

立法會
Legislative Council

LC Paper No. CB(1)2214/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/SS/7/08

Subcommittee on Building (Minor Works) Regulation

**Minutes of the second meeting on
Monday, 27 April 2009, at 9:00 am
in the Chamber of the Legislative Council Building**

- Members present** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Tanya CHAN
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
- 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. Meeting with the Administration

- (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))

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

Clause by clause examination of the Building (Minor Works) Regulation

2. The Administration was requested to:
- (a) consider specifying the criteria for nominating a person to the Minor Works Contractors Registration Committee (Registration Committee) by the Building Authority (BA) under section 7(1)(a);
 - (b) consider specifying the circumstances under which BA would refer an application for registration under section 10(1)(b) to a Registration Committee for recommendation under section 12(1);

- (c) consider specifying the time limit for the BA, upon receipt of an application for registration, to refer the application to Registration Committee for recommendation under section 12(3);
- (d) consider if amendments should be made to the current wording "within 3 months from the meeting of the Committee at which the application is considered" so to reflect more clearly the policy intent of section 12(3);
- (e) consider whether a discretion would be given in appropriate cases for the BA to refer an application to a Registration Committee for recommendation under section 12(3)(d) before the expiry of 6 months upon the applicants' request, if not, the reasons for it;
- (f) provide scenarios to determine whether the management structure of a corporation was adequate under section 12(5)(c)(i);
- (g) consider specifying the circumstances under which the BA would refer an application for renewal of registration to a Registration Committee for recommendation;
- (h) provide information on the prescribed fee schedule for registration, renewal, etc; and
- (i) amend "15(5)(b)款" to "15(5)(b)條" in the Chinese version of section 17(3).

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1468/08-09(01) on 5 May 2009.)

II. Any other business

Withdrawal of membership

3. Members noted that Ms Cyd HO had written in to withdraw her membership from the subcommittee.

Dates of next meetings

4. Members agreed that the third and fourth meetings would be held on Thursday, 30 April 2009 at 8:30 am and 10:45 am to meet with the deputations and the Administration respectively.

(Post-meeting note: With the concurrence of the Chairman, the third and the fourth meetings had been rescheduled for 30 April 2009 at 4:00 pm and 4 May

2009 at 8:30 am respectively.)

5. There being no other business, the meeting ended at 10:45 am.

Council Business Division 1
Legislative Council Secretariat
9 July 2009

**Proceedings of the second meeting of
the Subcommittee on Building (Minor Works) Regulation
on Monday, 27 April 2009, at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000–001049	Chairman Administration Mrs Sophie LEUNG Prof Patrick LAU Miss Tanya CHAN Mr IP Wai-ming Mr IP Kwok-him	Opening remarks by the Chairman	
001050-002130	Chairman Administration	<p>Clause by clause examination of the Building (Minor Works) Regulation (the Regulation) (LN 51 of 2009, LC Paper Nos. CB(1)1338/08-09(01), (02), and (03))</p> <p><u>Part 1</u></p> <p><u>Section 1 - Commencement</u></p> <p>Members raised no query.</p> <p><u>Section 2 - Interpretation</u></p> <p>Briefing by the Administration.</p> <p>Prof Patrick LAU's enquiry about the schedule of minor works, the registration arrangement /requirements for multi-task workers, the estimated number of applicants for registration, and the deployment of manpower and resources to process the applications.</p> <p>The Administration's advice that all minor works were classified into three classes according to their nature, scale, complexity and risk to safety they posed. The works under each class would be further classified into types and items according to the specialization of works in the industry. The schedule of 118 items of minor works with detailed specifications was drawn up after extensive consultation with the trades and having regard to the specialization of works in the industry. Multi-task workers/contractors could choose to register for individual items</p>	

