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Panel on Development

Meeting on 26 November 2013

**Background brief on the Mandatory Building Inspection Scheme
and the Mandatory Window Inspection Scheme**

Purpose

This paper provides background information on the Mandatory Building Inspection Scheme ("MBIS") and the Mandatory Window Inspection Scheme ("MWIS"), and summarizes the views and concerns expressed by Members during previous discussions on the two Schemes at the meetings of the Legislative Council ("LegCo"), various committees and subcommittees since the 2010-2011 session.

Background

2. Building neglect has been a long-standing problem in Hong Kong. The presence of aging buildings lacking proper care and maintenance poses potential threats to residents and the public at large. The lack of proper maintenance and improper use of windows also pose a serious threat to public safety. The Administration announced in mid-2007 its plan to introduce the mandatory inspection schemes for buildings and windows through legislation to ensure that building owners would undertake the responsibility for keeping their buildings in good conditions, including shouldering the financial commitment.

Relevant legislations

3. On 22 January 2010, the Administration gazetted the Buildings (Amendment) Bill 2010 ("the B(A) Bill") which aimed to provide for matters relating to the regular inspections of buildings and the associated

repairs to prevent the buildings from becoming unsafe, by empowering the Building Authority ("BA") to require owners to carry out such inspections and repairs through the introduction of MBIS and MWIS. The Bill also provided for matters relating to the appointment, control and duties of Registered Inspectors ("RIs") and Qualified Persons ("QPs") who were to deal with such inspections and repairs. The Bill was passed by LegCo at the meeting of 29 June 2011 and enacted as the Buildings (Amendment) Ordinance 2011.

4. The detailed procedural and technical requirements for the implementation of MBIS and MWIS are covered in subsidiary legislations, namely the Building (Administration) (Amendment) Regulation 2011 ("B(A)(A)R"), the Building (Inspection and Repair) Regulation, the Building (Minor Works) (Amendment) Regulation 2011 ("the Three Regulations"). While the relevant provisions in the Buildings (Amendment) Ordinance 2011 and the B(A)(A)R concerning registration of RIs were brought into operation on 30 December 2011, the remaining provisions which put MBIS and MWIS into full operation commenced on 30 June 2012.

Implementation

5. Every year, the Buildings Department ("BD") selects 2 000 buildings for both MBIS and MWIS to be carried out concurrently, and another 3 800 buildings for MWIS only.

The Mandatory Building Inspection Scheme

6. Under MBIS, owners of buildings aged 30 years or above (except domestic buildings not exceeding three storeys) are required to appoint an RI to carry out the prescribed inspection and supervise the prescribed repair works found necessary of the common parts, external walls and projections or signboards of the buildings, once every 10 years.

7. BD will first issue pre-notification letters to the owners of the selected target buildings to alert them that their buildings have been selected and to give them ample time to get prepared. Not less than six months after the issuance of pre-notification letters, BD will issue statutory notices to owners of these buildings for the carrying out of the prescribed inspection and prescribed repair. Within three months from the date of the statutory notice, the owners/owners' corporation ("OC") should appoint an RI to complete the prescribed inspection within another six months. If

repair works are necessary, they should be completed within 12 months from the date of the statutory notice. An extra three months will be allowed for buildings without an OC to organize the required inspection and repair works.

The Mandatory Window Inspection Scheme

8. Under MWIS, owners of buildings aged 10 years or above (except domestic buildings not exceeding three storeys) are required to appoint a QP to carry out the prescribed inspection and supervise the prescribed repair works found necessary of all windows of the buildings, once every five years.

9. BD will issue a pre-notification letter to the OC or post the letter at a conspicuous part of a target building to alert the owners/OC to get prepared. One to two months after the issuance or posting of the pre-notification letter, BD will issue a statutory notice to the owners/OC of the target building. The owners/OC should appoint a QP within three months, and complete the prescribed inspection and repair (if necessary) within six months within the date of the statutory notice. An extra three months will be allowed for buildings without an OC to organize the required inspection and repair works.

