted works to cover all statutory orders (including non-MBIS/MWIS orders) or notices issued under BO;

¹ Please refer to <http://www.legco.gov.hk/yr09-10/english/bc/bc04/reports/bc040629cb1-2587-e.pdf> for the report of the Bills Committee.

- (b) extension of the penalty provision for refusing to share cost of works to all works required by statutory orders/notices in respect of common parts of the building that are undertaken by OCs under BO;
- (c) introduction of a statutory signboard control scheme to allow the continued use of certain existing unauthorized signboards after safety checks and necessary strengthening by registered personnel;
- (d) requiring RIs to notify BA of any UBWs on roofs, podiums, yards and lanes that are not in the common parts of the buildings; and
- (e) empowering BD to apply to the Court for a warrant to enter a flat for inspection ("the warrant proposal").

8. While members of the Bills Committee indicated general support for the new building safety related CSAs proposed by the Administration, a number of members expressed concern about the warrant proposal. These members opined that although the proposal would help tackle problems of UBWs and sub-division of flats, there was concern about whether the proposal was within the scope and coverage of the Bill which mainly concerned the maintenance and repair of common areas and exterior parts of buildings. After discussion with the Bills Committee, the Administration agreed to withdraw the CSAs in question and decided to pursue these new initiatives through another Buildings Amendment Bill to be introduced in the 2011-2012 session.

Briefing on the proposals under the subsidiary legislation for implementation of the Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

9. On 25 October 2011, the Administration briefed the Panel on Development ("the Panel") the proposals under the subsidiary legislation for implementation of MBIS and MWIS. According to the Administration, the key features to be covered by the subsidiary legislation would include --

MBIS

- (a) procedural requirements;
- (b) registration as RIs;
- (c) scope and standard of prescribed inspections;

- (d) detailed investigation;
- (e) prescribed repairs in respect of buildings; and
- (f) voluntary compliance.

MWIS

- (a) procedural requirements;
- (b) qualification and representative of QPs;
- (c) scope and standard of prescribed inspections;
- (d) prescribed repairs in respect of windows; and
- (e) voluntary compliance.

10. The details of the legislative proposal were set out in the Administration's paper provided to the Panel for the meeting held on 25 October 2011². The Administration advised that the proposed content of the subsidiary legislation had been discussed by the Bills Committee. Pursuant to such discussions, the Administration agreed to include in the proposed subsidiary legislation, requirements to: (a) prescribe clearly the meaning of "projection" as referred to in the new section 30B(5) of BO; (b) impose a duty on an RI and QP to deliver copies of the documents which were submitted to BA (such as the inspection report and completion report) to the person for whom the prescribed inspection and prescribed repair has been carried out, i.e. the OCs/building owners; and (c) prescribe the scope of the building elements covered in a prescribed inspection.

11. At the Panel meeting on 25 October 2011, while members in general supported the proposed subsidiary legislation, some members expressed concern about the possible shortage of RIs in the market for carrying out prescribed inspection and repairs of aged buildings during the initial stage of implementation of MBIS and MWIS. They worried that the shortage might lead to soaring costs for building inspections and repairs. Members 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

² Please refer to <http://www.legco.gov.hk/yr11-12/english/panels/dev/papers/dev1025cb1-137-5-e.pdf> for the Administration's paper.

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 OCs in complying with the statutory notices issued to them 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 to enable interested personnel to be qualified as RIs and QPs, and the fees for such training courses.

Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
25 November 2011

Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

List of relevant papers

Council/ Committee	Date of meeting	Paper
PLW Panel	22 May 2007	<p>Information paper on "Public Consultation on Mandatory Building Inspection" provided by the Administration (LC Paper No. CB(1)1643/06-07(03)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0522cb1-1643-3-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2122/06-07) http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070522.pdf</p>
PLW Panel	24 July 2007	<p>Information paper on "Mandatory Building Inspection Scheme & Mandatory Window Inspection Scheme" provided by the Administration (LC Paper No. CB(1)2148/06-07 (01)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2148-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2404/06-07) http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070724.pdf</p> <p>Letter dated 24 August 2007 from the Administration on to the Panel (LC Paper No. CB(1)2299/06-07(01)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2299-1-e.pdf</p>

Council/ Committee	Date of meeting	Paper
Development Panel	24 June 2008	<p>Administration's paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme -- Target buildings, inspection items and operational procedures (LC Paper No. CB(1)1602/07-08(05)) http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0624cb1-1602-5-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2322/07-08) http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080624.pdf</p>
Development Panel	20 January 2009	<p>Administration's paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme -- Regulation of Service Providers (LC Paper No. CB(1)570/08-09(06)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0120cb1-570-6-e.pdf</p> <p>Paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme prepared by the Legislative Council Secretariat (Background brief) (LC Paper No. CB(1)570/08-09(07)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0120cb1-570-7-e.pdf</p>
House Committee	17 June 2011	<p>Report of the Bills Committee on Buildings (Amendment) Bill 2010 (LC Paper No. CB(1)2468/10-11) http://www.legco.gov.hk/yr10-11/english/hc/papers/hc0617cb1-2468-e.pdf</p>
Council Meeting	29 June 2011	<p>Report of the Bills Committee on Buildings (Amendment) Bill 2010 (LC Paper No. CB(1)2587/10-11) tabled at the Legislative Council http://www.legco.gov.hk/yr09-10/english/bc/bc04/reports/bc040629cb1-2587-e.pdf</p>

Council/ Committee	Date of meeting	Paper
Development Panel	25 October 2011	<p>Administration's paper on subsidiary legislation for implementation of Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme (LC Paper No. CB(1)137/11-12(05)) http://www.legco.gov.hk/yr11-12/english/panels/dev/papers/dev1025cb1-137-5-e.pdf</p> <p>Paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme prepared by the Legislative Council Secretariat (Updated background brief) (LC Paper No. CB(1)137/11-12(06)) http://www.legco.gov.hk/yr11-12/english/panels/dev/papers/dev1025cb1-137-6-e.pdf</p>

Hyperlinks to relevant Council Questions:

Date	Council Questions
22 February 2006	<p>Council question raised by Hon Albert CHAN http://www.devb.gov.hk/en/publications_and_press_releases/press/index_id_2457.html</p>
10 May 2006	<p>Council question raised by Dr Hon Raymond HO http://www.devb.gov.hk/en/publications_and_press_releases/press/index_id_2406.html</p>