

**For discussion
on 28 February 2012**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Including Works Associated with
Sub-division of Flat Units under the
Minor Works Control System**

INTRODUCTION

This paper outlines details of the proposal for including works associated with sub-division of flat units (“分間樓宇單位”, often known as “劏房”) under the Minor Works Control System (MWCS).

**MEASURES TO ENHANCE BUILDING SAFETY RELATED TO
SUB-DIVIDED FLATS**

2. Following the completion of a comprehensive review on the Government’s building safety policy and measures, the Chief Executive announced in his 2010-11 Policy Address that the Government would adopt a new multi-pronged approach, covering legislation, enforcement, support and assistance to owners as well as publicity and public education, to enhance building safety in Hong Kong. Some of the measures are proposed specifically to address the issues related to sub-divided flat units in response to the rising concern among members of the public on the building safety issues associated with such flat units (vide Legislative Council (LegCo) paper number CB(1)681/10-11(01)).

3. On the enforcement front, Buildings Department (BD) has since April 2011 commenced a Large Scale Operation (LSO) against sub-divided flat units, and has set a target of inspecting 150 buildings with sub-divided flat units in 2011-12. Until end December 2011 (i.e. the first nine months in 2011-12), BD had inspected 116 buildings wherein 800 flats with sub-divided cubicles were found. BD has issued 96 statutory orders and 763 advisory letters against sub-divided flat units in which irregularities were found requiring the

owners to rectify them. BD will increase the number of target buildings for the LSO from 150 to 200 each year starting from April 2012 with the additional resources to be allocated in the coming financial year. In response to the fire incident at Fa Yuen Street in December 2011, BD has adjusted its strategy for enforcement action by taking into account the fire risk that may arise from adjacent hawker stalls when choosing the target buildings. The buildings that BD gives priority for enforcement will be those which are situated in the vicinity of hawker stalls and have double staircases. It is estimated that there are around 340 such buildings in Hong Kong. BD will endeavour to complete the inspection of this category of buildings by mid-2012. In 2012, BD also plans to conduct LSO in 30 industrial buildings which are suspected to have sub-divided flat units.

4. On the legislation front, legislative proposal to provide for application to the Court for a warrant under the Buildings Ordinance (Cap. 123) (BO) for entry to premises to facilitate BD's enforcement actions, particularly useful for inspections relating to sub-divided flat units, was introduced into the LegCo in December 2011 and is being scrutinized by the Bills Committee. This legislative proposal would enhance BD's capability in inspecting buildings with suspected sub-divided flat units and buildings suspected to have internal unauthorised building works (UBWs). To control the quality of the associated works at source to ensure safety, we have announced that we will strengthen the control on flat sub-division works by extending the scope of the MWCS to cover those types of building works commonly associated with sub-division of flat units.

5. As regards public education and publicity, BD has enhanced its effort in educating the public about the common irregularities found in flat sub-division works, as well as the potential risks associated with such works, through a variety of channels, including newspaper supplements, advertisements on public transports, etc. An Announcement in the Public Interest to be aired on television and radio, together with a pamphlet on sub-divided flat units are also under preparation.

INCLUDING WORKS ASSOCIATED WITH SUB-DIVIDED FLAT UNITS UNDER THE MWCS

Simplified Requirements of the MWCS

6. Before the implementation of the MWCS, all building works, with the exception of the exempted works as defined under section 41 of the BO, required the prior approval and consent of the Building Authority (BA) before such works might commence. Otherwise, regardless of the scale of such works, they would be regarded as UBWs and subject to enforcement action by BD.

7. The MWCS, which came into full operation on 31 December 2010, aims to provide an alternative to the above 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 commence works under section 14(1) of the BO.

