

立法會
Legislative Council

LC Paper No. CB(1)1810/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/SS/7/08

Subcommittee on Building (Minor Works) Regulation

**Minutes of the third meeting on
Thursday, 30 April 2009, at 4:00 pm
in Conference Room A 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
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Tanya CHAN
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon LI Fung-ying, BBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon IP Wai-ming, MH
- 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

Attendance by invitation : Hong Kong Owners Club

Mr SHEA Hing-wan
Chairman

Mr NG Pui-kwan
Administrative Assistant

Sign Association of Hong Kong

Mr LAU Shek-kun
PR Secretary

Mr CHU King-wa
Council Member

Hong Kong Construction Industry Employees General Union

Mr CHOI Chun-wa
Chairman

The Hong Kong Institute of Surveyors

Mr Vincent HO
Council Member of Building Surveying Division

Hong Kong Professional Sign Maker Association Limited

Dr MAK Siu-tong
Chairman

Hong Kong Licensed Plumbers Association

Mr LEE Koon-ki
Chairman

Mr YIP Tat-pong
Committee Member

The Federation of Hong Kong Electrical & Mechanical
Industries Trade Unions

Mr LAI Chi-wah
Chairman

Hong Kong Water Works Professionals Association

Mr TANG Kwong-yiu
Vice Chairman

Mr WONG Man-sum
Secretary

The Hong Kong Institute of Housing

Mr SHARE Tai-ki
Vice President

Mr Johnny AU Tai-ming
Council Member

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 deputations and the Administration

(LC Paper No. CB(1)1452/08-09(05) -- List of follow-up actions arising from the discussion at the meeting on 23 April 2009

LC Paper No. CB(1)1452/08-09(07) -- Administration's response to issues raised at meeting on 23 April 2009

LC Paper No. CB(1)1452/08-09(06) -- List of follow-up actions arising from the discussion at the meeting on 27 April 2009

LC Paper No. CB(1)1468/08-09(01) -- Administration's response to issues raised at meeting on 27 April 2009

Other relevant papers

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**).

Admin 2. At the request of the Subcommittee, the Administration undertook to:

- (a) provide the draft of the specified forms to notify the Building Authority (BA) of the commencement of Classes I and II minor works, and certificates (in specified form) to be submitted to the BA by the prescribed registered contractors and minor works contractors appointed within 14 days after the completion of Classes I, II and III minor works, and explain whether such forms would provide for the building owner(s)/owners incorporations to signify their knowledge and authorization of the minor works in common areas to be undertaken/completed;

- (b) reconsider specifying a time limit for the BA to refer an application for registration to a Minor Works Contractors Registration Committee (Registration Committee) (RC) for recommendation, and for a meeting of a Registration Committee to be held to consider the application under section 12(3), so to address the Subcommittee's concern that applications might be held up for a long period of time;
- (c) consider specifying a time limit for the BA to make a determination of application for renewal of registration under section 15(2) and a determination of application for restoration of name to register under section 19(2); and
- (d) provide a mark-up copy of the Building (Minor Works) Regulation to show the amendments for members' easy reference.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1528/08-09(01) on 7 May 2009.)

II. Any other business

Dates of next meeting

- 3. Members noted that the fourth meeting would be held on Monday, 4 May 2009 at 8:30 am to meet with the Administration.
- 4. There being no other business, the meeting ended at 6:00 pm.

Council Business Division 1
Legislative Council Secretariat
3 June 2009

**Proceedings of the third meeting of
the Subcommittee on Building (Minor Works) Regulation
on Thursday, 30 April 2009, at 4:00 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000546	Chairman	Opening remarks by the Chairman	
000547 - 001009	Chairman Hong Kong Owners Club	<p>Meeting with deputations</p> <p>Presentation of the following views:</p> <ul style="list-style-type: none"> - small property owners not knowing which contractors were qualified to undertake the minor works items and the channels to find the right practitioners; - registered minor works contractors (RMWCs) should be required to take out professional indemnity insurance upon the introduction of the minor works control system (MWCS), lest their liability would be shifted onto the small property owners; and - the Administration should consider introducing some form of "central insurance/indemnity pool" to cover the liabilities and risks of RMWCs which might be less expensive than individual insurance. 	
001010 - 001344	Chairman Hong Kong Construction Industry Employees General Union	<p>Presentation of the following views:</p> <ul style="list-style-type: none"> - supported the introduction of the simplified requirements and the MWCS; - one-day course for Class III RMWCs and top-up courses for provisional contractors should be held in the evening to suit the convenience of RMWCs; and - course fee should be set at a reasonable and affordable level. 	
001345 - 001759	Chairman The Hong Kong Institute of Surveyors	<p>Presentation of the following views:</p> <ul style="list-style-type: none"> - urged for the early implementation of the MWCS which had been discussed for a long time and was broadly in consensus with the industry's expectation; - the Buildings Department (BD) should proactively issue technical guidelines and practice notes to provide timely guidance to practitioners; and - a standing committee should be set up to monitor and review the implementation progress and to fine-tune the system in the light of implementation experience. <p>(The submission provided by the deputation (LC Paper No. CB(1)1468/08-09(02)) was issued on 5 May 2009.)</p>	

