

立法會
Legislative Council

LC Paper No. CB(1)1634/07-08
(These minutes have been seen
by the Administration)

Ref: CB1/BC/1/07

Bills Committee on Buildings (Amendment) Bill 2007

**Minutes of tenth meeting on
Tuesday, 29 April 2008, at 2:30 pm
in Conference Room B 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 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
Hon Daniel LAM Wai-keung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
- Members absent** : Hon James TO Kun-sun
Hon Jasper TSANG Yok-sing, GBS, JP
Prof Hon Patrick LAU Sau-shing, 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)1372/07-08 -- Minutes of meeting on 7 April 2008)

The minutes of the meeting held on 7 April 2008 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

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)

Clause-by-clause examination of the Bill

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

Admin 3. The Administration was requested to provide a summary table of the provisions of the Buildings (Amendment) Bill 2007, stipulating offences applicable to building owners/tenants under the legislative framework of the proposed minor works control system and administrative measures imposing or lifting liabilities of building owners/tenants.

Admin 4. The Administration undertook to :

- (a) move a Committee Stage amendment (CSA) to empower the Building Authority (BA) to make available building plans in an electronic form via the Internet for public inspection;
- (b) consider amending new sections 4A and 9AA (appointment of registered professionals/registered minor works contractors (RMWCs)) to spell out more clearly under what circumstances a person would be regarded as "the person for whom minor works are to be carried out"; and
- (c) consider if amendments should be made to proposed sections 40(2AC)(b) and 40(2B)(d) in the light of members' concern about formation works, piling works, excavation works or foundation works which were not supposed to be classified as minor works as stated in the provisions.

Date of next meeting

5. The Chairman reminded members that the eleventh meeting of the Bills Committee would be held on Thursday, 15 May 2008 at 10:45 am to discuss the outstanding issues.

(Post-meeting note: The meeting had been re-scheduled to 22 May 2008 at 4:30 pm.)

III. Any other business

6. There being no other business, the meeting ended at 4:15 pm.

Council Business Division 1
Legislative Council Secretariat
23 May 2008

**Proceedings of tenth meeting of
Bills Committee on Buildings (Amendment) Bill 2007
on Tuesday, 29 April 2008, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000616	Chairman	Confirmation of minutes of the meeting held on 7 April 2008 (LC Paper No. CB(1)1372/07-08)	
000617 – 001437	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 28 – Exemptions</u></p> <p>The Administration advised that designated exempted works would be exempt from sections 4, 9, 9AA, 14(1) and 21 of the Buildings Ordinance (Cap. 123) (BO). To avoid public confusion with minor works which would be required to follow some of the above-mentioned provisions, extensive publicity would be conducted after passage of the Bill.</p> <p>The Administration advised that the wordings in proposed section 41(3C)(a) would be amended as "涉及該建築物的結構". A revised CSA would be submitted to the Bills committee in due course.</p>	
001438 – 001504	Chairman Administration	<p><u>Clause 29 – Offences in respect of Appeal Tribunal</u></p> <p>Members raised no query.</p>	
001505 – 001537	Chairman Administration	<p><u>Clause 30 – Inclusion of certain registered professional engineers in geotechnical engineers' register</u></p> <p>Members raised no query.</p>	
001538 – 001922	Chairman Administration Ms LI Fung-ying	<p><u>Clause 31 – Part IX added – New section 56 (savings and transitional provisions relating to minor works)</u></p> <p>The Administration advised that as a transitional arrangement, building works which were minor in nature and had been granted approval and consent by the BA before the date of commencement of the proposed minor works control regime should follow through the existing regulatory regime applicable to</p>	

Time marker	Speaker	Subject(s)	Action required
		general building works; those not yet granted approval or consent by the BA could follow the regulatory regime applicable to minor works.	
001923 – 001950	Chairman Administration	<u>Clause 32 – Scheduled areas</u> Members raised no query.	
001951 – 002107	Chairman Administration	<i>Building (Administration) Regulations</i> <u>Clause 33 – Notification to Building Authority before commencement of building works or street works</u> Members raised no query.	
002108 – 002150	Chairman Administration	<u>Clause 34 – Building Authority to be notified on change of authorized person, registered structural engineer, registered geotechnical engineer, registered contractor, etc.</u> Members raised no query.	
002151 – 002219	Chairman Administration	<u>Clause 35 – Duties of registered contractor who ceases to be appointed</u> Members raised no query.	
002220 – 002421	Chairman Administration	<u>Clause 36 – Certificate to be given by registered contractor and authorized person on completion of building works</u> Members raised no query.	
002422 – 002452	Chairman Administration	<u>Clause 37 – Certificate to be given by authorized person, registered structural engineer, registered geotechnical engineer and registered contractor engaged in respect of emergency work</u> Members raised no query.	
002453 – 002507	Chairman Administration	<u>Clause 38 – Duties imposed by this Part not to prejudice any other duties imposed by Ordinance or other regulations</u> Members raised no query.	

