

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

**Administration's Response to Follow-up Issues
of the Meeting held on 30 November 2011**

This note sets out the Administration's response to the follow-up issues of the Subcommittee at the meeting on 30 November 2011 in relation to the various matters on Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS).

Ensuring compliance of registered inspectors

2. In order to ensure the registered inspectors (RIs) have duly discharged their statutory duties under MBIS, the Buildings Department (BD) will conduct audit check on around 30% of the cases initially. Such audit check will be conducted after the RI has certified completion of prescribed inspection, or during the course of or after the completion of prescribed repair to ensure the RI has complied with the requirements as laid down in the Buildings Ordinance (Cap. 123) (BO), its regulations and the relevant codes of practice. The audit includes checking of contents of the submitted documents and site verifications. If any irregularities which result in contraventions of the BO or indicate professional misconduct or negligence are found, the RI concerned may be subject to disciplinary and/or prosecution actions. In case the building owners have questions or doubts on the performance of the RI, they can also approach the BD and the relevant professional institutes for appropriate follow-up action.

3. The BD would advise the industry and the public on the statutory requirements and building safety matters relating to MBIS/MWIS through public education and publicity campaign. In the publicity materials, we will provide a checklist in layman terms on the major duties of RIs to facilitate building owners to assess the performance of RIs. To facilitate owners to report malpractice of RIs in carrying out prescribed inspections and supervision of prescribed repairs, we will include the

relevant complaint channels in our promotion materials in a conspicuous manner for owners' reference.

Assistance to Owners

(a) Assistance to owners of buildings without any form of management to fulfill the statutory requirements under MBIS and MWIS

4. The Government, together with the Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA), will provide a comprehensive range of assistance to building owners during the various stages of building inspection and repair.

5. We will give ample time for building owners to organize themselves and make preparations for the inspection and repair works under MBIS and MWIS. This is particularly important for those buildings without owners' corporations (OCs) or proper management bodies, and also those without prior experience in coordinating repair works for common areas. As shown in the flowchart for MBIS at Annex, building owners will be given prior notice through a notification letter six months before the issuance of statutory notices under MBIS. This six-month period will allow owners to get prepared and plan ahead. Each building will be assigned a single contact point, either from HKHS or URA, so that owners only need to get in touch with "one stop" for enquiries and assistance. In addition to the public education and publicity programmes for the MBIS and MWIS, district briefing sessions will be organized for owners of buildings both with and without OCs to explain to them the details of the two Schemes and the assistance available.

6. We appreciate that owners of buildings that are without any form of management are most in need of assistance. The Government, HKHS and URA stand ready to provide intensive support to encourage and help them organize the inspection and repair works. Owners of a building without OC will be given additional three months (i.e. a total of six months) for appointment of RIs under the statutory notices. If BD notes that appointment has still not been made towards the end of the aforesaid compliance period, it will send a reminder to the owners notifying them of the requirements of the notice and suggesting them to approach the contact point assigned to them. HKHS and URA will also be alerted at this juncture. Wherever appropriate, the two organizations will try to reach owners through different means and channels, including through

the local networks built up over the years, with a view to figuring out the difficulties of owners in complying with the statutory requirements. The two organizations will also try to locate and organize those owners who wish to comply with the statutory notices to kick start the preparation work. The two organizations will work out appropriate follow-up strategies taking into account the unique situation of those owners with special needs.

7. If after repeated attempts by the HKHS and URA, the owners are still unable to coordinate and organize to fulfill the statutory requirements under the two Schemes, the BD may consider as a last resort, for public safety reasons, carrying out the inspection or repair works and subsequently recovering the cost and surcharge from the owners. This is indeed an undesirable option, as BD might charge owners for supervision fees (and surcharges if they have not shown any intention to organize themselves). This would also be contrary to the original objective of the two schemes for requiring owners to take up their own responsibility to properly maintain their properties.

(b) Eligibility criteria of building owners for financial assistance to comply with statutory notices under MBIS and MWIS

8. In April 2011, HKHS and URA launched the Integrated Building Maintenance Assistance Scheme (IBMAS), which consolidated five assistance schemes for promoting proper maintenance and repair of old buildings. The consolidation aims to optimize the use of resources and provide greater convenience to potential applicants. The assistance scheme is co-managed by the HKHS and URA, and its eligibility criteria and application details are applicable to all buildings in Hong Kong. The eligibility criteria for some of the schemes have been also relaxed, while the scope of subsidized works has been extended.

9. The single set of eligibility criteria was welcomed by the Subcommittee on Building Safety and Related Issues under the Panel on Development as well as the public for the clarity and convenience provided for owners. Therefore we plan to adopt the same set of criteria for the subsidy on the cost of first building inspection under the MBIS to be provided to the OCs/co-owner.

