

立法會
Legislative Council

LC Paper No. CB(1) 1753/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/BC/2/09/2

Bills Committee on Buildings Energy Efficiency Bill

**Minutes of sixth meeting
held on Wednesday, 31 March 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
- 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 Alfred SIT
Assistant Director/Electricity and Energy Efficiency

Mr LI Kwok-keung
Chief Engineer/Energy Efficiency B

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

I. Confirmation of minutes

(LC Paper No. CB(1) 1488/09-10 — Minutes of the meeting held on
26 February 2010)

The minutes of the meeting held on 26 February 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 1492/09-10(01) — List of follow-up actions arising
from the discussion at the meeting
on 11 March 2010

LC Paper No. CB(1) 1492/09-10(02) — Administration's response to
CB(1) 1492/09-10(01)

LC Paper No. CB(1) 1492/09-10(03) — Assistant Legal Adviser's letter
dated 19 March 2010 to the
Administration

LC Paper No. CB(1) 1511/09-10(01) — Administration's response to
CB(1) 1492/09-10(03) (clauses 2 to
15 only while the remaining
response to follow))

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
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))

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
 - (a) explain why unlike an owner of a building with Certificate of Compliance Registration (COCR) who had to ensure that a COCR was in force at all times under the Bill, an owner of a fixed electrical installation was not required to do so under the Electricity (Wiring) Regulations (Cap. 406E);
 - (b) advise how a new owner of a unit of a building could ascertain whether the building services installations serving the unit were covered under the first COCR. To also advise whether a new owner was required to engage a registered energy assessor to ensure compliance of the existing building services installations, and his liability in the event of non-compliance;
 - (c) advise whether consideration would be given to requiring the display of COCR at a conspicuous place of a building;
 - (d) advise the time-table and legislative procedures which had to be completed before the commencement of the Ordinance, if enacted; and
 - (e) review the use of phrase "without limiting" in the definition of "common area", and to re-consider the drafting of the definition in liaison with the legal adviser of the Bills Committee.

III. Any other business

4. There being no other business, the meeting ended at 10:30 am.

**Bills Committee on
Buildings Energy Efficiency Bill**

**Proceedings of the sixth meeting
on Wednesday, 31 March 2010, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000125 - 000150	Chairman	The minutes of the meeting held on 26 February 2010 (LC Paper No. CB(1) 1488/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000151 - 001216	Chairman Administration	Administration's explanation on its response to members' concerns raised at the meeting on 11 March 2010 (LC Paper No. CB(1) 1492/09-10(02)).	
001217 - 002943	Mr KAM Nai-wai Administration Chairman Dr Raymond HO	<p>Mr KAM Nai-wai's enquiry on whether an owner of a fixed electrical installation was required to ensure that a test certificate was in force at all times under the Electricity (Wiring) Regulations (Cap. 406E) (EWR), similar to the requirement for Certificate of Compliance Registration (COCR) under clause 12(1) of the Bill.</p> <p>Administration's response -</p> <p>(a) EWR applied to all fixed electrical installations in both new and old buildings. An owner of a fixed electrical installation should have it inspected, tested and certified at least once every 12 months or once every five years for low voltage fixed electrical installation to ensure safety of the installation;</p> <p>(b) COCR only applied to post-enactment buildings. An owner of a building was required to renew COCR every 10 years to ensure that the central building services installations in the building were maintained to a standard not lower than that applied in the first COCR;</p>	The Administration to explain why unlike an owner of a building with COCR who had to ensure that a COCR was in force at all times under the Bill, an owner of a fixed electrical installation was not required to do so under EWR.

