

MANAGEMENT OF SIGNBOARDS BY THE BUILDINGS DEPARTMENT

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1. A signboard is defined under the Buildings Ordinance (Cap. 123) as a hoarding, framework, scaffolding or other structure erected solely for the purpose of displaying any advertisement, making any announcement or notification, or displaying any visual image or other information. Prior to 31 December 2010, the erection of all signboards (except for exempted works which are building works carried out in a building not involving the structure of the building and different from designated exempted works under the Minor Works Control System (MWCS) in (b) below) requires the prior approval and consent by the Buildings Department (BD) under the Buildings Ordinance. With the full implementation of the MWCS under the Building (Minor Works) Regulation (Cap. 123N) since 31 December 2010, depending on the scale and potential safety risk of the works, the erection, alteration and removal of signboards (except for exempted works) are categorised and regulated as: (a) minor works (which are, in general, relatively small in scale and pose lower potential structural safety risk) carried out through simplified procedures under the MWCS without the need for obtaining the BD's prior approval and consent. The works have to be carried out by prescribed registered contractors (who have to register with the BD to carry out the related class, type and item of minor works) and in cases of more complex minor works, the works have to be performed under the supervision of prescribed building professionals; (b) designated exempted works (of lower complexity and safety risk than minor works) which can be carried out without obtaining the BD's prior approval and consent or appointment of prescribed building professionals and prescribed registered contractors; and (c) works which continue to be subject to prior approval and consent of the BD (such works are, in general, for large signboards) and carried out by building professionals and registered contractors.

2. Signboards (except those under exempted works or designated exempted works) erected without obtaining the BD's prior approval and consent or following the requirements under the MWCS are unauthorised building works. According to the results of a territory-wide stock-taking exercise conducted by the BD's consultants in 2011, there were about 120,000 signboards, most of which were considered by the BD to be unauthorised. The existence of a large number of unauthorised signboards

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poses a persistent building safety risk in Hong Kong. During the past five years from 2013 to 2017, there were 8 incidents involving fallen signboards which caused injuries to 11 persons (4 such incidents, all involving unauthorised signboards, occurred in 2017 causing injuries to 7 persons).

3. Since September 2013, the BD has implemented a voluntary Validation Scheme for Unauthorised Signboards (hereinafter referred to as the Validation Scheme). With a view to providing an additional option for signboard owners apart from removing their unauthorised signboards and re-erecting legal ones under the MWCS, unauthorised signboards that were erected before September 2013 and meet the prescribed technical specifications for minor works are eligible for validation.

4. According to the BD, it has adopted a risk-based control system to control dangerous or unauthorised signboards. Apart from implementing the Validation Scheme for unauthorised signboards, the BD identifies dangerous or unauthorised signboards mainly from regular surveys, large-scale operations (LSOs) and public reports. The enforcement actions can broadly be classified as: (a) immediate enforcement actions against any signboard posing an imminent danger to the public by removing such signboard under the Public Health and Municipal Services Ordinance (Cap. 132); (b) priority enforcement actions against: (i) any dangerous or likely-to-become dangerous signboard by issuing a Dangerous Structure Removal Notice (DSRN) under the Public Health and Municipal Services Ordinance; and (ii) any new (including works-in-progress (WIP)) unauthorised signboard by issuing a removal order under the Buildings Ordinance; (c) strengthened enforcement actions against those large unauthorised signboards for which the BD considers as being in serious breach of law by applying to the Court for priority demolition orders under the Buildings Ordinance; and (d) enforcement actions by LSOs which focus on dangerous or unauthorised signboards on target street sections selected by the BD and large unauthorised signboards posing relatively higher risk to public safety by issuing DSRNs or removal orders. For a non-compliant DSRN/removal order, upon the grant of a priority demolition order by the Court, or for a signboard which the BD considers as posing an imminent danger to the public, the BD may engage contractors to carry out the required works (e.g. removal or rectification works) on behalf of the owners (i.e. default works) and recover the costs from the owners.

5. According to the BD: (a) in view of the frequent changes of signboards' inscription, it will take time to carry out investigations to locate the person to be held liable; and (b) since most of the signboards are erected for business operation, default

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works for non-compliant orders (especially shopfront signboards) may lead to conflict or confrontation, which requires intensive lobbying. Furthermore, the default works for projecting signboards may involve temporary closure of streets.

