

立法會
Legislative Council

LC Paper No. CB(1)1095/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/10/01

**Bills Committee on
Land (Miscellaneous Provisions) (Amendment) Bill 2002**

**Meeting on
Tuesday, 25 February 2003, at 9:00 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon LAU Ping-cheung (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Member absent** : Hon Margaret NG
- Public officers attending** : Environment, Transport and Works Bureau

Mr C S WAI
Principal Assistant Secretary (Works)

Highways Department

Mr H C WONG
Assistant Director

Department of Justice

Ms Marie SIU
Senior Government Counsel

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1) 2

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Queenie YU
Senior Assistant Secretary (1)6

Action

I Meeting with the Administration

(LC Paper No. CB(1)959/02-03(01) - Information paper provided by the Administration in response to issues raised at the meeting on 13.2.2003;

LC Paper No. CB(1)969/02-03(01) - Information paper provided by the Administration on "Draft outline procedures to be adopted by the Administration in case of a report of contravention by a public officer is received by the Secretary for the Environment, Transport and Works under section 2A of the Land (Miscellaneous Provisions) (Amendment) Bill 2002" (in English version only);

LC Paper No. CB(3)541/01-02 - The Bill;
(Annex 1 to LC Paper No. CB(1)856/02-03(01)) - Committee Stage amendments to the Bill as at 10 February 2003)

The Bills Committee deliberated (index of proceedings attached at **Annex A**).

2. The Bills Committee agreed that the Research and Library Service Division (RLSD) be invited to undertake a research on the methodology for the calculation of economic costs relating to excavations on pedestrian ways with reference to relevant overseas experiences/practices.

3. The Bills Committee requested the Administration to provide further information on the following to facilitate their consideration of the Bill:

- (a) To consider providing incentive to permittees of excavation permits to encourage them to complete excavations earlier than the completion date specified in the permits and to report on the outcome of consultation with the industry.
- (b) To consider introducing a charging scheme on economic cost for excavations on pedestrian ways and to report on the outcome of consultation with the industry.

- (c) To consider refining the draft procedures for the Secretary for the Environment, Transport and Works to follow on receiving a report from the Authority about a contravention by a public officer or government department under new section 2A of the Bill (the Procedures), taking into account the views expressed by the industry and civil servants on the proposed operational details, and members' concern about the possible duplication of work between the investigations undertaken by the Secretary for the Environment, Transport and Works and the subsequent formal disciplinary actions against the concerned public officers as well as the lead time required for enforcing the disciplinary actions.
- (d) To provide a final draft of the Procedures, highlighting the new features to be included vis-à-vis the existing regulations and guidelines governing the behaviour of civil servants, and the operational details of the reporting mechanism under other legislation.
- (e) To formulate award schemes to encourage utility undertakers to maintain excavation sites in good condition, and to complete excavations earlier than the completion date allowed in the permit. Award presentation ceremonies and publicity should also be arranged.
- (f) To clarify what kind of information collected/created for the purpose of implementing the Bill would be disclosed to the general public, including but not limited to details of permittees of excavation permits or their contractors making or maintaining an excavation contravening the permit conditions, and the resulting economic costs charged by the Authority.
- (g) To review the operation mode of the Review Board and the appropriateness of appointing the Director of Highways (the Director) as the Chairman of the Board, taking into account the possible role conflict of the Highways Department as the issuing, enforcing and reviewing authority for the excavation permit system, the need to ensure fairness and transparency of the review system, the merit of inviting collective views of the Board as a whole, and practices under existing legislation. In case an individual other than the Director were appointed as the Chairman of the Board, whether the Director would be bound by the decision of the Board.
- (h) To review the mechanism for declaration of interest by members of the Review Panel and Review Board.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)1096/02-03 on 12 March 2003.)

II Any other business

4. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 18 March 2003 at 9:00 am and another meeting had been scheduled for 1 April 2003 (Tuesday) from 9:00 am to 10:30 am.

5. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
13 March 2003

**Proceedings of the meeting of the Bills Committee on
Land (Miscellaneous Provisions) (Amendment) Bill 2002
Tuesday, 25 February 2003, at 9:00 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000000-000456	Chairman Admin Ir Dr Raymond HO	<ul style="list-style-type: none"> - Briefing by the Admin on LC Paper No. CB(1) 959/02-03 (01) - Admin to advise on the final drafting in respect of the ranking of the public officer for the review of assessment under the new section 10L(1) 	
000457-001128	Chairman Ms Emily LAU Admin Mr IP Kwok-him	<ul style="list-style-type: none"> - Report on the visit to road excavation work sites by members held on 22 February 2003 - Charging scheme for economic cost due to excavation works on pedestrian ways and incentive scheme(s) to encourage timely/early completion of works on pedestrian ways/carriageways - Consultation with the industry on the Admin's proposals and report to the Bills Committee on the progress - Excavation works on pedestrian ways and its impact on pedestrian safety and shop operators - Calculation of economic cost due to excavation works on pedestrian ways and reference to the methodology adopted in overseas countries 	<p>RLSD to provide the information as per paragraph 2</p> <p>Admin to provide the information as per paragraph 3(a) and 3(b)</p>
001129-001552	Chairman Admin	<ul style="list-style-type: none"> - Briefing by the Admin on LC Paper No. CB(1) 969/02-03(01) 	
001553-002442	Ms Emily LAU Admin Chairman Mr IP Kwok-him	<ul style="list-style-type: none"> - Draft outline procedures and detailed procedures to be adopted by the Admin upon receiving a report from the Authority about a contravention by a public officer under the new section 2A - Concern about the possible duplication of work between the investigations undertaken by the Secretary for the Environment, Transport and Works and the subsequent formal disciplinary actions against the concerned public officers as well as the lead time required for enforcing the disciplinary actions - Consultation with the parties concerned, such as, utility 	Admin to provide the information as per paragraph 3(c) and 3(d)

Time Marker	Speaker	Subject(s)	Action required
		undertakers (UUs), civil servants and Civil Service Bureau on the Procedures	
002443-003055	Chairman Admin Ms Emily LAU Chairman	<ul style="list-style-type: none"> - Assessment on the duration of an excavation permit (EP) and initial period of an emergency EP by the Authority under the new section 10L(1)(a) and 10 L (1)(b) - Refund of the whole or part of the economic costs paid by permittees for extension of EPs under the new section 10K - Revised Committee Stage amendments (CSAs) to the new section 10L to specify the circumstances under which the Director of Highways (D of Hy) would be required to make an review assessment on the duration of an extended period of an EP under the relevant provisions of the Bill - Procedures for review of assessment under the new section 10L and further appeal channel by permittees who were aggrieved at the result of the review assessment 	
003056-004138	Ms Emily LAU Chairman Mr Albert CHAN Admin Mr Abraham SHEK Ir Dr Raymond HO	<ul style="list-style-type: none"> - Organization of award schemes to encourage permittees for timely/early completion of excavation works and maintenance of work sites in good condition, including wide publicity on award presentation ceremonies - Disclosure of information relating to road excavation works undertaken by UUs, such as, economic costs charged by the Authority, details of EP holders or their contractors - Access to information by the public in monitoring road excavation works and justifications for not releasing the relevant types of information, if any - Legal advice and consultation with the industry on matters relating to disclosure of information 	Admin to provide the information as per paragraph 3(e) and 3(f)
004139-004518	Chairman Admin	<ul style="list-style-type: none"> - Revised CSAs on the drafting in respect of service of notice under the new section 10L(1A) and 10L(3) - Revised CSAs to make clear the course of action by the Authority relating to the notification of the result of the review of assessment under the new section 10L 	
004519-012525	Admin Chairman Ms Emily LAU	- The function and operation of the Review Board under the new section 10L and in other ordinances	Admin to provide the information as per paragraph 3(g)

Time Marker	Speaker	Subject(s)	Action required
	ALA5 Mr Abraham SHEK Mr IP Kwok-him Mr Albert CHAN Dr TANG Siu-tong Mr Fred LI	including, whether the Review Board would be required to form a collective view in the light of the new section 10L(9) - Composition of the Review Board under the new section 10M - Chairmanship of the Review Board to ensure fairness and transparency of the review system - Further appeal channel against D of Hy's decision - CSAs to the new section 10L(13) to specify the circumstances under which the decision of D of Hy made on the review of assessment would be final - Revised CSAs to the new section 10M to define clearly the relationship between the Review Board and the Review Panel as previously discussed by the Bills Committee - Declaration of interest by members of the Review Board	and 3(h)
<i>Agenda Item II - Any other business</i>			
012526-012542	Ms Emily LAU Chairman	- Date of future meetings	

Council Business Division 1
Legislative Council Secretariat
 13 March 2003