

HPLB/BAB Paper/07/03

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

Cost recovery for removal of unauthorized building works

Purpose

This paper describes the existing procedures for recovering costs for demolishing unauthorized building works (UBWs), including unauthorized advertisement signboards, and outlines the proposals under the Buildings (Amendment) Bill 2003 to further clarify who should be the parties responsible for carrying out works to rectify unauthorized works.

Cost Recovery

2. When the Buildings Department (BD) decides to take enforcement action under section 24 of the Buildings Ordinance (BO) (Cap. 123) against UBWs, it will first seek to identify the owner of the UBWs and serve on him the removal order. If the removal order is not complied with by the deadline, BD would consider to instigate prosecution action against the owner and also a contractor could be appointed to remove the UBWs concerned. The cost of the removal works, including the supervision charge, will be recovered from the owner. If he fails to pay the cost to BD, BD will register a certificate in the Land Registry under section 33 of the BO against the title of his premises. BD will also consider referring the case to the Department of Justice for legal action against the owner if the cost is still outstanding after the registration of the certificate.

3. In the majority of cases, BD is able to identify or locate the owners for serving removal orders. In 2002, over 50,000 removal orders were served. We do not keep separate statistics on failure to pay the cost in relation to removal orders and in relation to other orders. However, the following overall figures may give a rough indication of the situation of overdue payments for recent years-

Year	Running total of overdue payment in the respective year (\$ million)
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2001	9.1
2002	20.4
2003*	18.1

* Up to 31.7.2003

4. Since signboards are a type of building works, BD may serve removal orders for the removal of unauthorized signboards. In addition, BD may serve a notice (also known as Dangerous Structure Removal Notice (DSRN)) on the owner of an advertisement signboard for its removal/repair if the signboard is dangerous under the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO). The cost recovery principle is similar to those under the BO. Where the owner of a dangerous signboard cannot be identified or located, BD will remove the signboard under PHMSO and the cost will be charged to the Public Account. The number of signboards inspected and that of abandoned signboards removed at Government cost in recent years are as follows -

Year	No. of signboards inspected	No. of abandoned signboards removed
2001	34,038	646
2002	56,119	1,131
2003*	26,403	183

* Up to 31.7.2003

Proposals under the Buildings (Amendment) Bill 2003

5. The Bill proposes to better clarify who should be the parties responsible for rectifying unauthorized works by specifying on whom a section 24 order may be served with regard to UBWs and unauthorized signboards respectively. Clause 29 provides that a section 24 order shall be served on -

- (a) in the case of a building or building works (excluding signboards), the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out;
- (b) in the case of street works, the frontagers; and

(c) in the case of building works the subject matter of which is a signboard –

- (i) the person for whom the signboard has been erected or is being erected; or
- (ii) if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or
- (iii) if the persons referred to in subparagraphs (i) and (ii) cannot be found, the owner of the land or premises on which the signboard has been erected or is being erected.

6. In addition, Clause 29 provides that where the building or building works (excluding signboards) is or are -

- (a) connected to land or premises (in this section referred to as “other land or premises”) other than the land or premises on which the building has been erected or on which the building works have been or are being carried out; and
- (b) occupied or used by the owner or occupier of that other land or premises, an order in respect of the building or building works shall be served on the owner of that other land or premises. This should address the present problem of all the owners of a building having to be held responsible for a UBW (e.g. a structure on roof) erected in the common areas of the building.

7. The proposed Clause 29 should give a clearer definition of parties who should be responsible for removing UBWs and unauthorized signboards. This should help BD in identifying and locating the parties concerned, thus facilitating the cost recovery process.