

Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme –

Buildings (Amendment) Bill 2010

Source: http://www.bd.gov.hk/english/services/index_MBIS_MWIS.html

Introduction

Building neglect has been a long-standing problem in Hong Kong. With buildings ageing, incidents such as concrete spalling and windows falling from heights happen from time to time. These pose safety hazards to building users and passersby, and owners have to bear huge compensation responsibilities. The main cause is that some owners lack awareness of building maintenance and do not seriously take up the responsibility of regular inspection and maintenance of their own properties.

"Prevention is better than cure". If owners can regularly inspect their buildings, identify problems at an early stage and carry out remedial works, accidents can be avoided. The policy on mandatory building inspection and mandatory window inspection has been under preparation for years, and the community has also thoroughly discussed the subject. The Government conducted two rounds of public consultation in 2003 and 2005. The community consensus obtained is that owners should be responsible for the proper maintenance and repair of buildings and shoulder the costs required. Based on this consensus, the Government announced in 2007 that it would legislate for the implementation of the mandatory building inspection scheme (MBIS) and mandatory window inspection scheme (MWIS), requiring owners to regularly inspect and repair their buildings and windows. The Government will also provide appropriate assistance to owners.

The Government has subsequently consulted the Legislative Council (LegCo) and professional bodies relating to building inspection and repair on the modus operandi of the schemes in order to refine the details. The Government has also implemented various support measures for owners, and obtained the agreement of the Hong Kong Housing Society (HKHS) to help provide assistance to owners in need.

The Buildings (Amendment) Bill 2010 was introduced into LegCo in February 2010 and is being scrutinized by LegCo. This webpage introduces the key features of the Buildings (Amendment) Bill 2010 for the implementation of the schemes, and lists out the support measures for owners.

Buildings (Amendment) Bill 2010

What are the requirements under the legislation?

The Buildings (Amendment) Bill 2010 will introduce the MBIS and MWIS.

Under the MBIS, owners of buildings aged 30 years or above (except domestic buildings not exceeding 3 storeys) will be required to carry out inspections (and, if necessary, repair works) of the common parts, external walls and projections of the buildings once every 10 years.

Under the MWIS, owners of buildings aged 10 years or above (except domestic buildings not exceeding 3 storeys) are required to carry out inspections (and, if necessary, repair works) of all windows of the buildings once every 5 years.

Will all buildings meeting the building age requirements have to carry out mandatory building and window inspections at the same time?

The Buildings Department (BD) will make arrangements to spread out buildings meeting specified building ages to carry out inspections, and select a suitable number of buildings to carry out building and window inspections every quarter.

How will the Government select target buildings?

The BD will select target buildings for carrying out mandatory building and window inspections according to factors including building age, building condition, records of repair, location, etc. When selecting target buildings, the BD will make reference to the advice of selection panels comprising community representatives and professionals.

To minimise disturbance to owners, the BD will endeavour to synchronise the implementation of the MBIS and MWIS. Buildings selected for the MBIS will also be selected for MWIS under the same cycle as far as practicable, so that owners can carry out inspections and repair works under both schemes concurrently.

What are the procedures under the mandatory building and window inspection schemes?

- (1) The BD issues notices to the owners of every target building selected, requiring them to carry out inspections (and, if necessary, repair works) in respect of the common parts, external walls and projections (MBIS) and/or windows (MWIS) within specified timeframes.
- (2) Owners appoint inspectors to carry out inspections.
- (3) Inspectors carry out building and/or window inspections in accordance with the BD's requirements, and recommend whether repair is needed.
- (4) If repair is needed, owners need to appoint contractors to carry out the required building and/or window repair works, and appoint inspectors to supervise the works.
- (5) Upon completion of repair works, inspectors will carry out examination and testing, and submit reports to the BD.
- (6) The BD will notify owners that they have fulfilled the mandatory inspection requirements.

How will the Government handle unauthorised building works (UBWs) identified during mandatory building inspections?

Inspectors under the MBIS have to report to the BD UBWs in common parts and on external walls of buildings. The BD will treat such UBWs in accordance with the established UBWs enforcement policy. The Department will prioritise enforcement action against UBWs posing an obvious or imminent danger to lives and properties or those that are newly constructed, requiring owners to demolish the same.

How will the Government regulate service providers?

The Government will ensure proper regulation of service providers through the following measures:

- a. Create a new register and regulatory mechanism under the Buildings Ordinance (Cap. 123), and establish Inspector Registration Committees to scrutinise and monitor the professional standards of inspectors.
- b. Issue detailed guidelines on the requirements and standards of building inspections, window inspections and repair works.
- c. Conduct random detailed audit checks of inspection reports submitted by inspectors, and impose appropriate sanctions for irregularities detected.

What will be the consequences if owners do not comply with statutory requirements?

According to the proposals in the amendment bill, owners who do not comply with mandatory building inspection requirements without reasonable excuse will be liable upon conviction to a fine of \$50,000 and imprisonment of 1 year. Owners who do not comply with mandatory window inspection requirements without reasonable excuse may be charged with a fixed penalty of \$1,500; repeated offenders will be liable upon conviction to a fine of \$25,000 and imprisonment of 3 months.

Support Measures for Owners

To dovetail with the implementation of the two mandatory schemes, the Government, in collaboration with the HKHS and URA, will launch various assistance schemes to help owners comply with the statutory requirements. Eligible owners may obtain various assistance and support from the HKHS, URA and Government at different stages of the two mandatory schemes:

Organisation Stage

- Professional advice to building owners to assist them to liaise and to coordinate and organise works.
- Professional advice in respect of appointing inspectors and contractors, including vetting tender documents.
- Assistance to building owners to establish owners' corporations.
- Subsidy of up to \$3,000 per owners' corporation established and technical assistance for owners' corporation formation under the Integrated Building Maintenance Assistance Scheme.

Inspection/Repair Stage

- Subsidy on the cost of first building inspection to eligible owners.
- Technical advisory services in respect of matters relating to building and window inspection and repair, and where necessary referral services such as seeking legal advice.
- Technical advice where necessary in respect of repair works items specified by inspectors.

- Various types of grants (maximum \$1.2 million per owners' corporation) and/or interest-free loans (maximum \$100,000 per unit) to owners who meet the eligibility criteria of the Integrated Building Maintenance Assistance Scheme to carry out building and window repair works.

After Repair

- Subsidy to eligible buildings with repair completed for public liability insurance premium for common parts under the Integrated Building Maintenance Assistance Scheme (up to 50% of annual premium, capped at \$6,000 per annum, for up to 3 consecutive years).

Recognition of Well-managed Buildings that Voluntarily Carried Out Inspections

The HKHS will implement a Voluntary Building Assessment Scheme (VBAS) to provide positive recognition to well managed and properly maintained buildings. Buildings with satisfactory safety ratings under the VBAS can be exempted from mandatory building inspections.

Implementation Timetable

Depending on the scrutiny of the bill by LegCo and enactment of subsidiary legislation, it is estimated that the two schemes can be implemented in 2011 at the earliest.

Enquiry

Any enquiry on the two schemes may be addressed to the Buildings Department:

Mailing address: Legal Section, Buildings Department, 18/F, Pioneer Centre, 750 Nathan Road, Mongkok, Kowloon

E-mail address: enquiry@bd.gov.hk

Hotline: 2626 1616

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