Time marker	Speaker	Subject(s)	Action required
001800 - 002058	Chairman Hong Kong Professional Sign Maker Association Limited	Presentation of the following views (LC Paper No. CB(1)1452/08-09(01): - supported the early implementation of the MWCS to simplify the requirements and procedures; and - welcomed the setting up of the Minor Works Concern Group comprising representatives from various organizations of minor works industry to take forward the implementation of the MWCS.	
002059 - 002259	Chairman Hong Kong Licensed Plumbers Association	Presentation of the following views: - supported the introduction of the MWCS as early as possible; and - requested the Administration to confirm in writing that licensed plumbers were also qualified to carry out drainage works.	
002300 - 002736	Chairman The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions	Presentation of the following views: - course fees, registration and related fees should be set at a reasonable level; - training courses need not be run by tertiary institutes which might incur a higher course fee, BD should consider providing one-day course free to practitioners or allow industry bodies other than tertiary institutes to run the courses; and - urged the Administration and the Subcommittee to address issues including the period for which RMWCs would be held responsible for the minor works undertaken, whether there should be a regular re-examination of the completed minor works projects; the criteria for determining whether audit checks would be conducted by BD, the differences between a confirmation of acceptance of the completed minor works and an acknowledgement letter issued by BD.	
002737 - 003021	Chairman Hong Kong Water Works Professionals Association	Presentation of the following views: - supported the regulation of RMWCs under a registration regime; and - to qualify for registration, contractors must either possess the requisite qualification or employ relevant qualified/licensed practitioners such as licensed plumber for water works. (The submission provided by the deputation (LC Paper No. CB(1)1468/08-09(03)) was issued on 5 May 2009.)	
003022 - 003551	Chairman The Hong Kong Institute of Housing	Presentation of the following views (LC Paper No. CB(1)1452/08-09(02): - RMWCs should be required to make sure that alteration and addition works on external walls in common areas have the consent of the concerned building management company or the owners corporation (OC). The aforementioned structures erected without the prior consent of management	

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		<p>company/OC should be regarded as unauthorized building works;</p> <ul style="list-style-type: none"> - the Administration should consider introducing some form of insurance similar to the vehicle third party risk insurance to ensure sufficient coverage for liabilities and risks of the RMWCs; - large-scale addition works, particularly those at great heights should be inspected at regular intervals; - publicity and advisory services at district level should be provided to promote the building owners' and the public's understanding of the MWCS, their responsibilities, including civil liabilities under the deeds of mutual covenant; and - BD should make available records of completed works and list of registered contractors for easy public access. 	
003552 - 011224	Chairman Administration	<p>The Administration's response to deputations' views as follows :</p> <ul style="list-style-type: none"> (a) <u>Publicity</u> - extensive publicity and multi-pronged public education programme would be launched to promote practitioners' and the public's understanding of the MWCS and the division of duties among the professional streams of the building industry. Details of the registration requirements would be promulgated in the form of practice notes for reference by the trade. The BD would collaborate with the Hong Kong Housing Society (HKHS) to provide advisory service through resource help-desks in HKHS's Property Management Advisory Centres at various districts. Record plans, certificates and documents of minor works projects would be available via the "Building Records Access and Viewing On-line System" on the Internet and Building Information Centre for public checking; (b) <u>Insurance</u> - while it was not a statutory requirement under the Buildings Ordinance (BO) to require building owners to acquire insurance for building works, the Administration appreciated that it was in the interest of building owners to purchase insurance to cover building works. Building owners would be reminded of the benefits for acquisition of insurance for their building works in the publicity campaign. The BD had been lining up the insurance and building industries to exchange views and facilitate the collaboration between the two parties on the development of insurance products for minor works. The BD would explore with the insurance industry the feasibility of developing new products to dovetail with the implementation of the new MWCS; (c) <u>Course fees, registration and related fees</u> - fees would be set 	

