

立法會
Legislative Council

LC Paper No. CB(1) 1992/09-10
(These minutes have been seen
by the administration)

Ref : CB1/BC/2/09/2

Bills Committee on Buildings Energy Efficiency Bill

Minutes of seventh meeting
held on Monday, 26 April 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
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
- Public officers attending** : Environment Bureau

Miss Katharine CHOI
Principal Assistant Secretary for the Environment
(Energy)

Mr Philip HAR
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) 1664/09-10 — Minutes of the meeting held on
11 March 2010)

The minutes of the meeting held on 11 March 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 1665/09-10(01) — List of follow-up actions arising
from the discussion at the
meeting on 31 March 2010

LC Paper No. CB(1) 1665/09-10(02) — Administration's response to
CB(1) 1665/09-10(01))

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)

LC Paper No. CB(1) 1492/09-10(03) — Assistant Legal Adviser's letter dated 2 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))

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
 - (a) consider adopting the definition of "common area" provided in the Building Management Ordinance (Cap. 344) for the Bill;
 - (b) review the drafting of the Bill to ensure that the use of specific words/phrases/terms (e.g. the word "principally" instead of "predominantly" in relation to the use of premises in paragraph 7, 8, 9 and 10 of Schedule 1) was in line with other relevant legislation;
 - (c) review the definition of "composite building" to expressly incorporate cross reference to the definitions of "residential building", "industrial building" and "commercial building";
 - (d) review the descriptive use of "residential" and "commercial" etc in relation to the use of buildings to ensure consistency with that used in occupation permit and other relevant building legislation;
 - (e) advise the types of buildings which were excluded from Schedule 1 to the Bill;
 - (f) advise whether the definition of "owner" under the Bill (as under the Buildings Ordinance (Cap. 123)) included owners' corporations; and
 - (g) consider including a daily fine for delay in making declaration at design stage under clause 8 to increase the deterrent effect.

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 seventh meeting
on Monday, 26 April 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>			
000513 - 000539	Chairman	The minutes of the meeting held on 11 March 2010 (LC Paper No. CB(1) 1664/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000540 - 001629	Chairman	Administration's explanation on its response to members' concerns raised at the meeting on 31 March 2010 (LC Paper No. CB(1) 1665/09-10(02)).	
001630 - 002143	Chairman Administration Ms Cyd HO	Chairman's suggestion to adopt the definition of "common area" provided in the Building Management Ordinance (Cap. 344) (BMO) for the Bill for the sake of consistency.	The Administration to consider adopting the definition of "common area" provided in the BMO for the Bill.
002144 - 003423	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) how a responsible person could ascertain compliance of the existing building services installations in the unit with the Bill; and</p> <p>(b) liability of the responsible person in the event of non-compliance by predecessor(s).</p> <p>Administration's response -</p> <p>(a) the responsible person of a unit was required under clause 12(3) to ensure that the building services installations were maintained to a standard not lower than that applied in the first Certificate of Compliance Registration (COCR) or the latest Form of Compliance (FOC) where applicable;</p>	

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		<p>(b) the register of buildings issued with a COCR would be made available for public inspection at the website of the Electrical and Mechanical Services Department, while the duplicate of FOC would be issued upon application; and</p> <p>(c) as FOC only applied to major retrofitting works, a responsible person might not be aware of any minor alteration works carried out by predecessor(s). Therefore, it was advisable for the responsible person to engage a registered energy assessor (REA) to ensure compliance.</p>	
003424 - 003715	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's concern that legal practitioners or estate agents might need to check compliance with the Bill in the course of property transactions.</p> <p>Administration's response that it had discussed with the Law Society on the need to include requirements under the Bill in the conveyancing practices.</p> <p>Chairman's advice that the Law Society would provide a submission on the Bill.</p>	
003716 - 010659	Chairman Administration Ms Cyd HO ALA5 Prof Patrick LAU Mr IP Kwok-him	<p><u>Continuation of clause-by-clause examination</u></p> <p>Discussion on the definition of "prescribed building" and scope of Schedule 1</p> <p>Ms Cyd HO's enquiry on whether ferry/airport terminals and tunnels were covered under Schedule 1 to the Bill.</p> <p>Administration's response -</p> <p>(a) most of the ferry terminals were built and maintained by the Government and would fully comply with the legislation. Remaining ferry terminals, including China Ferry Terminal and Ocean Terminal, were situated</p>	<p>The Administration to -</p> <p>(a) review the drafting of the Bill to ensure that the use of specific words/phrases/terms (e.g. the word "principally" instead of "predominantly" in relation to the use of premises in paragraph 7, 8, 9 and 10 of Schedule 1) was in line with other relevant legislation;</p>