8. The modus operandi of the MWCS is set out in the Buildings (Minor Works) Regulation (Cap. 123 sub. leg. N) (B(MW)R). The B(MW)R provides for the classification of minor works and details of minor works items, simplified requirements for carrying out minor works, registration of minor works contractors as well as duties of building professionals and registered contractors in carrying out minor works. Under the B(MW)R, minor works are classified into three classes (i.e. Classes I, II and III, with more controlling measures imposed on Class I works) according to their nature, scale and complexity as well as the risk they may pose. The works under each class are further classified into types and items that correspond to the specialization of works in the industry. Irrespective of their classification, all minor works are required to be carried out by prescribed registered contractors (PRCs)¹. If the works is a Class I minor works item, the owner will also have to engage a prescribed building professional (PBP)² to design and supervise the carrying

¹ PRCs include Registered General Building Contractors (RGBCs), Registered Specialist Contractors (RSCs) registered to conduct a relevant category of specialised works, as well as Registered Minor Works Contractors (RMWCs) registered to conduct the concerned class/type/item of minor works.

² PBPs include authorised persons (APs) and, where applicable, Registered Structural Engineers (RSEs) and Registered Geotechnical Engineers (RGEs).

out of the works. The PBPs and/or PRCs are also required to make appropriate submissions, containing details of the works concerned, to the BA for record before the commencement (for Classes I and II works only) and after the completion of works (for all minor works).

9. 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 BD has approved over 12,500 applications from industry 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 per year. In the past year, the BD also strengthened its publicity work on the MWCS by producing various publicity materials that responded to the feedback from the owners and the industry practitioners.

Existing Control on Building Works Associated with Flat Sub-division

10. We first reported our observations on the emergence of sub-divided flat units to the Subcommittee on Building Safety and Related Issues of the Panel on Development in July 2010 (vide LegCo paper number CB(1)2605/09-10(01)). As mentioned in that paper, building works usually associated with sub-division of flat units comprise several types of common internal renovation works, namely installation of internal partitions, alterations or additions to the internal drainage and water pipe systems for new bathrooms or pantries, thickening of floor slabs by laying additional floor screeding for embedding new/diverted drains and water pipes as well as formation of or alteration to door openings at the common parts including the enclosure of escape staircases of buildings.

11. Among the types of works listed above, only the internal drainage works have been included in, and hence are subject to the control of, the current MWCS. For the other types of works, they are generally exempted works under section 41(3) of the BO as long as they do not involve the structure of buildings. Though not required to be designed and supervised by qualified building professionals, the works should still be completed in a manner compliant with the building standards stipulated in the BO, its subsidiary legislation, as well as the applicable Codes of Practice and Practice Notes.

Regulating Building Works Associated with Sub-division of Flats under the MWCS

12. Based on the enforcement experience of BD, the usual irregularities found in sub-divided flat units include: (a) fire safety issues (obstruction to means of escape caused by improper installation of doors that obstruct one another when opened, improper alteration to the fire safety construction of escape staircases caused by unprotected openings to such staircases, etc.); (b) overloading (mainly due to the extensive additional floor screeding used for embedding additional water pipes and drains, as well as the installation of additional partition walls); and (c) water seepage (due to poor workmanship of internal water pipes and drains, as well as floor screeding of bathroom floors).

13. As the MWCS provides an effective regime to control the carrying out of small-scale building works, we propose to include other types of works that are common features of sub-divided flat units under the MWCS, in addition to the internal drainage works already covered. This would subject such sub-division works to the MWCS regime, under which building owners will be required by law to appoint PRCs and, if necessary, PBPs, to carry out and supervise the works respectively through the simplified requirements under the MWCS.

14. The above proposal will bring about multiple benefits. First, by requiring the works to be carried out by PRCs and, if necessary, supervised by PBPs, there would be better guarantee on the quality of works and would thus minimise the safety and water seepage problems commonly associated with sub-divided flat units. Second, that BD will be conducting audit checks on completed minor works and this will serve as an additional safeguard against improper flat sub-division works. Third, with the minor works submissions on those works that are commonly associated with flat sub-division works, BD will also be able to maintain a database that contains the number and whereabouts of such works to facilitate effective monitoring and necessary enforcement action.