6. The BD's Minor Works and Signboard Control Section comprises the Signboard Control Unit and the Minor Works Unit. The Signboard Control Unit is responsible for identification and taking enforcement actions against dangerous or unauthorised signboards, administration of the Validation Scheme, and checking of minor-works submissions relating to signboards. The Minor Works Unit is responsible for administration of the MWCS. In addition, the BD's New Buildings Divisions are responsible for checking and approval of plans for building works, including those for signboards. The Audit Commission (Audit) has recently conducted a review to examine the management of signboards by the BD.

Signboard control schemes and surveys

7. *Lack of regular management information to monitor the effectiveness of MWCS as related to signboards.* Under the MWCS, prescribed building professionals and prescribed registered contractors are vested with legal responsibilities to supervise, carry out and certify the structural safety of all minor works. To ensure compliance with the statutory requirements and to deter abuse of the MWCS by the professionals or contractors, the BD selects some minor-works submissions for desktop and/or site audit. Regular analysis of the results of irregularities found in desktop and site audits and whether and what follow-up actions had been taken would provide useful management information for monitoring the operation and effectiveness of the MWCS. However, Audit noted some room for improvement in this area, specifically: (a) of some 5,000 minor-works submissions relating to signboards received each year from 2015 to 2017, the BD selected submissions for desktop (4% to 5%) and site (1% to 3%) audits each year and found around 28% and 20% of the selected submissions "not in order" respectively. However, the BD did not compile management information to enable management to assess the nature and seriousness of these irregularities; (b) 10% to 17% of the submissions selected for site audits from 2015 to 2017 were withdrawn by the applicants. However, the BD did not have readily available information to demonstrate that the withdrawals were justified and no contraventions of the Buildings Ordinance were involved; and (c) as of April 2018, the BD had issued 153 advisory letters and 29 warning letters to prescribed building professionals and prescribed registered contractors arising from "not in order" submissions from 2015 to 2017.

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However, the BD had not provided more management information to facilitate management oversight on repeated offenders and whether and what follow-up actions had been taken (paras. 2.2, 2.7 and 2.9).

8. ***Need to set time targets for completing desktop and site audits.*** While the BD has set time target for conducting (i.e. commencing) site audits on selected signboard cases (within 60 days after receipt of submissions), it had not set any time target for completing desktop and site audits. Audit noted that, as of April 2018, the audits on some cases had still not been completed more than one year after receipt of the submissions. For example, as of April 2018, for desktop and site audits on submissions received in 2017, the BD had not completed 87 (37%) of the 234 selected cases and 32 (32%) of the 100 selected cases respectively (para. 2.11).

9. ***Low response for Validation Scheme.*** The BD estimated in 2014 that some 72% of the 120,000 (i.e. 86,400) signboards identified in its 2011 stock-taking exercise would be eligible for validation under the Validation Scheme. However, since commencement of the Scheme in September 2013 and up to April 2018 (around 4.5 years), only a total of 662 applications had been received and the response was low. Of the 662 applications, 314 (47%) applications involving 274 signboards (which accounted for 0.3% of 86,400 signboards) had been validated, 224 (34%) applications had been rejected, and the remaining 124 (19%) applications had been withdrawn by the applicants or were still being processed by the BD (paras. 2.19 and 2.20).

10. ***Need to improve effectiveness of surveys in identifying dangerous, abandoned or unauthorised WIP signboards.*** With a view to identifying dangerous, abandoned or unauthorised WIP signboards (collectively referred to as targeted signboards), the BD had conducted regular surveys (i.e. patrols) by both in-house staff and consultants (following the expiration of the consultancy agreements in April 2018, the BD in-house staff have taken up the consultants' duties). Audit noted that the number of targeted signboards identified by BD in-house staff had decreased from 272 in 2015 to 60 in 2017. The consultants identified a total of 181 targeted signboards in the two-year consultancy period ended April 2018. In June 2018, Audit conducted a one-day site visit to one of the 11 areas in Yau Tsim Mong District and identified 35 suspected targeted signboards (which were referred to the BD for examination). The BD's examination results confirmed that 25 signboards were targeted signboards (comprising 6 likely-to-become dangerous signboards, 17 abandoned signboards and 2 unauthorised WIP signboards) which were not known

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to the BD and no enforcement action had been taken before Audit's referral. According to the BD: (a) the reasons for the decrease in the number of targeted signboards identified by BD in-house staff during regular surveys were that it had completed an inspection cycle by the end of 2016 and, in 2017, as an enforcement strategy, it redirected its resources to clear backlog removal orders and intensified the LSOs on target streets by its in-house staff; and (b) some targeted signboards identified by Audit's site visit had been previously inspected by BD in-house staff under the regular surveys and they were in good condition at the time. In Audit's view, there is a need to improve the effectiveness of regular surveys by the BD as the regular survey is a proactive means of identifying dangerous or abandoned signboards and assessing their conditions (paras. 2.28 to 2.33).

