

**Draft**

**LegCo Question No. 1**  
**(Oral Reply)**

Asked by : The Hon James To      Date of Meeting : 15 February 2006

Replied by :                      Secretary for Housing,  
Planning and Lands

**Question:**

Regarding the regulation of construction works undertaken by works contractors and authorized persons (“APs”) for owners of private buildings, will the Government inform this Council:

- (a) whether it is against the law for works contractors and APs to carry out unauthorized construction works for owners of private buildings; if it is, of the number of prosecutions instituted against them over the past three years, and the penalties imposed by the court on the convicted persons;
- (b) of the legal liability of works contractors and APs in respect of the quality of the works carried out by them which have been approved by the relevant authorities; and the number of prosecutions instituted against them in connection with such liability over the past three years, as well as the penalties imposed by the court on the convicted persons; and
- (c) given that the Administration had made a legislative proposal in 2003, which was subsequently withdrawn due to the lack of consensus on its implementation details, to introduce a minor works control regime and a registration system for minor works contractors, of the latest progress on this issue?

**Reply:**

President,

My response to the three parts of the above question is as follows:

- (a) Under the Buildings Ordinance (BO), except for the exempted building works, no one shall commence or carry out any building works in private buildings without having first obtained the approval and consent from the Building Authority (BA). Otherwise, the person concerned shall be guilty of an offence and shall be liable on conviction to a maximum fine of \$400,000 and imprisonment for 2 years, and also to a maximum fine of \$20,000 for each day during the continuing commitment of the offence. Therefore, any contractor or authorized person (AP) who has carried out building works for a private building owner without having first obtained approval from the authority would have committed an offence.

In the past three years, the BA instituted prosecutions under the BO against three concerned parties. These three defendants were later convicted in court with a fine ranging from \$5,000 to \$7,000.

- (b) If the building works of a private building complies with the requirements of the BO, including the appointment of an AP for coordination, design of building works and submission of plans, the approval of BA, and the requirement for a registered contractor to carry out and complete the works in accordance with the approved plans with the standards and safety specifications required by the Ordinance under the supervision of the AP, the quality of works will have a certain degree of guarantee.

If the works approved by the BA is not carried out according to the approved plan or the standards and safety specifications required by the Ordinance, the parties concerned may still be held liable. According to the BO, where any building works are found to be in breach of the Ordinance including use of materials which are defective or not complying with the requirements and standards of the BO, or the works have deviated in a material manner from the approved plan, or the works have been carried

out in such manner that causes injury to any person or damage to any property, the Government may prosecute such persons who shall be liable on conviction to a maximum fine of \$1,000,000 and imprisonment for 3 years.

In the past three years, the BA instituted prosecutions in three cases against concerned parties, among which the defendant of one of the cases was convicted and fined HK\$40,000. As regards the remaining two cases, the court acquitted the defendant in one case while the Department of Justice offered no evidence for prosecution in another case.

- (c) The work in relation to the legislative amendments to introduce the minor works control regime and the minor works contractors registration system is actively in progress. A working group set up by Buildings Department comprising representatives from the Buildings Department, various building professional institutions, Hong Kong Construction Association and the Minor Works Concern Group is working out the specific proposals of the minor works control regime. The relevant consultation work has also achieved considerable progress. As some relatively complicated details are involved in the proposals, we need sufficient time for the drafting of the Bill. We intend to report the results of the consultation with the building industry as well as the details of the proposal of the minor works control regime to the Panel on Planning, Lands and Works in the middle of this year. The target is to introduce the proposals in a Buildings (Amendment) Bill on the Legislative Council by the end of this year.