

立法會
Legislative Council

LC Paper No. CB(1)1372/07-08
(These minutes have been seen
by the Administration)

Ref: CB1/BC/1/07

Bills Committee on Buildings (Amendment) Bill 2007

**Minutes of eighth meeting on
Monday, 7 April 2008, at 10:45 am
in Conference Room A 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-yee, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon LI Fung-ying, BBS, JP
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
- Public Officers attending** : Development Bureau
Mr Tommy YUEN Man-chung, JP
Deputy Secretary for Development (Planning and Lands)2
Mr Edward TO Wing-hang
Principal Assistant Secretary (Planning and Lands)3
Mr Jerry CHEUNG Chun-yu
Assistant Secretary (Buildings)1

Buildings Department

Mr CHEUNG Hau-wai, JP
Director of Buildings

Mr LAM Siu-tong
Assistant Director (Support)

Department of Justice

Mr Allen LAI Kai-pang
Senior Government Counsel

Ms Carmen CHU Ying-hung
Senior Government Counsel

Miss Selina LAU Suet-ching
Senior Government Counsel

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Guy YIP
Senior Council Secretary (1)5

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)1178/07-08 -- Minutes of meeting on 11 March 2008)

The minutes of the meeting held on 11 March 2008 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)1179/07-08(01) -- Administration's response to issues raised at the Bills Committee meeting on 27 March 2008

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
- LC Paper No. CB(1)1043/07-08(01) -- Draft Revisions to the Bill – Clause 3
- LC Paper No. CB(1)1146/07-08(01) -- Draft Revisions to the Bill – Clauses 6, 7, 9, 13, 15, 18, 21, 22, 24, 26, 27, 28 and 42

Other relevant papers

- Ref: DEVB(PL-B) 30/30/120 -- The Legislative Council Brief on "Buildings (Amendment) Bill 2007" issued by the Development Bureau
- LC Paper No. CB(1)927/07-08(02) -- Preliminary draft of Building (Minor Works and Related Matters) Regulation and Schedule of Minor Works provided by the Administration)

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

The Administration's response to issues raised at the meeting held on 27 March 2008

- Admin 3. The Administration was requested to provide the following information :
- (a) possible ways in respect of the legal framework and procedural arrangements to spell out clearly the legislative intent and identify the legal responsibilities of various parties that might be involved in the carrying out of minor works under various possible scenarios;
 - (b) scenarios under which a building owner would discharge his duties stipulated in new sections 4A and 9AA for the appointment of qualified persons to commence or carry out minor works and hence would not be deemed as knowingly contravening the BO, with reference to similar provisions in other legislation and case law; and
 - (c) response to members' view that the Administration should delete the proposed term of imprisonment imposed on the person for whom minor works were to be carried out, in particular building owners, for non-compliance of the proposed minor works control system under Class III, taking into account the nature and gravity of the offence.

Clause-by-clause examination of the Bill

- Admin 4. The Administration undertook to :
- (a) consider adding "但" before "第 4A(1)及 9AA(1)條已獲符合" in the Chinese version of the new section 14AA; and
 - (b) consider simplifying the drafting of the new section 24AA relating to the specification of persons to whom orders for demolition, removal, or alteration of minor works commenced under the simplified requirements would be served.

Date of next meeting

5. The Chairman reminded members that the ninth meeting of the Bills Committee would be held on Tuesday, 22 April 2008 at 4:30 pm to continue clause-by-clause examination of the Bill starting from clause 26.