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		<p>(c) section 20 of the Electricity Ordinance (Cap. 406) provided that an owner of an electrical installation should not connect anything to the installation which would likely cause an electrical accident. He should also have it rectified if he knew that the condition of his electrical installation was likely to cause an electrical accident. However, replacement of building services installations, e.g. faulty equipment or components, etc., was not prohibited under the Bill. Therefore, it was necessary for owners to maintain the standard of these installations in order to be eligible for renewal of COCR.</p> <p>Chairman's view that the legislative approach adopted for EWR was different from the Bill. The former prohibited owners from altering the electrical installations while the latter required owners to maintain building services installations to a certain standard.</p> <p>Dr Raymond HO's view that the term "standard" was used because it might not be possible to spell out all the requirements for building services installations in the Bill. Having said that, he enquired how owners could ensure compliance of the building services installations with the Bill, particularly new owners who might not know the standard applied in the first COCR of the building.</p> <p>Administration's response -</p> <p>(a) as COCR applied to the central building services installations in the building, this would be renewed in one go once every 10 years;</p> <p>(b) for major retrofitting works carried out in individual units, owners had to ensure that the building services installations were maintained to a standard not lower than that applied in the latest Form of Compliance (FOC); and</p>	

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		(c) owners could also engage registered energy assessors (REAs) to ascertain the compliance of the relevant building services installations.	
002944 - 004141	Prof Patrick LAU Administration Chairman	<p>In response to Prof Patrick LAU's enquiry, the Administration explained Annex A to LC Paper No. CB(1) 1492/09-10(02) and the need for FOC for major retrofitting works under clause 17 of the Bill.</p> <p>Chairman's concerns that retrofitting works carried out by individual owners might affect the energy efficiency of the entire building. However, other owners might not be aware of the effect of such works on the renewal of COCR.</p> <p>Administration's response -</p> <p>(a) clause 12(3)(a) provided that it was the duty of the responsible person to ensure that the building services installations serving an individual unit were maintained to the required standard;</p> <p>(b) renewal of COCR under clause 13 only applied to central building services installations; and</p> <p>(c) publicity would be stepped up to alert the construction and engineering trades of the requirements in the Bill.</p>	
004142 - 005654	Prof Patrick LAU Administration Chairman Mr KAM Nai-wai	<p>Prof Patrick LAU's view that the technical forms (Annexes B to F to LC Paper No. CB(1) 1492/09-10(02)) should be streamlined.</p> <p>Administration's response that the technical forms were drafted on the basis of the existing technical forms which had been used for the voluntary scheme for years. The Technical Taskforce, which comprised representatives from the relevant trades, was consulted on the forms.</p> <p>Chairman's concern that the technical forms were for the retention of the</p>	

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		<p>building and not for individual owners who might carry out retrofitting works that might affect the energy efficiency of the building.</p> <p>Administration's response that a FOC completed with the technical forms was required for all major retrofitting works, and owners had to ensure that the building services installations were maintained to a standard not lower than that applied in the latest FOC under clause 12(3).</p> <p>Chairman's enquiry on the definition of "owners of buildings which had obtained COCR" under the proposed amendment to clause 12(1), and whether this would apply to commercial buildings as well.</p> <p>Administration's response -</p> <p>(a) the definition of "owner" under clause 2 was the same as that under the Building Ordinance (Cap. 123) which covered owners, including owners of individual units, co-owners and Owners' Incorporations; and</p> <p>(b) prescribed buildings under the Bill included, inter alia, commercial buildings and common area of residential buildings.</p>	
005655 - 011709	Mr KAM Nai-wai Administration Chairman Prof Patrick LAU	<p>Mr KAM Nai-wai's queries -</p> <p>(a) unlike the Bill, EWR did not require owners of fixed electrical installations to ensure certificate in force at all times; and</p> <p>(b) how a new owner could ascertain compliance of the building services installations serving the unit.</p> <p>Administration's explanation -</p> <p>(a) fixed electrical installations were only required to be tested and certified regularly following the enactment of EWR. However, an owner of an electrical installation should not</p>	<p>The Administration to advise how a new owner of a unit of a building could ascertain whether the building services installations serving the unit were covered under the first COCR.</p>

