

立法會
Legislative Council

LC Paper No. CB(1)1762/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/SS/7/08

Subcommittee on Building (Minor Works) Regulation

**Minutes of the first meeting on
Thursday, 23 April 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Chairman)
Hon Miriam LAU Kin-ye, GBS, JP
Hon Tanya CHAN
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
- Public officers attending** : Mr Edward TO Wing-hang
Acting Deputy Secretary for Development (Planning and
Lands)2
- Mr Daniel FONG Siu-wai
Assistant Secretary for Development (Buildings)1
- Mr LAM Siu-tong
Deputy Director of Buildings
- Mr HUI Siu-wai
Assistant Director of Buildings (Support)

Miss Selina LAU Suet-ching
Senior Government Counsel
Department of Justice

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Ms Annette LAM
Senior Council Secretary (1)3

Action

I. Election of Chairman

Ir Dr Hon Raymond HO Chung-tai was elected Chairman of the Subcommittee.

II. Meeting with the Administration

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|----------------------------------|--|
| (L.N. 51 of 2009 | -- Building (Minor Works) Regulation |
| Ref: DEVB(PL-B) 30/30/120 | -- Legislative Council Brief on "Building (Minor Works) Regulation" issued by the Development Bureau in March 2009 |
| LC Paper No. LS51/08-09 | -- Paragraphs 1 to 20 of the Legal Service Division Report |
| LC Paper No. CB(1)1338/08-09(01) | -- Background brief prepared by the Legislative Council Secretariat |
| LC Paper No. CB(1)1338/08-09(02) | -- Letter from Assistant Legal Adviser to the Administration dated 16 April 2009 |
| LC Paper No. CB(1)1338/08-09(03) | -- Administration's paper dated 21 April 2009 in response to letter from Assistant Legal Adviser as set out in LC Paper No. CB(1)1338/08-09(02)) |

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

Admin 3. The Administration undertook to:

- (a) provide past written comments from the Law Society of Hong Kong and the Hong Kong Bar Association about the legal implications of the three unauthorized minor household structures (i.e. supporting frames for air conditioners, drying racks and small canopies) validated under the proposed validation scheme;
- (b) follow up with the insurance sector on the insurance arrangements in respect of unauthorized minor household structures certified to have met the safety requirements under the validation scheme; and
- (c) consider the feasibility of putting in place a mechanism or providing channels for existing unauthorized minor works (such as installation of internal staircases connecting two floors under Class I minor works) to be validated subject to the necessary alteration, improvement and/or reinforcement works that might be required to meet the safety requirements and dimensional standards similar to the validation scheme.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1452/08-09(07) on 29 April 2009.)

III. Any other business

Extension of scrutiny period

4. Members noted that the Chairman of the House Committee would move a motion to extend the scrutiny period of the Regulation to 20 May 2009.

Public consultation

5. Members agreed to invite the organizations as listed in Appendix IV to the Members' brief and representatives from the insurance sector to give views to the Subcommittee at the meeting tentatively scheduled for Thursday, 30 April 2009 at 8:30 am. The Chairman invited members to notify the Clerk if they wished to invite other organizations. The Secretariat would arrange to issue the invitation letters in due course.

Dates of next meeting

6. Members agreed that the next meeting would be held on Monday, 27 April 2009 at 2:30 pm to meet with the Administration.

(Post-meeting note: At the instruction of the Chairman, the meeting was scheduled to be held at 9:00 am on 27 April 2009.)