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		<p>inside commercial buildings and thus fell under the ambit of the Bill. The entire passenger terminal building of an airport and railway station (as defined in clause 2) were already included in Schedule 1 to the Bill; and</p> <p>(b) tunnels were not covered under the Bill since lighting installation and ventilation system inside the tunnels were governed by the Highways Department on account of safety consideration and special operational needs.</p> <p>ALA5's enquiries -</p> <p>(a) the difference between the word "predominantly" in paragraphs 7, 8, 9, 10 and 11 of Schedule 1 and words "principally" and "primarily" used in other legislation in relation to occupation or use of premises; and</p> <p>(b) the meaning of "community building" in paragraph 8 of Schedule 1.</p> <p>Administration's response -</p> <p>(a) the words "predominantly", "principally" and "primarily" had the same meaning in dictionary; and</p> <p>(b) not able to provide an exhaustive list on "community building" as community services evolved over time to cater for the changing needs of the public.</p> <p>Prof Patrick LAU's enquiry and view -</p> <p>(a) why student hostels were classified as residential buildings while elderly homes were classified as community buildings and included in Schedule 1; and</p>	<p>(b) advise the types of buildings which were excluded from Schedule 1 to the Bill; and</p> <p>(c) review the descriptive use of "residential" and "commercial" etc in relation to the use of buildings to ensure consistency with that used in occupation permit and other relevant building legislation.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) review the descriptive use of "residential" and "commercial" etc in relation to the use of buildings to ensure consistency with that used in occupation permit and other relevant building legislation.</p> <p>Administration's response that elderly homes provided care for the elderly as a community service, and thus would be regarded as community building in Schedule 1.</p> <p>Ms Cyd HO's request for the Administration to advise the types of buildings which were excluded from Schedule 1.</p>	
010700 - 010830	Chairman Administration Ms Cyd HO	<p>Discussion on the definition of "responsible person".</p> <p>The Administration's explanation that both owner and tenant would be regarded as "responsible person". Investigation would be conducted to ascertain who should be held responsible in the event of non-compliance of building services installations.</p>	
010831 - 011530	Chairman Administration Prof Patrick LAU	<p>Discussion on the definitions of "stage one declaration", "consent to the commencement of building works", "Building Authority", "energy audit", "Energy Audit Form", "hotel, guesthouse", "commercial building", "registered energy assessor", "Register of Registered Energy Assessors", "unit" and "improvement notice".</p>	
011531 - 012329	Chairman Administration Ms Cyd HO Prof Patrick LAU	<p>Discussion on the definition of "developer"</p> <p>Chairman and Ms Cyd HO's enquiries on the difference between "developer" and "owner".</p> <p>Administration's explanation that developer in relation to a building or a proposed building referred to the owner of the land on which the building was</p>	<p>The Administration to advise whether the definition of "owner" under the Bill (as under the Buildings Ordinance (Cap. 123)) included owners' corporations.</p>

