

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**DEVB(PL)072**

Question Serial No.

2813

Head: 82 Buildings Department                      Subhead (No. & title):

Programme:                      Buildings and Building Works

Controlling Officer:      Director of Buildings

Director of Bureau:      Secretary for Development

Question:

The Department indicated that it would continue to take vigorous enforcement action against unauthorised building works (UBWs), including instigating more prosecutions this year (i.e. in 2013). Please provide the following information:

- a) The number of cases convicted among all the cases instigated for prosecution by the Department over the past three years (i.e. 2010, 2011 and 2012);
- b) The number of removal orders not yet followed up after their expiry dates; and
- c) The respective number of staff in the Department responsible for removal of UBWs and for prosecution. Is there any plan this year to employ more staff, and what is the expenditure involved?

Asked by: Hon. CHAN Hak-kan

Reply:

- (a) The number of prosecutions instigated by the Buildings Department (BD) against failure to comply with removal orders and the number of convictions in 2010, 2011 and 2012 are as follows:

<b>Year</b>	<b>No. of Prosecutions Instigated</b>	<b>No. of Convictions<sup>(note)</sup></b>
2010	2 609	1 544
2011	2 264	1 794
2012	2 104	1 285

(Note: As there is a lapse of time between the serving of summonses and adjudications by the court, the convictions in a year may not necessarily arise from prosecutions instigated in that year.)

- (b) For the removal orders issued in 2012 or before, as at 1 March 2013, 63 820 removal orders were still under various stages of follow-up and had yet been complied with, including 11 306 of those issued in 2012. These orders had been registered in the Land Registry as an encumbrance to property title. Upon issue of a removal order, the BD will take action to demand compliance by the owners themselves. Where the orders have not been complied with after the specified period, the BD will issue reminders and, if necessary, warning letters to the owners to urge them to comply with the orders before considering whether to instigate prosecution. In case owners encounter genuine difficulties in arranging the works, an extension of time may be granted on a case-by-case basis where justified to allow them more time to comply with the orders. Prosecution may be initiated if the owners fail to comply with the orders without reasonable excuse. The BD will also consider engaging government contractors to carry out the required works in the owners' default and recover the cost of such works, plus supervision charge and surcharge from the owners afterwards.
- (c) The enforcement action against unauthorised building works (UBWs) is carried out by the existing resources of 530 professional and technical staff of the two Existing Buildings Divisions and the Mandatory Building Inspection Division of the BD as part of their overall duties to implement the BD's building safety and maintenance enforcement programme. We are not able to provide a breakdown of the manpower or expenditure involved solely for the enforcement action against UBWs.

The work associated with the instigation of prosecutions is mainly handled by the existing resources of 59 professional, technical and clerical staff of the Legal Services Section of the BD as part of their overall duties in dealing with all prosecutions and disciplinary proceedings arising from the enforcement work of the BD. Staff of the two Existing Buildings Divisions and the Mandatory Building Inspection Division of the BD are also involved in compiling documentary evidence and attending court hearings as prosecution witnesses. We are not able to provide a breakdown of the manpower solely for handling prosecutions against UBWs.

The existing professional and technical manpower will be used for carrying out enforcement action against UBWs and instigating prosecutions in 2013-14.

Name in block letters: AU Choi-kai  
Post Title: Director of Buildings  
Date: 2.4.2013