

**立法會**  
**Legislative Council**

LC Paper No. CB(1)730/20-21(02)

Ref: CB1/SS/12/20

**Subcommittee on Proposed Resolution under Section 2(3)  
of the Buildings Ordinance (Cap. 123)**

**Background brief**

**Purpose**

This paper provides background information on the proposed resolution under section 2(3) of the Buildings Ordinance (Cap. 123) ("BO") and a brief account of the major views and concerns expressed by members of the Panel on Development ("DEV Panel") on matters related to the proposed resolution.

**Background**

2. The Minor Works Control System ("MWCS"), regulated by the Building (Minor Works) Regulation (Cap. 123N) ("B(MW)R"), came into operation on 31 December 2010. It provides an alternative for building owners to carry out small-scale building works in a lawful, simple, safe and convenient way, without the need to obtain prior approval of plans and consent to the commencement of such works from the Building Authority.

3. In addition, MWCS provides a validation scheme for certain minor amenity features out of the list of minor works items covered in MWCS. These minor amenity features include unauthorized supporting frames or structures for air-conditioning units, water cooling towers and any associated air ducts, as well as drying racks and canopies. After validation, the said unauthorized building works ("UBWs") meeting the descriptions and requirements prescribed under Schedule 3 to B(MW)R and erected before the commencement of MWCS on 31 December 2010 will not be served a demolition order under section 24 or a warning notice under section 24C of BO. While the legal status of such features remains to be unauthorized, the validation scheme seeks to allow the continued use of such lower risk features after safety inspection and necessary

strengthening by a prescribed building professional ("PBP")<sup>1</sup> or a prescribed registered contractor ("PRC")<sup>2</sup> so as to meet the genuine needs of building occupants, minimize the burden of owners or occupants in seeking rectification and avoid wastage. In September 2013, the validation scheme was extended to cover existing unauthorized signboards erected before 2 September 2013 and meeting the prescribed descriptions and requirements.

4. In September 2020, B(MW)R was amended by the Building (Minor Works) (Amendment) Regulation 2020 (L.N. 60 of 2020) to extend the coverage of MWCS to include more types of building works as minor works. The amended B(MW)R came into operation on 1 September 2020.

### **Proposed resolution under section 2(3) of the Buildings Ordinance**

5. The Administration proposes extending the validation scheme to cover an additional 11 types of amenity features which are among the latest list of minor building works items by virtue of the amended B(MW)R and erected before 1 September 2020, i.e. the commencement date of the amended B(MW)R.

6. In connection with the proposed extension of the validation scheme, the Secretary for Development ("SDEV") has given notice to move a motion under section 2(3) of BO<sup>3</sup> at the Legislative Council ("LegCo") meeting of 24 March 2021. The motion seeks to amend Schedule 8 to BO to include an additional 11 types of existing unauthorized building or building works as prescribed building or building works ("PBWs") so that such PBWs could be retained for continued use.<sup>4</sup> The 11 types of PBWs proposed to be added to Schedule 8 to BO are as follows:

---

<sup>1</sup> PBP includes Authorized Person or Registered Inspector and, where applicable, Registered Structural Engineer and Registered Geotechnical Engineer.

<sup>2</sup> PRC includes Registered General Building Contractor, Registered Specialist Contractor registered to conduct a certain category of specialized works, as well as Registered Minor Works Contractor registered to conduct certain class/type/item of minor works.

<sup>3</sup> Section 2(3) of BO provides that the Legislative Council may by resolution amend Schedule 8 to BO.

<sup>4</sup> At present, only one type of PBW (i.e. signboard of a kind prescribed under section 38(1)(ke)(ic) of BO) is designated in Schedule 8 to BO.

- (a) supporting structure for a building services installation, or metal casing for such an installation, of a prescribed type;
- (b) supporting structure for a radio base station of a prescribed type;
- (c) supporting frame for an air-conditioning unit, or for a light fitting, of a prescribed type;
- (d) solid fence wall of a prescribed type;
- (e) mesh fence or metal railing of a prescribed type;
- (f) pole of a prescribed type;
- (g) metal gate of a prescribed type;
- (h) canopy of a prescribed type;
- (i) retractable awning of a prescribed type;
- (j) trellis of a prescribed type; and
- (k) metal ventilation duct or any associated supporting frame of a prescribed type.

7. The proposed resolution, if passed by LegCo, would come into operation on a day to be appointed by SDEV by notice published in the Gazette. Upon passage of the proposed resolution, a separate amendment regulation (i.e. the Building (Minor Works) (Amendment) Regulation 2021), would be tabled in LegCo to amend Schedule 3 to B(MW)R to prescribe the 11 types of PBWs mentioned above.

### **Major views and concerns expressed by Panel members**

8. The Administration consulted the DEV Panel at its meeting on 26 February 2019 on proposals to revamp B(MW)R, including the proposal of designating additional types of existing unauthorized minor amenity features as PBWs under the validation scheme by making corresponding amendments to Schedule 8 to BO.

9. The DEV Panel raised no objection to the proposal. In the course of discussion, a member enquired whether the proposal was intended to deal with UBWs in sub-divided units under the extended validation scheme. The Administration advised that the additional types of unauthorized features proposed to be included in the validation scheme were minor and genuine amenity features and did not involve works normally associated with sub-divided units.

### **Latest development**

10. At the House Committee meeting on 12 March 2021, Members agreed that a subcommittee should be formed to study the proposed resolution. At the request of the House Committee, SDEV has withdrawn the notice to move the motion mentioned in paragraph 6 above.

### **Relevant papers**

11. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Proposed Resolution under Section 2(3)  
of the Buildings Ordinance (Cap. 123)**

**List of relevant papers**

Council/Committee	Date of meeting	Paper
Panel on Development	26 February 2019	<p>Administration's paper on "Proposed Amendments to the Building (Construction) Regulations, and the Building (Minor Works) Regulation" [<a href="#">LC Paper No. CB(1)593/18-19(04)</a>]</p> <p>Minutes of meeting [<a href="#">LC Paper No. CB(1)1335/18-19</a>]</p>
House Committee	12 March 2021	<p>Legal Service Division Report on Proposed Resolution under section 2(3) of the Buildings Ordinance (Cap. 123) [<a href="#">LC Paper No. LS46/20-21</a>]</p>
Council meeting	24 March 2021	<p><a href="#">Legislative Council Brief</a> on Buildings Ordinance (Cap. 123) — Resolution to amend the Prescribed Building or Building Works</p> <p>Proposed Resolution under the Buildings Ordinance to be moved by the Secretary for Development [<a href="#">LC Paper No. CB(3)383/20-21</a>]</p>