7. There being no other business, the meeting ended at 10:15 am.

Council Business Division 1
Legislative Council Secretariat
29 May 2009

**Proceedings of the first meeting of
the Subcommittee on Building (Minor Works) Regulation
on Thursday, 23 April 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000547	Ms Miriam LAU Miss Tanya CHAN Mr IP Kwok-him	Election of Chairman	
000548 – 002522	Chairman Administration	Briefing by the Administration on the background, justifications and modus operandi of the minor works control system (MWCS) to streamline the existing buildings control regime in respect of minor works.	
002523– 002629	Chairman Administration Miss Tanya CHAN	Miss Tanya CHAN's enquiry whether any testing or vetting would be required to ensure competency at the time of. renewal of registration. The Administration's advice that renewal upon the expiry of the 3 year registration period was simple and straightforward and would be subject to the payment of a prescribed fee only.	
002630 - 003323	Chairman Mr IP Kwok-him Administration	Mr IP Kwok-him's enquiry on how the MWCS would help owners save time and cost. The Administration's explanation that there would be savings on the professional fees, fees in respect of application for approval of plans and time for obtaining the approval of building plans and consent for commencement of works. For example, the simplified procedures would reduce the relevant cost from around \$60,000-\$70,000 to \$20,000-\$30,000, and the time required would be shortened from 6 months to 3 months in the case of a Class I minor works (such as installation of an internal staircase). Under the MWCS, a Class III minor works project, such as erection of supporting frames for air conditioners, the whole process could be completed within eight to 10 days at the cost of a few hundred dollars.	

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		<p>Mr IP Kwok-him's concern whether the validation scheme would cause owners additional financial burden.</p> <p>The Administration's advice that Class III minor works which were relatively simple small-scale work that could be undertaken by an individual registered minor works contractors (RMWCs) would not be too costly. No time limit would be imposed for validation of the three specific types of unauthorized building works (UBWs). Rectification works could be carried out in tandem with other building maintenance works.</p>	
003324 - 004612	<p>Chairman Mr IP Kwok-him Mr IP Wai-ming Miss Tanya CHAN</p>	<p>While welcoming the simplified procedures and requirements, members' view that public safety, the safety of users and workers should not be compromised having regard to the increase in the incidents of industrial accidents.</p> <p>Mr IP Wai-ming and Miss Tanya CHAN's concern about safety of RMWCs and whether the one-day training course would be sufficient to enhance RMWCs' awareness of safety.</p> <p>The Administration's explanation that:</p> <ul style="list-style-type: none"> (a) class I minor works which were relatively more complicated were required to be designed and supervised by Authorized Persons (APs) and building professionals; (b) the Buildings Department (BD) would issue technical guidelines, standard drawings and specifications, including the materials required, for reference by registered contractors in respect of Class II and III minor works; (c) building professionals and/or registered contractors were required to certify the completion of all minor works undertaken and submit record plans, certificates and documents to the Building Authority (BA) within 14 days after the completion of works; (d) all certificates and documents submitted would be vetted by BA, random audit checks would be conducted (20% of the 	

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		<p>minors works completed during the initial period);</p> <p>(e) only those (be it body corporates, partnerships or sole proprietorships or individual workers) who possessed the necessary academic qualifications and/or relevant work experience and satisfied the registration requirements could be registered as RMWCs;</p> <p>(f) all individual applicants for Class III minor works items were required to attend a one-day training course relating to statutory procedures and safety requirements for Class III minor works before registration;</p> <p>(g) a provisional contractor should attend top-up courses during the 2-year transitional period to obtain the required academic qualifications;</p> <p>(h) work experience (normally six years) in particular items of Class III minor works was required for registration under Class III RMWC;</p> <p>(i) regulation of RMWCs under a registration regime would help encourage compliance with the relevant safety requirements by registered contractors, ensure quality of building works and enhance public safety as well as safety of workers; and</p> <p>(j) RMWCs would be provided with updates on safety and technical requirements.</p>	
004613 - 004959	Chairman Mr IP Wai-ming Administration	<p>The Chairman and Mr IP Wai-ming's concern about the interface between the minor works registration system with the construction workers registration system under the Construction Workers Registration Ordinance (CWRO), and suggestion to streamline the procedures for registration as RMWCs and under CWRO.</p> <p>The Administration's advice that continued efforts would be made to examine the feasibility of streamlining the two separate registration systems to facilitate practitioners' registration under the two registration regimes.</p>	

