

Bills Committee on Buildings (Amendment) Bill 2003

List of follow-up actions arising from previous meetings (as at 28 January 2004)

Date of meeting	List of follow-up actions	Administration's response
8 July 2003	<p>(a) To clarify the criteria for categorization of building works as minor works and specify in detail the types of works which would be regarded as such.</p> <p>(b) To explain the qualification for registration as minor works contractors.</p> <p>(c) To advise the overall policies, if any, on building maintenance and control of unauthorized building works (UBWs) and advertisement signboards and enforcement in these respects.</p> <p>(d) To explain the policy, if any, to deal with cases in which owners have genuine financial difficulties in complying with removal order in respect of UBWs.</p> <p>(e) To advise how enforcement action against UBWs could be taken without causing insurmountable hardship to the owners concerned. Requiring demolition of unauthorized cooling towers for air-conditioners of small food shops is an example in question.</p> <p>(f) To consider measures to prevent large contractor companies from monopolizing the undertaking of minor works to the prejudice of existing small contractors.</p>	<p>Information paper on "The Minor Works Control Regime" (CB(1) 2292/02-03(01)) discussed at the meeting on 23 September 2003</p> <p>Information paper on "Unauthorized Building Works Enforcement Policy and Support for Owners" (CB(1) 2283/02-03(02)) discussed at the meeting on 31 July 2003</p> <p>Information paper on "The Minor Works Control Regime" (CB(1) 2292/02-03(01)) discussed at the meeting on 23 September 2003</p>

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31 July 2003	<p>(a) To explain the eligibility and procedures for applying for the Building Safety Loan Scheme. A member was concerned that there had been a case in which an applicant applying for a small amount under the Scheme was required to provide tenders for the works.</p> <p>(b) To provide a paper to explain how to handle situations in which building owners are uncooperative and obstruct the carrying out of works to demolish unauthorized building works (UBWs).</p> <p>(c) To advise the legislative timetable, if any, for introducing amendments to the Building Management Ordinance (Cap. 344) to facilitate owners incorporations to undertake works on the common parts of their buildings in compliance with statutory notices or orders.</p> <p>(d) To provide a paper to explain the existing practice or arrangement for recovering costs for demolishing UBWs or advertisement signboards affixed to a building the owners of which could not be identified or located. Please provide the statistics, if any, to show how frequent such a situation was encountered over the past few years.</p> <p>(e) To provide a copy of the Building Maintenance Guidebook, Guide on Erection and Maintenance of Advertising Signs and related pamphlets.</p>	<p>Information on "Building Safety Loan Scheme" (CB(1) 2405/02-03(03)) discussed at the meeting on 16 October 2003</p> <p>Information paper on "Uncooperative Owners" (CB(1) 2405/02-03(04)) discussed at the meeting on 16 October 2003</p> <p>Letter dated 4 September 2003 from the Administration (CB(1) 2411/02-03(01)) issued on 8 September 2003</p> <p>Information paper on "Cost recovery for removal of unauthorized building works" (CB(1) 2415/02-03(06)) discussed at the meeting on 6 November 2003</p> <p>Publications from the Administration (CB(1)2409/02-03) issued on 4 September 2003</p>
9 September 2003	<p>(a) To provide written response to the views and concerns expressed by the organizations.</p> <p>(b) To review the proposed increases of maximum fines for selected offences which some</p>	<p>Information papers on "Response to Submissions" (CB(1) 59/03-04(03) & 719/03-04(03)) discussed at the meeting on 12 December 2003 and 8 January 2004</p> <p>Information paper on "Fines"</p>

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	<p>members and organizations considered to be too high.</p> <p>(c) To explain the present enforcement situation concerning naming of streets and numbering of buildings under section 32(2) of the Buildings Ordinance.</p>	<p>(CB(1) 76/03-04(01)) discussed at the meetings on 6 and 11 November 2003</p> <p>Information paper on "Building Numbers" (CB(1) 59/03-04(02)) discussed at the meeting on 11 November 2003</p>
23 September 2003	<p>(a) To re-assess the minor works control scheme with respect to the following aspects:</p> <p><u>Need</u></p> <ul style="list-style-type: none"> - whether it is necessary to impose control over the carrying out of works which are very minor in nature, such as erection of metal supporting frame for air-conditioning unit and of drying rack. Members are concerned whether such minor works are exempted under section 41(3) of the existing Buildings Ordinance (BO); and - how the submission of as-built plans and certificate of completion to the Building Authority (BA) after completion of Category III minor works enhances safety of the works. <p><u>Feasibility</u></p> <ul style="list-style-type: none"> - whether it is feasible to implement the proposed minor works control regime, in particular in respect of Category III minor works as some contractors currently engaged in those works may not be able to provide as-built plans of the works done; and - whether it is practicable and cost-effective on the part of BA to keep and manage a huge amount of as-built plans expected to be submitted for Category III minor 	<p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meetings on 11 and 27 November 2003</p>