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		<p>of Class III minor works or a type or whole class of works items in one application with the payment of a one-off registration fee. It was anticipated that about 5 000 companies and around 20 000 individual workers would apply for registration. The Buildings Department (BD) had been allocated with additional resources and manpower to handle the applications.</p>	
002131-002314	Chairman Administration	<p><u>Part 2</u></p> <p><u>Section 3 - Minor works</u> <u>Section 4 - Simplified requirements</u> <u>Section 5 - Designated exempted works</u></p> <p>Members raised no query.</p> <p><u>Part 3</u></p> <p><u>Section 6 - Establishment of Minor Works Contractors Registration Committee</u></p> <p>Members raised no query.</p>	
002315-002951	Chairman Administration Miss Tanya CHAN Assistant Legal Adviser (ALA)	<p><u>Section 7 - Composition of Minor Works Contractors Registration Committee</u></p> <p>Questions raised by ALA. (LC Paper No. CB(1) 1338/08-09(02))</p> <p>The Administration's response as follows: (LC Paper No. CB(1) 1338/08-09(03))</p> <p>(a) minor works and general building works only differed in terms of scale and complexity, but had very similar requirements on other aspects. As such, most provisions in the Regulation were modeled on the existing Buildings Ordinance (Cap. 123) (BO) and its regulations governing the carrying out of general building works by authorized persons and registered general building contractors (RGBCs);</p> <p>(b) the arrangement for the establishment of Minor Works Contractors Registration Committees (Registration Committees) was similar to that for the existing contractors registration committees as in the case of the RGBCs established under the BO;</p> <p>(c) in general, members would be nominated to the Registration Committee on the basis of their professional experience in the minor works industry and knowledge of the statutory</p>	

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		<p>requirements. The Administration intended to nominate experienced practitioners in the minor works industry (such as personnel nominated by the Minor Works Concern Group, a group comprising representatives from various organizations of minor works industry) to the Registration Committee under section 7(1)(a); and</p> <p>(d) to provide flexibility having regard to the development of the building industry and advancement in building technology, detailed criteria for nominations would be adjusted from time to time and promulgated through administrative practice notes to maintain transparency.</p> <p>Miss Tanya CHAN's view that while section 8(3) of the BO provided in clear terms for the composition of/nomination for the Contractors Registration Committees, section 7(1)(a) of the Regulation, which provided for a person to be nominated by the Building Authority (BA) to the Registration Committees, was too general. She suggested to specify objective criteria for the nomination under section 7(1)(a).</p>	<p>The Administration to follow up as stated in paragraph 2(a) of the minutes.</p>
002952-003016	Chairman Administration	<p><u>Part 3</u></p> <p><u>Section 8 - Function of Minor Works Registration Committee</u></p> <p>Members raised no query.</p>	
003017-003523	Chairman Prof Patrick LAU Mr IP Wai-ming ALA Administration	<p><u>Part 3</u></p> <p><u>Section 9 - Meeting of Minor Works Contractors Registration Committee</u></p> <p>Questions raised by ALA on whether the meeting of the Registration Committees would be a closed-door meeting. (LC Paper No. CB(1) 1338/08-09(02))</p> <p>Prof Patrick LAU's enquiry about the quorum of the meeting.</p> <p>Noting that no meeting of a Registration Committee might proceed in the absence of any of its members, Mr YIP Wai-ming expressed concern that meeting of the Registration Committee might be held up due to the long absence of a member.</p> <p>The Administration's response as follows: (LC Paper No. CB(1) 1338/08-09(03))</p> <p>(a) similar to the current practice for other registration</p>	

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		<p>committees established under the BO, the meeting of a Registration Committee, which involved an interview with the applicant for registration and detailed examination of the applicants' personal and business information, would not be open to the public;</p> <p>(b) as a Registration Committee comprised of three members only, the presence of all members at this meeting was required; and</p> <p>(c) while section 9(2) stipulated that no meeting of a Registration Committee might proceed in the absence of any of its members, section 6 provided for the BA to appoint more than one Registration Committee at any one time.</p>	
003524– 004329	Chairman ALA Administration	<p><u>Part 4</u></p> <p><u>Section 10 - Application for registration as registered minor works contractor (RMWC)</u></p> <p>ALA's suggestion that body corporates, partnerships or sole proprietorships referred to as "not a natural person" under section 10(1)(b) be replaced by "persons holding a business registration".</p> <p>The Administration's explanation that similar to the registration of general building contractors, the registration of minor works contractors would generally require a body corporate/company with a management structure. However, the minor works industry was characterized by the presence of a number of workers conducting works individually who were competent in carrying out simple Class III minor works items. To cater for the registration of this group of workers, individuals who personally carry out minor works could also apply to register as RMWCs, operating as individuals, for one or more items of Class III minor works.</p>	
004330– 004854	Chairman Prof Patrick LAU ALA Administration	<p><u>Section 11 - Determination of application made under section 10(1)(a)</u></p> <p>ALA noted that if the BA refused an application under subsection (1)(b) or (c), the BA must give reasons for the decision in writing to the applicant under section 11(5). ALA raised query whether BA was required to supply or identify to the applicant, the documents kept by the BA in refusing the application so to facilitate the applicant to consider whether an appeal against the decision of the BA should be lodged.</p> <p>The Administration's explanation that section 11(5) provided that the BA must give reasons in writing for the decision of refusing</p>	

