

Bills Committee on Buildings (Amendment) Bill 2003

Summary of concerns/views raised by organizations
(as at 8 September 2003)

Subject/Clause	Organization/individual	Concern/View	Administration's responses
Introduction of a new minor works (MW) control regime Clause 2(f) Section 2(1) Clause 11 (b) Proposed section 8A(2A) and (2B)	Mr B W CHOY	Have reservation over the proposal on the grounds that it is dangerous to allow the undertaking of MW without the approval of the building plans by the Building Authority (BA).	Under the proposed MW control regime, there will be different supervision requirements for different types of works depending on their nature, scale, complexity and structural implications. There are controls on the registration of MW contractors, statutory provisions on safety procedures, disciplinary proceedings and sanctions.
	HKIA HKIH HKCA HKIS HKIE HKAPMC LSHK	Support the proposal to facilitate more self-regulation and better control of building works.	
	HKIA	The Housing, Planning and Lands Bureau should coordinate the existing administrative procedures of the concerned departments for effective implementation of proposal.	

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	HKAPMC HKIH HKIE HKIS REDA HKCA HKEMMPA FHKEMITU	Clear definition and categorization of MW, preferably with examples, should be provided in the law.	
	HKIS	<p>MW should be categorized according to their implications on the design and structural safety of the building.</p> <p>Prior notification to the BA for carrying out MW should be required in addition to submission of certification of completion (Clause 62, proposed Regulation 25 of Building (Administration) Regulations). Undertaking from building owners for carrying out the works in compliance with building regulations is necessary.</p>	
	HKCA HKGBCA	The Administration should consult the construction industry on the details of categorization of MW.	

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	HKAPMC	Consideration should be given to requiring maintenance and removal of MW erected after a certain period of time.	
Registration of minor works contractors (MWC) Clauses 11 to 15 Sections 8A, 8B, 8BA, 8C and 8D	HKCA HKIH REDA	Support the registration of MWC	
	HKIS	There should be clear classification of MWC and they should be identified by specialization. The qualifications of registered MWC should include technical competency.	
	HKIE HKEMMPA FHKEMITU	The engineering profession should be consulted on the qualification and procedures for registration as MWC.	
	HKCA HKGBCA	The construction industry should be consulted on the qualification and requirements for registration as MWC.	

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	HKGBCA	A representative from HKGBCA should sit on the Contractor Registration Committee to consider applications for Class A Registered Minor Works Contractors (RMWC) (Clause 10, section 8(3B)) .	
	HKIH	Apart from registration of MWC, there should be registration of buildings in phases.	
Control of advertisement signboards Clause 2 Section 2(1) Clause 78 Regulation 10A in Building (Planning) Regulations	Mr B W CHOY	Doubtful whether an advertisement structure can be classified as a MW without the structure being first declared as a building.	A clear definition of signboard is provided in Clause 2. Whether a signboard is a type of MW will depend on its size and location.

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	HKIS	No objection to deem signboards as building works. The proposed enforcement framework differentiating whether the unauthorized building works (UBWs) have or have not been completed will not be effective in controlling signboards. It will be unfair to require building owners to remove signboards which are not erected by them in the first place.	
	REDA	No objection to control signboards but it is difficult to draw a line between "owner" and "occupier", and "land" and "premises".	

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	CWDC	The Bill should include provisions governing light emission from signboards, and structural safety of and light emission from electronic display boards.	The Bill has provisions to improve the control of structural safety of signboards. Occulting signs are regulated under a number of ordinances including the Road Traffic Ordinance, Public Lighting Ordinance, Shipping and Port Control Ordinance and the Hong Kong Airport (Control of Obstructions) Ordinance. It is inappropriate to regulate light emission from signboards through the Buildings Ordinance (BO).
	HKAPMC	Suggest to introduce a signboard registration system to help identify owners and ensure safety of signboards.	
	HKEMMPA FHKEMITU	Clear guidelines explaining the proposed regulation on signboards should be provided to facilitate compliance by the trade.	

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Uncooperative owners Clause 38 Proposed section 39B	HKAPMC	Support the proposal to prosecute owners who obstruct their Owners' Corporation (OC) in complying with BA's orders. Suggest that the same be applied to owners who obstruct property management company.	
	HKIS	The proposal is inappropriate as it gives OC privilege. The existing section 40(2AAA) of the BO is adequate in that it is an offence for anyone who obstructs the BA in the exercise of his power.	
Warning notice (WN) on UBWs Clause 30 Proposed section 24C	AAP	Have reservation over registering WN on UBWs in the Land Registry (LR), which will practically freeze transaction of the property. Non-compliance with removal orders may at times beyond the owners' control.	
	HKIH HKIREA	Support the proposal in principle. Owners should be given sufficient notice before registering WN in the LR.	