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005000 - 005609	Miss Tanya CHAN Administration	<p>Miss Tanya CHAN's enquiry about discipline and prosecution of non-compliance and reporting of suspected contravention.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> (a) misconduct by RMWCs and non-compliance with the Buildings Ordinance (BO) and the Regulation would be subject to disciplinary actions and prosecution as appropriate. Disciplinary sanctions and penalties including fines, removal of name from the register and imprisonment would be imposed depending on the seriousness of the misconduct /contravention; and (b) BD, upon receipt of a report of suspected UBWs being erected, would conduct an on-site inspection within 48 hours. Enforcement actions including orders to rectify or demolish the unauthorized structures would be issued as appropriate. 	
005610 - 011407	Chairman Mr IP Kwok-him Miss Tanya CHAN Assistant Legal Adviser Administration	<p>The Chairman and Mr IP Kwok-him's suggestion to consider the feasibility of putting in place a mechanism or providing channels to validate the existing unauthorized minor works (such as installation of internal staircases connecting two floors under Class I minor works) subject to the necessary alteration, improvement and/or reinforcement works that might be required to meet the safety requirements and dimensional standards, similar to the validation scheme.</p> <p>The Administration's explanation that the validation scheme was proposed to rationalize three types of Class III minor works (i.e. supporting frames for air-conditioners, drying racks and small canopies) which were small-scale minor household structures and numerous in numbers. While owners were allowed to retain these validated structures for continued use, the legal status of such structures would remain unauthorized. To also validate other more complex UBWs would need careful consideration, in view of the safety concern.</p>	The Administration to follow up as stated in paragraph 3(c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration and ALA's advice that while owners were allowed to retain these validated structures for continued use, the legal status of such structures would remain unauthorized. Enforcement action would not be taken against the validated minor household structures unless there was a change in their safety conditions.</p> <p>Miss Tanya CHAN's enquiry about the views of the Law Society of Hong Kong and the Hong Kong Bar Association on the legal implications of UBWs validated under the validation scheme.</p> <p>In response to Mr IP Kwok-him, the Administration advised that the BO did not normally specify the types of material to be used for certain building works which would mainly be determined by the APs of the building works concerned. However, the materials used were required to comply with the safety standards stipulated in the BO and its regulations.</p>	<p>The Administration to follow up as stated in paragraph 3(a) of the minutes.</p>
011408 - 012803	<p>Chairman Mr IP Wai-ming Mr IP Kwok-him Assistant Legal Adviser Administration</p>	<p>Mr IP Wai-ming's view that RMWCs should be provided with labels to enable members of the public to ascertain whether they were qualified for undertaking certain minor works. Publicity should be launched to facilitate the public's understanding of the registration system and classification of minor works.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> (a) all RMWCs would be provided with a certificate as proof of their identity and competency; (b) a list/register of RMWCs would be uploaded onto the BD's website, and available at its Building Information Centres and the Property Management Advisory Centres of the Housing Society for free public access; (c) it would be an offence under the BO and its regulations for an RMWC to undertake building works for which he was not qualified; and (d) publicity and public education 	

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		<p>programme would be launched to enhance public's understanding and awareness of the MWCS and the related registration system.</p> <p>Mr IP Kwok-hing and Mr IP Wai-ming's concern about legal responsibility in respect of accidents relating to UBWs and structures validated under the validation scheme.</p> <p>The Administration and ALA's advice that accidents relating to building works/structures, irrespective of whether they were authorized, unauthorized or validated, would give rise to legal responsibility.</p>	
012804 - 013809	<p>Chairman Mr IP Wai-ming Mr IP Kwok-him Miss Tanya CHAN Administration</p>	<p>Members' concern about the availability of insurance plans to cover the legal liabilities of the RMWCs and building owners.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> (a) individual insurance companies had their own commercial policy; (b) UBWs would not normally be covered by any insurance plan, but would be up to individual insurance companies' policy; and (c) the Administration would continue discussion with practitioners of the construction industry and the insurance industry on ways to facilitate subscription to insurance plans by minor works practitioners at a reasonable premium, and follow up with the insurance sector on the insurance arrangements in respect of unauthorized minor household structures certified to have met the safety requirements under the validation scheme. 	<p>The Administration to follow up as stated in paragraph 3(b) of the minutes.</p>
013810 - 014656	<p>Chairman Mr IP Kwok-him Miss Tanya CHAN Assistant Legal Adviser</p>	<p>Extension of scrutiny period Public consultation Meeting arrangement</p>	

Council Business Division 1
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29 May 2009