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		<p>at a reasonable and affordable level on a cost-recovery basis. Courses would be held in the evening to suit practitioners' convenience;</p> <p>(d) <u>Regulation of minor works practitioners</u> - the registration regime would help encourage registered contractors' compliance with the relevant safety requirements, ensure quality of building works and enhance public safety as well as safety of workers. Random audit checks would be conducted to ensure compliance. Misconduct by RMWCs and non-compliance with BO and the Regulation would be subject to disciplinary actions and prosecution as appropriate;</p> <p>(e) <u>Technical guidance for practitioners</u> - RMWCs would be provided with updates on safety and technical requirements through technical guidelines and practice notes. The BD would issue technical guidelines, standard drawings and specifications for reference of registered contractors in respect of Class III minor works;</p> <p>(f) <u>Compulsory building inspection</u> - to ensure a better and safer building environment, the Government was preparing legislation on a mandatory building inspection scheme to require private building owners to inspect their buildings regularly. Under the proposed inspection scheme, private buildings aged 30 and above should be inspected once every 10 years;</p> <p>(g) <u>Enforcement actions against unauthorized building works (UBWs)</u> - any additions or alterations to buildings without the prior approval of the BA were UBWs. Land title was not a factor of consideration. The BD, upon receipt of a report of suspected unauthorized building structures 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. About 40 000 such structures had been demolished each year; and</p> <p>(h) <u>Prior consent of building owners/OCs for minor works conducted in common areas</u> - the BA's main role was to ensure compliance with the established procedures for carrying out the building works concerned and to comply with the relevant standards to safeguard building and public safety. While the signature of the person who arranged for the carrying out of minor works (in most cases such person would be the owner of the premises where the minor works were carried out) was required in the specified form, the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>co-owners/OCs would not be required to signify their authorization. Publicity campaigns would be launched to remind building owners and contractors of compliance with building management requirements and deeds of mutual covenant. The Administration did not foresee the simplified procedures of the MWCS would give rise to a large number of new minor works as building owners would undertake minor works only when there was a need.</p>	
011225 - 012259	Chairman Administration	<p>Meeting with the Administration</p> <p>In response to Mr IP Kwok-him's enquiry, the Administration advised that it was the current practice that BA's approval for building works to be undertaken in common areas would be copied to the OC for information. The OC could follow up as appropriate if the work concerned did not have its consent.</p> <p>Mr IP Kwok-him's concern that the simplified requirements under the MWCS might lead to an increase in the number of structures in common areas erected without the consent of the building owners/OCs. To avoid future disputes, he suggested that building owners/OCs be required to signify their knowledge and authorization of minor works in common areas in the specified forms to notify the BA of the commencement of Classes I and II minor works, and the completion of Classes I, II and III minor works.</p> <p>The Administration reiterated that tailor-made guidelines on minor works would be issued to the general public and building owners reminding them of their responsibilities and civil responsibilities under the deeds of mutual covenant. Practitioners would also be reminded of such issues through practice notes.</p>	The Administration to follow-up as stated in paragraph 2(a) in the minutes.
012300 - 013259	Chairman Administration	<p>Administration's briefing on its response to Subcommittee's concerns about the Household Minor Works Validation Scheme raised at the meeting held on 23 April 2009 (CB(1)1452/08-09(07)).</p>	
013300 - 015619	Chairman Administration	<p>Administration's briefing on its response to Subcommittee's concerns raised at the meeting held on 27 April 2009 (CB(1)1468/08-09(01)).</p> <p>To address members' concerns, the following amendments would be made to the Regulation:</p> <p>(a) <u>Section 7(1)(a)</u> would be amended to stipulate that the BA would only nominate a person with professional experience and knowledge of minor works as a member of the RC; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) <u>Section 12(1)</u> would be amended to specify that the BA would consider the nature of the minor works being applied for, as well as the qualifications, background and experience of the applicant, in deciding whether to refer an application to the RC for recommendation. Corresponding amendment would be made to other similar clauses in sections 15(1), 19(1), 23(1) and 25(1) covering the applications for renewal, restoration, inclusion of additional class/type/item of minor works, and inclusion of additional authorized signatory. The detailed criteria for making referrals would be reviewed from time to time and would be promulgated in a practice note to be issued by the BD in consultation with the industry;</p> <p><u>Specifying a time limit</u> Mr IP Kwok-him's concern that applications might be held up due to possible delays in referring an application to the RC and in the arrangement of meetings for the RC to consider an application. The Administration was requested to consider specifying a time limit for the BA to refer an application to the RC and a time limit for the BA to make a determination of an application under Part 4 of the Regulation.</p> <p>The Administration's response that the BD would strive to process the applications or refer the application to the RC as quickly as practicable. The wording of and arrangement stipulated in the Regulation followed those for Registered General Building Contractors (RGBCs) under the existing BO. Similar to the current practice applicable to RGBCs which had been operating smoothly, meeting 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. If specific time limits were stipulated in the Regulation, the Administration would not be able to accede to the applicants' requests to delay the meeting but could only reject the application if the applicants could not attend the meeting or submit all documents required. It was therefore considered appropriate not to specify a time limit in the Regulation to allow flexibility.</p> <p>The Administration was requested to provide a mark-up copy of the Regulation showing the amendments for members' easy reference.</p>	<p>The Administration to follow-up as stated in paragraph 2(b)-(c) in the minutes.</p> <p>The Administration to follow-up as stated in paragraph 2(d) in the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
015620 - 015630	Chairman	Meeting arrangement	

Council Business Division 1
Legislative Council Secretariat
3 June 2009