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		<p>an application. Such requirement would allow the applicant to understand the ground of the BA in refusing the application. The arrangement was the same with the registration of RGBCs.</p> <p>In response to Prof Patrick LAU's enquiry about section 11(3)(a), the Administration advised that the BA, in deciding whether the applicant was suitable for registration, would take into account whether the applicant had any criminal record in respect of any offence relating to the carrying out of any building works under the laws of Hong Kong.</p>	
004855–012739	<p>Chairman Mr IP Kwok-him Miss Tanya CHAN ALA Administration</p>	<p><u>Section 12 Determination of application made under section 10(1)(b)</u></p> <p>Questions raised by ALA (LC Paper No. CB(1) 1338/08-09(02))</p> <p>The Administration's response (LC Paper No. CB(1) 1338/08-09(03))</p> <p>Mr YIP Kwok-him and Miss Tanya CHAN suggested the Administration to consider specifying the circumstances under which the BA would refer an application for registration under section 10(1)(b) to a Registration Committee for recommendation under section 12(1).</p> <p>The Administration's advice that the arrangement was similar to that applicable to RGBCs. The registration requirements and procedures were worked out in consultation with the building industry. In general, the BA would consider the nature of the minor works being applied for, as well as the qualification, background and experience of the applicant, in deciding whether to refer an application to a Registration Committee. The criteria for making referrals would be reviewed from time to time and promulgated in a practice note to be issued by the BD in consultation with the industry.</p> <p>Section 12(3) stipulated that the BA must, within 3 months from the meeting of the Committee at which the application was considered, make a decision on the application. ALA and Miss Tanya CHAN were concerned that for cases where more than one meeting was held, whether the BA's decision would be made after the first or last meeting. They suggested that the current wording "within 3 months from the meeting of the Committee at which the application is considered" be amended to reflect more clearly the policy intent.</p> <p>The Administration's advice that the policy intent was that three-month period would start after the Registration Committee</p>	<p>The Administration to follow up as stated in paragraph 2(b) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 2(d) of the minutes.</p>

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		<p>had convened any (including the first) meeting to consider the application. According to the BD's experience in the registration of RGBCs, only one meeting was required for the vast majority of the cases.</p> <p>Mr YIP Wai-ming and Mr YIP Kwok-him's concern that the time limit for the BA, upon receipt of an application for registration, to refer the application to Registration Committee for recommendation under section 12(3), and for the Registration Committee to hold a meeting to consider the application had not been specified in the Regulation. They were concerned that applications might be held up and suggested to specify a time limit.</p> <p>The Administration's response that the BD would refer and arrange to convene the meetings of the Registration Committees as early as possible and to fit the schedule of the applicants. Similar to the current practice applicable to RGBCs which had been operating smoothly so far, a meeting of the Registration Committee would normally be held in approximately two to four months upon receipt of an application. The time required mainly depended on the completeness of the documents submitted by the applicant and the availability of the applicant to attend the meeting. BD would be allocated with adequate resources to process the applications timely. If a specific time limit were included in the provision of section 12(3), the applications of those applicants who were unable to attend the meeting or provide the necessary documents would have to be rejected. The applicants would then have to reapply (with payment of registration fees).</p> <p>Questions raised by ALA on deferment of determination of application under section 12(3)(d) (LC Paper No. CB(1) 1338/08-09(02))</p> <p>Members' suggestion to consider whether a discretion would be given, in appropriate cases, for the BA to refer an application to a Registration Committee before the expiry of the six-month deferral period upon the applicants' request.</p> <p>The Administration's response as follows: (LC Paper No. CB(1) 1338/08-09(03))</p> <p>The arrangement followed the current practice of RGBCs under the existing BO which had been operating smoothly. The deferment arrangement was intended to provide flexibility for marginal applicants to meet the requirements (such as through attending courses/obtaining the requisite qualification, etc) during the deferral period to avoid having to reapply again. The</p>	<p>The Administration to follow up as stated in paragraph 2(c) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 2(e) of the minutes.</p>

