

立法會
Legislative Council

LC Paper No. CB(1)784/07-08
(These minutes have been seen
by the Administration)

Ref: CB1/BC/1/07

Bills Committee on Buildings (Amendment) Bill 2007

**Minutes of second meeting on
Tuesday, 22 January 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon KWONG Chi-kin (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy
Chairman)
Hon James TO Kun-sun
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Daniel LAM Wai-keung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
- Public Officers attending** : Development Bureau

Mr Tommy YUEN Man-chung
Deputy Secretary for Development (Planning and Lands)

Mr Edward TO Wing-hang
Principal Assistant Secretary (Planning and Lands)3

Buildings Department

Mr CHEUNG Hau-wai
Director of Buildings

Mr LAM Siu-tong
Assistant Director (Support)

Department of Justice

Mr Allen LAI Kai-pang
Senior Government Counsel

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Miss Monna LAI
Assistant Legal Adviser 7

Ms Guy YIP
Senior Council Secretary (1)5

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)608/07-08 -- Minutes of meeting on 21 December 2007)

The minutes of the meeting held on 21 December 2007 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(3)173/07-08 -- The Bill

LC Paper No. CB(1)473/07-08(01) -- Marked-up copy of the Bill prepared by the Legal Service Division

Ref: DEVB(PL-B) 30/30/120 -- The Legislative Council Brief on "Buildings (Amendment) Bill 2007" issued by the Development Bureau

LC Paper No. LS17/07-08 -- The Legal Service Division Report

LC Paper No. CB(1)474/07-08(01) -- Background brief prepared by the Legislative Council Secretariat

- LC Paper No. CB(1)609/07-08(01) -- Administration's response to issues raised at the Bills Committee meeting on 21 December 2007
- LC Paper No. CB(1)474/07-08(02) -- Letter dated 19 December 2007 to the Development Bureau
- LC Paper No. CB(1)609/07-08(02) -- Letter dated 27 December 2007 from the Development Bureau)

2. The Committee deliberated (Index of proceedings attached at **Appendix**).

Admin 3. The Administration was requested to provide an information paper setting out the interface between the proposed minor works control system and the Construction Sites (Safety) Regulations of the Factories and Industrial Undertakings Ordinance (Cap. 59, Sub. Leg. I) with particular reference to the latter's requirement for contractors to ensure the safety performance on the construction site.

(Post-meeting note: The information paper provided by the Administration was circulated to members vide LC Paper No. CB(1)785/07-08(01) on 13 February 2008.)

Date of next meeting and arrangement for future meetings

4. The Chairman reminded members that the third meeting of the Bills Committee would be held on Saturday, 26 January 2008 from 9:00 am to 12:00 noon to receive deputations' views and continue discussion with the Administration.

5. The Chairman said that the fourth to seventh meetings of the Bills Committee had tentatively been scheduled for February and March 2008. Subject to the progress of the work of the Bills Committee, more meetings would be arranged.

(Post-meeting note: Members had been duly informed of the meeting arrangement for the fourth to seventh meetings of the Bills Committee vide LC Paper No. CB(1)669/07-08 issued on 24 January 2008.)

III. Any other business

6. There being no other business, the meeting ended at 6:30 pm.

**Proceedings of second meeting of
Bills Committee on Buildings (Amendment) Bill 2007
on Tuesday, 22 January 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

