

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1664/09-10  
(These minutes have been seen  
by the administration)

Ref : CB1/BC/2/09/2

**Bills Committee on Buildings Energy Efficiency Bill**

**Minutes of fifth meeting**  
**held on Thursday, 11 March 2010, at 2:30 pm**  
**in Conference Room B of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Hon Vincent FANG Kang, SBS, JP  
Hon LEE Wing-tat  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Cyd HO Sau-lan  
Hon CHAN Hak-kan  
Hon IP Kwok-him, GBS, JP
- Public officers attending** : Environment Bureau  
  
Miss Katharine CHOI  
Principal Assistant Secretary for the Environment  
(Energy)  
  
Miss Joceline CHUI  
Assistant Secretary for the Environment (Energy) 3  
  
Electrical and Mechanical Services Department  
  
Mr LI Kwok-keung  
Acting Assistant Director/Electricity and Energy  
Efficiency  
  
Mr Ken YEUNG  
Acting Senior Engineer/Energy Efficiency B5

Department of Justice

Mr Gilbert MO  
Deputy Law Draftsman  
(Bilingual Drafting & Administration)

Miss Mandy NG  
Government Counsel

**Clerk in attendance** : Miss Becky YU  
Chief Council Secretary (1)1

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5

Mr Franco KWONG  
Council Secretary (1)1

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**I. Confirmation of minutes**

(LC Paper No. CB(1) 1351/09-10 — Minutes of the meeting held on  
9 February 2010)

The minutes of the meeting held on 9 February 2010 were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(1) 1353/09-10(01) — List of follow-up actions arising  
from the discussion at the  
meeting on 26 February 2010

LC Paper No. CB(1) 1353/09-10(02) — Administration's response to  
CB(1) 1353/09-10(01)

LC Paper No. CB(1) 1353/09-10(03) — Assistant Legal Adviser's letter  
dated 2 March 2010 to the  
Administration

LC Paper No. CB(1) 1364/09-10(01) — Administration's response to  
CB(1) 1353/09-10(03))

Relevant papers

(LC Paper No. CB(3) 233/09-10 — The Bill

Ref: ENB 24/26/22 — The Legislative Council Brief

LC Paper No. LS 24/09-10 — Legal Service Division Report

LC Paper No. CB(1) 840/09-10(01) — Background brief on Buildings  
Energy Efficiency Bill)

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
  - (a) explain why the definition of "industrial building" in the Bill was different from that in the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice;
  - (b) advise whether there was a general definition of "common area" (e.g. the definition of "common area" in other ordinances) and if so, the reason for adopting a different definition for the term in the Bill. To also review the definition, particularly the drafting formula "without limiting paragraph (a)", with a view to clearly spelling out the policy intention and the correlation between paragraphs (a) and (b) (e.g. whether an area of car parks which was specified in an instrument registered in the Land Registry as being for the exclusive use of an owner was common area under the Bill);
  - (c) provide a paper setting out the scope and application of clauses 8 to 13;
  - (d) advise how an owner of a building could fulfill the duty under clause 12, and ensure that the central building services installations were maintained to a standard not lower than that applied in the first Certificate of Compliance Registration (COCR), given that the performance of these installations would decline as a result of normal wear and tear;
  - (e) advise whether the requirement for periodic inspection, testing and certification of fixed electrical installation under section 20 of the Electricity (Wiring) Regulations (Cap. 406E) could be similarly adopted in the renewal of COCR; and
  - (f) provide a copy of the technical form for supplementary information for stage one and stage two declarations.

### **III. Any other business**

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

**Bills Committee on  
Buildings Energy Efficiency Bill**

**Proceedings of the fifth meeting  
on Thursday, 11 March 2010, at 2:30 pm  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000255 - 000321	Chairman	The minutes of the meeting held on 9 February 2010 (LC Paper No. CB(1) 1351/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000322 - 001037	Chairman Administration	Administration's explanation on its response to members' concerns raised at the meeting on 26 February 2010 (LC Paper No. CB(1) 1353/09-10(02)).	
001038 - 002737	Chairman Administration Mr KAM Nai-wai	<p>Chairman's enquiries on how individual owners could ensure compliance with the Certificate of Compliance Registration (COCR) at all times under clause 12(1).</p> <p>Administration's clarification that individual owners would be required to apply for renewal of COCR upon expiry of the 10-year validity period. All standards of central building services installations would be specified in the codes of practice. Compliance would need to be certified by registered energy assessors (REA).</p> <p>Chairman's views and enquiries -</p> <p>(a) clause 12(1) as drafted was not able to reflect the policy intent. Consideration should be given to requiring application for renewal of COCR six months before its expiry;</p> <p>(b) owners might have difficulties in ascertaining the specified standards of central building services installations given that</p>	The Administration to advise how individual owners could fulfill the duty under clause 12 and ensure that central building services installations were maintained to a standard not lower than that applied in the first COCR, given that the performance of these installations would decline as a result of normal wear and tear.