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		<p>Registration Committee, comprising experts and professionals from the field of minor works who were conversant with the professional training needs of the candidates for cases of deferral, would recommend a suitable period of deferment, taking into account the competence and experience of the applicant as well as the applicant's performance in the interview. Section 12(8) provided that BA must give reasons for deferring the determination of an application to the applicant in writing. Applicants who were aggrieved by the deferment could lodge an appeal under section 26.</p> <p>Miss Tanya CHAN's question on the scenario for determining whether the management structure of a corporation was adequate under section 12(5)(c)(i).</p> <p>The Administration's response that the objective of such a requirement was to ensure that a corporation had a sound management structure to conduct minor works in a professional, efficient and safe manner. A non-natural-person applicant would have to submit the corporation's organization chart indicating the line of responsibility of its management structure as well as the proof of qualification and experience of its authorized signatories and technical directors. The industry would be informed of the criteria and the detailed procedural guidelines for application through practice notes.</p>	<p>The Administration to follow up as stated in paragraph 2(f) of the minutes.</p>
012740–012839	Chairman Administration	<p><u>Section 13 - Validity period of registration</u></p> <p>Members raised no query.</p>	
012840–013639	<p>Chairman Miss Tanya CHAN Mr IP Kwok-him Administration</p>	<p><u>Section 14 - Application for renewal of registration as registered minor works contractor</u></p> <p>The Chairman and Miss Tanya CHAN's view that arrangement should be made to remind RMWCs in advance, say three to six months, before renewal for registration was due so to allow RMWCs sufficient time to apply for renewal and to provide additional information and documentary proof required by the BA, if any.</p> <p>The Administration's response that a RMWC could submit his renewal application within the time specified under section 14(2)(c) (i.e. not more than 4 months but not less than 28 days prior to the expiry of the registration). RMWCs would be informed of the deadline for renewal, the renewal requirements and procedures through the issue of practice notes. Such information would also be set out in the specified form for renewal.</p> <p>Mr YIP Kwok-him's enquiry about the prescribed fee for</p>	<p>The</p>

Time marker	Speaker	Subject(s)	Action required
		<p>registration and renewal.</p> <p>The Administration's advice that subject to the passage of the Regulation, a regulation for fees for registration and related matters would be introduced into the LegCo for Members' consideration. The registration and renewal fees would be determined on the cost recovery principle. Registration fee for an individual Class III RMWC would be in the region of \$150-\$300 for a period of 3 years.</p>	<p>Administration to follow up as stated in paragraph 2(h) of the minutes.</p>
013640– 013937	Chairman Administration	<p><u>Section 15 - Determination of application for renewal of registration</u></p> <p>Members suggested that the Administration should consider specifying the circumstances under which the BA would refer an application for renewal of registration to a Registration Committee for recommendation under Section 15(1).</p> <p><u>Section 16 - Validity period of renewed registration</u></p> <p>Members raised no query.</p>	<p>The Administration to follow up as stated in paragraph 2(g) of the minutes.</p>
013938– 014024	Chairman ALA Administration	<p><u>Section 17 - Removal of name of registered minor works contractor</u></p> <p>In response to ALA, the Administration agreed to amend "15(5)(b)款" to "15(5)(b)條" in the Chinese version of section 17(3).</p>	<p>The Administration to follow up as stated in paragraph 2(i) of the minutes.</p>
014025– 014358	Chairman	<p>The Subcommittee noted the withdrawal of membership of Ms Cyd HO from the Subcommittee.</p> <p>Meeting arrangement</p>	