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| 000000 – 000028 | Chairman | Confirmation of minutes of the meeting held on 21 December 2007 (LC Paper No. CB(1)608/07-08) | |
| 000029 – 002558 | Chairman Administration | Briefing by the Administration on its response to concerns raised by the Bills Committee at the last meeting (LC Paper No. CB(1)609/07-08(01)). | |
| 002559 – 003309 | Chairman Administration Ms LI Fung-ying | <p>(a) Member's request for clarification on:</p> <ul style="list-style-type: none"> (i) while prior notification of the Building Authority (BA) would be required for the commencement of Classes I and II but not Class III minor works, whether the registered minor works contractor (RMWC) or the building owner would be held accountable for not notifying BA in advance when Classes I or II minor works were incidentally required after commencement of Class III minor works; (ii) while individual workers would be required to attend a one-day top-up course before their application for registration as RMWCs, whether they would be required to pass an exit test at the end of the course; and (iii) whether an individual worker would be required to provide proof of formal qualifications such as trade test certificates and apprentice certificates, etc., in addition to his Hong Kong identity card to apply for registration as Class III RMWC. <p>(b) The Administration's advice that:</p> <ul style="list-style-type: none"> (i) an RMWC should be conversant to identify and advise a building owner of the class, type and item of minor works and whether he was qualified to carry out such works. If he was not eligible to carry out the incidental minor works, he should advise the owner to employ a | |

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| | | <p>suitable contractor to carry out the works;</p> <p>(ii) there would not be any exit test at the end of the top-up courses; and</p> <p>(iii) individual workers could apply for registration as Class III RMWCs with proof of their relevant experience (such as employment certificates; works vouchers; reference letters furnished by trade associations/unions; etc) or formal qualifications (such as trade test certificates and apprentice certificates).</p> | |
| 003310 – 003830 | Ms LI Fung-ying Administration | <p>(a) While it was not uncommon that incidental minor works belonging to the Classes I or II category might be deemed necessary during the implementation of Class III minor works of dilapidated buildings, member sought clarification on whether the liabilities of the RMWC concerned would only be limited to advising the building owner of the class, type and item of the incidental minor works.</p> <p>(b) The Administration clarified that upon receipt of the Class III RMWC's advice on the class, type and item of the incidental minor works, the building owner should engage an eligible contractor to undertake the works. The Class III minor works which had already commenced might be continued if its implementation would not prejudice the implementation of the additional works identified.</p> | The Administration to take action as stated in paragraph 3 of the minutes. |
| 003831 – 005720 | Chairman Administration Ms Audrey EU | <p>(a) Member's enquiry about:</p> <p>(i) whether and how the public consultation was and would be conducted such that building owners would be fully aware of the obligations and existing practitioners, in particular the self-employed workers, would be well prepared for compliance with the proposed minor works regime; and</p> <p>(ii) the enforcement actions, such as a fine or a demolition order, to be adopted by the Buildings Department (BD) after passage of the Bill on the unauthorized building</p> | |

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| | | <p>works (UBWs).</p> <p>(b) The Administration's advice that:</p> <p>(i) the Buildings Department (BD) had conducted extensive consultation to seek views from the public and practitioners of the industry. Firstly, a Working Group comprising representatives from professional institutions, the Hong Kong Construction Association and the Minor Works Concern Group (MWCG) had been established to discuss the details of the proposals. The MWCG comprised representatives of 22 labour unions and contractor associations with some 50,000 individual members and 1,300 company members. The BD also conducted seven briefing sessions in 2006 and 2007 to exchange views with practitioners, buildings owners, owners' corporations (OC) and management companies. Practitioners were invited to attend the briefing sessions through open invitation advertised in newspapers, personal invitations made according to the business registration telephone numbers of relevant trades and liaison with the trade associations. A publicity pamphlet on the minor works control system was also widely distributed in December 2007 to OCs and practitioners. One of the important objectives in setting up the minor works control system was to strive to enable competent existing practitioners to remain in their business after the proposed minor works control system had come into play. After passage of the Bill, publicity would be stepped up to further raise public awareness of the control regime. A two-year provisional registration period would be provided for company applicants to acquire the necessary formal qualifications, such as by attending the top-up courses, for registration. As regards individual applicants, they could apply for registration as RMWCs by submission of proof of experience or formal</p> | |