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	<p>works.</p> <p><u>Impact</u></p> <ul style="list-style-type: none"> - how the minor works control regime would affect existing contractors engaged in minor works; - how existing contractors engaged in minor works could be consulted on the minor works control regime; - whether the provision of top-up courses for contractors who do not have the appropriate academic qualifications for registration as minor works contractors is sufficient to meet the demand for such courses; the number of places in such courses and the amount of course fees contemplated; and - how members of the public could be informed of the minor works control regime and its implications. <p><u>Liability</u></p> <ul style="list-style-type: none"> - whether it is an offence for owners who have appointed with or without knowledge unregistered contractors to carry out minor works; and - whether it is appropriate that conviction of offences in relation to minor works and of offences of a serious nature under the BO attracts the same levels of fines and imprisonment terms. 	<p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meetings on 11 and 27 November 2003</p> <p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meetings on 11 and 27 November 2003</p> <p>Information paper on "Fines" (CB(1) 76/03-04(01)) discussed at the meetings on 6 and 11 November 2003</p>

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	<p>(b) To provide a sample of an as-built plan for erection of supporting frame for air-conditioning unit under Category III minor works.</p> <p>(c) To compile a list of building works which will be regarded as exempted works under the BO.</p> <p>(d) To give examples of existing laws which provide for a fine of \$1,500,000 and imprisonment for three years for conviction of offences. There has been concern that the three years' imprisonment for the offence of failure to notify BA of contravention of regulations resulting from carrying out buildings works shown in approved plans is too severe.</p> <p>(e) To advise whether the present drafting of the proposed section 40(2AA) imposes a strict liability.</p>	<p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meetings on 11 and 27 November 2003</p> <p>Information paper on "Fines" (CB(1) 76/03-04(01)) discussed at the meetings on 6 and 11 November 2003</p> <p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meetings on 11 and 27 November 2003</p>
16 October 2003	<p>(a) To advise if there are any applications for the Building Safety Loan Scheme (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. An example quoted is the failure of the applicant to produce a copy of the HKID card of the other co-owners.</p> <p>(b) To consider how applicants with negative equity could be assisted in applying for loans exceeding \$250,000 under BSLS as they are required to execute a legal charge registered against the title of a property owned by them or to obtain a letter of guarantee issued by a bank.</p> <p>(c) To advise how the interest rate for BSLS loans on the principle of "no gain, no loss" to Government is arrived at. Please also advise if the resources used in dealing with defaulting cases are included in the calculation.</p>	<p>Supplementary information on "Building Safety Loan Scheme and Uncooperative Owners" (CB(1) 237/03-04(03)) discussed at the meeting on 6 November 2003</p>

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	<p>(d) Referring to the submission of supporting documents on incomes and bank accounts by applicants under the low income category for the interest-free BSLS loan (page 4 of the application form for BSLS), to consider whether a reference letter from a registered social worker in support of the application could serve the purpose.</p> <p>(e) To provide the number and percentage of BSLS applications received up to July 2003 which are made in response to orders issued by the Building Authority (BA).</p> <p>(f) To confirm whether all the sections referred to in the proposed section 39B(1) of the Buildings Ordinance (BO) (Cap. 123) were related to safety of buildings. Some members are concerned that the offences for contravention of proposed section 39B attract severe penalties.</p> <p>(g) To confirm whether a person aggrieved by an order served on an owners' corporation (OC) may appeal to an Appeal Tribunal appointed under BO.</p> <p>(h) To consider how to resolve 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.</p> <p>(i) To explain whether BA will take enforcement action when disputes between individual owners and OCs concerning compliance with statutory orders are yet to be settled.</p> <p>(j) To advise who will be liable to offences relating to obstruction of OC if the owner is a company.</p>	<p>Supplementary information on "Building Safety Loan Scheme and Uncooperative Owners" (CB(1) 237/03-04(03) discussed at the meeting on 6 November 2003</p>
6 November 2003	<p>(a) To provide a sample rates demand note which contains a note that the charging of rates on a structure did not connote its legality.</p>	<p>A sample of rates demand notes provided by the Administration (CB(1) 338/03-04) issued on 14 November 2003</p>

