

**For discussion
on 27 May 2019**

LEGISLATIVE COUNCIL

**JOINT SUBCOMMITTEE TO FOLLOW UP ISSUES RELATING
TO THE REDEVELOPMENT, MAINTENANCE AND
MANAGEMENT OF AGED BUILDINGS**

**Report on the Mandatory Building Inspection Scheme and
Mandatory Window Inspection Scheme**

PURPOSE

This paper reports the progress of the implementation of the Mandatory Building Inspection Scheme (“MBIS”) and Mandatory Window Inspection Scheme (“MWIS”).

BACKGROUND

2. Upholding the concept of “prevention is better than cure”, the Buildings Department (“BD”) has been fully implementing MBIS and MWIS since 30 June 2012 with the objective of tackling building dilapidation at its roots.

3. Under MBIS, owners of buildings aged 30 years or above (except domestic buildings not exceeding 3 storeys) and served with statutory notices are required to appoint a Registered Inspector (“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. Where a prescribed repair is required, the owners concerned must appoint a registered contractor to carry out the prescribed repair under the supervision of an RI.

4. Under MWIS, owners of buildings aged 10 years or above (except domestic buildings not exceeding 3 storeys) and served with statutory notices are required to appoint a Qualified Person (“QP”) to carry out the prescribed inspection and supervise the prescribed repair works found necessary of all windows of the building. Where a prescribed repair is required, the owners concerned must appoint a registered contractor to carry out the prescribed repair under the supervision of a QP.

5. Building owners may also initiate inspections and repairs for their buildings in accordance with the standards and procedures of MBIS and MWIS voluntarily before the receipt of statutory notices from BD. In such cases, the buildings or the relevant parts thereof will be deemed to have fulfilled the requirements under MBIS and MWIS within the respective inspection cycles of 10 years and 5 years respectively.

IMPLEMENTATION PROGRESS

Selection of Target Buildings (“TB”)

6. BD has established a selection panel comprising representatives from professional institutions (e.g. Hong Kong Institute of Architects, Hong Kong Institute of Surveyors and Hong Kong Institution of Engineers), property management professionals and district councils to tender advice on the selection of TBs for the purpose of issuing statutory notices under two inspection schemes. A risk-based approach is adopted in making the selection, and the factors to be taken into account include building age (viz. priority will be given to older buildings), building condition (viz. priority will be given to buildings with statutory repair orders or higher number of building defect reports, etc.), mode of building management (viz. priority will be given to “3-nil” buildings¹) and whether the building possess elements with higher risk to public safety (viz. priority will be given to buildings with cantilevered slab structure). To minimise disturbance to building owners, BD will arrange buildings to be selected for both MBIS and MWIS as far as practicable so

¹ Viz. buildings that do not have an owners’ corporation (“OC”) or an owners’ committee, or have not engaged any property management company.

that the owners can carry out the inspection and repair works under the two inspection schemes concurrently.

7. Considering the risk posed to the public by falling windows, on top of issuing MWIS notices to TBs selected for MBIS and MWIS as detailed above, BD has been selecting buildings with recurrent window falling incidents or windows in deteriorated or defective state for MWIS alone. From April 2015 to April 2019, a total of 59 buildings have been chosen on this ground, 46 buildings have already been served with notices, involving 8 280 notices. BD is now analysing the records of repair works to windows under MWIS as well as BD's Minor Works Control System with a view to identifying the risk profile of buildings susceptible to the need of window repairs. Based on the findings, BD is considering issuing more new MWIS notices to these higher risk buildings for better protection of public safety. BD will report its findings to the selection panel as reported in paragraph 6 above.

Compliance and Enforcement

8. As of end 2018, the progress of the implementation of the two schemes is as follows –

	MBIS	MWIS
No. of TBs with notices issued	5 556	9 846
(a) Total no. of notices issued	73 437	500 465
<i>-for elements at common parts</i>	5 960	9 241
<i>-for elements owned by individual owners²</i>	67 477	491 224
(b) No. of notices discharged	35 327	441 191
<i>-for elements at common parts</i>	1 091	5 323
<i>-for elements owned/used by individual owners</i>	34 236	435 868

² Including the privately-owned external walls and projecting structures (e.g. balconies, verandahs, and signboards) exclusively used by individual owners under MBIS, and the windows exclusively used by individual owners under MWIS.