III. Any other business

6. There being no other business, the meeting ended at 12:35 pm.

Council Business Division 1
Legislative Council Secretariat
28 April 2008

**Proceedings of eighth meeting of
Bills Committee on Buildings (Amendment) Bill 2007
on Monday, 7 April 2008, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000047 – 000124	Chairman	Confirmation of minutes of the meeting held on 26 February 2008 (LC Paper No. CB(1)1112/07-08)	
000125 – 010440	Chairman Administration Mr James TO Ms Miriam LAU Prof Patrick LAU Ms Audrey EU Assistant Legal Adviser 4 (ALA) Ir Dr Raymond HO	<p>The Administration's response to issues raised at the meeting on 27 March 2008 (LC Paper No. CB(1)1179/07-08(01))</p> <p>(a) In response to members' queries, the Administration advised that new sections 4A and 9AA of the Bill did not specify building owner as the person for whom minor works were to be commenced or carried out. In other words, if an agent (such as a property management company commissioned by the co-owners of a building to carry out repair works for the common parts or an air-conditioning retailer providing installation service of the air-conditioners), on behalf of a building owner or tenant, directly appointed qualified persons to commence or carry out the minor works, he had a role under the Buildings Ordinance (Cap. 123) (BO) as the party for which minor works were to be commenced or carried out. In identifying the person(s) who was responsible for making the appointment under new sections 4A or 9AA for enforcement or prosecution, the Building Authority (BA) would gather evidence such as the specified forms notifying BA of the appointment and commencement/completion of the minor works. Offences for knowingly contravening new sections 4A and 9AA were stipulated in the new section 40(1AB) of the Bill. As regards RMWCs, the penalties for non-compliance with the minor works control system were stipulated in proposed sections 40(2E) and (2F).</p> <p>(b) Discussion on the practical difficulties in identifying the person for whom minor works were to be commenced or carried out under new sections 4A and 9AA of the Bill. ALA suggested that an additional identifier, such as a signatory, might help draw conclusive evidence for the purpose of carrying out the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>provisions of the Bill. Prof Patrick LAU suggested that permission might be given to RMWCs only to sign specified forms relating to minor works. Ir Dr Raymond HO considered that building owners should not be held accountable for not complying with the proposed minor works control system. He raised that if accidents occurred during the course of works implementation of Class III minor works, the RMWC concerned might try to evade their legal liabilities by not reporting the relevant minor works project to the BA. Ms Miriam LAU doubted that the current drafting of the Bill did not adequately reflect the legislative intent. She also reminded the Administration to fully inform all affected parties, such as the air-conditioner retailers who had a role to directly appoint qualified persons to install supporting frames for air-conditioners, before the commencement of the proposed minor works control system.</p> <p>(c) The Administration advised that it would review the legal framework and procedural arrangements with a view to clarifying the legislative intent relating to the legal responsibilities of various parties that might be involved in the carrying out of minor works, namely the owner or tenant of a premises, the agent, the registered professional/contractor and the workers employed by contractors, under various possible scenarios. Extensive publicity and public education would be conducted after passage of the Bill. In fact, the Administration had consulted the air-conditioning industry on their views on the implications of the proposed minor works control system.</p> <p>(d) Ms Audrey EU opined that to uphold the integrity of the policy to regulate building works that were minor in scale, the building owner(s) concerned should be regarded as the person(s) for whom minor works were to be commenced or carried out and required to comply with the BO. However, if they had made reasonable acts to discharge their duties, they should not be deemed as knowingly contravening the BO.</p>	<p>The Administration to take action as stated in paragraph 3(a) of the minutes</p> <p>The Administration to take action as stated in paragraph 3(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(e) In response to Ms Miriam LAU's enquiry, the Administration advised that RMWCs might be required to present their registration certificates for identification of their eligibility for carrying out minor works. Consideration would be given to requiring them to specify their registered Class, minor works items and registration number in their promotion materials.</p> <p>(f) The Chairman opined that the Administration should lift the proposed term of imprisonment to be imposed on the person for whom minor works were to be carried out, in particular building owners, for non-compliance of the proposed minor works control system under Class III, taking into account the nature and gravity of the offence.</p>	<p>The Administration to take action as stated in paragraph 3(c) of the minutes</p>
010441 – 010747	Chairman Administration	<p>Clause-by-clause examination of the Bill (LC Paper Nos. CB(1)473/07-08(01) and CB(1)1146/07-08(01))</p> <p><u>Clause 14 – Appointment and powers of disciplinary board</u></p> <p>Members raised no query.</p>	
010748 – 011453	Chairman Administration	<p><u>Clause 15 – Disciplinary proceedings for contractors</u></p> <p>Members raised no query.</p>	
011454 – 011654	Chairman Administration Ms Miriam LAU	<p><u>Clause 16 – New section 14AA (approval and consent not required for minor works)</u></p> <p>For the Chinese version of the Bill, Ms Miriam LAU suggested to add "但" before "第4A(1)及9AA(1)條已獲符合".</p>	<p>The Administration to take action as stated in paragraph 4(a) of the minutes</p>
011655 – 011722	Chairman Administration	<p><u>Clause 17 – Provision for urgent work</u></p> <p>Members raised no query.</p>	
011723 – 011809	Chairman Administration	<p><u>Clause 18 – Occupation of new building</u></p> <p>The Administration advised that the clause would be deleted in view of the comment from the Hong Kong Institute of Surveyors.</p>	

Time marker	Speaker	Subject(s)	Action required
011810 – 011856	Chairman Administration	<u>Clause 19 – Powers of Building Authority</u> Members raised no query.	
011857 – 011940	Chairman Administration	<u>Clause 20 – Building works, etc. to cease on order of Building Authority</u> Members raised no query.	
011941 – 012057	Chairman Administration	<u>Clause 21 – Order for demolition, removal, or alteration of building, building works or street works</u> Members raised no query.	
012058 – 013452	Chairman Administration Mr Jasper TSANG Ms Miriam LAU	<u>Clause 22 – New section 24AA (order for demolition, removal, or alteration of prescribed requirement minor works)</u> Members suggested to simplify the current drafting of the new section 24AA relating to the specification of persons to whom the orders for demolition, removal, or alteration of minor works would be served.	The Administration to take action as stated in paragraph 4(b) of the minutes
013453 – 014020	Chairman Administration Ms Miriam LAU	<u>Clause 23 – Projections on or over streets</u> In response to Ms Miriam LAU's enquiry, the Administration advised that technical guidelines would be issued to the industry on the regulation of signboards projecting on or over streets.	
014021 – 014731	Chairman Administration	<u>Clause 24 – Regulations</u> Members raised no query.	
014732 – 014734	Chairman Administration	<u>Clause 25 – Technical memorandum</u> Members raised no query.	
014735 – 014816	Chairman Administration	Date of next meeting.	