

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

**Building Safety Loan Scheme
Uncooperative Owners
Supplementary Information**

This paper sets out the Administration's response to questions raised by Members at the Bills Committee meeting on 16 October 2003 concerning the Building Safety Loan Scheme (BSLS) and uncooperative owners.

Buildings Safety Loan Scheme

2. Some Members have asked if there are any applications for the BSLS which have been rejected because of the failure of the applicants to submit supporting documents in respect of the properties in question which are held under joint ownership.

3. For a property under joint ownership, normally an application for a BSLS loan has to be supported by evidence of consent from all the co-owners. However, if one of the registered owners of a property under joint ownership submits an application for a loan but cannot produce evidence of consent from the other co-owners, his application will still be processed if he submits a written declaration that he will be fully liable for any claims arising from the loan. This requirement seeks to establish clearly the parties liable for the loan. From July 2001 to September 2003, there were 13 applications for the BSLS which could not be further processed because of the lack of co-owners' consent and the applicants' reluctance to accept full liability for the loan.

4. Some Members have asked how applicants with negative assets could be assisted in applying for loans exceeding \$250,000 under the BSLS.

5. The BSLS provides financial assistance to building owners for the carrying out of improvement works to their buildings by spreading the payment period and hence relieving the need for a significant cash outlay at one go. Like other loans, it has to be repaid. To prevent loan payment default and the loss of public funds, a reasonable security commensurate with the amount of loan granted is required.

6. In practice, very few individual owners will need to shoulder more than \$250,000 for the type of building improvement works covered by the BSLS. From July 2001 to September 2003, the number of applications involving amounts exceeding \$250,000 is 24. Over half of these applications were lodged by companies owning the properties.

7. Some Members have asked how the interest rate for BSLS loans on the principle of “no gain, no loss” to Government is arrived at and whether the resources used in dealing with defaulting cases are included in the calculation.

8. The “no gain, no loss” interest rate for the BSLS is a standard interest rate which also applies to other Government loan schemes. It is set according to the principle that Government should not seek to make a profit out of the loans, nor incur a loss. As the best lending rate incorporates a profit element for the banks, it is discounted by a fixed percentage to arrive at the “no gain, no loss” interest rate. As explained in a paper titled “Review of the Concessionary Interest Rates for Certain Government Loan Schemes” submitted to the Legislative Council Panel on Financial Affairs on 14 May 2001, this fixed percentage is the average figure of the differentials between the 12-month Hong Kong Dollar Inter-bank Offered Rates and best lending rates over a 10-year period. The current “no gain, no loss” interest rate effective from June 2003 is the best lending rate minus 2.174%. This fixed percentage of 2.174% is the result of a review conducted by the Financial Services and the Treasury Bureau. The calculation of the interest rate has not taken into account resources used in dealing with default cases¹.

¹ The number of default cases of the BSLS so far is 118, representing a default rate of 2.7%.

9. Regarding the submission of supporting documents on incomes and bank accounts by applicants under the low-income category for the interest-free BSLS loan, some Members have asked whether a reference letter from a registered social worker in support of the application could serve the purpose.

10. A reference letter from a registered social worker stating the applicant's financial position such as his income and asset is acceptable as a supporting document for an application for interest-free BSLS loan under the low-income category.

11. Some Members have asked for the number and percentage of BSLS applications received which are made in response to orders issued by the Building Authority (BA).

12. Up to September 2003, the number of applications for loans under the BSLS in response to orders issued by the BA is 2,609, or 40.7% of the total number of applications received.

13. Some Members have asked whether all the sections referred to in the proposed new section 39B are related to building safety.

14. The table below summarizes the details of sections referred to in the proposed new section 39B. These sections are all related to the service of statutory orders on owners of buildings for the purpose of maintaining building safety.

No.	Section under the Buildings Ordinance	Subject of the order
1.	s.24(1) or (1A)	Demolition, removal, or alteration of unauthorized building, building works or street works or minor works
2.	s.26(1)	Repair of dangerous buildings

No.	Section under the Buildings Ordinance	Subject of the order
3.	s.26A(1)or (3)	Investigation of defective buildings or the carrying out of remedial works thereto
4.	s.27A(1) or (2B)	Investigation of dangerous slopes or earth-retaining structures or the carrying out of remedial works thereto
5.	s.27C(1) or (4)	Investigation of buried services in the vicinity of any slope or earth-retaining structure or the carrying out of remedial works thereto
6.	s.28(2)(a), (3) or (5)	Investigation of defective or insanitary drains or sewers or the carrying out of remedial works thereto or requiring combined drains for buildings
7.	s.29(2)(a)	Repair of defective private street or access road
8.	s.29A(2)	Repair of defective emergency vehicular access
9.	s.30(3)	Imposition of conditions for securing safety of traffic and pedestrians, when giving consent to construction, formation or alteration etc. of means of access or openings to or from any street

No.	Section under the Buildings Ordinance	Subject of the order
10.	s.31(2)(a)	Removal or alteration of projections over any street or unleased Government land affecting public safety

Uncooperative Owners

15. Some Members have asked whether a person aggrieved by an order served on an owners' corporation (OC) may appeal to the Appeal Tribunal under the Buildings Ordinance.

16. Section 44 of the Buildings Ordinance provides that a person aggrieved by any decision made by the BA in his exercise of discretion may appeal to the Appeal Tribunal. Any person aggrieved by an order served under the Buildings Ordinance may therefore lodge an appeal to the Appeal Tribunal. The Appeal Tribunal, which is an independent body, will determine whether the person lodging the appeal is an aggrieved person having regard to the circumstances and evidence of individual cases. Nevertheless, there have been past cases where an order was served on the OC, one individual owner of the building concerned lodged an appeal and the owner was eventually accepted as an aggrieved person by the Appeal Tribunal.

17. Some Members have asked how the genuine difficulties encountered by individual owners who feel aggrieved by a decision made by an OC in response to an order served on the OC may be resolved.

18. Disputes between individual owners and the OCs in respect of an order served on the OC may be dealt with as follows.

(a) Assistance by the Home Affairs Department (HAD)

One of the policy objectives of HAD is to help resolve disputes between owners, OCs and management companies. Therefore, as in other disputes relating to building management, staff of HAD will try to facilitate dialogue and mutual understanding between individual owners and the OCs.

(b) Legal Action in Lands Tribunal

Individual owners may seek redress from the Lands Tribunal, as provided under the Tenth Schedule to the Building Management Ordinance.

19. Members have asked whether the BA will take enforcement action when disputes between individual owners and OCs concerning compliance with statutory orders are yet to be settled.

20. If the OC shows a genuine intention to comply with a statutory order but is in the course of coordinating with individual owners to carry out the compliance works, BD will usually allow more time for the OC to make the necessary arrangements and will not take immediate enforcement actions. However, if the case calls for the carrying out of emergency works, BD will carry out such works to remove the danger and recover the costs from the OC subsequently.

21. Members have asked who will be liable for offences relating to obstruction of OC if the owner is a company.

22. If the owner is a company, the director, manager or other officers concerned in the management of the company may be liable if they have carried out the obstruction or have consented to such obstruction.

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Housing, Planning and Lands Bureau