

**立法會**  
**Legislative Council**

LC Paper No. LS17/07-08

**Paper for the House Committee Meeting  
on 7 December 2007**

**Legal Service Division Report on  
Buildings (Amendment) Bill 2007**

**I. SUMMARY**

- 1. Objects of the Bill**      To amend the Buildings Ordinance (Cap. 123) (the Ordinance) to –

  - (a) introduce a minor works control system;
  - (b) provide for a scheme under which demolition orders will not be made in respect of prescribed unauthorized building works or building structures which have been completed or carried out before a specified date;
  - (c) provide penalties for offences relating to minor works; and
  - (d) make miscellaneous amendments.
  
- 2. Comments**              The Bill introduces a new category of building works, namely "minor works" which are to be designated by the Building Authority in regulations. Minor works will be classified into three classes according to their scale, complexity and risk to safety and will be subject to different degrees of control. Under the proposed new system, there is no need to obtain prior approval of plans from the Building Authority to undertake minor works. Owners of buildings can appoint technical personnel of different qualifications (details of the qualifications are to be prescribed in regulations) in accordance with the complexity of the works.

No enforcement action will be taken under the Ordinance against validated minor works unless their safety conditions change. The Bill also provides for penalties for various offences relating to minor works.
  
- 3. Public Consultation**      According to the LegCo Brief, the industry and practitioners are generally content with the proposed minor works control system.
  
- 4. Consultation with LegCo Panel**      At the meeting of the Panel on Planning, Lands and Works on 27 March 2007, the Administration briefed members on the legislative proposal. Members were in general supportive of the policy direction of the proposal.
  
- 5. Conclusion**              In light of the implications of the proposed system on the control of future building works, existing structures and public safety, members are recommended to form a bills committee to consider the Bill in detail.

## **II. REPORT**

### **Objects of the Bill**

To amend the Buildings Ordinance (Cap. 123) (the Ordinance) to—

- (a) introduce a minor works control system;
- (b) provide for a scheme under which demolition orders will not be made in respect of prescribed unauthorized building works or building structures which have been completed or carried out before the commencement date of section 26 of the Buildings (Amendment) Ordinance 2007, upon enactment of the Bill;
- (c) provide penalties for offences relating to minor works and other new provisions; and
- (d) make miscellaneous amendments.

### **LegCo Brief Reference**

2. DEVB(PL-B)30/30/120 issued by the Development Bureau on 21 November 2007.

### **Date of First Reading**

3. 5 December 2007.

### **Comments**

#### Minor Works Control System

4. The Bill proposes to introduce a new category of building works, namely "minor works", which are to be designated by the Building Authority in regulations made under the Ordinance.

5. According to paragraph 6 of the LegCo Brief, the Administration proposes that minor works will be classified into three classes according to their scale, complexity and risk to safety and will be subject to different degrees of control –

- (a) Class I minor works are relatively more complicated minor works (for example installation of internal staircases connecting two floors);

- (b) Class II minor works are comparatively less complex works (for example repair of external walls); and
- (c) Class III minor works cover small-scale minor works, mostly carried out in household settings, such as erection of supporting frames for air-conditioners.

6. Under the proposed new system, there is no need to obtain prior approval of plans from the Building Authority to undertake minor works. Owners of buildings can appoint technical personnel of different qualifications in accordance with the complexity of the works. A person for whom minor works are to be commenced shall appoint a prescribed registered contractor (who is a registered general building contractor, registered specialist contractor or registered minor works contractor) as required by the regulations made under the Ordinance to carry out the works.

7. The qualifications of registered minor work contractors are to be provided for in regulations to be made under the Ordinance. According to paragraph 7 of the LegCo Brief, the Administration proposes that the contractors who apply for registration as registered minor works contractors may be bodies corporate, partnerships or sole proprietorships and have to satisfy the Building Authority that their personnel possess the necessary technical qualifications and work experience before they could be registered under the Ordinance. Further, according to paragraphs 15-17 of the LegCo Brief, the Administration explains the interface between the registration system of minor works contractors and that of construction workers under the Construction Workers Registration Ordinance (Cap 583). In brief, the Administration has agreed to the request of the trade (including a Working Group comprising representatives from the relevant professional institutes, practitioners as well as the "Minor Works Concern Group" representing the frontline minor works practitioners) to establish a separate registration system under the Ordinance for minor works.

8. The Bill further amends section 11 of the Ordinance to provide for the composition of a disciplinary board to hear and determine proceedings against a registered minor works contractor.