Time marker	Speaker	Subject(s)	Action required
002508 – 002529	Chairman Administration	<p><u>Clause 39 – Duty of authorized person to supply copy of plans of building works or street works to registered contractor</u></p> <p>Members raised no query.</p>	
002530 – 002548	Chairman Administration	<p><u>Clause 40 – Duty of registered contractor to keep approved plans and supervision plans on site</u></p> <p>Members raised no query.</p>	
002549 – 002658	Chairman Administration	<p><u>Clause 41 – Duty of registered contractor to supervise</u></p> <p>Members raised no query.</p>	
002659 – 002744	Chairman Administration	<p><u>Clause 42 – New regulation 48 (regulations do not apply to minor works commenced under the simplified requirements)</u></p> <p>Members raised no query.</p>	
002745 – 002835	Chairman Administration	<p><i>Building (Planning) Regulations</i></p> <p><u>Clause 43 – Interpretation</u></p> <p>Members raised no query.</p>	
002836 – 003729	Chairman Administration Ms LI Fung-ying	<p><u>Clause 44 – Eaves, cornices, mouldings, etc.</u></p> <p>The Administration advised that household air-conditioners were normally within a depth of 750 mm and therefore should be within the provision of the amended Regulation 7. For old buildings with supporting structure too small for a large air-conditioner, if required, a separate supporting structure should be erected to support the air-conditioner concerned. Details would be provided by the Buildings Department (BD) in its technical guidelines to be issued to practitioners.</p>	
003730 – 004031	Chairman Administration	<p><i>Construction Workers Registration Ordinance (Cap. 583)</i></p> <p><u>Clause 45 – Interpretation</u></p> <p>Members raised no query.</p>	

Time marker	Speaker	Subject(s)	Action required
004032 – 004209	Chairman Administration	<u>Clause 46 – Interpretation</u> Members raised no query.	
004210 – 004314	Chairman Administration	<u>Clause 47 – Principal contractors and controllers to retrieve and record data of registered construction workers on construction site</u> Members raised no query.	
004315 - 004445	Chairman Administration	The Administration advised that a CSA would be moved to empower the BA to make available building plans in an electronic form via the Internet for public inspection.	The Administration to take action as stated in paragraph 4(a) of the minutes
004446 - 014716	Chairman Administration Ms LI Fung-ying Ir Dr Raymond HO Ms Audrey EU	<u>Clause 27 – Offences</u> (a) Members agreed that the new section 40(1AB) would be scrutinized in parallel with the Administration's proposed CSAs to amend new sections 4A and 9AA prescribing the appointment of registered professionals/RMWCs. (b) In response to Ms LI Fung-ying's enquiry, the Administration advised that BD aimed to conduct random audit inspections on the completed minor works within two weeks upon receipt of the completion certificates submitted by RMWCs. If the works were found not up to standard, the building owners concerned would be required to rectify the situation. (c) Ir Dr Raymond HO expressed concern about the criteria to be adopted to determine whether a minor works "diverges or deviates in any material way from the works shown in a plan relating to minor works that is required to be submitted to the Building Authority", as stipulated in the proposed section 40(2A)(ba). The Administration advised that in enforcing this provision, BD would collect evidence including the material deviation of the minor works per se and whether such deviation would prejudice structural safety, etc. During the course of investigation, BD would take into account all relevant factors to determine	The Administration to take action as stated in paragraphs 3 and 4(b) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>whether the RMWC concerned or other relevant parties had committed an offence under the BO. Ms Audrey EU supported the current drafting.</p> <p>(d) On proposed sections 40(2AC)(b) and 40(2B)(d), members doubted whether site formation works, piling works, excavation works or foundations works should be classified as minor works.</p> <p>(e) Ms LI Fung-ying noted with concern that self-employed practitioners might not be aware of the commencement of the proposed minor works control regime but continue to undertake minor works. They would therefore contravene the new section 40(2G). The Administration advised that practitioners had been duly consulted, including via the Minor Works Concern Group, before formulating the current legislative proposal. In addition, extensive publicity would be conducted after passage of the Bill to raise their awareness of the statutory requirements under the proposed minor works control system. To be eligible for undertaking minor works in future, they should apply for registration as RMWCs. Those operating as individuals would be eligible for registration as Class III RMWCs. In addition to the submission of proof of experience or formal qualification for registration, they would be required to attend a one-day top-up course before registration.</p>	<p>The Administration to take action as stated in paragraph 4(c) of the minutes</p>
014717 – 014952	Chairman Administration	Arrangement and date of next meeting	