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		<p>these were not specified in the stage one and stage two declarations; and</p> <p>(c) how owners could ensure that central building services installations were maintained to a standard not lower than that applied in the first COCR under clause 12(2), given that the performance of these installations would decline as a result of normal wear and tear.</p> <p>Mr KAM Nai-wai's enquiry on whether individual owners would need to engage REA to certify compliance of the central building services installations upon purchase of the relevant properties. If so, Chairman's concern that it might have far-reaching implications on property transactions.</p> <p>Administration's response -</p> <p>(a) the phrase "at all times" aimed at ensuring owners to renew COCR in time;</p> <p>(b) the Bill did not specify the frequency of inspection of central building services installations. Owners were only required to renew COCR every 10 years;</p> <p>(c) the Bill did not govern the daily performance of installations, but only their design standards which would not be affected by normal wear and tear, and the objective of the clauses 12(2) and 12(3) was to avoid retrofitting or replacement of installations with less energy efficient components or models; and</p> <p>(d) a defence of due diligence was provided under clause 50 so that owners who had taken all reasonable steps to avoid</p>	

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		non-compliance would not be held liable.	
002738 - 003325	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's enquiry on the liability of owners in the event of non-compliance with COCR as a result of retrofitting works carried out by other parties within the 10-year validity period.</p> <p>Administration's response -</p> <p>(a) Schedule 3 of the Bill defined major retrofitting works;</p> <p>(b) responsible persons of individual units or owners of common areas were required to obtain a Form of Compliance (FOC) issued by a REA within two months after the completion of major retrofitting works in respect of the building services installation that had undergone major retrofitting works; and</p> <p>(c) if a FOC had been issued for major retrofitting works, the responsible person for an individual unit or owner for a common area had to maintain the concerned installation to a standard not lower than that applied in the FOC issued in respect of the installation.</p>	
003326 - 004349	Mr Vincent FANG Chairman Administration	Mr Vincent FANG's concern about the stringent requirement under clause 12(2) for owners to maintain central building services installations to a standard not lower than that applied in the first COCR, given that the performance of installations would decline as a result of normal wear and tear. Consideration should be given to setting a range within which the standard of central services installations are to be maintained.	

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		<p>Administration's response -</p> <ul style="list-style-type: none"> <li>(a) owners were only required to maintain the design standard specified in the first COCR;</li> <li>(b) the technical requirements of maintaining the building services installations were worked out in consultation with the Technical Task Force and had been set out in the draft code of practice; and</li> <li>(c) the availability of more energy efficient equipment in the market as a result of technological advancement and the proposed mandatory scheme could facilitate compliance by owners.</li> </ul>	
004350 - 005300	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiries -</p> <ul style="list-style-type: none"> <li>(a) whether the codes of practice would be updated on a regular basis;</li> <li>(b) the difference between clauses 12(2)(a) and 12(2)(b); and</li> <li>(c) whether the requirement for periodic inspection, testing and certification of fixed electrical installation under section 20 of the Electricity (Wiring) Regulations (Cap. 406E) (EWR) could be similarly adopted in the renewal of COCR.</li> </ul> <p>Administration's response -</p> <ul style="list-style-type: none"> <li>(a) clause 40 already specified that the Director might, from time to time, revise any code of practice;</li> <li>(b) clause 12(2)(a) applied to central building services installations which had not been subject to any major retrofitting works, while clause 12(2)(b) applied to installations which had undergone major retrofitting works; and</li> </ul>	The Administration to advise whether the requirement for periodic inspection, testing and certification of fixed electrical installation under section 20 of the Electricity (Wiring) Regulations (Cap. 406E) (EWR) could be similarly adopted in the renewal of COCR.

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		(c) the legislative consideration of EWR was on ground of safety, while this Bill aimed at achieving energy efficiency.	
005301 - 010547	Prof Patrick LAU Administration Chairman	<p>Prof Patrick LAU's concern that individual shops, such as jewelry shops, might have difficulty to comply with COCR due to their operational need</p> <p>Administration's response that developers were required under clauses 8 and 9 to submit stage one and stage two declarations to declare that all building services installations in the building were designed, installed and completed in accordance with the specified standards before a COCR was issued. Subsequent renewals of COCR only covered central building services installations. Individual shops would have to obtain FOC in respect of any building services installations within the shops that had undergone major retrofitting works.</p> <p>Chairman's enquiry about the difference between "building services installation" and "central building services installation" under clause 2.</p> <p>Administration's response that "central building services installation" referred to a building services installation in a prescribed building that did not solely serve a unit of that building. As such, installations that solely served an individual shop would not be deemed as central building services installations.</p> <p>Chairman's request for a paper setting out the scope and application of clauses 8 to 13</p>	The Administration to provide a paper setting out the scope and application of clauses 8 to 13.
010548 - 011028	Mr KAM Nai-wai Administration	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) whether the codes of practice would be updated on a regular</p>	