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		<p>built or would be built, while an owner in relation to a prescribed building had the same meaning as in the Building Ordinance (Cap. 123).</p> <p>Prof Patrick LAU's enquiry on whether the definition of "owner" under the Bill (as under the Buildings Ordinance (Cap. 123)) included owners' corporations.</p>	
012330 - 012343	Chairman Administration	Discussion on the definition of "electrical installation"	
012344 - 013645	Chairman Mr KAM Nai-wai Administration ALA5	<p>Discussion on the definition of "lighting installation"</p> <p>Mr KAM Nai-wai's view that the exemption of external lighting installations, such as those used for decoration or visual production, in Schedule 2 ran contrary to the policy intent of the Bill to improve energy efficiency.</p> <p>Chairman's view that as the power source of external lighting installations normally came from inside of the building, these should be included in the Bill.</p> <p>Administration's response -</p> <p>(a) the scope of lighting installations under the Bill was in line with that under the voluntary Hong Kong Energy Efficiency Registration Scheme for Buildings which did not regulate external lightings, particularly display lighting;</p> <p>(b) the Building Energy Code would request building owners to install independent control switches for display lighting installations so that these could be turned on only when needed, thereby achieving greater energy saving; and</p> <p>(c) a study on excessive glare from external lightings was underway.</p>	

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		<p>Mr KAM Nai-wai's view and enquiry -</p> <p>(a) need for cross referencing between paragraph 6 of Schedule 2 and the definition of "lighting installation"; and</p> <p>(b) whether the Buildings Energy Efficiency Ordinance, if enacted, would need to be amended if a control regime on external lightings were put in place later.</p> <p>Administration's response -</p> <p>(a) the exemptions in Schedule 2 had been worked out taking into account the operational needs of some building services installations; and</p> <p>(b) amendment to the Ordinance, if enacted, to extend the coverage to external lightings would be considered where circumstances warranted.</p>	
013646 - 014230	Chairman Administration ALA5 Prof Patrick LAU	<p>Discussion on definition of "composite building"</p> <p>ALA5's suggestion that the Administration might need to review the definition of "composite building" to expressly incorporate cross reference to the definitions of "residential building", "industrial building" and "commercial building".</p>	The Administration to review the definition of "composite building" to expressly incorporate cross reference to the definitions of "residential building", "industrial building" and "commercial building".
014231 - 014354	Chairman Administration	Discussion on definitions of "Director", "owner", "Form of Compliance", "Certificate of Compliance Registration", "authorized officer" and "railway station."	
014355 - 014539	Chairman Administration Prof Patrick LAU	<p>Clause 3 - Application to Government</p> <p>Administration's explanation that the Government was not required to pay the prescribed fees under the Bill, and that it might be subject to judicial</p>	

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		review in the event of non-compliance with the Bill.	
014540 - 014949	Chairman Administration Mr CHAN Hak-kan	<p>Clause 4 - Limit of scope of application</p> <p>Chairman's question on the rationale for excluding buildings with an approved loading not exceeding 100A, 1-phase or 3-phase.</p> <p>Administration's explanation that as the electricity consumption of these buildings was relatively low, inclusion of these buildings in the Bill might create undue financial burden on the owners let alone the limited saving to be achieved.</p> <p>Mr CHAN Hak-kan's enquiry on whether the Bill would apply to temples and ancestral halls etc.</p> <p>Administration's response that stand alone building used for religious activities was excluded from the Bill. This was not the case if the place of religious activities was situated inside a prescribed building.</p>	
014950 - 015240	Chairman Administration	Discussion on clauses 5, 6 and 7.	
015241 - 020210	Chairman Administration Prof Patrick LAU Mr IP Kwok-him	<p>Clause 8 - Declaration at design stage</p> <p>Chairman's suggestion that a daily fine should be imposed on the delay in making declaration at design stage to increase the deterrent effect. Her view was shared by Mr IP kwok-him.</p> <p>Prof Patrick LAU's view that consideration should be given to withholding the issue of occupation permit until confirmation of compliance.</p> <p>Administration's response that a holistic approach would be adopted to review the levels of penalty for developers in the event of non-compliance.</p>	The Administration to consider including a daily fine for delay in making declaration at design stage under clause 8 to increase the deterrent effect.

Time marker	Speaker	Subject(s)	Action required
020211 - 020350	Chairman	Schedule of next meetings.	

Council Business Division 1
Legislative Council Secretariat
25 May 2010