Issues of concern

10. The proposals on the introduction of MBIS and MWIS were discussed in several meetings of the Panel on Development from 2008 to 2011. A bills committee was set up in 2010 to study the B(A) Bill. Two subcommittees were formed in 2011 and 2012 respectively to scrutinize the Three Regulations and the relevant commencement notices. Members in general supported the introduction of the inspection schemes as part of the package to enhance building safety. However, they have expressed various concerns on the implementation of the two schemes at meetings of LegCo, various committees and subcommittees. These views and concerns are summarized in the ensuing paragraphs.

Selection of target buildings

11. Members considered that the requirement to conduct periodic inspections and repairs should not cause undue hassle to building owners. They have enquired about the criteria adopted for working out the priority of target buildings. The Administration has advised that, to spread over

the workload for professional personnel, contractors and implementation agencies, 500 and 1 450 target buildings are selected per quarter for MBIS and MWIS respectively. Relevant factors such as the building age, building conditions, repair records and location are taken into account. Priority would be given to buildings with more dilapidations and defects in common areas and external walls, more exterior unauthorized building works ("UBWs"), and buildings abutting streets with heavy pedestrian or traffic flow. BD has established a panel comprising representatives from professional institutions, relevant non-governmental organizations, property management professionals, District Councils and relevant Government departments to tender advice on the selection of target buildings. The Administration has undertaken that arrangements will be made to synchronize the implementation of MBIS and MWIS, so that buildings selected for MBIS will also be selected for MWIS under the same cycle such that the owners can carry out inspection and repair works under both schemes concurrently.

Handling of unauthorized building works and sub-divided flats

12. Members have queried whether the two schemes could effectively tackle building safety problems, in particular those arising from UBWs, internal alteration works and sub-division of units. The Administration has advised that removal of UBWs in the context of MBIS might cause arguments and conflicts among the owners and the management body of the building, hence pose great hurdles to owners in fulfilling the statutory requirements to complete the inspection and repair works within the specified timeframe. Instead, RIs appointed to carry out prescribed inspection are required to report to BA if (i) they have observe any signs posing building safety risks during the inspection of the common parts or external walls of a building; and (ii) they have identified UBWs in the common parts and the external walls of a building and assessed the safety conditions of these UBWs. RIs are also required under the Code of Practice for MBIS and MWIS issued by BA to inform him of any signs of suspected division of flats (e.g. presence of many flat door openings or door bells). On reception of RIs' reports on UBWs and sub-divided flats, BD will investigate into any suspected illegal internal alteration works to ascertain if the structural integrity of the building concerned has been affected. If necessary, BD will take follow-up actions under the provision of the Buildings Ordinance in accordance with its enforcement policy against UBWs and abandoned signboards.

Supply of registered inspectors

13. During the scrutiny of the relevant subsidiary legislations, some members expressed concern on whether there would be a sufficient large pool of RIs, as the supply of RIs on the market would have an impact on the inspection costs. The Administration explained that RIs include registered architects, registered professional engineers in the relevant disciplines and registered professional surveyors in the building surveying and quantity surveying divisions. The relevant professional institutes considered that there should be adequate professionals for registration as RIs. The Administration held the view that the market should have a supply of at least 300 RIs initially when the first prescribed inspection under MBIS was to commence. According to the information on BD's website, there are currently more than 300 RIs on the register.

Compliance of Registered Inspectors with the inspection requirements

14. As to some Subcommittee members' enquiry on how the Administration could ensure RIs had duly discharged their statutory duties under MBIS, the Administration advised that BD would conduct audit checks on around 30% of the cases at the initial stage. The audit would include checking of contents of the submitted documents by RIs and site verifications. If there were any irregularities which resulted in contravention of BO or indicated professional misconduct or negligence on the part of RIs, they might be subject to disciplinary actions and/or prosecution.

Assistance to owners/owners' corporations

15. Members were concerned that many building owners, especially elderly owners of old buildings, might not have the financial means and technical know-how to fulfill the requirements of regular inspection and repair. Members have in particular highlighted the need for the Administration to provide assistance to owners of buildings without OCs in complying with the statutory notices issued to them under the two schemes.

