

立法會
Legislative Council

LC Paper No. LS56/16-17

**Paper for the House Committee Meeting
on 28 April 2017**

**Legal Service Division Report on
Waterworks (Amendment) Bill 2017**

I. SUMMARY

- 1. The Bill** The Bill seeks to amend the Waterworks Ordinance (Cap. 102) and the Waterworks Regulations (Cap. 102A) to revise the requirements relating to the carrying out of works on fire services and inside services, taking into account the recommendations of the Commission of Inquiry into Excess Lead Found in Drinking Water.
- 2. Public Consultation** The Administration has consulted and obtained general support from the relevant parties on the proposal, including professional bodies, plumbing trade associations and plumbers associations. It has also conducted a public consultation exercise in 2016. Members of the public were either generally supportive or had no adverse comment on the proposal.
- 3. Consultation with LegCo Panel** The Panel on Development was consulted on 24 January 2017. Members supported the proposal.
- 4. Conclusion** The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill introduces changes to the requirements for carrying out works on fire services and inside services, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 26 April 2017. Members may refer to the LegCo Brief (File Ref.: DEVB(CR)(W)1-10/49) issued by the Development Bureau on 29 March 2017 for further details.

Object of the Bill

2. The Bill seeks to amend the Waterworks Ordinance (Cap. 102) and the Waterworks Regulations (Cap. 102A) to revise the requirements relating to the carrying out of works on fire services and inside services, taking into account the recommendations made in the Report of the Commission of Inquiry into Excess Lead Found in Drinking Water ("CoI") in respect of the duties of licensed plumbers.

Provisions of the Bill

Carrying out of specified plumbing works by designated persons

3. Under the existing section 15(1) of Cap. 102, except for minor alterations or repairs or the rewashing of a tap, fire service or inside service may only be constructed, installed, maintained, altered, repaired or removed by a licensed plumber or a public officer authorized by the Water Authority.

4. Clause 7 of the Bill seeks to revise section 15 of Cap. 102 to the effect that the construction, installation, maintenance, alteration, repair or removal of a fire service or inside service ("specified plumbing works"), except for minor alterations or repairs, may be carried out not only by a licensed plumber or a public officer authorized by the Water Authority, but also by a registered plumbing worker, a registered plumbing worker (provisional) or a person who carries out specified plumbing works under the instruction and supervision of a licensed plumber or registered plumbing worker (collectively referred to as "designated person").

5. Clauses 3 and 12 of the Bill propose to amend section 2 of Cap. 102 and add a new Schedule to Cap 102 to provide that a registered plumbing worker and a registered plumbing worker (provisional) would mean the relevant registered skilled worker, registered semi-skilled worker, registered skilled worker (provisional) or registered semi-skilled worker (provisional) as registered under the Construction Workers Registration Ordinance (Cap. 583) for the trade division as specified in the new Schedule. Under a new section 38A proposed to be added to Cap. 102, the Secretary for Development ("the Secretary") would be

empowered to amend the new Schedule by notice published in the Gazette. Such notice would be subsidiary legislation subject to LegCo's amendment under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

Grant of permission for construction, installation, alteration or removal of fire service or inside service

6. Section 14(1) of Cap. 102 currently provides that no person shall, except with the written permission of the Water Authority, construct, install, alter or remove a fire service or inside service, except where the Water Authority waives such requirement in the case of minor alterations. According to paragraph 7 of the LegCo Brief, at present, it is an administrative requirement that all applications for permission under section 14(1) of Cap. 102 are made by licensed plumbers.

7. Clause 6 of the Bill proposes to amend section 14 of Cap. 102 to provide that the written permission required under section 14(1) of Cap. 102 would be granted on the Water Authority's own initiative or on the application of a licensed plumber.

Proposed offences

8. Under the proposed section 15(3) of Cap. 102, carrying out of specified plumbing works by a person who is not a designated person is an offence. Under the proposed section 15(4) of Cap. 102, a person who employs or permits a person who is not a designated person to carry out specified plumbing works commits an offence and a defence is proposed for such person under the proposed section 15(5) of Cap. 102. These two offences are punishable by a maximum fine at level 4 (which is currently set at \$25,000) pursuant to section 35(1) of Cap. 102.

9. The Bill also proposes that where an offence in relation to construction or installation under section 14(3) of Cap. 102 is committed, a person who instructs and supervises another person in carrying out the construction or installation and the licensed plumber, apart from the one who carries out the construction or installation, also commit an offence. A defence is proposed for such person in the proposed section 14(5) of Cap. 102.

10. Clauses 10 and 16 of the Bill propose to add a new section 36A to Cap. 102 and a new regulation 51A to Cap. 102A respectively to provide for the time limit of six months from the discovery or notice of the contravention by the Water Authority for the prosecution for a contravention of Cap. 102 or Cap. 102A.

Enforcement

11. Clause 8 of the Bill seeks to add a new section 15A to Cap. 102 to provide for enforcement provisions. In particular, the Water Authority or a public officer authorized by the Water Authority in writing would be empowered to enter any non-domestic premises without a warrant or consent of the occupier of the premises concerned to ascertain whether specified plumbing works are being, or have been, carried out in contravention of proposed section 15 of Cap. 102.

12. Clause 4 of the Bill proposes to amend section 10(f) of Cap. 102 to allow the Water Authority to disconnect a fire service or inside service if the Water Authority or the public officer as authorized is obstructed from entering the premises or carrying out any function under the new section 15A of Cap. 102.

Other provisions

13. Other provisions include:

- (a) clause 15 of the Bill which seeks to revise regulation 26 of Cap. 102A to permit, in addition to a licensed plumber, a registered plumbing worker or a registered plumbing worker (provisional) to install a meter on a fire service or inside service; and
- (b) clause 12 of the Bill which proposes to add a new section 40 to Cap. 102 to provide for transitional and saving arrangements.

Commencement

14. The Bill, if passed, would come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

Public Consultation

15. According to paragraph 21 of the LegCo Brief, the Administration has consulted and obtained general support from professional bodies, plumbing trade associations, plumbers associations, workers association, the construction sector, developers, and the Consumer Council on the proposal. The Administration has also conducted a public consultation exercise on the proposal between September and November 2016. According to the Administration, members of the public who responded were either generally supportive or had no adverse comment on the proposal, and the comments and suggestions received were duly considered by the Administration.

Consultation with LegCo Panel

16. As advised by the Clerk to the Panel on Development, the Panel was consulted on 24 January 2017. Members supported the proposal. Noting that the proposal had been put forward in view of CoI's recommendations, members urged the Administration to speed up its follow-up actions on CoI's other recommendations, such as completing a holistic review on the legislative framework and regulatory regime for safeguarding the quality of drinking water in Hong Kong.

Conclusion

17. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill introduces changes to the requirements for carrying out works on fire services and inside services, Members may wish to form a Bills Committee to study the Bill in detail.

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