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		<p>basis and if so, the lead time for each review;</p> <p>(b) whether owners were required to renew COCR every 10 years, and whether consideration would be given to reducing the lead time for renewal of COCR to say five years to achieve greater energy efficiency; and</p> <p>(c) whether the drafting of clause 12 was in line with that of EWR and the Fire Services Ordinance (Cap. 95).</p> <p>Administration's response -</p> <p>(a) clause 40(8) provided that the codes of practice would be revised from time to time. The initial plan was to update the codes of practice in every three to five years;</p> <p>(b) COCR was valid for 10 years and renewal was required upon expiry. The 10-year period was in line with that of the "Energy Performance Certificate" adopted by the European Union; and</p> <p>(c) the drafting of clause 12 would be reviewed with reference to similar provisions in other ordinances.</p>	
011029 - 011440	Prof Patrick LAU Administration	<p>Prof Patrick LAU's enquiry on the effect of the Bill on the relevant equipment in the market.</p> <p>Administration's response -</p> <p>(a) it was expected that equipment with lower energy efficiency would be gradually phased out; and</p> <p>(b) the Bill, together with the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598), would promote the market development</p>	

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		for more energy efficient equipment in the market.	
011441 - 012758	Chairman Administration	<p>Chairman's enquiry on supplementary information to be attached to the stage one and stage two declarations.</p> <p>Administration's response that developers were required to attach technical forms (i.e. the supplementary forms set out in Form EE-S) when submitting the stage two declaration (Form EE2). These included -</p> <ul style="list-style-type: none"> <li>(a) Form EE-EL (for electrical installation);</li> <li>(b) Form EE-AC (for air-conditioning installation);</li> <li>(c) Form EE-LG (for lighting installation);</li> <li>(d) Form EE-LE (for lift and escalator installations); and</li> <li>(e) Form EE-PB (performance-based approach)</li> </ul>	The Administration to provide a copy of the technical form for supplementary information for stage one and stage two declarations.
012759 - 013052	Chairman Administration	<p>Clause-by-clause examination of the Bill</p> <p><u>Long title</u></p> <p><u>Clause 1 - Short title and commencement</u></p> <p>Chairman's enquiry on the commencement date of the Ordinance, if enacted.</p> <p>Administration's response that subsidiary legislation on registration of REA and related charges would need to be introduced before the Ordinance could come into operation.</p>	
013053 - 013450	Chairman Administration	<p><u>Clause 2 - Interpretation</u></p> <p>Chairman's enquiry on the reason why</p>	The Administration to explain why the definition of "industrial

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		<p>the definition of "industrial building" in the Bill was different from that in the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice.</p> <p>Administration's response that the definition was adopted to reflect the objective of the Bill. Besides, the definition was modeled on relevant definition in existing legislation.</p>	<p>building" in the Bill was different from that in the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice.</p>
013451 - 014218	Chairman Administration ALA5	<p>Discussion on the definition of "common area"</p> <p>Chairman's enquiries -</p> <p>(a) whether there was a general definition of "common area"; and</p> <p>(b) the reason for using the phrase "without limiting paragraph (a)"</p> <p>Administration's response that paragraph (a) set out the definition of "common area" while paragraph (b) provided some examples of "common areas".</p> <p>ALA's view that consideration should be given to reviewing the definition, particularly the drafting formula "without limiting paragraph (a)", with a view to clearly spelling out the policy intention and the correlation between paragraphs (a) and (b) (e.g. whether an area of car parks which was specified in an instrument registered in the Land Registry as being for the exclusive use of an owner was common area under the Bill).</p>	<p>The Administration to -</p> <p>(a) advise whether there was a general definition of "common area" (e.g. the definition of "common area" in other ordinances) and if so, the reason for adopting a different definition for the term in the Bill; and</p> <p>(b) review the definition, particularly the drafting formula "without limiting paragraph (a)", with a view to clearly spelling out the policy intention and the correlation between paragraphs (a) and (b) (e.g. whether an area of car parks which was specified in an instrument registered in the Land Registry as being for the exclusive use of an owner was common area under the Bill).</p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
014219 - 020034	Chairman Administration	Discussion on the definitions of "building services installation", "central building services installation", "lift and escalator installation", "approved loading", "major retrofitting works", "code of practice", "stage two declaration", "occupation approval", "occupation permit", "residential building", "Secretary" and "electricity supplier" and "property management company".	
020035 - 020050		Schedule of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
21 April 2010