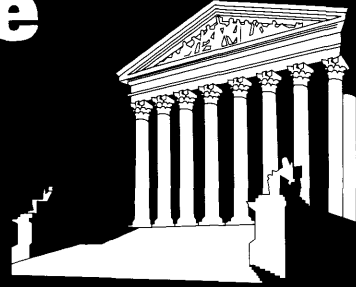


The Building Safety Inspection Scheme

In August the Buildings Department released a Consultation Paper on a proposed Building Safety Inspection Scheme. This month J.A. McInnis looks at the Paper and some of the possible implications of the Scheme.



Background to the Paper

News has at times been bad lately as far as building safety in Hong Kong is concerned. The number of high profile accidents that have resulted in both deaths and injuries seems to just keep increasing. A casual perusal of any of the local newspapers over a short period of time would likely confirm this. One result has been to put pressure on the Government to act to improve building safety. One means that the Government hopes that it can do this is by stepping up building inspections and maintenance requirements. This is what the new Building Safety Inspection Scheme is all about.

Current Situation

At present Buildings Department officials conduct routine inspections of buildings both internally and externally for various purposes. The officials may act on complaint or on their own initiative. They seek to identify risks, dangers and hazards that buildings present arising from their structure, finish, construction and the like. The current system of compliance with standards and regulations is voluntary. The existence of the Paper tells us that the current system has failed. Buildings are simply not being maintained to acceptable levels. Both the number of complaints and prosecutions for breach of standards or regulations have been increasing dramatically. Monthly Statistics published by the Buildings Department confirms this. It is also expected that the problem will only continue to grow with more and more buildings becoming older and presenting increasing risks to the public. In view of this situation and the potential dangers posed by these buildings new mandatory standards are being proposed.

DETAILS OF THE SCHEME

Buildings Covered

The Building Inspection Scheme would apply to all privately-owned buildings over 20 years old on a mandatory basis. Thus industrial buildings, godowns, domestic, non-domestic and composite buildings privately owned would be covered. No exceptions have been referred to in the Paper. The 20 year age limit is arbitrary but it is thought that advances in construction, technology and materials during the last 20 years justify excluding these newer buildings. At present these newer

buildings (again less than 20 years old) are subject to a voluntary inspection scheme in any event.

Inspection Requirements

It is proposed that eligible buildings must be inspected in cycles of 5, 7 and 10 years. It is unclear how this will be construed. For example, it may mean a 20 year old building might not have to be inspected for 5 years after the Scheme comes into effect, then not again until 7 and 10 years later respectively. This would mean inspections on, say, the 25th, 32nd and 42nd anniversaries of completion of the building. Then the cycle would repeat. This interpretation is as yet to be confirmed. Once during every prescribed inspection cycle building owners will receive new statutory inspection orders. These will be issued by the Building Authority. On receipt of the orders the building owner will have to appoint a qualified person to carry out the inspection. At this time qualified persons would appear to be limited to Authorised Persons or Registered Structural Engineers only. These persons will have to be on the lists which are currently maintained for these groups. At least one and perhaps two inspections will be required. The first inspection is being called a General Appraisal. It may suffice alone. However, if the inspector recommends a second inspection then a Detailed Inspection must also be carried out if the Buildings Department agrees with the recommendation. No details have been set out on when the Department would be either likely or not to support such a recommendation and presumably it will be at its absolute discretion.

Clear Advantages

If the Scheme goes ahead it should improve the overall level of building safety. It should also add to a buildings useful life through improved maintenance.

Clear Disadvantages

The Scheme will add to the cost of owning and operating buildings. There will be added administrative burden.

A Cost Example

The Paper sets out one example of the likely costs. Thus, assuming a 25 year old building with 200 units it is anticipated

that the cost to each unit will be approximately \$11,000 over a 7 year period if both levels of inspection are required. Clearly this amount would be less if only the General Inspection was done. This is not an insignificant sum. It is of course only for a typical building. Some inspections will cost more. Some inspections will cost less. The size of the building, number of units, location etc could also affect the costs considerably. In other words this typical example may be atypical for any given building. It is also exclusive of the repair costs themselves.

