

立法會 CB(2)205/07-08(01)號文件
LC Paper No. CB(2)205/07-08(01)

民政事務總署
第四科
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30 October 2007

Miss Flora TAI
Clerk to Subcommittee
Subcommittee on Building Management
(Third Party Risks Insurance) Regulation
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss TAI,

**Subcommittee on Building Management
(Third Party Risks Insurance) Regulation**

Thank you for your letter of 29 October 2007.

In response to the issues raised by the Members concerning the Building Management (Third Party Risks Insurance) Regulation (the Regulation) at the subcommittee meeting yesterday, we propose to make the following amendments to the Regulation.

“Statutory Instrument” under section 2

Under section 2 of the Regulation, “statutory instrument”, in relation to a building, is defined as an order, notice or direction issued under an Ordinance that requires any maintenance, improvement, repair or demolition work to be carried out in relation to the building; any fire safety installation or improvement work to be carried out in relation to the building; or any relevant person to be appointed to carry out investigation in relation to the building.

Members enquired whether the definition of statutory instrument” includes warning notices issued by the Buildings Department which may be registered at the Land Registry if the maintenance or alteration work is not carried out. In view of Members’ concerns, we would amend the definition of “statutory instrument” to clarify our intention that notices issued by the Buildings Department under the Buildings Ordinance (Cap. 123) should be considered as a statutory instrument. The definition of “statutory instrument” will be amended to –

“statutory instrument” (法定文書), in relation to a building, means –

- (a) an order, notice or direction issued under an Ordinance requiring –
 - (i) any maintenance, improvement, alteration, repair or demolition work to be carried out in relation to the building;
 - (ii) any fire safety installation or improvement work to be carried out in relation to the building; or
 - (iii) any relevant person to be appointed to carry out investigation in relation to the building; or
- (b) a notice or direction issued under an Ordinance specifying that the notice or direction will be registered in the Land Registry if any maintenance, improvement, alteration, repair or demolition work, or any fire safety installation or improvement work, is not carried out in relation to the building before a particular date;”

Section 5

Section 5(3) of the Regulation requires an owners’ corporation (OC) to display the notice of insurance in a prominent place in the building as long as the policy is in effect. In accordance with section 5(7), if an OC contravenes the requirement, every member of the management committee (MC) is guilty of an offence and is liable on conviction to a fine at level 2. Some Members requested to lower the level of fine for failure of the OC to comply with the requirement. Having considered Members’ suggestion, we would amend section 5(7) of the Regulation to lower the level of fine from “level 2” to “level 1”.

For better drafting purpose, we would also make a technical amendment to repeal the words “issued to it” in section 5(4) of the Regulation.

Section 6(3) and (4)

Members considered that in order to provide better protection for the third party, the insurance company should pay the third party first and recover the sum from the OC concerned if the OC has not exercised reasonable diligence to keep the building in good condition. Having considered Members’ views, we would delete section 6(3) and (4) from the Regulation and made corresponding amendments to other sub-sections of section 6.

A copy of the proposed resolution is attached at the **Annex** for your reference.

Yours sincerely,



(Miss Linda SO)
for Director of Home Affairs

c.c. DoJ (Attn : Mr Lawrence Peng)(Fax No. 2536 8127)
(Ms Lonnie Ng)(Fax No. 2845 2215)
(Ms Grace Lam)(Fax No. 2136 8277)

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

BUILDING MANAGEMENT (THIRD PARTY RISKS INSURANCE) REGULATION

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2007.

RESOLVED that the Building Management (Third Party Risks Insurance) Regulation, published in the Gazette as Legal Notice No. 146 of 2007 and laid on the table of the Legislative Council on 11 July 2007, be amended –

(a) in section 2, by repealing the definition of “statutory instrument” and substituting –

““statutory instrument” (法定文書), in relation to a building, means –

(a) an order, notice or direction issued under an Ordinance requiring –

- (i) any maintenance, improvement, alteration, repair or demolition work to be carried out in relation to the building;
- (ii) any fire safety installation or improvement work to be carried out in relation to the building; or
- (iii) any relevant person to be appointed to carry out investigation in relation to the building; or

- (b) a notice or direction issued under an Ordinance specifying that the notice or direction will be registered in the Land Registry if any maintenance, improvement, alteration, repair or demolition work, or any fire safety installation or improvement work, is not carried out in relation to the building before a particular date;”;
- (b) in section 5(4), by repealing “issued to it”;
- (c) in section 5(7), by repealing “level 2” and substituting “level 1”;
- (d) in section 6(1), by repealing “Subject to subsection (3), so” and substituting “So”;
- (e) by repealing section 6(3) and (4);
- (f) by renumbering section 6(5), (6), (7) and (8) as section 6(3), (4), (5) and (6) respectively;
- (g) in section 6(6), by repealing “(7)” and substituting “(5)”.

Clerk to the Legislative Council

2007

《釋義及通則條例》

立法會決議

《建築物管理(第三者風險保險)規例》

立法會於 2007 年 月 日根據《釋義及通則條例》(第 1 章)第 34(2)條提出和通過的決議。

議決修訂於 2007 年 7 月 11 日提交立法會會議省覽的《建築物管理(第三者風險保險)規例》(即刊登於憲報的 2007 年第 146 號法律公告) —

(a) 在第 2 條中，廢除“法定文書”的定義而代以 —

““法定文書”(statutory instrument)就某建築物而言，指 —

(a) 根據某條例發出的規定須作出以下事項的命令、通知或指示 —

- (i) 就該建築物進行保養、改善、改動、修繕或拆卸工程；
- (ii) 就該建築物進行消防安全裝置工程或改善消防安全工程；或
- (iii) 委任任何有關人士進行關於該建築物的勘測；或

(b) 根據某條例發出的符合以下說明的通知或指示：該通知或指示指明倘若在某特定日期前，就該建築物沒有進行保養、改善、改動、修繕或拆卸工程，或沒有進行消防安全裝置工程或改善消防安全工程，則該通知或指示將會在土地註冊處註冊；”；

(b) 廢除第 5(4)條而代以 一

“(4) 凡某保單不再有效，法團不得展示關於該保單的保險通告。”；

(c) 在第 5(7)條中，廢除“第 2 級”而代以“第 1 級”；

(d) 在第 6(1)條中，廢除“除第(3)款另有規定外，”；

(e) 廢除第 6(3)及(4)條；

(f) 將第 6(5)、(6)、(7)及(8)條分別重編為第 6(3)、(4)、(5)及(6)條；

(g) 在第 6(6)條中，廢除“(7)”而代以“(5)”。

立法會秘書

2007 年 月 日