

立法會 *Legislative Council*

LC Paper No. LS103/02-03

**Paper for the House Committee Meeting
on 2 May 2003**

Legal Service Division Report on Buildings (Amendment) Bill 2003

I. SUMMARY

1. Objects of the Bill

- (a) To provide a statutory framework for the registration of geotechnical engineers and related matters;
- (b) To provide a statutory framework for the regulation of minor works and the registration of minor works contractors;
- (c) To provide additional powers to the Building Authority ("BA") for the enforcement of the Buildings Ordinance (Cap. 123);
- (d) To require the owner of an emergency vehicular access to maintain it in good order;
- (e) To empower the Secretary for Housing, Planning and Lands to make related regulations;
- (f) To make certain related or consequential amendments to the Building (Administration) Regulations (Cap. 123 sub. leg. A); and
- (g) To amend the Building (Planning) Regulations (Cap. 123 sub. leg. F) to prescribe specifications of supporting structures of air-conditioning units projecting over a street and signboards, and to require new buildings to be provided with emergency vehicular access.

2. Comments

The Bill makes various proposals to rationalize the building control regime, strengthen safety requirements, facilitate law enforcement and improve certain services of the BA to the public. The proposals are part of the phased review of the Buildings Ordinance.

3. Public Consultation

The Administration has consulted the Land and Building Advisory Committee (including its Buildings Sub-Committee) and District Councils. They have expressed general support for the proposals in the Bill.

4. Consultation with LegCo Panel

The LegCo Panel on Planning, Lands and Works was consulted on 14 June 2002. At the meeting members expressed various concerns on the proposals.

5. Conclusion

The Bill concerns various aspects of policy which have been the concern of the public and Members. Members may wish to form a Bills Committee to consider the Bill in detail.

II. REPORT

Objects of the Bill

- (a) To provide a statutory framework for the registration of geotechnical engineers, and the appointment, duties and discipline of registered geotechnical engineers;
- (b) To empower the Building Authority ("BA") to suspend authorized persons, registered structural engineers or registered geotechnical engineers from certifying minor works (defined in the Bill) in situations prescribed in the Bill;
- (c) To provide a statutory framework for the registration of minor works contractors and the appointment, duties, discipline and regulation of registered minor works contractors;
- (d) To enable category I or II minor works (defined in the Bill) to be carried out if the conditions prescribed in the Bill are met, and category III (defined in the Bill) minor works to be carried out without obtaining approval and consent of the BA;
- (e) To enable the BA to refuse the issue of temporary occupation permit or occupation permit where fire service installation or certain other equipment have not been provided;
- (f) To empower the BA to require an owner of land or structure, or a person under an obligation to maintain the land or structure under the Government lease, to appoint an authorized person, a registered structural engineer or a registered geotechnical engineer to carry out investigation of dangerous hillsides;
- (g) To require the maintenance of emergency vehicular access;
- (h) To empower the Secretary for Housing, Planning and Lands to make regulations for the registration and control of registered geotechnical engineers and registered minor works contractors, and for matters relating to the provision of emergency vehicular access;
- (i) To prohibit obstruction of persons employed or engaged by an owners' corporation in carrying out works ordered by the BA;
- (j) To create offences for contravention of new provisions, and to increase fines for certain offences under the Buildings Ordinance (Cap. 123);
- (k) To make certain related or consequential amendments to the Building (Administration) Regulations (Cap. 123 sub. leg. A); and

- (1) To amend the Building (Planning) Regulations (Cap. 123 sub. leg. F) to prescribe the specifications of supporting structures of air-conditioning units projecting over a street and signboards, and to require provision of emergency vehicular access.

LegCo Brief Reference

2. HPLB(B)30/30/102 dated 11 April 2003 issued by the Housing, Planning and Lands Bureau.

Date of First Reading

3. 30 April 2003.

Comments

4. According to the LegCo Brief, the Bill aims to rationalize the building control regime, strengthen safety requirements, facilitate law enforcement and improve service to the public.

5. In relation to rationalizing the building control regime, the Bill proposes to introduce a new category of relatively simple and small-scale building works, referred to as minor works in the Bill. A new category of registered minor works contractors may carry out minor works on their own, or under the supervision of an authorized person or registered structural engineer, without the submission of building plans for the approval of the BA. The Bill also proposes to establish a system for the registration of geotechnical engineers who would be appointed to undertake investigation, design and supervision of geotechnical works.

6. In relation to strengthening safety requirements, the Bill proposes to require the provision of emergency vehicular access to all new buildings in accordance with requirements specified by the BA unless exempted by him.

7. In relation to facilitating law enforcement, the Bill proposes to empower the BA to serve an order or a notice on the owner or certain persons prescribed by the Bill to require demolition or alteration of works in contravention of the Buildings Ordinance, or minor works in contravention of approved or draft plans, or master lay-out plan. The BA may register the order or notice in the Land Registry, and has the power to carry out the required work and recover the cost from the persons concerned. In addition, the Bill also proposes to increase the fines of certain offences and to prohibit obstruction of persons employed or engaged by an owners' corporation to carry out works ordered by the BA.

8. In relation to improving service to the public, the Bill proposes to enable the BA to provide copies of plans and prescribed documents at a fee.

Public Consultation

9. According to the LegCo Brief, the Administration has consulted the Land and Building Advisory Committee (including its Buildings Sub-Committee) and District Councils. They have expressed general support for the proposals in the Bill.

Consultation with LegCo Panel

10. The LegCo Panel on Planning, Lands and Works was consulted on the proposed amendments at its meeting on 14 June 2002. At the meeting members were briefed on the proposed amendments which were covered by Phase 1 of the review of Ordinance.

11. Members expressed concern over the following issues:

- (a) scope and timetable of the phased review;
- (b) definition of the proposed new category of "minor works", and the justifications for the proposed amendments which would entrust authorized persons, registered structural engineers and minor works contractors with great authority in minor building works;
- (c) monitoring mechanism on the quality of building works;
- (d) identification of the persons responsible for the removal of unauthorized building works;
- (e) proposed increase in penalties for serious offences involving substandard building works or construction dangers;
- (f) proposed offence of owners obstructing their owners' corporation in complying with an order served by the BA for repair works or removal of unauthorized building works in common parts; and
- (g) proposed requirement to provide emergency vehicular access to all new buildings.

12. Members may wish to refer to the minutes of the Panel meeting on 14 June 2002 (LC Paper No. CB(1)274/02-03) for details.

Conclusion

13. The Bill covers various matters which the public and Members have expressed concern. While the Legal Service Division is still scrutinizing the legal aspects, Members may wish to form a Bills Committee to consider the Bill in detail.

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