

**Bills Committee on
Buildings (Amendment) Bill 2003**

Minor Works Control Regime – Way Forward

Introduction

One of the important proposals in the Buildings (Amendment) Bill 2003 (the ‘Bill’) is the minor works control regime. In the past Bills Committee meetings, the control of existing and future “household” minor works has been a contentious issue on which Members have raised different views.

2. In addition, the Concern Group on Minor Works Control Regime (Concern Group) comprising various trade and contractors’ associations has pointed out that at present some very minor building works are carried out by unregistered contractors who will not be able to register as registered minor works contractors (RMWC) since they are only small enterprises comprising the owner himself or self-employed workers. In response to the Concern Group’s views, the Administration has proposed to allow such very minor building works, (i.e. the proposed Category IV minor works) to be carried out by registered construction workers for the relevant designated trades without the need to be registered as RMWC. The viability of this proposal, however, hinges upon a proper interface with the Construction Workers Registration Bill (CWRB) currently under scrutiny by a Bills Committee. The Concern Group also wishes to have more time to formulate their views on the categorization of minor works.

3. Members of the Bills Committee have noted that, with the limited time left before this LegCo session ends, a decision has to be made regarding the way forward for the minor works proposal. They are concerned that we should also focus attention on the other less controversial but perhaps equally important proposals in the Bill. Hence, the Bills Committee has come up with several options on the way forward at the last meeting on 16 April 2004. At the request of the Bills Committee, we provide below an assessment of the implications of the various options proposed by Members.

Options on Way forward

Option 1 – Delete the whole minor works control regime

a) Policy and operational implications

4. Without the minor works control regime, the control of building works under the Buildings Ordinance (BO) will remain unchanged with the following implications:

- (i) minor works will be subject to the existing stringent control under the BO as simple and lawful procedures for carrying out minor works are not yet available. The proliferation of unauthorized building works would continue; and
- (ii) some building works which are currently regarded as exempted works under the BO but carry certain safety or health hazard concerns, e.g. drainage works in existing buildings or the alteration or replacement of windows on external walls in existing buildings, cannot be readily put under effective control by designating them as minor works. It is noted, however, that should such building works or installation pose serious hazards, in the meantime, enforcement action can and will be taken against them.

b) Drafting implications

5. All provisions relating to minor works would have to be deleted from the Bill. Preparation of the required amendments would take about one week.

Option 2 – Delete provisions on Category III minor works or the latest proposed Category IV minor works

a) Policy and operational implications

6. With deletion of the provisions on Category III minor works or the latest proposed Category IV minor works, these types of minor works will remain as “general” building works and be subject to full control under the BO. As a result, the degree of control on these types of minor works

will be more stringent than the control on Categories I and II minor works, which are however relatively more substantial in terms of their nature, scale, complexity and structural implications and risks.

7. As an alternative, and in order not to subject such works to the existing stringent control, they would have to be put under Category II minor works which are required to be carried out by RMWC. In this connection, the concerns of the Concern Group about the inability of existing small contractors and self-employed workers to register as RMWC and undertake such works still remain.

b) Drafting Implications

8. Predicated on the assumption that the policy can be agreed upon, the following is our assessment on drafting implications. Provisions relevant to Category III minor works would have to be amended. More amendments are required for implementing this option than option 1. It is expected to take more than one week.

Option 3 – Designating certain types of Cat III and/or Category IV minor works as exempted works

a) Policy and operational implications

9. Under the Bill, the appointment of Authorized Persons, Registered Structural Engineers and Registered Contractors is not required for carrying out exempted works. The designation of certain types of Category III (i.e. to be categorized as the latest proposed Category IV) minor works as exempted works may therefore cause safety concerns as there will be no control on the qualifications, experience and competence of the persons carrying out such works. Despite their less substantial nature, scale, complexity and structural implications and risks, they still require a certain degree of control and monitoring.

b) Drafting implications

10. Predicated on the assumption that the policy can be agreed upon, the following is our assessment on drafting implications. As the designation of Category IV minor works is proposed to be made by way of subsidiary legislation, implementation of this option does not require amendments to the Bill. Amendments would, however, be required for

implementing the proposal of introducing Category IV minor works, and is expected to take about 2 weeks.

Option 4 – Defer commencement of provisions on Cat III and/or Cat IV minor works

a) Policy and operational implications

11. If the provisions on Categories I and II minor works are to commence first, whilst the commencement of the provisions on Category III and/or Category IV minor works is deferred, there will be the following implications:

- (i) the existing stringent control under the BO will continue to apply to Category III and/or Category IV minor works. The degree of control, in the meantime, on different categories of minor works will thus not be commensurate with their nature, complexity, structural implications and risk;
- (ii) during the period of deferment, the small contractors and self-employed workers, who are not RMWC, will be barred from carrying out such works and their livelihood can be affected; and
- (iii) the safety concerns mentioned in paragraph 4(ii) under Option 1 are also relevant regarding those exempted works which are to be put under Category III or Category IV minor works.

b) Drafting implications

12. Predicated on the assumption that the policy can be agreed upon, the following is our assessment on drafting implications. Appointing different dates for different provisions to commence does not require amendments to the Bill. Amendments would, however, be required for implementing the proposal of introducing Category IV minor works which is expected to take about 2 weeks.

Proposed Way Forward

13. The policy implications of the above four options are not very different. In terms of drafting and implementation, however, options 2, 3

and 4 will be significantly more complicated than option 1. There is limited time left before the end of the current LegCo session. We note that the Concern Group has demanded another month for the industry to come back with views on the list of minor works and the registration criteria for minor works contractors. Another complication is the proposal to allow certain “household” minor works to be undertaken by the relevant types of registered construction workers under the CWRB. As the CWRB is currently being scrutinized by a Bills Committee, it is difficult to draft the relevant Committee Stage Amendments, as the contents of the CWRB can be subject to change.

14. In view of the above and to allow a fuller dialogue with the industry, option 1 would appear to be the appropriate way forward. If we adopt this approach, we would have more time to finish scrutiny of the other less controversial aspects of the Bill. Subject to Members agreeing to delete the provisions concerning minor works, we will propose relevant Committee Stage Amendments for the Bills Committee’s consideration shortly.

15. We intend to further consult the industry and re-introduce another amendment Bill to take forward the revised minor works control regime to the LegCo in the next LegCo session. Meanwhile, having taken into account the views and comments raised by Members and various associations, we will continue our consultation with the trade on the list of minor works and the registration criteria for registered minor works contractors. We will also devise a proper interface with the CWRB through which Category IV minor works will be allowed to be carried out by registered construction workers of the relevant trades. Since the minor works control regime aims to provide a simple and legal channel for carrying out small-scale works, we hope that LegCo will accord priority to examining the amendment Bill in the next LegCo session.

Housing, Planning and Lands Bureau
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