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| | | <p>qualifications after attending a one-day top-up course. Registration certificates would be issued to the RMWCs specifying the items of minor works that they were registered for to facilitate verification of contractors' eligibility by building owners.</p> <p>(ii) to ensure compliance with the Building Ordinance (Cap. 123) (BO), in respect of contractors engaged and quality of works completed, BD would carry out audit inspections on works in progress for Classes I and II minor works upon receipt of notification on commencement of works. The Department would also conduct audit checks on completed works for all classes of minors works upon receipt of completion certifications submitted by RMWCs. If new unauthorized minor works were identified, enforcement actions would be taken by the BD. As regards authorized minor works, if they were found not up to standard, such as in respect of dimensions, specifications and positions, the building owners concerned would be required to rectify the situation.</p> | |
| 005721 – 005855 | Chairman Administration Ms Audrey EU Assistant Legal Adviser | <p>(a) Members' enquiry on whether discretion would be exercised to allow the building owners of UBWs to rectify the situation instead of demolition.</p> <p>(b) The Administration's advice that in order to ensure public and building safety, the BD would issue orders to remove UBWs that were newly erected or constituted a danger. After passage of the Bill, the same mechanism would apply if eligible RMWCs were not appointed by building owners to undertake the minor works.</p> | |
| 005856 – 010246 | Assistant Legal Adviser Administration Ms Audrey EU Chairman | <p>(a) ALA's enquiry about the policy for registration of practitioners who operated in the form of partnerships.</p> <p>(b) The Administration's advice that practitioners could apply for registration as RMWCs either as company or individual applicants. For</p> | |

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| | | company applicants, the company could be in the form of sole proprietor, partnership or corporation. | |
| 010247 – 011249 | Chairman Assistant Legal Adviser Ms Audrey EU Administration | <p>(a) ALA's advice that:</p> <p>(i) according to the Administration's reply to her letter and the Administration's powerpoint, only company applicants might apply for registration as Classes I or II RMWCs and provisional registration would apply to them. For individual workers, they could only apply for registration as Class III RMWCs and provisional registration would not be applicable to them; and</p> <p>(ii) UBWs were subject to regulatory control under the extant BO. After passage of the Bill, minor works would be subject to the control under the proposed minor works control system.</p> <p>(b) Member's concern that while provisional registration would not be provided for individual workers, whether they would be able to continue their business operation after the introduction of the proposed minor works control system. As a matter of fact, building owners were used to engaging the individual workers to undertake household minor works. The Administration should ensure a smooth transition in this regard.</p> <p>(c) The Administration's advice that the purpose of the Bill was to introduce minor works as a new category of building works to cover building works of a minor nature, and to provide for a new register of minor works contractors who could either be company-based or individual-based for Class III minor works. As the minor works industry was characterized by the presence of many individual workers who were competent in carry out simple Class III minor works, under the present proposal, they would be allowed to register as Class III RMWCs. The Administration also confirmed that provisional registration would only be available to company applicants. As for individual applicants, provisional registration</p> | |

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| | | <p>was not required because such individual applicants could obtain the registration by virtue of either qualifications or experience and after attending a one-day top-up course. It was anticipated that most of the existing practitioners would be able to register as Class III minor works contractors.</p> | |
| 011250 – 011505 | Ms Audrey EU Chairman Administration | <p>(a) Members' enquiry about the procedure applicable to individual workers applying for registration as Class III RMWCs.</p> <p>(b) The Administration's advice that individual workers could apply for registration as Class III RMWCs by proof of their relevant experience or formal qualifications. In addition, they would be required to attend a one-day top-up course prior to registration.</p> | |
| 011506 – 011949 | Ms Audrey EU Chairman Administration | <p>(a) Members' concern that individual practitioners might encounter difficulties in providing documentation proof of experience, as in previous cases of the registration of Chinese medicine practitioners and building workers.</p> <p>(b) The Administration's advice that individual workers could apply for registration as Class III RMWCs by proof of their relevant experience, which would vary from three to six years depending on the type and item of minor works. In this regard, the Administration advised that during the public consultation, the industry had expressed concern that they might not be able to provide evidence of relevant experience for up to six years. As such, flexibility would be exercised in verifying applicants' experience. For instance, employment certificates, works vouchers and reference letters furnished by trade associations/unions would all be accepted as proof of experience. Certain part of their experience could also be certified by statutory declaration. Alternatively, individual workers would be eligible for registration as Class III RMWCs if they possessed relevant formal qualifications. They could attempt trade tests to obtain the formal qualification. Details of the registration requirements would be stipulated in the relevant new Regulation and practice notes to be issued by BD.</p> | |