10. It is always our goal that the scheme should be able to provide assistance to owners genuinely in need. Therefore the eligibility criteria are reviewed from time to time to keep abreast with the current circumstances. As the rateable value is on a rising trend in recent years, the HKHS and URA are conducting a review based on the latest rateable values provided by Rating and Valuation Department so as to ensure no owners in need will be dropped out of the net. The result of the review should be available in early 2012.

(c) Support and assistance to owners for prescribed repair

11. Under the MBIS/MWIS, if the RI/Qualified Person appointed by the owners certifies that the building/window concerned has been rendered dangerous or is liable to become dangerous, prescribed repair has to be carried out for compliance with the statutory notice. Registered contractor(s) and an RI should be appointed to carry out and supervise the prescribed repair works respectively. As the scope of repair works (if any) could only be confirmed upon the completion of the prescribed inspection, the cost for repair works is unlikely to be included in the inspection cost. We will make it clear in the publicity materials to owners that the cost of prescribed repair is not part of the inspection cost.

12. Eligible owners who need to carry out such repair works could obtain financial and technical assistance from the Government, HKHS and URA through the existing assistance schemes for maintenance works. As regards financial assistance, apart from the IBMAS, eligible elderly owners could also apply for the grant under the Building Maintenance Grant Scheme for Elderly Owners. Owners in need could also apply for the loan under the BD's Comprehensive Building Safety Improvement Loan Scheme.

Application of section 5(2)(c) of Building (Inspection and Repair) Regulation (the Regulation)

13. As regards the implementation of the Fire Safety (Commercial Premises) Ordinance (Cap 502) and Fire Safety (Buildings) Ordinance (Cap 572) (collectively known as the two Fire Safety Ordinances (FSOs)), owners of target buildings under the FSOs may encounter two scenarios when their buildings are also subject to the MBIS.

First scenario

14. When the necessary fire safety improvement works have already been completed in a building according to the standards as stipulated under the two FSOs, the inspection and repair works under the MBIS will have to be carried out in accordance with such standards under the FSOs. As the building already has the fire safety improvement works completed, the “latest of the applicable standards” in section 5(3) of the Regulation should be the standard of such **improvement works completed** in accordance with the FSOs.

Second scenario

15. If a building is subject to fire safety directions but the improvement works under the FSOs have not yet been completed or a building is not subject to such directions, the standard of improvement works completed in accordance with the FSOs would not be the latest of the applicable standards under section 5(3) of the Regulation given no such works have been completed in the building. Any works being carried out with a view to complying with the requirements under the FSOs will only be considered as additional improvement/upgrading works, but not the prescribed repair required under the MBIS.

16. We consider the present drafting of section 5(2)(c) has duly reflected the intention of the provision. However, we must emphasize that whilst the MBIS requires the carrying out of basic repair works to render the building safe, we would advise the owners to consider taking the opportunity to carry out other improvement/upgrading works concurrently so as to further enhance the building safety.

Inspection of building structure and identification of unauthorized building works during prescribe inspection

17. Under the Schedules of the Regulation, building structures are listed as items for prescribed inspection. While the standard of prescribed inspection has been clearly set out in section 5 of the Regulation, the detailed inspection requirements will be covered by the Buildings Department’s “Code of Practice for Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme” (CoP) the draft of which was issued in August 2011.

18. According to the CoP, inspection should be carried out to the structure of a building which includes its columns, walls, beams, slabs, protective barriers, hanging structures and other structural elements exposed in the building under inspection. They should be inspected from ground level and other vantage points or by other non-destructive methods such as hammer-tapping, infrared thermography, cover meter survey, crack width measurement or other feasible means for identifying defects such as dampness, rust stains or corrosion of reinforcement, cracks, spalling, delamination, deformation or displacement of structure etc. Detailed investigation may be required in case more serious defects are found, such as structural cracks on beams/slabs, crushing of columns, extensive concrete spalling or excessive deformation or movement of the building structure.

19. It is a statutory requirement under the MBIS that RIs should identify and then report to the BA the existence of unauthorized building works (UBWs) in common parts. The operational details for compliance with such requirement have also been set out in the draft CoP. The CoP has also set out examples of common UBWs, including rooftop/flat roof/lane/yard structures, projections erected on the exterior of the buildings, unauthorized alterations of external wall or parapets, and unauthorized alterations or additions affecting fire safety etc.