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		<p>connect anything to the installation which would likely cause an electrical accident; and</p> <p>(b) a register of buildings issued with COCR would be made available for public inspection and the standard (i.e. the version of Building Energy Code) applied in that COCR would also be indicated in the register so that the new owners could easily ascertain which standard they should follow.</p> <p>Chairman's concern that legal practitioners might have difficulty in understanding the technical forms attached to COCR in the course of property transactions.</p> <p>Prof Patrick LAU's enquiry on whether a responsible person had to obtain a FOC for all retrofitting works carried out in premises with a floor area of 500 square metres.</p> <p>Administration's response that the need for a FOC was not merely determined by the size of premises, but also the types of retrofitting works. Only those specified in Schedule 3 to the Bill were considered major retrofitting works.</p>	
011710 - 012132	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) means to ascertain the compliance of existing building services installations, and the liability of new owners in the event of non-compliance; and</p> <p>(b) whether prosecution would be taken against previous owners for non-compliance.</p> <p>Administration's response -</p> <p>(a) the register of COCR would be uploaded onto website of the Electrical and Mechanical Services Department (EMSD). Hardcopy of COCR and FOC would also be made available upon application;</p>	<p>The Administration to also advise whether a new owner was required to engage a REA to ensure compliance of the existing building services installations, and his liability in the event of non-compliance.</p>

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		<p>(b) new owners were required to ensure that the building services installations were maintained to the standard not lower than that applied in the first COCR or latest FOC where appropriate; and</p> <p>(c) prosecution against previous owners would be considered subject to availability of evidence.</p>	
012133 - 013124	Chairman Administration Prof Patrick LAU	<p>Chairman's enquiry on the rationale for requiring the responsible person of a unit to ensure that the building services installations serving the unit were maintained to the standard not lower than that applied in the first COCR in respect of the building under clause 12(3)(a).</p> <p>Administration's response that clause 12(3)(a) applied to those building services installations provided to individual units by developers and covered under the first COCR. As such, the responsible person of a unit had to ensure such installations to be maintained to a standard not lower than that applied in the first COCR.</p> <p>Chairman's concern that owners might not know which installations were provided by developers.</p> <p>Administration's response that owners could make reference to the first COCR. When replacing building services installations, owners should ensure that the energy efficiency standard of the new installations should not be lower than that applied in the first COCR.</p>	
013125 - 013721	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiry on whether consideration would be given to requiring the display of COCR at a conspicuous place of a building.</p> <p>Administration's response that the Bill only required the display of energy audit forms at a conspicuous position of the building to inform the public on the energy performance of the building.</p>	The Administration to advise whether consideration would be given to requiring the display of COCR at a conspicuous place of a building.

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013722 - 015130	Chairman Administration ALA5	<p>Discussion on the phrase "without limiting" in the definition of "common area".</p> <p>Chairman's view that the relationship between paragraphs (a) and (b) in the definition might cause confusion and suggestion that the phrase "subject to" might be more desirable for the sake of clarity.</p>	<p>The Administration to review the use of the phrase "without limiting" in the definition of "common area", and to re-consider the drafting of the definition in liaison with the legal adviser of the Bills Committee.</p>
015131 - 015654	Prof Patrick LAU Administration Chairman	<p>Prof Patrick LAU's enquiries -</p> <p>(a) definition of "post-enactment buildings" as design of building took time; and</p> <p>(b) the time-table and legislative procedures that had to be completed before commencement of the Ordinance, if enacted.</p> <p>Administration's response -</p> <p>(a) post-enactment buildings referred to buildings that obtained consents to the commencement of building works for superstructure construction from the Building Authority after the new legislation came into operation; and</p> <p>(b) two pieces of relevant subsidiary legislation, including one for fees and another for registration of REAs, would need to be enacted after passage of the Bill. The registration of REAs would take effect immediately after the approval of the relevant subsidiary regulation. However, a grace period of 18 months would be allowed before other parts of the Bill such as COCR, FOC, energy audit etc. commenced operation.</p>	<p>The Administration to advise the time-table and legislative procedures which had to be completed before the commencement of the Ordinance, if enacted</p>
015655 - 020036	Chairman ALA5 Administration	<p>Continuation of clause-by-clause examination</p> <p>Discussion on the definitions of</p>	

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		"air-conditioning installation", "building services installation", "specified form" and "specified standards and requirements".	
020037 - 020110	Chairman	Next meeting to be held on Monday, 26 April 2010, at 8:30 am	

Council Business Division 1
Legislative Council Secretariat
29 April 2010