Operation

It is proposed to bring the Scheme into operation in phases and to cover some 3000 eligible buildings each year. This is only a fraction of the total number of buildings in Hong Kong. The Building Authority will be given power to make the Scheme operative. Thus it will be given the power to declare buildings are subject to mandatory inspection orders, serve and enforce the orders and impose penalties for their breach. Presumably these powers will be given to the Authority through amendments to the Buildings Ordinance. It will also be given the power to make new regulations regarding the operation and inspection standards. Similar to its existing power to carry out work on dangerous buildings in default of action by the owner and later bill the owner for these costs the Authority will also be able to carry out any repairs and recover those costs from the owner as well. Building owners whose buildings pass inspection either initially or following any necessary repairs will be given Letters of Satisfaction. These Letters will be registrable at local land registries as evidence of compliance with the Scheme.

Some Uncertainties

There are several open questions which immediately come to mind. Will the Scheme lead to higher or lower building values? Will old buildings simply disappear as the cost of repairs increase? Who will administer compliance and keep the books on the costs? How difficult will it be to enforce the Scheme when no owners' corporations or professional managers are involved? What about some of the legal implications - what status will the Letters have once registered? Will they be defects in title for conveyancing purposes? In summary there are questions that the Paper raises which the Buildings Department will have to address. We can expect that many more questions will come out of the consultation period which ends October 31st. While it is true that it is likely time for some sort of mandatory scheme is this the right one and why are there so few details on the possible tremendous cost implications that it has for owners. Certainly more is needed here. No one will argue with the intent to increase public safety and if it does so it will have accomplished one of its principal aims. However, how will it ultimately affect the overall quality and aesthetics of the built environment and will it result in more and better maintained older buildings or simply none. These are questions which affect and should interest us all.

J.A. McInnis is an Associate Professor at the Faculty of Law at the University of Hong Kong and the author of Hong Kong Construction Law.

AAC

香港及澳門航空時間表

HONG KONG & MACAU AIRLINE TIMETABLE

PUBLISHED SINCE 1978

Updated 1996 HK\$ 30

SPACE
SEPARATES
ROYALTY
From THE
COMMON

MAN

Experience the new Club Empress with 50 inches between seats. Direct to Canada - every day of the week. The Asian spirit has always been a part of Canadian.

Canadian

If You Are a Frequent Traveller, This Is For You

THE HONG KONG & MACAU AIRLINE TIMETABLE, PUBLISHED SINCE 1978 IS THE ONLY COMPREHENSIVE FLIGHT-SCHEDULE FOR HONG KONG & MACAU. UPDATED EVERY MONTH AND AVAILABLE AT ALL MAJOR BOOK STORES

PRICE: HK\$ 30.00 PER ISSUE / HK\$ 240.00 (12 ISSUES)

Pocket-sized Flight Schedule comes in an easy to use format including essential travel information such as:

- Local and regional airline reservation contact numbers and addresses
- All airline departure and arrival schedules for Hong Kong & Macau
- Hotel Listings in Hong Kong, Macau and across the region
- International weather guide
- International public holidays
- Car rental & Courier companies
- IDD Codes
- Currency Conversion.....and more

FOR A FREE COPY FAX THIS FORM TO 28511933, 25819531

Name..... Company.....
 Title..... Address.....
 Telephone..... Fax..... E-mail.....
 Trips abroad in the past 12 months..... Class: First/Business/Economy

FOR FURTHER DETAILS PLEASE CONTACT Ms BECKY CHAU OR Ms BETTY YEUNG
 THOMSON PRESS HONG KONG LTD.

ROOM 203 HOLLYWOOD CENTRE, 233 HOLLYWOOD ROAD, HONG KONG.

TEL: (852) 2815 9111 / 28516963 FAX: (852) 2851 1933 / 2581 9531