#### Validation Scheme

9. Subject to the inspection and certification by a building professional or registered contractor and validation by the Building Authority to confirm their safety, no enforcement action will be taken in respect of a prescribed building or building works that have been completed or carried out before the date of commencement of section 26 of the Buildings (Amendment) Ordinance 2007 (if enacted), unless there are changes in their safety conditions. The meaning of the term "prescribed building or building works" is to be prescribed in the regulations to be made under the

Ordinance. According to paragraph 19 of the LegCo Brief, the Administration proposes to validate such works such as supporting frames for air conditioners, drying racks and small canopies.

Penalties for offences relating to minor works and other new provisions

10. Some major offences relating to minor works are as follows-
- (a) Any person who knowingly commences minor works without appointing the specified persons to carry out such works will be liable to a fine at level 6 (\$100,000) and to imprisonment for 6 months; and a fine of \$5,000 for each day during which the offence has continued;
  - (b) The Building Authority may, by order in writing, require a person to take specified action in respect of any "prescribed requirement minor works"<sup>1</sup>, if the minor works have been carried out in contravention of, for example any provisions of the Ordinance. Any person who, without reasonable excuse, fails to comply with such order will be liable to a fine at level 5 (\$50,000) and to imprisonment for 3 months; and to a fine of \$5,000 for each day during which the offence has continued; and
  - (c) The Bill also substitutes the fine in various provisions with the corresponding level of fine prescribed in the Criminal Procedure Ordinance (Cap. 221).

Miscellaneous Amendments

11. Some major miscellaneous amendments are as follows-
- (a) Section 31(1) of the Ordinance prohibits the erection of any building or structure in, over, under or upon any portion of any street unless in specified circumstances. The Bill now amends section 31(1) to further allow the projection of signboard outside buildings provided that certain conditions are met, for example safety condition;
  - (b) Section 3 of the Ordinance provides for the establishment of registers of authorized persons, structural engineers and geotechnical engineers. The Bill amends section 3 to clarify the procedure for removal of names from registers;
  - (c) The Bill also amends sections 3 and 8 (registers of contractors, etc.) of the Ordinance to provide for matters relating to public inspection of information kept by the Building Authority; and

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<sup>1</sup> Clause 3(1)(c) of the Bill amends section 2(1) of the Ordinance to add a new definition of "prescribed requirement minor works" which means "minor works in respect of which section 14(1), by virtue of section 14AA, does not or will not apply".

- (d) The Bill amends section 7 of the Ordinance to include new grounds on which the Building Authority may refer to the disciplinary board cases relating to the conduct of authorized persons, registered structural engineers and registered geotechnical engineers.

12. The Bill also makes consequential amendments to the Construction Workers Registration Ordinance as a result of the introduction of the minor works control scheme.

### **Public Consultation**

13. Paragraph 28 of the LegCo Brief explains the Administration's consultation with the public. A Working Group comprising representatives from the relevant professional institutes, practitioners as well as the "Minor Works Concern Group" representing the frontline minor works practitioners has been established to map out the minor works control system. The industry and practitioners are generally content with the proposed system.

### **Consultation with LegCo Panel**

14. At the meeting of the Panel on Planning, Lands and Works (the Panel) on 27 March 2007, the Administration briefed members on the proposal to introduce a minor works control system through amendments to the Ordinance.

15. Members were in general supportive of the policy direction of the proposal. Some members expressed concern that the proposed regulatory requirements regarding household minor works might be too burdensome for household owners, and considered that the crux was how different types of minor works were classified and which types of minor works would be exempted from the regulatory requirements. According to the Administration, details concerning the classes, types and items of minor works would be stipulated in regulations to be made under the Ordinance.

16. Some members expressed concern that the requirements of the minor works control system might be inconsistent with the deeds of mutual covenant or management agreements. The Administration indicated that in its publicity materials, it would remind the public the need to comply with all the necessary requirements in the deeds of mutual covenant or management agreements before carrying out minor works, and would provide technical support to property owners in this regard.

17. Some members urged that a vigilant surveillance system should be put in place to ensure public safety. The Administration assured members that proper monitoring and enforcement mechanisms would be put in place, and detailed

guidelines would be made available to registered minor works contractors to facilitate compliance.

## **Conclusion**

18. Implementation of the proposed minor works control system would have implications on the control of future building works, existing structures and public safety. Members of the Panel have already expressed concern over some of those issues. Members are recommended to form a bills committee to consider the Bill in detail. Meanwhile, the Legal Service Division will continue to scrutinize the legal and drafting aspects of the Bill.

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