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| 011950 – 012629 | Chairman Administration Assistant Legal Adviser | <p>(a) The Administration's advice that the purpose of the Bill was to introduce a set of simplified statutory requirements that might be adopted for commencement of minor works without having obtained the prior approval and consent of BA. After passage of the Bill, enforcement actions would be taken against unauthorized minor works. For those that were completed before passage of the Bill, enforcement actions would be taken according to the existing policy. However, a validation scheme would be introduced to rationalize the existence of three types of household minor works, namely works relating to supporting frames for air conditioners, drying racks and small canopies completed before the commencement of the minor works control system. Subject to the inspection and certification by a building professional or registered contractor to confirm their safety, no enforcement action would be taken against the concerned works. Inspection of the three specific types of unauthorized works could be carried out in tandem with other buildings maintenance works.</p> <p>(b) ALA's enquiry about the enforcement of the provisions relating to the validation scheme if the Administration's powerpoint represented that the building owners of the three specific types of minor works could carry out the validation scheme works when the property was under major renovation.</p> <p>(c) The Administration's advice that building owners would be encouraged to make use of the validation scheme to inspect the three specific types of minor works for alteration, rectification and strengthening works to ensure building safety. Those non-validated works would be subject to enforcement actions.</p> | |
| 012630 – 013600 | Chairman Administration Prof Patrick LAU | <p>(a) Member's enquiry about:</p> <p>(i) the relationship between the proposed minor works control system and the Mandatory Building Inspection Scheme;</p> <p>(ii) the feasibility to streamline the three classes of minor works to facilitate</p> | |

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| | | <p>implementation. For instance, general building maintenance might involve a number of works items that were Classes I and II minor works. Consideration might be given to combining these two classes of minor works such that building owners would only be required to engage one company-based RMWC to undertake all the required works; and</p> <p>(iii) the flexibility, if any, in respect of size, height and material used, etc., of each item of minor works to be specified in the new Regulation as the proposed specifications were too restrictive to foster creative designs.</p> <p>(b) The Administration's advice that:</p> <p>(i) the proposed Mandatory Building Inspection Scheme would be introduced to mandate inspection of buildings with a view to arresting building deterioration and ensuring building safety. Building maintenance works might be required after the mandatory inspection. If no structural alteration was involved, the building maintenance works could be undertaken by a Class II RMWC;</p> <p>(ii) the proposed minor works control system would lift the existing requirements of approval and consent by the BA before commencement of works. Simplified procedures would be introduced for the construction of minor works. The proposed classification of minor works would reflect, inter alia, the specialization of works in the industry. On the distinction between Classes I and II minor works, the Administration advised that the former ones were relatively more complicated and should be designed and supervised by Authorized Persons (APs) and where required, other building professionals, and carried out by registered contractors whereas the latter ones were comparatively less complex works which could be carried out by Class</p> | |

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| | | <p>II RMWCs without the involvement of APs and other building professionals. It was estimated that the cost for engaging Class I RMWCs would generally be higher than that for engaging Class II RMWCs; and</p> <p>(iii) while prior approval of plans and consent for commencement of works by BA would not be required under the proposed minor works control system, the precise definitions of each item of the minor works in respect of dimensions, weights, locations and other relevant measurements would be necessary to help ensure compliance with other requirements under the BO, such as plot ratio, etc.</p> | |
| 013601 – 014250 | Chairman Prof Patrick LAU Administration | <p>(a) Member's enquiry about:</p> <p>(i) the classification of spalling off of concrete layers of external walls;</p> <p>(ii) the feasibility of requiring APs to inspect buildings and for them to advise a building owner the corresponding class, type and item of minor works to be undertaken; and</p> <p>(iii) the necessity for requiring practitioners to adhere to the specifications of the proposed minor works. There might be ambiguity as to which party, i.e. either the Government or the relevant RMWC, should be held responsible for legal liabilities for accidents concerning minor works that were completed according to the standard plans provided by the Government.</p> <p>(b) The Administration's advice that:</p> <p>(i) in general, maintenance and repair of external walls such as plastering would be classified as Class II minor works. For minor works which involved structural alteration, they would be classified as Class I. Details of the classification of</p> | |

