

COMMITTEE STAGE AMENDMENTS ON WATERWORKS (AMENDMENT) BILL 2017 PROPOSED BY THE ADMINISTRATION

Item	Clause in the Bill	Provisions to be amended	Brief description of the amendment*	Rationale for the amendment
1	6(4)	Section 14(4)	<p>Deleting the proposed section 14(4) and substituting—</p> <p>“(4) If subsection (3) is contravened in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it, (<i>the works</i>) each of the following persons commits an offence—</p> <p>(a) a licensed plumber under whose instruction and supervision the works are carried out;</p> <p>(b) a licensed plumber who carries out the works;</p> <p>(c) if a written permission for the works was granted under subsection (2A) on the application of a licensed plumber and the plumber is not a person mentioned in paragraph (a) or (b)—the plumber;</p> <p>(d) a person (other than a licensed plumber)—</p> <p>(i) under whose instruction and supervision the works are carried out; and</p> <p>(ii) who knows that the carrying out of the works would contravene subsection (3);</p> <p>(e) a person (other than a licensed plumber) who—</p> <p>(i) carries out the works; and</p> <p>(ii) knows that the carrying out of the works would contravene subsection (3).”.</p>	This amendment addresses the concern from Members of the Bills Committee and the plumbing trade on plumbing workers' liability.

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2	6(4)	Section 14(5)	Deleting “subsection (4) if” and substituting “subsection (4)(a), (b) or (c) if”.	Consequential amendment of Item 1. This amendment removes the statutory defence for a person mentioned in the proposed section 14(4)(d) and 14(4)(e) as it is no longer necessary following the proposed amendment described in Item 1 above.
3		Section 14(6)	After “(4)(a)”, adding “or (c)”.	Consequential amendment of Item 1. This amendment makes clear that the licensed plumber who has applied for the written permission of the Water Authority (“WA”) for the relevant plumbing works must inspect the carrying out of the works as often as is reasonable.
4	10	Section 36A(1)	Deleting “A” and substituting “Subject to subsection (2), a”.	This amendment addresses the concern from Members of the Bills Committee that, in relation to a prosecution under the proposed section 14(4) of the Waterworks Ordinance (Cap.102) (“WWO”), an ultimate time bar should be set beyond which the WA may not institute a prosecution against an offender.
5		Section 36A(2)	Renumbering the proposed section 36A(2) as section 36A(3).	
6		New section 36A(2)	After the proposed section 36A(1), adding— “(2) For a contravention of section 14(3) in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it, (<i>the works</i>) — (a) if an application for inspection and approval of the fire service or inside service, or alteration, has been made under regulation 6(1)(a) or (2) of the Waterworks Regulations (Cap. 102, sub. leg. A) — no prosecution may be commenced if the contravention is discovered by, or comes to notice of, the Water Authority after 6 years after the date of the application; or	

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			(b) if the works are alteration falling within section 14(2) — no prosecution may be commenced if the contravention is discovered by, or comes to notice of, the Water Authority after 6 years after the date of the contravention.”.	
7	4	Section 10(f)	Deleting “15A” and substituting “15B”.	Consequential amendment of Item 10 below.
8	8	N/A	In the heading, deleting “section 15A” and substituting “sections 15A and 15B”.	
9		Section 15A	Renumbering the proposed section 15A as section 15B.	
10		New section 15A	<p>Before the proposed section 15B, adding—</p> <p><u>“15A. Alterations or repairs that must not be considered as of minor nature</u></p> <p>For the purpose of sections 14(2) and 15(2), alterations or repairs to a fire service or inside service that, in the opinion of the Water Authority, would adversely affect—</p> <p>(a) the efficiency of the fire service or inside service in providing a reliable and adequate supply of water; or</p> <p>(b) the quality of the water,</p> <p>must not be considered as of a minor nature by the Water Authority.”.</p>	This amendment addresses the concern from Members of the Bills Committee that the general principles of “works of a minor nature” should be put under the WWO.
11	6	Section 14(3)	<p>After clause 6(3), adding—</p> <p>“(3A)Section 14(3), after “installation of”—</p> <p>Add</p> <p>“, or alteration to,”.</p> <p>(3B)Section 14(3), after “the fire service or inside service”—</p>	This amendment makes clear the scope of application of section 14(3).