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	HKIH	WN should be issued upon request of OCs or property management companies.	
Registration of geotechnical engineers (GE) Clause 43 Proposed sections 53H and 53I	Mr B W CHOY	Query the need to register GEs. The Administration should provide examples of failure of the present system to justify the proposal.	The proposal will recognize the statutory role of GEs, enable them to undertake the investigation, design and supervision of geotechnical works directly, and hold them legally responsible for the quality of their work.
	HKIA HKIS HKIE HKCA REDA AAP	Support the registration of GEs to rationalize the duties and responsibilities of the professionals engaging in highly specialized works.	

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	HKIE	<p>The Administration has agreed with HKIE on the inclusion of grandfather provisions for registration as GE and the criteria for registration, namely certification of completion of site formation works for a prescribed number and nature of projects on the part of authorized persons (APs) and registered structural engineers (RSEs). However, the agreed criteria have not been clearly stipulated in the Bill. Instead, BA is conferred with discretionary power to decide whether APs and RSEs have the appropriate experience and competence for registration. Proposed section 53I(2)(a)(i) should be revised and section 53I(2)(a)(iii) deleted.</p> <p>The proposed Regulation 12(5) of Building (Administration) Regulations (Clause 52(c)) implies the requirement for the appointment of RGEs, in addition to RSEs, for all foundation works (regulation 8(1)(d)) and excavation works (regulation 8(1)(bc)) irrespective of their scale. The requirement will be a burden to the building industry.</p>	

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		Suggest to delete reference to regulation 8(1)(d) in regulation 12(5) and to specify that signature of a RGE on building plans/documents for excavation depth not exceeding 4.5 m shall not be required.	
	REDA	Buildings Department (BD) should be advised to ensure that the private sector will not be loaded with bureaucratic burden because of the appointment of Registered Geotechnical Engineer (RGE).	
Registration/renewal of APs and RSEs Clause 4 Section 3(9B), (13)(c), (15)(b)	AAP	Support extending the registration/renewal period for APs and RSEs from one year to five years.	
	HKIE	Question the proposed deletion of section 3(10) (Clause 4(s)) which provides for appeal against refusal of application or decision to defer consideration for registration/renewal.	

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Registration/renewal of registered general building contractors (RGBCs) and registered specialist contractors (RSCs) Clause 12 Section 8B(12)	HKCA HKGBCA	Suggest to extend the registration/renewal period for RGBCs and RSCs from three years to five years.	
Disciplinary proceedings for APs, RSEs, and RGEs Clause 9 Section 7(2C)	AAP HKIA	Object the proposed section 7(2C) which provides that the BA may bring to the notice of a disciplinary board matters in relation to supervision and carrying out of MW, which should fall within the responsibility of the Registered Contractors.	
Increasing fines for offences Clause 39 Section 40	HKAPMC	Consider the proposed increase of maximum fines for selected offences by four to six times of their current levels too high.	

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	HKIE	<p>Agree that the present level of fines should be reviewed.</p> <p>Have reservation over raising the fines from \$250,000 to \$1,500,000 (Clause 39(k)) for contravention of sections 4(3)(b), 9(5)(b) and 9(6)(b) of the BO concerning failure to notify the BA for non-compliance with building regulations. The penalty of three years' imprisonment should also be reviewed.</p> <p>Section 32(2) relating to the naming of streets and numbering of buildings should be deleted. The penalty of six months' imprisonment should be removed (section 40(1C)(a)).</p>	
	HKCA	<p>Strongly object the proposed increase in fines as the construction industry is undergoing its most difficult time. Increase in fines will deter small-sized contractors from registering as RMWC.</p>	

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	HKGBCA	The proposed increase in fines is not in proportion with the current economic climate. The proposal will drive small-sized contractors out of the market resulting in monopoly by large contractors.	
Provision of building plans and related charges Clause 74 Regulation 42 of Building (Administration) Regulations	HKIH	Welcome the proposal to provide non-certified copy of building plans and documents. Suggest to keep charges for the service to the minimum. The current charges for certified copies are too high and should be reviewed.	
	HKIE	Inspection of building plans or documents (Clause 74 item 12) should be charged on the basis of per successful application in the range of \$100 to \$200 instead of per file. The current charge of \$1.5 per page for photocopying document should be maintained. The proposed fee of \$38 per page is too expensive (Clause 74 item 11).	