16. According to the Administration, the Hong Kong Housing Society ("HKHS") and the Urban Renewal Authority ("URA") have jointly launched the "Mandatory Building Inspection Subsidy Scheme" ("MBISS") to subsidize eligible owners/OCs with the full cost of the first building inspection of the common parts of their buildings under MBIS and that of windows in the common parts under MWIS, subject to a cap. The Administration, together with HKHS and URA, would continue to provide

financial assistance under various existing schemes, including the Integrated Building Maintenance Assistance Scheme¹, the Building Safety Loan Scheme² administered by BD, and the Building Maintenance Grant Scheme for Elderly Owners³ administered by HKHS, to assist building owners in fulfilling the statutory requirements under MBIS and MWIS.

17. Technical assistance is also provided by BD, the Home Affairs Department, HKHS and URA to flat owners during the various stages of the inspection schemes to guide them in carrying out inspection and repair works, including helping them organize among themselves and offering support on the tender exercises for appointment of RIs and contractors. Each building will be assigned a single contact point from HKHS or URA for obtaining "one stop" advice and assistance.

Manpower of the Buildings Department and other relevant Government departments

18. The issue of whether relevant Government departments as well as HKHS and URA have sufficient manpower resources to support and enforce MBIS and MWIS have been discussed at meetings of the Bills Committee on the B(A) Bill. The Administration has advised that sufficient resources will be provided to the District Offices and BD to assist owners on building management matters and to handle the additional workload arising from the two schemes respectively. Through re-prioritizing its resource deployment, BD will put its focus on the implementation of the new statutory regimes, public education programmes as well as preventive inspection. HKHS and URA would also reserve adequate manpower and resources to support the implementation of the two schemes.

¹ Under the Integrated Building Maintenance Scheme, various assistance schemes will be provided to domestic property owners and owners of composite buildings to rehabilitate their buildings. These schemes include cash subsidy for formation of OCs, cash subsidy for rehabilitation work to common areas of buildings, interest-free loan to individual owners, and interest-free loans to individual owners for safety- and hygiene-related repair works to their units.

² Building Safety Loan Scheme provides loans to individual owners of private buildings who wish to obtain financial assistance in carrying out maintenance and repair works to reinstate or improve the safety conditions of their buildings and/or private slopes.

³ Building Maintenance Grant Scheme for Elderly Owners provides financial assistance to elderly owner-occupiers to repair and maintain their buildings and improve building safety.

A directorate supernumerary post to head the Mandatory Building Inspection Division of the Buildings Department

19. The Administration consulted the Subcommittee on Building Safety and Related Issues under the Panel on Development on 11 May 2011 on a proposal on re-organization of BD and a relevant staffing proposal to implement a package of new measures to enhance building safety. Under the proposal, the creation of one bi-disciplinary (Government Building Surveyor/Government Structural Engineer) supernumerary post of Assistant Director/Mandatory Building Inspection, amongst others, was proposed for the period from 1 July 2011 to 31 March 2014 to head the new Mandatory Building Inspection Division. The duties and responsibilities of the Assistant Director/Mandatory Building Inspection post are in **Appendix I**. The proposal was subsequently endorsed by the Establishment Subcommittee and approved by the Finance Committee on 8 June and 24 June 2011 respectively. While members supported the re-organization proposal, they expressed concerns on the inspection of and enforcement against UBWs and sub-division of flats, the effectiveness of measures to enhance building safety, the conflict between the Building Surveyor and the Structural Engineer grades and the manpower resources in BD to implement various building safety measures.

Follow-up actions undertaken by the Administration in previous discussions

20. During the deliberations of the Subcommittee on Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2012, Building (Inspection and Repair) Regulation (Commencement) Notice and Building (Minor Works) (Amendment) Regulation 2011 (Commencement) Notice, the Administration undertook to take the following actions:

- (a) HKHS and URA would jointly conduct a review once a year of the rateable value limits, which was one of the eligibility criteria for applying for a subsidy under MBISS, for eligible buildings; and
- (b) the Administration would report to the relevant Panel the progress of the full implementation of MBIS and MWIS around the end of 2013.

