

## **Waterworks (Amendment) Bill 2017**

### **Further Clarification on the Administration's Responses to the Observations raised by Legal Service Division of Legislative Council Secretariat on the Bill**

#### **Further Clarification on Response to Question 2**

While we consider that the requirements regarding the construction or installation of a fire service or inside service prescribed under section 14(3) and those under the Waterworks Ordinance (Cap. 102) (“WVO”) are the same, we have no objection to revise the wording regarding the threshold referred to in the proposed section 14(6) of the WVO and make “compliance with subsection (3)” as the threshold.

#### **Further Clarification on Response to Question 6**

2. The proposed guidelines will be published for the reference of the public and the plumbing practitioners, including the Workers. The proposed contents of the guidelines will include:

- (a) roles and responsibilities of all plumbing practitioners, including the employer, contractor, licensed plumbers and designated persons; and
- (b) steps that should be adopted by the plumbing practitioners in carrying out specified plumbing works.

3. With respect to the guidelines for contractors and employers mentioned in paragraph 10 of the Paper<sup>1</sup>, they will be covered in item (b) of the above proposed guidelines. The employer or contractor is recommended to implement measures such as appointing an Instructing Supervisor for the Worker, ensuring the Worker can identify and effectively communicate with his/her Instructing Supervisor for the plumbing works and also setting up a system to verify and record the qualification of the Instructing Supervisor, where appropriate.

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<sup>1</sup> The Paper is the LC Paper No. CB(1)1115/16-17(01) dated 9 June 2017 submitted by the Development Bureau.

4. The steps required to be taken by the Worker to ascertain his/her Instructing Supervisor's qualifications will also be covered in item (b) of the proposed guidelines. Since the Instructing Supervisor for the Worker is arranged by the employer or contractor, the Worker may rely on the work arrangement made by the employer or contractor and expect the arrangement would not contravene proposed section 15 of the WWO. When the Worker works with his Instructing Supervisor for the first time, he should obtain the name and contact information of the Instructing Supervisor to establish an effective communication with him, and the Instructing Supervisor should inform the Worker of his/her relevant qualification.

5. While the Worker would not normally be required to check against the Instructing Supervisor's qualifications, he should do so if he is in doubt of whether the Instructing Supervisor possesses the relevant qualification. For example, if the Worker considers the instruction and supervision provided by the Instructing Supervisor differ from his knowledge on the work, he may doubt the Instructing Supervisor's qualifications. In such a case, the Worker may verify the Instructing Supervisor's qualification with the Instructing Supervisor directly or with the employer or contractor. He may also check against the Register of Construction Workers or the Licensed Plumber Directory, which is also made available to the public on Water Supplies Department's website.

6. With respect to the situation where the Instructing Supervisor's plumber's licence or registration card has expired pending renewal, it should be emphasized that the Instructing Supervisor should ensure that he holds a valid licence or registration while he is providing instruction and supervision to another person. However, if it has come to the knowledge of the Worker that the Instructing Supervisor's licence or registration card has expired pending renewal, the Worker should stop working under his instruction and supervision and should report the situation to the employer or contractor. The employer or contractor should ensure the Worker works under the instruction and supervision of an Instructing Supervisor with the required qualifications.

## **Further Clarification on Response to Question 8**

7. There is a strong public interest in ensuring the quality of the plumbing works and water supply in Hong Kong, especially after the Incident of Excess Lead Found in Drinking Water. It is particularly important to ensure that persons working on the fire service and inside service in Hong Kong bear requisite qualification and skills in carrying out the plumbing works such that the plumbing works are carried out in compliance with the requirements under the WWO and hence the quality of plumbing works and drinking water can be ensured.

8. On the other hand, the extent of the interference with fundamental rights is limited, as a person is only requested to provide information on investigation relating to a suspected contravention of the proposed section 15 of the WWO which concerns the sole issue of whether the person carrying out the specified plumbing works is a designated person. The information to be provided will probably include only the name, address, telephone number, identity document and documentary proof of the qualification of the person. It may be reasonably arguable that as a person present on premises where plumbing works is carried out, he/she should expect that such information would be requested by an officer authorized by the WA as part of routine regulatory checks.

9. Moreover, proposed section 15A of the WWO has safeguards in place for the protection of the individual. Reasonable grounds must exist before an authorized officer can question a person for information under the proposed sections 15A(2)(e) and (f) of the WWO.

10. Furthermore, contravention of the proposed section 15A of the WWO is merely punishable upon conviction to a fine at level 4 with no penalty of imprisonment. This reflects that the offence for non-compliance is not serious in nature as compared with some other criminal offences which entail a penalty of imprisonment.

11. On the whole, the powers under the proposed sections 15A(2)(b), (d) and (e) of the WWO have struck a fair balance between the demands and interests of the general community on the one hand, and the fundamental rights of the individual on the other.

### **Further Clarification on Response to Question 9**

12. We are seeking legal advice on this issue and will submit to the Legislative Council our finding and position in due course.

### **Further Clarification on Response to Question 14**

13. Section 2 of the WWO provides that:

*““fitting”(裝置) means-*

*(a) any apparatus, cistern, cock, equipment, machinery, material, tank, tap and valve; and*

*(b) any appliance or device other than a meter,*

*which is installed or used in a fire service or inside service;”*

14. Since a meter is not likely to fall within the ordinary meaning of “pipe” and is explicitly excluded from the definition of "fitting", it is not any part of a fire service or inside service which are defined to mean pipes and fittings for particular purposes.

15. Moreover, while the construction, installation, maintenance, alteration, repair and removal of a fire service or inside service are regulated under sections 14 and 15 of the WWO, the installation of meters is separately regulated under regulation 26 of the Waterworks Regulations (Cap. 102A).

16. Hence, the installation of a meter is another category of work which is different from the construction, installation, maintenance, alteration, repair and removal of a fire service or inside service. Therefore, there is a need to provide for the installation of a meter in the proposed Schedule to the WWO.

17. In order to avoid ambiguity, we propose to delete “or the installation of a meter” in section 1 of Parts 1 and 2 of the proposed Schedule. We will specify that registered plumbing workers and registered plumbing workers (provisional) are allowed to install meters in a new Part 3 of the proposed Schedule of the WWO.

**Development Bureau**

**4 July 2017**