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	HKAPMC HKIH	The building plan viewing process should be speeded up. Basic information, e.g. occupation permit, loading capacity; use of land, and updated information of Licensing and addition and alteration works should be made available for public inspection.	
Provision of emergency vehicular access (EVA) Clause 79 Proposed Regulation 41D of Building (Planning) Regulations	HKIS	Support the statutory requirement of EVA for building developments where it is necessary and practicable. If existing EVA is available, application for exemption should not be required. Suggest to include a provision in section 16 for the BA to disapprove building plans where he is not satisfied with the provision of EVA.	
	REDA	No objection to provision of EVA in principle. But provision of EVA may not be practicable in many situations. Need to review the proposed provision to avoid ambiguity.	

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Others	HKIA AAP	Details for implementing the Bill and administrative arrangements within the Government should be carefully worked out in consultation with the building professionals.	
	AAP	Consider it necessary to conduct a comprehensive review of the BO.	
	HKIH	<p>BD should take charge of handling complaints on water seepage in collaboration with Water Supplies Department and Food and Environmental Hygiene Department.</p> <p>OC/property management companies should be allowed to apply for the Building Safety Loan Scheme (BSLS) on behalf of individual owners without obtaining their written consent for complying with building orders.</p>	

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Clause 26 Section 21(6)(da)	HKEMMPA FHKEMITU	<p>Suggest to exempt the erection of metal supporting frame for air-conditioning plant (not exceeding 600 mm from the external wall) from the BO.</p> <p>The coverage of the BSLS should be extended and more publicity should be made on the Scheme.</p>	
	LSHK	Express doubt on the need of the proposed section to specify a ground on which the BA may refuse to issue a temporary occupation permits/occupation permits as such permits are not usually issued for amendment and alteration works.	
Clause 29 Section 24(2A)	LSHK	Suggest to review the drafting of proposed section 24(2A) to make clear that the provision applies to common parts of a development.	
Clause 40 Section 41	LSHK	When reading with proposed section 53J (Clause 43), it is unclear whether after enactment of the Bill there will be any exemptions of building works including MW from the BO.	

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Clause 62 Proposed Regulation 25 of Building (Administration) Regulations	LSHK	<p>The provision may trigger the requirement of certificates of non-existence of UBWs from architects which will delay sale of land and increase cost of property vendors.</p> <p>Have concern about possible requirement for registration of approved plans for individual blocks and units of a building development, in addition to registration of the master layout plan of the entire project..</p>	

Document No. of submissions and the Administration's response

Name of organization/individual	Submission	Response
Mr B W CHOY	LC Paper No. CB(1)2156/02-03(05)	LC Paper No. CB(1)2283/02-03(03)
Central and Western District Council (CWDC)	LC Paper No. CB(1)2156/02-03(06)	LC Paper No. CB(1)2283/02-03(04)
The Hong Kong Construction Association Ltd. (HKCA)	LC Paper No. CB(1)2388/02-03(01)	
The Hong Kong Institute of Surveyors (HKIS)	LC Paper No. CB(1)2388/02-03(02)	
The Hong Kong Association of Property Management Companies Ltd. (HKAPMC)	LC Paper No. CB(1)2388/02-03(03)	
The Hong Kong Institute of Architects (HKIA)	LC Paper No. CB(1)2388/02-03(04)	
The Association of Architectural Practices Ltd. (AAP)	LC Paper No. CB(1)2388/02-03(05)	
The Hong Kong Institute of Housing (HKIH)	LC Paper No. CB(1)2388/02-03(06)	
The Hong Kong Institution of Engineers (HKIE)	LC Paper No. CB(1)2388/02-03(07)	
The Real Estate Developers Association of Hong Kong (REDA)	LC Paper No CB(1)2405/02-03(01)	
Hong Kong General Building Contractors Association Ltd (HKGBCA)	LC Paper No. CB(1)2405/02-03(02)	
Hong Kong Institute of Real Estate Administration (HKIREA)	LC Paper No. CB(1)2415/02-03(01)	
Hong Kong Electrical & Mechanical Management & Professional Association (HKEMMPA)	LC Paper No. CB(1)2415/02-03(02)	

The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions (FHKEMITU)	LC Paper No. CB(1)2415/02-03(02)	
The Law Society of Hong Kong (LSHK)	LC Paper No. CB(1)2415/02-03(05)	