Latest development

21. At the meeting of Panel to be held on 26 November 2013, the Administration will report the progress of the implementation of MBIS and MWIS, and consult the Panel on the creation of a permanent post of Assistant Director/Mandatory Building Inspection in BD.

Relevant papers

22. A list of relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
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Appendix I

Duties and responsibilities of the supernumerary post of Assistant Director/Mandatory Building Inspection are:

- (a) to manage the Mandatory Building Inspection Division which implements Mandatory Building Inspection Scheme ("MBIS") and Mandatory Windows Inspection Scheme ("MWIS"), and administers the Buildings Ordinance (Cap. 123) to ensure the safety of MBIS target buildings and the Fire Safety (Commercial Premises) Ordinance (Cap. 502) and the Fire Safety (Buildings) Ordinance (Cap. 572) for the upgrading of fire safety measures in target buildings in the territory;
- (b) to develop and formulate operational strategies and procedures for, and oversee the enforcement of, removal of unauthorized building works ("UBWs") in MBIS target buildings, including the large scale operations on the removal of UBWs in MBIS target buildings; and joint enforcement programme with the Fire Services Department to upgrade fire safety measures in the existing old buildings;
- (c) to develop and formulate enforcement policies and legislative proposals relating to the MBIS/MWIS;
- (d) to advise the Development Bureau and other government agencies on matters relating to the MBIS/MWIS, and control of UBWs in MBIS target buildings as well as the upgrading of fire safety measures in existing old buildings;
- (e) to explain the Department's policies and operations relating to the MBIS/MWIS, control of UBWs in MBIS target buildings as well as the upgrading of fire safety measures in existing old buildings to the LegCo, Ombudsman, District Councils, professional institutions, media and general public; and
- (f) to assist the Director of Buildings and Deputy Director of Buildings in setting the policies and strategies on MBIS/MWIS and upgrading of fire safety measures in old buildings and management of the Department.

**Mandatory Building Inspection Scheme and
Mandatory Window Inspection Scheme**

List of relevant papers

Date of meeting	Event	Paper/Minutes of meeting
22 May 2007	The Panel on Planning, Lands and Works ("PLW Panel") discussed with the Administration on the public consultation on mandatory building inspection	<p>Information paper on "Public Consultation on Mandatory Building Inspection" (LC Paper No. CB(1)1643/06-07(03)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0522cb1-1643-3-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2122/06-07) http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070522.pdf</p>
24 July 2007	The PLW Panel discussed with the Administration the proposed Mandatory Building Inspection Scheme ("MBIS") and Mandatory Window Inspection Scheme ("MWIS")	<p>Information paper on "Mandatory Building Inspection Scheme & Mandatory Window Inspection Scheme" (LC Paper No. CB(1)2148/06-07 (01)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2148-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2404/06-07) http://www.legco.gov.hk/yr06-07/english/panels/plw/minutes/pl070724.pdf</p> <p>Letter dated 24 August 2007 from the Administration to the Panel (LC Paper No. CB(1)2299/06-07(01)) http://www.legco.gov.hk/yr06-07/english/panels/plw/papers/plw0724cb1-2299-1-e.pdf</p>

Date of meeting	Event	Paper/Minutes of meeting
24 June 2008	The Development Panel ("DEV Panel") discussed with the Administration the proposed MBIS and MWIS	<p>Information paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme -- Target buildings, inspection items and operational procedures (LC Paper No. CB(1)1602/07-08(05)) http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0624cb1-1602-5-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)2322/07-08) http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080624.pdf</p>
20 January 2009	DEV Panel discussed with the Administration the proposed MBIS and MWIS	<p>Information paper on Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme -- Regulation of Service Providers (LC Paper No. CB(1)570/08-09(06)) http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0120cb1-570-6-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)1948/08-09) http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20090120.pdf</p>
11 May 2011	The Subcommittee on Building Safety and Related Issues discussed with the Administration the proposed re-organization of the Buildings Department for the implementation of a package of	<p>Information paper on re-organization of Buildings Department for implementation of package of measures to enhance building safety (LC Paper No. CB(1)2087/10-11(01)) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/papers/dev_bs0511cb1-2087-1-e.pdf</p>