Two-layer Approach for Including Works Commonly Associated with Sub-division of Flat Units under the MWCS

Structural Concerns

15. The MWCS aims at imposing a degree of control on the minor works items that is proportionate to their scale, complexity and, hence, the associated level of risk. As far as overloading issues are concerned, the regulation of works associated with sub-divided flat units should focus on the installation of internal partitions and thickening of floor slabs, as the other two common items (i.e. alterations or additions to the internal drainage system and formation of or alteration to door openings) generally do not have any significant impact on the structural integrity of a building.

16. For the installation of internal partitions and thickening of floor slabs, which are common in internal renovation works and are usually conducted using light weight building materials, the actual level of risks posed will often depend on whether such works are carried out alone or in conjunction with other works. When the works are carried out alone, the risk posed to the building structure is low and there will not be a need for such works to be carried out under the supervision of a PBP. However, when the internal partitioning works are carried out in conjunction with thickening of floor slabs (as long as the works are carried out in the same flat unit and irrespective of whether they are carried out concurrently or sequentially), the cumulative loading effect on the building could be more significant and therefore should be carried out under the supervision of a PBP.

17. To properly regulate and control the quality of flat sub-division works without unnecessarily affecting those owners who only wish to carry out simple internal renovation works for their premises, we propose to adopt a two-layer approach when including works that are commonly associated with sub-divided flat units under the MWCS. Under this approach, we will follow the basic principle of the MWCS and classify each type of works in accordance with its scale, complexity and associated risks as a standalone item. To cater for the cumulative loading effects that can emerge when these works are carried out together, which is common in the sub-division of flat units, additional new minor works items will also be added to the MWCS such that when the works will create more than a certain number of sub-divided cubicles with lavatories or other sanitary fitments, or when the works are carried out in

conjunction with or after the completion of certain other works, they will be classified as Class I minor works items and have to be carried out under the supervision of PBPs.

Fire Safety and Fire Escape Issues

18. In addition to overloading issues, contravention to the fire safety requirements of the BO is another type of common problem in sub-divided flat units. The root of this problem lies in the fact that the existing flat sub-division works are often carried out by contractors who lack the required knowledge or experience, or by contractors who do not pay sufficient attention to fire safety issues when conducting the works. By including works commonly associated with sub-division of flat units under the MWCS, such works would need to be carried out by PRC, and if necessary, supervised by PBP.

19. In order to address the fire safety risks associated with the flat sub-division works, BD will provide technical guidelines and other publicity materials to the PBPs and PRCs to remind them of the fire safety requirements applicable to such works.

Water Seepage Caused by Sub-divided Flat Units

20. For water seepage problems in sub-divided flat units, which are often the result of poor workmanship of the internal drainage and floor screeding works, requiring such works to be carried out by PRCs, and if necessary, supervised by PBPs, under the MWCS should provide a direct and effective solution. To provide further guidance to the PBPs and PRCs, the technical guidelines of the MWCS will be updated to remind the practitioners the areas that they should pay attention to when carrying out drainage or floor screeding works.

Proposed New Minor Works Items

21. Based on the two-layer approach mentioned above, we propose to introduce the following new minor works items in the B(MW)R to impose control on those types of currently exempted works that are commonly associated with sub-division of flat units –

(i) Creation of sub-divided cubicles with lavatories or other sanitary fitments

22. The complexity of flat sub-division works, and hence the risk of having safety and nuisance problems in such units, generally increases when the original approved flat unit is sub-divided into a number of cubicles and when such cubicles are provided with additional sanitary facilities, such as individual lavatories. Indeed, based on BD's enforcement experience and observations, safety and nuisance issues are more commonly found for flat units that have been sub-divided into three or more cubicles with individual lavatories. We consider that this type of sub-divided flat units, which is more likely to be designed or constructed in an improper manner as compared to other types of sub-divided flat units, should be regulated under a separate minor works item. We also propose to require the associated works to be designed by and constructed under the supervision of PBPs. As such, we propose to introduce a new Class I minor works item to regulate any installation of block walls, thickening of floor screeding, or erection/alteration of aboveground drains that is associated with this particular type of sub-divided flat unit. A new definition on "sub-division of a flat unit", which basically covers all sub-divided flat units with individual lavatories, will also be added to clearly define the situations where such works are classified under as Class I minor works items. As for those sub-divided flat units that do not fall under this definition, i.e. those that do not provide its cubicles with lavatories and other sanitary fitments or those with only two sub-divided cubicles, they would be regulated under the individual works items (i.e. items (ii) to (iv) below).