11. *Need to make better use of computer system to monitor enforcement actions taken against targeted signboards identified in regular surveys.* Audit noted that the BD could not readily compile information on the time taken in issuing DSRNs or removal orders for the targeted signboards identified in regular surveys. According to the BD, it had not used its computer system to correlate the identified targeted signboards with the DSRNs or removal orders issued. The BD needs to take measures to make better use of its computer system to assist it in monitoring the progress of enforcement actions (para. 2.38).

Large-scale operations and handling of public reports

12. *Slippage in completing LSOs on target streets covering signboards.* Since 2014, the BD has launched LSOs on dangerous (including abandoned) or unauthorised signboards (other than validated signboards against which the BD would not take enforcement action) by progressively selecting one or more target street sections in each year (covering 1, 5, 6 and 9 street sections in 2014, 2015, 2016 and 2017 respectively). For each LSO on target street, there is a set of programmed actions (including serving DSRNs/removal orders on such signboards and instigating prosecution or carrying out default works for non-compliant DSRNs/removal orders). However, as of April 2018, for the LSOs conducted from 2015 to 2017 for a total of 20 street sections, they had not yet been completed (the outstanding work involved instigating prosecution or carrying out default works). For signboards issued with removal orders, as of April 2018, slippage ranged from 3 months to 2.3 years (e.g. prosecution had not been instigated for 158 (43%) of the 366 removal orders issued one year after the target date under the 2016 LSOs). For signboards issued with DSRNs, as of April 2018 (three months after the target date), default works had not

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yet been carried out for 98 (74%) of the 133 DSRNs issued under the 2017 LSOs (paras. 3.3, 3.5, 3.6 and 3.8).

13. ***Need to keep under review implementation and effectiveness of LSOs on large unauthorised signboards.*** Since 2003, the BD has conducted LSOs on large unauthorised signboards with an aim to remove all substantially large unauthorised signboards. According to the BD's internal guidelines, the BD should set a target number of signboards for taking enforcement actions each year under LSOs on large unauthorised signboards. However, Audit noted that both the actual number of and the achievement rate of the target set for large unauthorised signboards with enforcement actions taken had decreased from 201 (actual achievement rate of 67%) in 2015 to 106 (actual achievement rate of 47%) in 2017. In June 2018, Audit conducted a one-day site visit to 7 streets in Yau Tsim Mong District and identified 68 suspected large unauthorised signboards (which were referred to the BD for examination). The BD's examination results confirmed that there were 11 large unauthorised signboards which were not known to the BD and no enforcement action had been taken before Audit's referral. According to the BD: (a) due to other priorities, it had not taken enforcement actions against some of the large unauthorised signboards found by Audit; and (b) in September 2018, it decided to expand the actionable criteria of LSOs on large unauthorised signboards (e.g. covering large unauthorised shopfront signboards). In Audit's view, in view of the newly adopted actionable criteria on large unauthorised signboards, the BD needs to keep under review the implementation and effectiveness of such LSOs (paras. 3.7, 3.11 to 3.16).

14. ***Long time taken in issuing DSRNs or removal orders after conducting inspection of alleged signboards.*** Public report is one of the sources for identifying dangerous or unauthorised signboards. Upon receiving a public report on such signboard, the BD will screen its related records, carry out an inspection and determine the status of the signboard for taking necessary actions. According to the BD guidelines, BD officers should issue a removal order for a confirmed unauthorised signboard within 180 days after conducting screening and/or inspection of an alleged signboard arising from a public report. However, Audit noted that no such time target had been set for issuing a DSRN for a confirmed dangerous signboard after conducting inspection. Audit also noted that, as of April 2018, confirmed dangerous or unauthorised signboards arising from 256 public reports had not been issued with DSRNs or removal orders. For 94 (37%) of the 256 public reports, the time elapsed was more than 180 days after conducting screening and/or inspection (paras. 3.20, 3.24 and 3.25).