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			Add “constructed or installed, or the part of the fire service or inside service as altered,”.”.	
12	6(4)	Section 14(5)(a) and (b)(i)	Deleting “construction or installation” and substituting “works”.	Consequential amendment of Item 11 above.
13	6(4)	Section 14(6)	Deleting “construction or installation (<i>the works</i>) as often as was reasonable to ensure that the works were carried out in compliance with this Ordinance” and substituting “works as often as was reasonable to ensure that the works were carried out in compliance with subsection (3)”.	This amendment clarifies our policy intent on the compliance threshold in the proposed section 14(6) in view of comment of Assistant Legal Adviser of the Legal Service Division, Legislative Council Secretariat (“ALA”).
14	7	Section 15(2)	Repealing section 15(2) and substituting— “(2) A person who is not a designated person may carry out specified plumbing works if— (a) the works are alterations or repairs to a fire service or inside service that are, in the opinion of the Water Authority, of a minor nature; or (b) the works are construction works carried out on a construction site that, under sections 3(2), 3A and 4 of the Construction Workers Registration Ordinance (Cap. 583), may only be carried out by a person permitted under those sections (relevant person), and— (i) the person is a relevant person; or (ii) the works are exempted from those sections under section 4, 7 or 8 of the Construction Workers Registration (Exemption) Regulation (Cap. 583	This amendment resolves the inconsistency between the Bill and the Construction Workers Registration Ordinance (Cap. 583) (“CWRO”) in view of comment of ALA.

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			sub. leg. C).”.	
15	7(4)	Section 15(4)	After “works”, adding “(other than in the circumstances referred to in subsection (2)(a) or (b))”.	This amendment makes clear that a person does not commit an offence if he employs or permits a person who is not a designated person for carrying out specified plumbing works in the circumstances referred to in the proposed sections 15(2)(a) or 15(2)(b) in view of comment of ALA.
16	7(4)	Section 15(6)	Adding in alphabetical order— “construction site (建造工地) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583); construction work ((建造工作) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583).”.	Consequential Amendment of Item 14 above.
17	8	Section 15B(2)(a)	After “photographs”, adding “or make video recordings”.	This amendment addresses the suggestion from Members of the Bills Committee that authorized officers should be allowed to make video recordings in addition to taking photographs after entering premises under section 15B(1).
18	8	New section 15B(7)	After the proposed section 15B(6), adding— “(7) A person is not excused from complying with a requirement under subsection (2) only on the ground that to do so might tend to incriminate the person.”.	This amendment clarifies our policy intent on the defence provided under the new section 15B(5) in view of comment of ALA.
19	8	Sections 15B(7) & (8)	Renumbering the proposed sections 15B(7) and (8) as sections 15B(8) and (9) respectively.	Consequential amendment of Item 18 above.
20	9	Section 18A	Deleting “the defence” and substituting “a defence under this Part”.	This amendment clarifies our policy intent that the proposed section 18A only applies in respect of the statutory defence provided for the offences under Part III of the WWO in view of

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21	12	Schedule Part 1 Section 1	Deleting “or the installation of a meter”.	These amendments clarifies who may install a meter in view of comment of ALA.
22	12	New Schedule Part 1 Section 3	After section 2, adding the persons specified as registered plumbing workers for the installation of a meter.	
23	12	Schedule Part 2 Section 1	Deleting “or the installation of a meter”.	
24	12	New Schedule Part 2 Section 3	After section 2, adding the persons specified as registered plumbing workers (provisional) for the installation of a meter.	
25	1(2)	N/A	Deleting everything after “operation on” and substituting “ 3 April 2018. ”.	This amendment specifies the commencement date of the amended WWO, which is to be agreed with the Bills Committee.

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