(ii) Installation of internal partitions

23. We propose to introduce one Class I and two Class III minor works items to regulate the installation of non-load bearing block walls (i.e. only masonry walls). The demolition of such works will continue to be treated as exempted works under section 41(3) of the BO, as the removal of a non-load bearing block wall will only reduce the loading in a particular flat unit, and will not have any major adverse effects on the structural safety of the building. Furthermore, the proposed new items will focus on masonry walls, which are used in most sub-divided flat units as internal partitions according to BD's enforcement experience.

24. The two Class III items will cover the installation of non-load bearing block walls using light-weight materials in domestic and non-domestic buildings respectively. In addition to the technical specifications on the

density and dimensions of the wall, as well as the requirement on the thickness of the slab supporting the wall (i.e. the slab of the whole approved flat unit) which are meant to ensure that the floor slab of the concerned premises can withstand the additional loading, the proposed items will also provide that an installation of non-load bearing block wall(s) will be Class III minor works item only if it is carried out in an approved flat unit that does not currently have any of its floor slabs thickened (as compared to the approved building plans). If the works are to be carried out in a flat unit with a thickened floor slab, or if the works exceed certain technical specifications, they will fall under the proposed Class I minor works item, which has to be carried out under the supervision of a PBP.

(iii) Thickening of Floor Screeding

25. Similar to the installation of non-load bearing partition walls, we propose to introduce one Class I and two Class III minor works items to regulate the thickening of floor slabs using solid screeding. If the works are to be carried out in a flat with additional block wall(s) (as compared to the approved layout), or if such works exceed certain technical specifications, they will fall under the proposed Class I minor works items. As regards the two Class III minor works items, they will cover works involving thickening of floor slabs using light weight materials in domestic and non-domestic buildings respectively, provided that there is no additional block wall installed in the unit and that such works do not exceed certain technical specifications.

(iv) Formation or alteration to door openings at the common parts including the escape staircases of buildings

26. For formation of or alteration to door openings to the enclosure of escape staircases or the protected lobby, we propose to classify such works as Class I minor works items, as compliance with the structural, planning and fire safety requirements on such works will very often require the expertise of PBPs.

Implementation Plans

27. All Registered General Building Contractors and those RMWCs who have registered for the relevant class and type³ of minor works will be qualified to carry out the new items without any further registration. As for those practitioners who do not fall into the above two categories of contractors, such as those RMWCs who are only registered to carry out specific items but not general types of minor works, they could submit their applications to register for the new minor works items as soon as the scrutiny of the proposed subsidiary legislation is completed. BD will, through liaising with the relevant contractors' associations and stepping up its publicity efforts, inform and remind such contractors to register for the new minor works items as soon as possible.

28. To disseminate the message to the owners, the industry, as well as the general public, BD will launch a large-scale publicity programme on the new requirements. Furthermore, the technical guidelines and pamphlets to owners and contractors will also be updated to reflect this change and to provide additional details on the requirements of the various types of works. Taking into account the time needed to complete these preparatory works before the commencement of the amended subsidiary legislation, it is expected that the new arrangement will come into operation in the second half of 2012.

ADVICE SOUGHT

29. Members' advice is sought in respect of the above proposals for the subsidiary legislation. Our plan is to introduce the subsidiary legislation as soon as possible.

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³ Under the MWCS, the minor works items are categorised into seven types of works that correspond to the specialisation of works in the construction industry. For the proposed minor works items, they will be classified as Type A minor works items (i.e. alteration and addition works), which is the type of minor works with the largest number of RMWCs.