Follow-up actions on statutory notices and orders

15. For any signboard issued with a DSRN or a removal order, BD officers will conduct a compliance inspection after the specified period stated in the DSRN (normally 14 days) or the removal order (normally 60 days) to examine if the required removal or alteration works have been carried out. The BD may instigate prosecution actions against any person who fails to comply with the DSRNs or removal orders without reasonable excuse. In addition, the BD may engage contractors to carry out the required works on behalf of the owners (i.e. default works) and recover the costs from the owners (paras. 4.2, 4.15 and 4.16).

16. ***Long-outstanding DSRNs.*** Audit noted that, as of April 2018, there were 425 DSRNs issued for signboards that had not been complied with. Audit analysis revealed that 247 (58%) of the 425 DSRNs had remained outstanding for more than 6 months after their issuance (ranging from more than 6 to 22 months), far exceeding the 14-day time limit set out in the DSRNs (para. 4.4).

17. ***Long-outstanding removal orders.*** Audit noted that, as of April 2018, there were 1,414 removal orders issued for signboards that had not been cleared. Audit analysis revealed that 598 (42%) of the 1,414 removal orders had remained outstanding for more than 1 year after their issuance (ranging from more than 1 to 12 years), far exceeding the 60-day time limit set out in the removal orders (para. 4.8).

18. ***Need to take timely prosecution actions against non-compliant cases.*** Based on the BD's internal guidelines, a warning letter for prosecution should be issued to the signboard owner within 260 days (or about 9 months) after a removal order is issued. The BD may then instigate prosecution action on a non-compliant removal order by referring the case to its Legal Services Section for studying and deciding whether to proceed with the legal action by serving a summons or drop the case. Audit analysis revealed that, of the 214 non-compliant removal orders that had been referred to the BD Legal Services Section in 2016 and 2017, 132 (62%) orders were not referred to the Section until more than 1 year after their issuance (ranging from more than 1 to 10 years) (paras. 4.17 and 4.18).

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Audit recommendations

19. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Buildings should:

Signboard control schemes and surveys

- (a) with a view to monitoring the operation and effectiveness of the MWCS for signboards, ensure that the BD regularly compiles and analyses management information, including nature and seriousness of irregularities found, follow-up actions on withdrawal of submissions and information on repeated offenders (para. 2.15(a));
- (b) review the operation and effectiveness of the MWCS as related to signboards and take improvement measures as needed (para. 2.15(c));
- (c) set time targets for completing desktop and site audits on minor-works submissions as related to signboards (para. 2.15(d));
- (d) in view of the low response and the high rejection rate of the Validation Scheme, make further effort to publicise the Scheme with a view to enhancing public awareness of the Scheme and its requirements (para. 2.26(a));
- (e) review the effectiveness of regular surveys in identifying targeted signboards (para. 2.40(a));
- (f) take measures to make better use of the BD's computer system to assist the BD in monitoring the progress of enforcement actions taken against targeted signboards identified in regular surveys (para. 2.40(c));

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- (g) **strengthen actions to meet BD time target for completion of the LSOs on target streets covering signboards (para. 3.18(a));**
- (h) **keep under review the implementation and effectiveness of the LSOs on large unauthorised signboards with a view to strengthening enforcement actions under the LSOs (para. 3.18(b));**
- (i) **set a time target for issuing a DSRN for a confirmed dangerous signboard arising from a public report after conducting an inspection (para. 3.27(b));**
- (j) **strengthen actions to ensure that timely enforcement actions are taken against confirmed dangerous or unauthorised signboards arising from public reports (para. 3.27(c));**

Follow-up actions on statutory notices and orders

- (k) **strengthen actions to ensure that DSRNs and removal orders issued for related signboards are promptly complied with (para. 4.13(a));**
- (l) **take timely follow-up actions on those non-compliant DSRNs and removal orders as related to signboards (para. 4.13(b)); and**
- (m) **take measures to ensure that prosecution actions against non-compliant removal orders for unauthorised signboards are timely instigated (para. 4.24(a)).**

Response from the Government

20. The Director of Buildings agrees with the audit recommendations.