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	<p>(b) To consider the feasibility of introducing mandatory or voluntary arbitration to resolve disputes between owners' corporations (OCs) and individual owners in connection with compliance with statutory orders served under the Buildings Ordinance (Cap. 123).</p> <p>(c) To consider the feasibility of operating an advisory service counter in the Lands Tribunal (LT) to help resolve disputes between OCs and individual owners in connection with compliance with statutory orders served under BO.</p> <p>(d) To advise how far individual owners could seek redress from LT under the Tenth Schedule to the Building Management Ordinance (Cap. 344) in relation to disputes with OCs concerning compliance with statutory orders served under BO.</p> <p>(e) To advise whether a reference letter from a registered social worker could be accepted for the purpose of supporting applications for interest-free loans under the Building Safety Loan Scheme from owners who might not fall within the low income category (if the assessment was made in terms of total household income) but whose family members habitually did not contribute to the family expenditure.</p> <p>(f) To advise the outcome of the Administration's examination of the feasibility of providing for separate penalties for minor works. A member suggested that a tier penalty system might be considered such as providing for penalties for summary conviction and conviction on indictment.</p>	<p>Information paper on " Relationship between Individual Owners and Owners' Corporations" (CB(1) 407/03-04(03)) discussed on 27 November 2003</p> <p>Information paper on "Relationship between Individual Owners and Owners' Corporations" (CB(1) 407/03-04(03)) discussed on 27 November 2003</p> <p>Letter dated 25 November 2003 from the Administration (CB(1) 434/03-04) issued on 27 November 2003</p> <p>Outstanding</p>
11 November 2003	<p>(a) To ascertain the reference to which the level of fines had been made when the provisions relating to fines in the Buildings Ordinance (BO) (Cap.123) were enacted.</p> <p>(b) To review whether it was appropriate to link the level of fines with the Building Cost Index. It had been suggested that reference might be made to the Consumer Price Index.</p>	<p>Outstanding</p>

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	<p>(c) To review the proposal to increase the maximum fine from \$250,000 to \$1.5 million under section 40(2AA) of BO for failure to notify the Building Authority of any contravention of building regulations resulting from the carrying out of works shown on approved plans.</p> <p>(d) To review whether it was appropriate for the proposed offence under section 40(2AA) of BO to be a strict liability offence.</p> <p>(e) To review comprehensively the present situation about display of street names and building numbers and report the outcome of the review to the Panel on Planning, Lands and Works. Members were concerned about inadequate display of street names and building numbers in the territory. A member was also concerned that normally a building number was only shown at the entrance of a large shopping arcade but the shops which fronted or abutted the street concerned were numberless.</p> <p>(f) To answer at the following meeting the following questions raised by members:</p> <p>(i) would the proposed minor works control scheme backfire as contractors and building owners might be reluctant or unable to comply with the proposed provisions, defeating the purpose for introducing the scheme;</p> <p>(ii) whether works which altered fire services installations without changing the structural elements of a building would be regarded as exempted works under section 41(3AA)(a) of BO;</p> <p>(iii) whether the contractor and/or the owner concerned would be held liable if the as-built plan for a supporting frame for an air-conditioning unit was found to be incorrect;</p> <p>(iv) whether the contractor for installing a new air-conditioning unit using an existing supporting frame and/or the owner concerned would be held liable if the existing supporting frame was used and it fell off during installation of the</p>	<p>Outstanding</p> <p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meeting on 27 November 2003 and verbal clarification</p>

