

Bills Committee on Buildings Legislation (Amendment) Bill 2011

**Administration's Response to Follow-up Issues
of the Meeting held on 13 February 2012**

Response to Deputations' Comments on Other Issues

Further to our response issued in February 2012 (paper no. CB(2)/1251/11-12(01)), this note sets out the Administration's response to deputations' comments on issues that are not directly related to the legislative proposals in the Buildings Legislation (Amendment) Bill 2011 (the Bill).

Minor Works Control System

2. Some deputations have enquired about the effectiveness of the Minor Works Control System (MWCS) since implementation. The MWCS, which came into full operation on 31 December 2010, aims to provide an alternative to the statutory procedures for building owners to carry out small-scale building works in a lawful, simple, safe and convenient manner. Under the new system, building owners can choose to carry out minor works under the simplified requirements, without the need to obtain prior approval of relevant building plans and consent to commencement of works under section 14(1) of the Buildings Ordinance (BO). So far, the implementation of the MWCS has been smooth and the system is generally welcomed by both the industry and the public. As at 31 December 2011, the Buildings Department (BD) had approved over 12,500 applications from minor works contractors and practitioners for registration as Registered Minor Works Contractors (RMWCs). A total of over 40,000 minor works submissions were received in 2011, exceeding our original estimate of around 36,000 minor works submissions in the first year. In the past year, the BD also strengthened its public education and publicity work on the MWCS by producing various publicity pamphlets and organising general and technical talks for the building owners and the industry practitioners.

Exemption of domestic buildings not exceeding three storeys in height from the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme

3. Noting that domestic buildings not exceeding three storeys in height are excluded from the scope of the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS), some deputations have suggested that the Administration consider conducting inspections for these buildings through another mechanism to ensure consistent application of the building safety policy on all buildings. The exclusion of such buildings from the MBIS and the MWIS was formulated based on the assessment that, having taken into account the characteristics, development and distribution of buildings in Hong Kong, such category of buildings generally poses a lower risk to public safety. While these buildings are not subject to the two schemes, the BD will continue to monitor their safety conditions and take necessary actions under the BO to ensure their safety.

Inspection of private premises under MBIS and MWIS

4. We note the suggestions of some deputations for the MBIS to cover inspection of individual private premises. Under the Buildings (Amendment) Ordinance 2011 (B(A)O 2011) enacted in June 2011, which provides for the legislative framework of the MBIS and the MWIS, the MBIS will cover the common parts, external walls, projections and signboards of buildings. The scope of the scheme was formulated based on safety assessment that these components of a building pose a higher risk to public safety as they directly affect the general public or users of the common parts of buildings. This is also in line with the general community consensus reached in the two rounds of public consultation on the MBIS and MWIS that the schemes should focus on common parts as well as external walls and windows. In practice, if building defects inside private premises affect the structural elements of a building, signs of distress and other indications should generally be detectable by inspection of the common parts and external walls of the building. Registered inspectors (RIs) are required to report to the Building Authority (BA) if they observe such signs either in the inspection report or immediately in case of emergency for BD's follow-up action. Requiring mandatory inspection of the interior of every individual unit in the MBIS will create

serious disturbance and practical difficulties to individual owners. As we explained to the Bills Committee on the Buildings (Amendment) Bill 2010, as individual units are private premises, not every owner would be willing to grant access to an RI appointed to carry out a prescribed inspection. As such, requiring RIs to inspect private premises will slow down the compliance of the statutory MBIS notice for the whole building. It is therefore more appropriate to exclude the interior of individual units from the prescribed inspection under the MBIS.

5. Regarding the suggestion to impose a requirement under the MWIS to report unauthorized building works (UBWs) inside private premises identified during the course of prescribed inspection or supervision of window repair works, as explained above, the general community consensus reached in the public consultation is that mandatory inspection schemes should focus on common parts as well as external walls and windows of buildings given the safety risks associated with these components. Accordingly, under the B(A)O 2011, it is not a statutory requirement for a Qualified Person to report to the BA UBWs identified except for emergency that are revealed during the course of prescribed inspection or supervision of the prescribed repair.

Qualifications and Supply of Registered Inspectors

6. There were suggestions from some deputations that the qualification requirements for RIs should be adjusted to include Clerks of Works and Inspectorate and other building practitioners who have received training. Under the BO, major building works that require the BA's approval and consent have to be undertaken by authorized persons (APs) and registered structural engineers (RSEs) registered under the BO. To allow more choices for building owners and enhance market competition, the pool of service providers for building inspections under the MBIS has been expanded from APs and RSEs to registered architects, registered professional engineers of the relevant disciplines and registered professional surveyors of the relevant divisions.

7. The qualification and experience requirements mentioned above were worked out in consultation with the professional institutes and the Building Sub-committee of the Land and Development Advisory Committee. In setting the qualification requirements of RIs, we are mindful that RIs have

to provide comprehensive professional services to owners in respect of building maintenance and repair, and they have to be held personally responsible for the inspection and supervision of repair. The duties of RIs include carrying out the prescribed inspection personally, ascertaining the safety of various items including building structures, fire safety provisions, projections and signboards etc., making appropriate proposal for repair to render the building safe, and reporting UBWs in the common parts and external walls. During the course of inspection, RIs have to make accurate professional judgement in ascertaining the type, scope and degree of defects and assessing their causes, preparing repair proposals and supervising the repair. Accordingly, RIs should possess adequate professional knowledge and experience in building design, construction, repair and maintenance and be fully acquainted with the BO. Considering the statutory duties of RIs and public expectations on their service standard, we consider it necessary to require RIs to be building professionals who are recognized by their respective professional registration boards to be professionally competent. Such requirements were also laid down in the B(A)O 2011 and the relevant subsidiary legislation.

Increasing resources for BD on enforcement

8. Some deputations have expressed that the Administration should increase the resources for the BD on the enforcement front. In the past two years, we have provided BD with additional resources for creating a total of 236 civil service posts in the Department to implement a series of measures to enhance building safety. The BD has since 2011-12 initiated three new types of large-scale operations (LSOs), namely, on comprehensive clearance of UBWs on rooftops and podiums, as well as in yards and lanes of target buildings; on inspection of target dilapidated buildings with issue of statutory orders as appropriate to require investigation and/or repair works; and on inspection of target buildings for rectification of irregularities of building works associated with sub-divided flats. For the first two types of LSOs, the number of target buildings per year is 500. As for the LSO on sub-divided flats, with additional manpower resources, the BD will increase the number of target buildings to be inspected under this operation from 150 to 200 per annum starting from April 2012. Sub-divided flats in industrial buildings will also be included under this operation starting from 2012. We will continue to monitor the manpower situation of the BD and arrange for

necessary resources for the implementation of enforcement initiatives in accordance with the established procedures.

**Development Bureau
Buildings Department
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