Date of meeting	Event	Paper/Minutes of meeting
	measures to enhance building safety	Minutes of meeting (LC Paper No. CB(1)971/11-12) http://www.legco.gov.hk/yr10-11/english/panels/dev/dev_bs/minutes/bs20110511.pdf
8 June 2011	The Establishment Subcommittee discussed the staffing proposal of the Buildings Department to create, amongst others, a bi-disciplinary supernumerary post of Government Building Surveyor/ Government Structural Engineer to head the new Mandatory Building Inspection Division	Information paper on the staffing proposal (EC(2011-12)5) http://www.legco.gov.hk/yr10-11/english/fc/esc/papers/e11-05e.pdf Minutes of meeting (LC Paper No. ESC50/10-11) http://www.legco.gov.hk/yr10-11/english/fc/esc/minutes/esc20110608.pdf
17 June 2011	The Bills Committee on Buildings (Amendment) Bill 2010 submitted its report to the House Committee	Report of the Bills Committee on Buildings (Amendment) Bill 2010 (LC Paper No. CB(1)2468/10-11) http://www.legco.gov.hk/yr10-11/english/hc/papers/hc0617cb1-2468-e.pdf
24 June 2011	The Finance Committee discussed the above proposal	Information paper on the staffing proposal (FCR(2011-12)29) http://www.legco.gov.hk/yr10-11/english/fc/fc/papers/fl1-29e.pdf Minutes of meeting (LC Paper No. FC37/11-12) http://www.legco.gov.hk/yr10-11/english/fc/fc/minutes/fc20110624.pdf

Date of meeting	Event	Paper/Minutes of meeting
29 June 2011	Council Meeting	Report of the Bills Committee on Buildings (Amendment) Bill 2010 (LC Paper No. CB(1)2587/10-11) tabled at the Legislative Council http://www.legco.gov.hk/yr09-10/english/bc/bc04/reports/bc040629/cb1-2587-e.pdf
25 October 2011	DEV Panel discussed with the Administration the subsidiary legislation for the implementation of MBIS and MWIS	Administration's paper on subsidiary legislation for implementation of Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme (LC Paper No. CB(1)137/11-12(05)) http://www.legco.gov.hk/yr11-12/english/panels/dev/papers/dev1025cb1-137-5-e.pdf Minutes of meeting (LC Paper No. CB(1)600/11-12) http://www.legco.gov.hk/yr11-12/english/panels/dev/minutes/dev20111025.pdf
9 December 2011	The 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 submitted a report to the House Committee	Report of the Subcommittee (LC Paper No. CB(1)622/11-12) http://www.legco.gov.hk/yr11-12/english/hc/papers/hc1209cb1-622-e.pdf

Date of meeting	Event	Paper/Minutes of meeting
8 June 2012	The Subcommittee on Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2012, Building (Inspection and Repair) Regulation (Commencement) Notice and Building (Minor Works) (Amendment) Regulation 2011 (Commencement) Notice submitted a report to the House Committee	Report of the Subcommittee (LC Paper No. CB(1)2190/11-12) http://www.legco.gov.hk/yr11-12/english/hc/papers/hc0608cb1-2190-e.pdf
13 June 2012	Legislative Council meeting -- a written question on MBIS and MWIS	Official Record of Proceedings (Page 15016 to 15023) http://www.legco.gov.hk/yr11-12/english/counmtg/hansard/cm0613-translate-e.pdf
7 November 2012	Legislative Council meeting -- a written question on MWIS	Official Record of Proceedings (Page 1453 to 1457) http://www.legco.gov.hk/yr12-13/english/counmtg/hansard/cm1107-translate-e.pdf
22 May 2013	Legislative Council meeting -- a written question on malpractices in works under MBIS and MWIS	Official Record of Proceedings (Page 12036 to 12041) http://www.legco.gov.hk/yr12-13/english/counmtg/hansard/cm0522-translate-e.pdf
22 May 2013	Legislative Council meeting -- a written question on the implementation of MWIS	Official Record of Proceedings (Page 12061 to 12070) http://www.legco.gov.hk/yr12-13/english/counmtg/hansard/cm0522-translate-e.pdf