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	<p>unit and caused injury to a person; and</p> <p>(v) were there any mechanism and measures to deal with existing supporting frames and whether the owners concerned would be held criminally liable under BO if these structures fell off causing injury to a person.</p>	<p>Information paper on "Minor Works Control Regime (Part II)" (CB(1) 237/03-04(02)) discussed at the meeting on 27 November 2003 and verbal clarification</p>
27 November 2003	<p>(a) To advise whether applicants, failing in examination of a recognized top-up course for minor works contractors, had to pay an examination fee again if they re-sit the examination and if so, the fee level.</p> <p>(b) To review the proposed minor works control regime to address members' concern that the proposed regime was nuisance-causing but ineffective to enhance public safety. To address some members' concern that it was unclear what constituted exempted works.</p> <p>(c) To provide legal advice on nature of disputes between owners' corporations and individual owners in relation to statutory orders issued by the Building Authority (BA) which could be heard by the Lands Tribunal under the Tenth Schedule to the Building Management Ordinance (Cap. 344).</p> <p>(d) To consider the proposal of extending the scope of the Appeal Tribunal (Buildings) to hear and determine cases of disputes between individual owners and owners' corporations relating to the manner of complying with a statutory order issued by BA. Some members considered that this proposal might resolve the complication arising from the anomaly of having two bodies, namely, the Appeal Tribunal (Buildings) and the Lands Tribunal, handling matters relating to compliance with a statutory order issued by BA, and the Appeal Tribunal (Buildings) could be a better venue in view of the technical background of its members.</p>	<p>Information paper on "Minor Works Control Scheme (Part III) and Exempted Works" (CB(1)719/03-04(02)) discussed on 8 January 2004</p> <p>Outstanding</p>

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12 December 2003	<p>(a) To clarify the circumstances which would fall within Regulation 41D(3)(a) of the Building (Planning) Regulations concerning exemption from provision of emergency vehicular access (EVA). An example quoted by a member was inability of a person to purchase the land surrounding the building in question or obtain the approval of the relevant landowner for the provision of EVA which would encroach on his land.</p> <p>(b) To advise the types of foundation works which required the appointment of a geotechnical engineer. A member was concerned whether the carrying out of foundation works for the construction of high-rise superstructures required the appointment of a geotechnical engineer.</p> <p>(c) To explain the impact of the Bill, if any, on building works carried out in the New Territories (NT). Some members had raised queries about application of the requirement of mandatory provision of EVA and the appointment of Registered Geotechnical Engineers to building works involving small houses and low-density residential complex in the NT.</p> <p>(d) To report to the relevant Panels of LegCo about the outcome of consultation with the trade concerning the qualification and experience for registration as Class A and Class B minor works contractors.</p> <p>(e) To ascertain whether under the Tenth Schedule to the Building Management Ordinance (Cap. 344) the Lands Tribunal could handle disputes between individual owners and owners' corporations concerning the award of damages and compensation in connection with the compliance with a statutory order issued by the Building Authority.</p> <p>(f) To provide a paper to explain the issue of warning notice on unauthorized building works and the registration of warning notice in the Land Registry.</p> <p>(g) To review the proposal for charging the issue of a copy of document kept under the Buildings Ordinance (Cap. 123) at \$38 per copy.</p>	<p>Letter dated 28 January 2004 from the Administration (CB(1)873/03-04(02) issued on 28 January 2004</p> <p>Outstanding</p> <p>Information paper on "Warning Notice" (CB(1) 702/03-04(02)) issued on 5 January 2004</p> <p>Outstanding</p>

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8 January 2004	<p><u>Item 54 in CB(1)719/03-04(01)</u></p> <p>(a) To report to the Bills Committee before completion of scrutiny of the Bill how water seepage cases will be handled in future. Members are gravely concerned about the ineffective ways in which water seepage cases are handled by different Government departments at present. They request the Administration to formulate a comprehensive plan with proposed timing to deal with water seepage problems at root. Members make the following proposals:</p> <ul style="list-style-type: none"> (i) a Government department, preferably Buildings Department, should be designated to deal with water seepage; (ii) an adjudicating body such as tribunal may need to be established to hear and determine water seepage disputes; and (iii) the cost incurred in handling water seepage may be shared by the relevant parties. <p><u>Item 59 in CB(1)719/03-04(01)</u></p> <p>(b) To discuss with the Law Society of Hong Kong how clause 62 (new Regulation 25 of Building (Administration) Regulations) will affect conveyancing, if any. Some members' concerns in this respect are as follows:</p> <ul style="list-style-type: none"> (i) whether an architect's certificate will be required in conveyancing to certify that minor works in the property concerned are completed in accordance with the Buildings Ordinance (BO); and (ii) how minor works which were completed not in accordance with the BO before the enactment of the relevant provision on minor works should be handled in so far as conveyancing is concerned. 	<p>Outstanding</p>

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	<p>The Administration is requested to report the outcome of discussion to the Bills Committee.</p> <p>(c) To clarify whether the BO will apply to public housing blocks which belong to the Housing Authority but were partly sold to members of the public.</p>	<p>Outstanding</p>

Council Business Division 1
Legislative Council Secretariat
10 February 2004