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| | | <p>all items of minor works would be promulgated in the new Regulation;</p> <p>(ii) RMWCs should be conversant to identify and advise a building owner the corresponding class, type and item of minor works and whether he was qualified to carry out such works. Hence, it was not necessary for building owners to engage APs prior to consulting an eligible RMWC; and</p> <p>(iii) while prior approval from the BA would not be required for undertaking minor works under the proposed system, detailed specifications would be stipulated under the Regulation to ensure compliance with other requirements such as size, plot ratio, fire safety, light and air, hygiene, etc., to ensure building safety.</p> | |
| 014251 – 014508 | Prof Patrick LAU Administration | <p>(a) Member's suggestion that the Administration should provide standard plans of "cages" which were indeed a characteristic building structure well-liked by many building owners and overseas architects.</p> <p>(b) The Administration's advice that many cages had been demolished under the BD's yearly operation to identify 1,000 target buildings for taking actions to remove external and other UBWs in buildings. The cages, erected at external walls, not designed or supervised by APs and not approved by the BA, had to be demolished as they would pose a danger to the general public. Nevertheless, a mechanism was in place for the legal erection of external structures under the BO.</p> | |
| 014509 – 015201 | Chairman Administration Ms LI Fung-ying | <p>(a) Member's concern that while a two-year provisional registration would be introduced for company-based RMWCs only, building owners and enforcement agents might encounter difficulty in verifying the eligibility of workers who were sent by a company to undertake the minor works. For instance, the company might be a provisionally registered RMWC but the worker was not or had yet to be registered as a RMWC.</p> | |

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| | | <p>(b) The Administration's advice that after passage of the Bill, the minor works control system would be implemented in two phases. In the first phase, a two-year provisional registration period would be provided for company applicants to continue their business and apply for registration as provisional RMWCs. Individual workers who possessed relevant experience or formal qualification could apply for registration as Class III RMWCs after attending a one-day top-up course. In view of the relatively simple registration procedure, a provisional registration was considered not necessary for Class III RMWCs. The provisional registration system would ensure that there would be continuation during the transitional period and sustain an adequate supply of RMWCs in the market to carry out minor works. The Administration would issue identification documents, such as in the form of cards, to RMWCs to facilitate verification of contractors' eligibility by building owners.</p> | |
| <p>015202 – 015826</p> | <p>Chairman Assistant Legal Adviser Administration</p> | <p>(a) ALA's request for clarification on:</p> <ul style="list-style-type: none"> (i) whether the provisional registration would be applicable to company applicants applying for registration as Classes I, II and III RMWCs; and (ii) whether these company-based RMWCs should employ workers who were RMWCs to undertake the minor works. <p>(b) The Administration's advice that:</p> <ul style="list-style-type: none"> (i) the provisional registration would only be applicable to company applicants. The registration system would be introduced primarily for regulating contractors that operated on a company basis. Nevertheless, in view that many existing individual workers were competent in carrying out simple minor works, the Administration intended to accommodate these workers in the registration system to ensure that they could remain in business to carry out Class III minor works after | |

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| | | <p>the introduction of the proposed minor works control system. Details of the RMWC registration system would be promulgated in the new Regulation; and</p> <p>(ii) as the proposed legislation would require the technical directors and authorized signatories of the company-based contractors to supervise and coordinate the carrying out of the minor works, there would be no statutory requirements for the company-based RMWCs to employ individual worker-based RMWCs to undertake the contracted minor works.</p> | |
| 015827 – 015940 | Chairman | Date of next meeting and arrangement for future meetings. | The Clerk to take follow-up action as required in paragraphs 4 and 5 of the minutes |