(c) No. of notices not yet expired	10 237	11 306
-for elements at common parts	1 086	887
-for elements owned/used by individual owners	9 151	10 419
(d) No. of notices expired	27 873	47 968
-for elements at common parts	3 783	3 031
-for elements owned/used by individual owners	24 090	44 937
(e) Overall Non-compliance Rate (%) (viz. (d)/[(a) - (c)])	44.1%	9.8%
-for elements at common parts	77.6%	36.3%
-for elements owned/used by individual owners	41.3%	9.3%

9. In 2015, BD has adjusted its priority in the implementation of both inspection schemes, shifting the focus to taking enforcement action against non-compliance cases instead of issuing new notices. In this connection, from mid-2012 to end 2018, 23 690 warning letters were issued to and 139 prosecutions were instigated against owners who failed to comply with MBIS notices³, while 83 287 warning letters and 3 746 Fixed Penalty Notices (“FPN”) were issued to owners who failed to comply with MWIS notices⁴. In the majority of cases, owners would comply with the MWIS upon receipt of the warning letters and FPNs. For repeated offences or non-compliance without reasonable excuse, BD

³ Any person who, without reasonable excuse, fails to comply with a MBIS statutory notice may be prosecuted and is liable on conviction to a fine of HK\$50,000 and imprisonment for 1 year; and a fine of HK\$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. BD may also arrange for the required inspection and repair works to be carried out by its consultant and contractor, and then recover the cost of inspection and repair works as well as supervision charge from the owners or the OC, together with a surcharge of not exceeding 20% of the cost.

⁴ Any person who, without reasonable excuse, fails to comply with a statutory notice for MWIS notice is liable to a fixed fine of HK\$1,500. Repeated offenders may be prosecuted and are liable on conviction to a fine of HK\$25,000 and to imprisonment for 3 months; and to a fine of HK\$2,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. BD may also arrange for the required inspection and repair works to be carried out by its consultant and contractor, and then recover the cost of inspection and repair works as well as supervision charge from the owners or the OC, together with a surcharge of not exceeding 20% of the cost.

will consider instigating prosecution against the concerned owners after serving of the FPNs. In this connection, as at end of April 2019, 41 such prosecutions had been instigated.

Assistance offered by BD to the building owners

10. Enforcement aside, from mid-2012 to end 2018, BD has conducted nearly 400 public briefings to explain the two inspection schemes and answer owners' enquiries. To complement the regular briefing sessions, short video films on the two inspection schemes have been made available on BD website.

11. To enhance technical support for owners, BD has also issued layman's guides on how to comply with MBIS and MWIS notices, financial assistance schemes available to owners to comply with the inspection schemes, and how to report malpractices of service providers. A dedicated mobile application "Quick Guide for MBIS/MWIS" was also produced with details of the two schemes, links to service providers, etc. Further, a search function for statutory notices issued and complied with has also been made available in BD website as well as the aforesaid dedicated mobile application.

12. BD has also engaged in-house social service teams to help owners coordinate their actions in complying with requirements under the two inspection schemes and applying for financial assistance.

Regulation of Service Providers

13. BD has issued the Code of Practice for MBIS and MWIS ("CoP") to provide guidelines to service providers. The CoP stipulates the technical standards and procedural requirements related to inspection and repair of buildings and windows. BD has also issued Practice Notes for Mandatory Building and Window Inspection Schemes to disseminate information and good practices to registered practitioners. The practice notes provide sample checklists for preparing reports, sample inspection and completion report on buildings and windows, etc. To enhance service providers' understanding of the statutory requirements of and

their duties under the inspection schemes, BD conducts experience sharing sessions with the stakeholders regularly.

14. Under the Buildings Ordinance (“BO”), prosecution and/or disciplinary action may be taken against registered practitioners for contraventions such as not carrying out inspection personally, not providing proper supervision to the repair works, knowingly misrepresenting a material fact on the form or report given to BD and carrying out the inspection or works in a manner that causes or likely to cause injury to any person or damage to any property. In this regard, BD has also stepped up its efforts in regulating registered practitioners providing services under the two inspection schemes who have contravened the BO. To ensure the inspection and repair works have been carried out in accordance with BO, CoP and relevant guidelines, BD also conducts audit checks on the inspection and repair completion reports and certificates submitted by the registered practitioners as well as the actual works completed on-site. In case of irregularities, BD will consider instigating prosecutions, and/or disciplinary action against the relevant persons. As at end of 2018, 23 prosecutions have been instigated against registered practitioners (of which ten were made in 2018) and 20 cases have already been convicted. The number of complaints against registered practitioners has decreased from the peak of 21 in 2016 to five last year.

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