

立法會
Legislative Council

LC Paper No. CB(1)1835/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/SS/7/08

Subcommittee on Building (Minor Works) Regulation

**Minutes of the fifth meeting on
Tuesday, 5 May 2009, at 2:30 pm
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 Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LI Fung-ying, BBS, 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 LEE Wing-tat
Hon CHEUNG Hok-ming, SBS, 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

- Admin 2. The Administration was requested to provide typical examples with illustrations and descriptions for minor works items under Schedule 1 (Classes I, II and III, in particular those relating to signboards, demolition works, alteration and addition works), Schedule 2 (designated exempted works) and Schedule 3 (prescribed building or building works).

(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 agreed that the sixth meeting would be held on Thursday, 7 May 2009 from 4:00 pm to 6:00 pm to meet with the Administration.

(Post-meeting note: At the direction of the Chairman, the sixth meeting was rescheduled for 7 May 2009 from 4:30 pm to 6:30 pm.)

4. There being no other business, the meeting ended at 3:30 pm.

Council Business Division 1
Legislative Council Secretariat
5 June 2009

**Proceedings of the fifth meeting of
the Subcommittee on Building (Minor Works) Regulation
on Tuesday, 5 May 2009, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000432	Chairman Administration Assistant Legal Adviser (ALA)	Opening remarks by the Chairman. ALA was requested to examine the legal and drafting aspects of the English version of the Regulation and to report irregularity, if any, to the Subcommittee.	
000433 - 003359	Chairman Administration ALA Mrs Sophie LEUNG Ms LI Fung-ying Prof Patrick LAU Miss Tanya CHAN Mr IP Wai-ming Mr IP Kwok-him	<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 7</u></p> <p><u>Sections 42-43 Keeping of records</u></p> <p>In response to Ms LI Fung-ying's enquiry about the specified time for record keeping, the Administration advised that a firm-based prescribed registered contractor appointed under section 28 in respect of any minor works were required under section 43(3) to keep and retain records of activities and information relevant to the supervision of the works for at least 12 months after the completion of the works. Registered minor works contractors (RMWCs) operating as individual practitioners, though were encouraged to keep the said records, were not subject to the time requirement.</p> <p>In response to Prof Patrick LAU's enquiry, the Administration advised that prescribed plans/record plans, certificates in specified form and documents of completed minor works submitted by registered professionals or contractors appointed to carry out the minor works would be made available for viewing by the public at the Buildings Department (BD)'s Building Information Centre or via the internet through the Department's proposed "Building Records Access and Viewing On-line" system.</p> <p>In response to Mr IP Kwok-him's enquiry about the Chinese translation of "relevant to" under section 43(3)(a), the Administration advised that the term "攸關" was widely used in other similar context.</p>	

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		<p><u>Section 44 - Duty of registered minor works contractor to carry out minor works personally</u></p> <p>Prof Patrick LAU sought clarification on the meaning of section 44(a) requiring that a RMWC, registered as an individual practitioner in respect of any Class III minor works, must carry out the works personally.</p> <p>The Administration advised that it was the usual industry practice for the Class III RMWC to carry out the works in person or assisted by other personnel under his supervision and with his presence. The contractor must possess the essential skills to carry out the core works he registered for.</p> <p><u>Sections 45-57</u> Members raised no query.</p> <p><u>Part 8</u> <u>Section 58- Offences</u> In response to Miss Tanya CHAN's enquiry, the Administration advised that any person who, without reasonable excuse, contravened sections 30, 31, 32, 33, 34, 35 or 36, committed an offence and was liable on conviction to a fine at level 5.</p> <p><u>Sections 59-61</u> Members raised no query.</p> <p><u>Part 9</u> Members raised no query.</p> <p><u>Part 10 Sections 63-66 Provisional registration</u> Briefing by the Administration on the arrangement for provisional registration, the criteria for registration as RMWC (provisional), the reasons that provisional registration was not provided for a natural person (i.e. an individual minor work practitioner) as follows:</p> <p>(a) under the provisional registration arrangement, existing firm-based contractors whose authorized signatories (ASs) did not have the required academic qualifications for registration as RMWCs but had satisfied the BA on their work experience in carrying out minor works might, subject to the payment of a prescribed fee, registered as RMWCs (provisional) and might carry out minor works within a transitional period of two years. The arrangement would allow</p>	

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		<p>these existing practitioners to continue business immediately after the implementation of the new control system;</p> <p>(b) the ASs of the provisional contractors were required to attend top-up courses (40-60 hours) during the transitional period to obtain the required academic qualifications;</p> <p>(c) the ASs of an applicant for provisional registration were required to have 5 years of relevant work experience and had completed 10 relevant minor work projects in Hong Kong. If the applicant was a corporation, its management structure should be adequate, and at least one of its directors should possess the qualifications and experience specified by the BA. The BA would also take into account whether the applicant and the ASs nominated had any criminal record in respect of any offence under the laws of Hong Kong relating to the carrying out of any building works, and whether any disciplinary order had been made against the applicant or the ASs. Details of the criteria and requirements for provisional registration would be promulgated through practice notes and publicity materials issued to the industry and the public; and</p> <p>(d) provisional registration was considered not necessary for Class III minor works contractors who registered as individuals. All such applicants possessing relevant trade test/apprentice certificates, other recognized skills qualifications, or adequate experience in carrying out relevant minor works would be accepted for registration as Class III minor works contractors subject to completion of a one-day training course relating to the statutory procedures and safety requirements before registration.</p> <p>In response to Mr IP Kwok-him's concern whether a transitional period of two years was too long, the Administration advised that the transitional period of two years was set, in consultation with the industry, to provide flexibility for provisional contractors to attend the requisite top-up courses. While provisional contractors were allowed up to two years to attend the courses, they could register as a proper contractor as soon as they had completed the requisite courses.</p>	

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003400 - 005429	Chairman Administration ALA Mrs Sophie LEUNG Ms LI Fung-ying Prof Patrick LAU Miss Tanya CHAN Mr IP Wai-ming Mr IP Kwok-him	<p><u>Schedule 1 Minor works</u> <u>Schedule 2 Designated exempted works</u> <u>Schedule 3 Prescribed building or building works</u></p> <p>Members expressed concern about the technicality of the schedule of minor works, whether the individual practitioner and the building owner could ascertain the relevant class for a particular piece of minor works, and whether flexibility had been provided to allow future amendments to the schedule of minor works to take into account technological advancement and development of the construction industry.</p> <p>The Administration's explanation that apart from taking account of the nature, scale and complexity of various minor works and the risk they posed to safety, the classifications and the specifications for the minor works were drawn up after careful and thorough discussion in the working group having regard to the specialization of works in the industry. The proposed schedule had the support of the trade and matched the practice of the industry to facilitate registration by the practitioners. The working group would continue to regularly review the schedule of works and if necessary, amendments would be made to the schedule through the process of negative vetting. The BD would issue technical guidelines to RMWCs on statutory requirements, standard designs and details of safety measures in respect of minor works for reference by RMWCs. User-friendly pamphlets would also be produced for building owners. With the planned publicity and public education programme to promote understanding of the simplified requirements and classification system, practitioners and the public should have no difficulties in ascertaining the relevant class for a particular piece of minor works.</p> <p><u>Fee schedule</u> The Administration advised that pending the introduction of the regulation for registration and related fees to the LegCo, the Administration would continue to liaise with the trade over the fee issue.</p>	The Administration to follow up as stated in paragraph 2 in the minutes.
005430 - 005506	Chairman	Meeting arrangement	