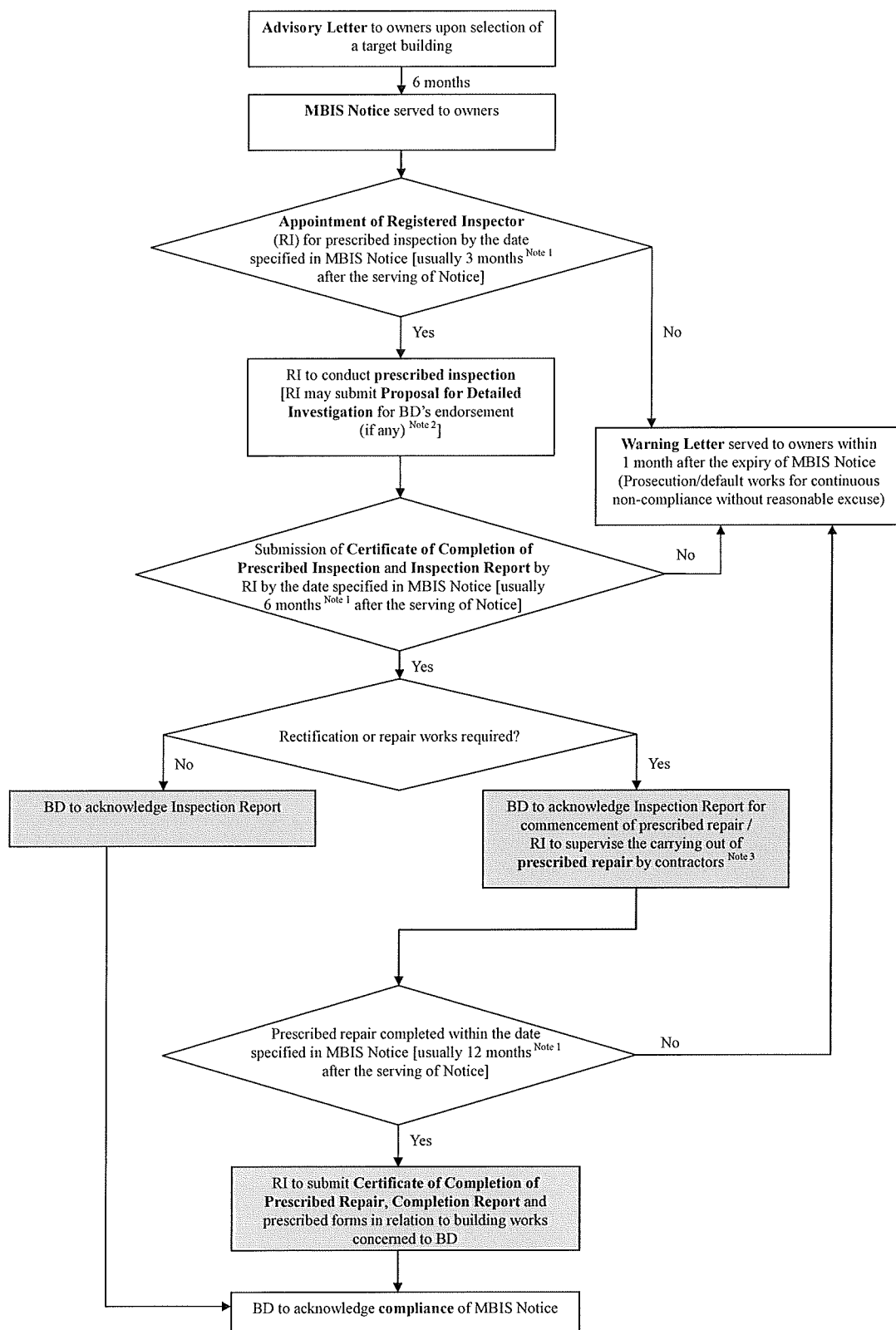
20. Prior to the release of CoP, the industry, including the professional institutes concerned, were duly consulted through the established channels. BD will continue to engage the industry in finalizing the CoP upon the passage of the subsidiary legislation concerned to ensure that the CoP provides clear guidance to the RIs in respect of how their statutory duties should be discharged, including how to identify the presence of UBWs in the course of inspection.

Flowchart showing various stages of MBIS and MWIS

21. At the request of the Subcommittee, flowcharts illustrating the major steps for compliance with the statutory notices under MBIS and MWIS are at **Annex** for Members' reference.

