



香港水喉潔具業商會有限公司
HONG KONG PLUMBING AND
SANITARY WARE TRADE ASSOCIATION LTD.

第二十三屆
(2015-2017)

Our Ref. : hkpswta 23/100

理事會

2 June 2017

理事長
陳尚仁

Ir Dr Hon Lo Wai-Kwok, SBS, MH, JP
Chairman,

副理事長
劉利年
麥前耀

Bills Committee on Waterworks (Amendment) Bill 2017
Legislative Council, Hong Kong SAR

秘書
熊志光

Dear Ir Dr Hon Lo

司庫
劉乙凡

Re: Bills Committee on Waterworks (Amendment) Bill 2017
Invitation for submissions

會務主任
梁偉倫

We refer to the Bills Committee's invitation for submission and to the best of our understanding of the Waterworks (Amendment) Bill 2017, we wish to furnish our comments as follow:

技術主任
陳永光

1. Section 14 subsection 4
Plumbing workers – commit an offence

文教主任
黃松禧

We consider it unjustified to have a skilled, semi-skilled or unskilled worker, or the person as supervisor to a non-skilled worker, expose or subject to prosecution if he contravenes Section 14 Subsection 3.

編輯主任
莫永康

A worker is not a professional qualification. They normally work under instructions and according to the shop drawings and materials provided to them by their employer. Although the amended ordinance has provided a defence, the sheer fact that they can be committing a criminal offence is unfair to them.

拓展主任
楊鎮文

福利主任
何達祺

監事會

It will discourage existing practitioners in our trade and will make it more difficult to attract young persons to join our trade, as compare to other E&M trades. The manpower resources of the plumbing and drainage trade will definitely be adversely affected.

監事長
周雀園

副監事長
古俊明

審核主任
曾震宇

Cont'd/P.2

監事
梁景恒
賴家賢

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劉乙凡會務主任
梁偉倫技術主任
陳永光文教主任
黃松禧編輯主任
莫永康拓展主任
楊鎮文福利主任
何遠祺

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Page 2

Our Ref : hkpswta 23/100

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We therefore strongly opine that the criminal offence element for worker, skilled semi-skilled or non-skilled, and the person acting as supervisor should be removed.

2. Section 14 subsection 4

Difficulty to enforce prosecution, particularly for completed developments.

If subsection 3 is contravened (eg. which can be a pipe's size is wrong, or a different material is used compare to the approved plan, or leaded solder are found in some joints), without a statutory duty to record the working locations and type of work carried out of each and every worker, it will be quite difficult for the prosecutor to recover any conclusive evidence to identify and charge the particular worker and or his supervisor (if a registered general worker is involved).

We in the first place do not agree putting workers under the predicament of committing an offence and in any event, we also question the practicality of making a successful prosecution.

And in the event that no worker can be identified to be the one who carried out such incorrect work, does the investigation and prosecution end at this point?

Are the LP or persons from the plumbing contractor or subcontractors also legally liable for overlooking such incorrect installation, regardless the worker can be identified or not?

Con'd/P.3

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Page 3

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Date : 2 June 2017

3. Section 15 subsection 3 Non-designated worker

A person commits an offence under Section 15 subsection 3 if someone who is not a designated worker is found working on site.

In a typical plumbing project, the plumbing contractor subcontracts the labour part of its work to a plumbing subcontractor, who directly employs the workers. When a worker, who is not a designated person, is found working on plumbing works on site:

Under the amended WWO, the worker himself commits an offence and the plumbing subcontractor commits an offence of "employing" such person on site

The Plumbing Contractor may also commit the offence of "permitting" such worker to work on site. Is it a defence for the plumbing contractor that he has subcontracted the work to a subcontractor and it is a contract condition that the subcontractor is obliged to employ only designated persons to work on site?

The LP normally has no control in the persons being employed to work on a plumbing project, is the LP still liable to ensure that only designated worker is working on the plumbing works on site?

4. Limit of period to prosecute

The amended ordinance has changed the limit to 6 months after discovery of offence, the change in effect impose no time limit for the prosecution of an offence. We consider this is too much a burden for any person working in our trade to bear. While we understand the reasoning behind, a limit should be in place, and we consider that the limit of prosecution can be set to 6 years after the offence.

Cont'd/P.4

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Page 4

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5. Limits of LP for new building's plumbing projects

Plumbing projects for new development are managed by the plumbing contractor's project team consisting of appropriate number of staff and qualification to ensure its satisfactory completion. It takes the effort of the entire project team. It is perhaps unreasonable to hold the LP solely legally responsible for all the checking and monitoring of an application particularly for large scale projects, as it is physically impractical.

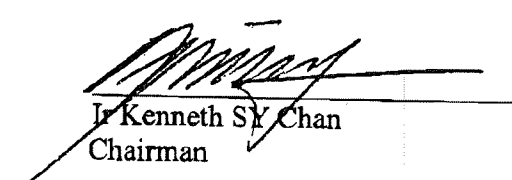
The existing or the amended WWO does not limit the number of jobs one LP can apply for, does not limit the value or scale which one LP can apply for, and does not require any relationship between the LP and the plumbing contractor who is actually contractually responsible for completing the plumbing works. There is a disconnection between the LP and the plumbing contractor, and an imbalance of their respective responsibilities under the ordinance. We consider these aspects are important and shall also be reviewed in the amended WWO.

Thank you for your invitation for submissions allowing us to express our views and your Committee's due consideration to our comments and concerns will be highly appreciated.

Yours Sincerely,

For and on behalf of

Hong Kong Plumbing and Sanitary Ware Trade Association


Ir Kenneth SY Chan
Chairman

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