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立法會 CB(1)494/16-17(02)號文件

LC Paper No. CB(1)494/16-17(02)

立法會發展事務委員會
Legislative Council Panel on Development

修訂《水務設施條例》（第102章）和
《水務設施規例》（第102A章）的建議

Proposed amendments to the Waterworks Ordinance (Cap. 102)
and the Waterworks Regulations (Cap. 102A)



水務署

Water Supplies Department

《水務設施條例》和《水務設施規例》的全面檢討 Holistic review of the Waterworks Ordinance and the Waterworks Regulations

- 配合水喉業界、技術和作業模式的最新發展
Cater for the latest development of the plumbing trade, technologies and practices
- 檢討項目包括:
Areas of review include:

審視參與水管系統設計、建造和保養各相關人士，包括發展商、承建商和其他人士等的職責、參與和責任
Examine roles, involvements and responsibilities of relevant parties including the developers, contractors and other persons, who are involved in the design, construction and maintenance, etc. of plumbing systems

有關負責水管系統建造等各相關人士的牌照/註冊架構
Examine licensing/registration regime for parties responsible for the construction, etc. of plumbing systems

優先修訂法例以處理「食水含鉛超標調查委員會」提出的建議
Proritize legislative amendments to deal with the recommendations made by the Commission of Inquiry into Excess Lead Found in Drinking Water

- 考慮到容許註冊技工進行水喉裝置工程的《建造業工人註冊條例》的相關條文，
界定持牌水喉匠的職責
Define the **duties of licensed plumber (LP)**, taking into account the relevant provisions of the Construction Workers Registration Ordinance (CWRO) **which allows workers registered thereunder to perform plumbing installations**
- 清楚列明所有適用於建造水管系統的水喉物料和部件的**最新標準**
Set out clearly the latest standards for all plumbing material and components to be used in the construction, etc. of plumbing systems

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

加入非持牌水喉匠和非公職人員的人士進行水管系統的建造等

Inclusion of persons other than LPs and public officers for carrying out the construction, etc. of plumbing systems

現時情況 Current Situation

- 水管工程須由持牌水喉匠或水務監督授權的公職人員進行
Plumbing works to be carried out by LPs or public officers authorized by the Water Authority
- 有別於政策原意和業界作業模式
Differ from policy intent and industry practice
- 並未考慮《建造業工人註冊條例》
Not taking account CWRO
- 現有持牌水喉匠未能滿足市場需求
Market demand far exceed the current manpower supply of LPs

建議修訂 Proposed Amendment

- 加入下列人士進行水管工程：
Include the following persons to carry out plumbing works:
 - 《建造業工人註冊條例》所訂相關工種分項下的註冊熟練和半熟練技工(包括臨時技工)
Registered skilled or semi-skilled workers (including provisional workers) for relevant designated trade divisions under the CWRO
 - 在持牌水喉匠、熟練或半熟練技工(「督導人員」)的指示和督導下工作的其他人士
Other persons who work under the instruction and supervision of an LP or a registered skilled or semi-skilled worker (supervisors)

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

進行水管工程的人士承擔的責任

Obligation of persons who carries out plumbing works

現時情況 Current Situation

- 任何人進行的水管工程如不合法例規定，即屬犯罪
Any person who carries out plumbing works that contravene the statutory requirements commits an offence.

建議修訂 Proposed Amendment

- 加入免責辯護條文，保障並無合理理由相信進行有關工程會違反法例規定的人士
Include a statutory defence provision for persons who have **no reasonable grounds to believe** that the carrying out of the relevant works would contravene the statutory requirements

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

「督導人員」承擔的責任

Obligation of supervisors

現時情況 Current Situation

- 並未界定「督導人員」的要求、職能和責任
Qualification, function and obligation of supervisor are not defined.

建議修訂 Proposed Amendment

- 界定「督導人員」的要求和職能
Define the qualification and function of supervisors
- 除非「督導人員」已採取合理步驟確保工程不會違反法例規定，否則即屬犯罪
The supervisor commits an offence unless he has **taken reasonable steps** to ensure the statutory requirements are not contravened.

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

「負責持牌水喉匠」承擔的責任

Obligation of responsible LPs

現時情況 Current Situation

- 按照行政規定:
It is an **administrative requirement** that:
 - 由水務監督發出有關水管工程的許可申請，須由持牌水喉匠提出
Applications for the WA's permission for plumbing works are to be made by LPs.
 - 「負責持牌水喉匠」證明已完成水管工程符合法例規定
The responsible LP certifies that the completed works comply with the WWO.

建議修訂 Proposed Amendment

- 正式訂立現時的行政規定:
Formalize the administrative requirement:
 - 由水務監督發出有關水管工程的許可申請，須由持牌水喉匠提出
Applications for the WA's permission for plumbing works are to be made by LPs.
 - 除非「負責持牌水喉匠」已採取合理步驟確保工程不會違反法例規定，否則即屬犯罪
The responsible LP commits an offence unless he has **taken reasonable steps** to ensure the statutory requirements are not contravened.