**Development Bureau
Buildings Department
December 2011**

Flowchart for Prescribed Inspection and Prescribed Repair under Mandatory Building Inspection Scheme



Note :

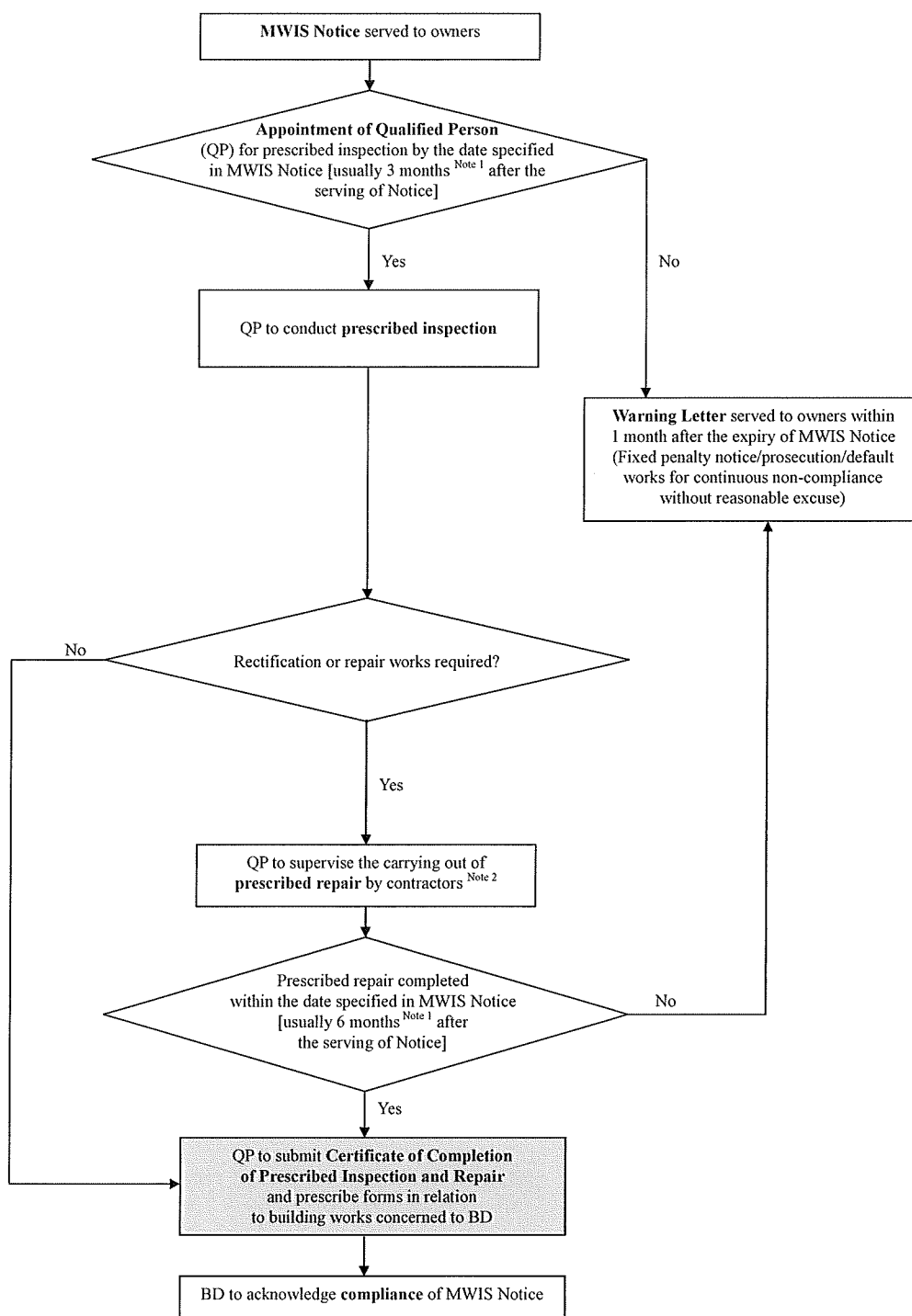
Boxes in grey indicate that BD will conduct audit check on the submission received and/or the works being carried out.

Note 1 : An extra 3 months will be given to the target building without OC to allow the owners to form OC or coordinate the inspection/repair works.

Note 2 : BD will notify the RI of BD's decision on the proposal for Detailed Investigation within 28 days of receipt of the proposal.

Note 3 : If the prescribed repair works require BA's approval or involve Class I or II Minor Works, RI should submit applications or documents before commencement of works as required under the Buildings Ordinance.

Flowchart for Prescribed Inspection and Prescribed Repair under Mandatory Window Inspection Scheme



Note :

Box in grey indicate that BD will conduct audit check on the submission received and/or the completed works.

Note 1 : An extra 3 months will be given to the target building without OC to allow the owners to form OC or coordinate the inspection/repair works.

Note 2 : If the prescribed repair works require BA's approval or involve Class I or II Minor Works, QP should submit applications or documents before commencement of works as required under the Buildings Ordinance.