

**立法會**  
**Legislative Council**

LC Paper No. CB(2)3095/05-06  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/8/04

**Bills Committee on  
Building Management (Amendment) Bill 2005**

**Minutes of meeting  
held on Tuesday, 27 June 2006 at 11:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHOY So-yuk, JP  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, JP  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon LI Kwok-ying, MH  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon TAM Heung-man
- Members absent** : Hon Albert HO Chun-yan  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP
- Public Officers attending** : Home Affairs Department  
Mr Isaac CHOW  
Deputy Director of Home Affairs (2)  
Mrs Angelina CHEUNG  
Assistant Director of Home Affairs (4)

Department of Justice

Mr Lawrence PENG  
Senior Assistant Law Draftsman

**Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)2

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Ms Joanne MAK  
Senior Council Secretary (2)2

Mr Chris LAI  
Senior Council Secretary (2)7

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**I. Meeting with the Administration**

[Legislative Council (LegCo) Brief (File Ref: HAD HQ IV20/5/1), LC Paper Nos. CB(2)222/05-06(03) and CB(2)342/05-06(01)]

The Bills Committee deliberated proposals in the draft Building Management (Third Party Risks Insurance) Regulation 2005 (draft Regulation) (index of proceedings attached at **Annex**).

2. On the proposal set out in paragraph 6 of Annex E to the LegCo Brief and section 6(3) of the draft Regulation, members in general expressed concern that as the requirement of “having exercised reasonable diligence in managing the building and kept the building in good condition” was rather vague, the insurance company might reject claims by third parties on the ground that the assured had failed to fulfil the requirement. They considered that the insurance company should be required under all circumstances to make compensation payment to the third party victim(s) any sum payable in respect of the liabilities covered by the insurance coverage. Ms Audrey EU suggested that the draft Regulation should model on motor vehicles insurance (third party risks) which was a no-fault insurance.

3. The Administration undertook to consult the Hong Kong Federation of Insurers on members’ views and suggestion and would revert to the Bills Committee accordingly. The Chairman requested the Administration to provide relevant court cases in relation to similar provision, i.e. “having exercised reasonable diligence” in insurance-related legislation so that members would have a better understanding of the standard applied by the

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court. The Chairman also requested the Administration to review the drafting of the draft Regulation to ensure that if the assured had not exercised reasonable diligence to keep certain parts of a building in good condition and maintenance, the insurance of the assured in relation to other parts of the building would not be affected.

4. Members also made the following suggestions and requests –
- (a) an independent valuation mechanism should be set up to review the proposed insured amount annually;
  - (b) a statutory body should be set up to undertake insurance for buildings which were unable to procure insurance coverage due to the existence of unauthorised building works;
  - (c) the Administration should provide information on the insured amount of various typical buildings and explain the basis on which the minimum insured amount of \$10 million per event was set;
  - (d) the Administration should take into account the affordability of owners and consider whether a tiered structure on the basis of numbers of flats in respect of the minimum insured amount should be devised;
  - (e) the Administration should explain why the assured was required to “ensure compliance with the deed of mutual covenant (DMC)”, instead of “reasonably ensure compliance with DMC”, in section 6(3)(ii) of the draft Regulation;
  - (f) the Administration should explain how building works would be classified as unauthorized to the extent that liability arising from these building works would not be covered by the third party risks insurance; and
  - (g) in case of proceedings brought against an owners’ corporation (OC) due to contravention of section 28 of the Building Management Ordinance, whether it would be a defence for the OC and the owners concerned if they demonstrated that they had made their best effort to procure insurance coverage for their building and yet they were unable to do so for various reasons.

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The Administration was requested to provide responses to all the views, suggestions and requests made at the next meeting.

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**II. Any other business**

5. Members noted that the next meeting would be held on Tuesday, 18 July 2006 at 10:45 am.

6. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
26 September 2006

**Proceedings of the Bills Committee on  
Building Management (Amendment) Bill 2005  
on Tuesday, 27 June 2006 at 11:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 011608	Chairman Mrs Selina CHOW Admin Ms Audrey EU Miss TAM Heung-man Miss CHOY So-yuk Mr WONG Kwok-hing Mr LEUNG Kwok-hung Mr LI Kwok-ying	<b>The Administration's briefing on the proposals in the draft Building Management (Third Party Risks Insurance) Regulation 2005 (draft Regulation)</b> [Legislative Council Brief (File Ref: HAD HQ IV20/5/1), LC Paper Nos. CB(2)222/05-06(03) and CB(2)342/05-06(01)]  <u>Discussion on the proposals and on section 6(3) of the draft Regulation</u>	<b>Admin to give response to members' views and suggestions</b> (para. 4 of minutes)
011609 - 011737	Chairman Miss CHOY So-yuk	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
26 September 2006