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

其他相關議題 Other related issues

- 確定水管工程是否由指定人士進行
Ascertaining whether plumbing works are carried out by designated persons

現時情況 Current Situation

- 水務監督必須先取得佔用人的同意或裁判官的手令，才可進入處所確定是否符合《水務設施條例》的規定

The WA must first obtain the **occupier's consent** or a **magistrate's warrant** before entering any premises to ascertain compliance with the WWO.

- 監管水管工程是否由指定人士進行的成效，可能因此項規定而降低

This requirement is potentially detrimental to the effective policing of whether plumbing works are being carried out by designated persons.

建議修訂 Proposed Amendment

- 向水務監督賦權，讓其無需取得同意或手令便可進入正進行水管工程的非住宅處所，確定工程是否由指定人士進行

Empower the WA to enter **non-domestic premises**, where there are ongoing plumbing works, **without consent or warrant** to ascertain whether the works are being carried out by designated persons.

《水務設施條例》的建議修訂

Proposed amendments to the Waterworks Ordinance (WWO)

其他相關議題 Other related issues

- 檢控時限

Time limit for prosecution

現時情況 Current Situation

- 檢控須於罪行發生時間後六個月內提出
A prosecution must commence **within six months from the time when the offence was committed.**
- 在很多情況下，由於罪行發生時間和其後發現罪行的時間差距超過六個月，已經超出可向犯罪者提出檢控的時限。這個情況已嚴重減低《水務設施條例》有關罪行的阻嚇作用。
On many occasions, prosecution against offenders would be time-barred due to the lapse of over six months. This has seriously reduced the deterrent effect of the offences in the WWO.

建議修訂 Proposed Amendment

- 將檢控時限修訂為水務監督發現或知悉罪行當日起計六個月內提出
Prosecution may be brought within a period of **six months from the date on which the offence is discovered by, or comes to the notice of, the WA.**

《水務設施規例》的建議修訂

Proposed amendments to the Waterworks Regulations (WWR)

更新水管工程的技術規定和喉管及裝置標準

Updating the technical requirements and standards of plumbing materials

現時情況 Current Situation

- 《水務設施規例》附表2訂明大部分水管工程的技術規定和水管物料的英國標準
Most technical requirements and British Standards (BS) for plumbing materials are cited in Schedule 2 to the WWR
- 附表2的一些英國標準已過時或已被其他標準所取代
Some of the BS in Schedule 2 have been **outdated** or **superseded by other standards**

建議修訂 Proposed Amendment

- **更新**《水務設施規例》附表2內適用於水管系統的水喉物料和部件的最新標準（包括英國標準及英國標準協會承認的其他國際標準）
Update the technical requirements and standards for plumbing materials (including BS and other international standards recognised by the British Standards Institution) in Schedule 2 to the WWR
- 訂明附表2內技術標準的適用版本
Specify the specific version of an applicable standard in Schedule 2

過渡安排 Transitional Arrangement

建議修訂項目 Proposed Amendment Items	建議安排 Proposed Arrangement
<p>由持牌水喉匠提出由水務監督發出有關水管工程的許可申請 Applications for the WA's permission for plumbing works to be made by LPs</p>	<ul style="list-style-type: none"> 在修訂生效日之前發出的許可將繼續有效 Permissions granted before the commencement date of the amended WWO will continue to be effective. 在修訂生效日之前首次申請的許可將按現時條例處理 Permissions first applied for before the commencement date of the amended WWO will be processed under the existing WWO.
<p>「負責持牌水喉匠」對於不合法例規定工程的責任 Liability of responsible LPs on plumbing works that contravene the statutory requirements</p>	<p>僅對修訂生效日之後首次申請許可的持牌水喉匠施加 Liability will only be imposed on LPs who first apply for a permission after the commencement date of the amended WWO.</p>
<p>修訂的執法時限 Revised time limit for prosecution</p>	<p>不適用於修訂生效日之前發生的罪行，即使該等罪行在修訂生效日之後才被水務監督發現或知悉 The revised time limit will not apply to an offence committed before the commencement date of the amended WWO, even if the offence is discovered by, or comes to the notice of, the WA after that date.</p>

諮詢 Consultation

- 立法檢討諮詢小組 Consultative Group for Legislative Review
 - 由專業團體、水喉業商會、水喉匠協會、職工會、建造業、發展商和消費者委員會派出20名代表
20 representatives from professional bodies, plumbing trade associations, plumbers associations, workers union, construction sector, developers and the Consumer Council
 - 大致上支持本次修訂建議
Support the proposal in general
- 公眾諮詢 Public Consultation
 - 通過書面意見書、電話熱線和公眾諮詢會收集公眾意見
Public views are collected via written submissions, telephone hotline and public forums
 - 大致上表示支持或無反對意見
Generally support the proposal or have **no adverse comment**

未來路向 Way Forward

2017年4月

April 2017

向立法會提交水務設施(修訂)條例草案和水務設施(修訂)規例
Introduction of the Waterworks (Amendment) Bill and
the Waterworks (Amendment) Regulation into the Legislative Council

謝謝

Thank you



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Water Supplies Department