

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1625/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/09/2

**Bills Committee on Buildings (Amendment) Bill 2010**

**Second meeting on**  
**Saturday, 20 March 2010, at 9:00 am**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Hon CHEUNG Hok-ming, GBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH  
Hon Starry LEE Wai-king

**Members absent** : Dr Hon Margaret NG  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon Cyd HO Sau-lan  
Dr Hon Priscilla LEUNG Mei-fun

**Public officers** : Mr Tommy YUEN Man-chung, JP  
**Attending** Deputy Secretary for Development  
(Planning and Lands) 2

Mr Edward TO Wing-hang  
Principal Assistant Secretary for Development  
(Planning and Lands) 3

Mr Harry LIN Ting-yan  
Assistant Secretary for Development (Buildings) 2

Mr LAM Siu-tong  
Deputy Director of Buildings

Mr Alex CHOW Kim-ping  
Assistant Director / Support  
Buildings Department

Ms Rayne CHAI Chih-hui  
Senior Government Counsel  
Department of Justice

Miss Elaine NG Pui-kei  
Government Counsel  
Department of Justice

**Attendance by  
Invitation**

: The Hong Kong Institute of Surveyors

Mr Vincent HO  
Vice Chairman & Spokesman, Building Surveying Division  
Member, General Council

The Hong Kong Institute of Architects

Ms Anna S Y KWONG  
President

Hong Kong Institute of Real Estate Administrators

Mr Stanley WONG Kam-cheong  
Vice President

The Hong Kong Association of Property Management Companies

Mr KWONG Ching-wai  
Chairman of Public Relations Committee

Hong Kong General Building Contractors Association Limited

Mr HO Wai-wah  
President

Individual

Mr SUEN Kai-cheong  
Chairman of Wan Chai District Council

Eastern District Council

Mr KONG Chack-ho  
Chairman, Planning, Works and Housing Committee,  
Eastern District Council

The Hong Kong Institution of Engineers

Ir Dr Andrew CHAN  
President

Individual

Miss Jacqueline CHUNG Ka-man  
Wan Chai District Council member

Kwun Tong District Council

Mr CHAN Wah-yu  
Kwun Tong District Council member

**Clerk in attendance:** Mr WONG Siu-yee  
Chief Council Secretary (1)4

**Staff in attendance :** Miss Winnie LO  
Assistant Legal Adviser 7

Mr Daniel SIN  
Senior Council Secretary (1)5

Ms Christina SHIU  
Legislative Assistant (1)7

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**I Confirmation of minutes**

(LC Paper No. CB(1)1391/09-10 -- Minutes of meeting on  
19 February 2010)

The minutes of the meeting held on 19 February 2010 were confirmed.

## **II Meeting with deputations and the Administration**

### Submissions from individuals/organizations not attending the meeting

- (LC Paper No. CB(1)1390/09-10(01) -- Submission from Dr YANG Mo, Southern District Council member, dated 4 March 2010
- LC Paper No. CB(1)1390/09-10(02) -- Letter from The Real Estate Developers Association of Hong Kong dated 8 March 2010
- LC Paper No. CB(1)1390/09-10(04) -- Submission from Mr YEUNG Wai-sing, Eastern District Council member, dated 14 March 2010
- LC Paper No. CB(1)1390/09-10(05) -- Submission from The Hong Kong Construction Association, Limited dated 18 March 2010)

### Relevant papers

- (LC Paper No. CB(1)1390/09-10(06) -- Letter from Assistant Legal Adviser to the Administration dated 25 February 2010
- LC Paper No. CB(1)1417/09-10(01) -- Administration's letter dated 18 March 2010 in response to letter from Assistant Legal Adviser (LC Paper No. CB(1)1390/09-10(06))
- LC Paper No. CB(1)1390/09-10(07) -- Letter from Hon CHEUNG Hok-ming dated 26 February 2010
- LC Paper No. CB(1)1390/09-10(08) -- List of follow-up actions arising from the discussion at the meeting on 19 February 2010
- LC Paper No. CB(1)1417/09-10(02) -- Administration's response dated 18 March 2010 to issues raised at the meeting on 19 February 2010 as set out in LC Paper No. CB(1)1390/09-10(08))

### Other relevant papers previously issued

- (LC Paper No. CB(3)389/09-10 -- The Bill
- LC Paper No. CB(1)1168/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division
- File Ref: DEVB(PL-CR) 2-15/08 -- Legislative Council Brief
- LC Paper No. LS42/09-10 -- Legal Service Division Report
- LC Paper No. CB(1)1168/09-10(02) -- Paper on Buildings (Amendment) Bill 2010 prepared by the

2. At the invitation of the Chairman, the deputations presented their views on the Buildings (Amendment) Bill 2010 to the Bills Committee.
3. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

4. The Bills Committee decided that the Administration should take the following follow-up actions --
  - (a) The Development Bureau should liaise with the Home Affairs Bureau, requesting the latter to attend Bills Committee meetings where necessary and provide a paper to explain how the Administration would co-ordinate among various parties to provide assistance to property owners in carrying out building maintenance and management.
  - (b) The Administration should provide statistics of complaints received by the Building Authority against authorized persons and other professionals qualified to perform various functions under the Buildings Ordinance, and the number of disciplinary or prosecution actions initiated as a result. The statistics should include the number of persons removed from the various registers, fined or subjected to other sanctions under the Buildings Ordinance, as well as the number of convictions where prosecution actions were initiated.

**III Any other business**

Date of next meeting

5. Members agreed that the next meeting should be held on Wednesday, 31 March 2010.
6. There being no other business, the meeting ended at 11:55 am.

**Proceedings of the  
Bills Committee on Buildings (Amendment) Bill 2010  
Second meeting on Saturday, 20 March 2010, at 9:00 am  
in Conference Room A of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 – 000222	Chairman	The minutes of meeting on 19 February 2010 (LC Paper No. CB(1)1391/09-10) were confirmed.	
000223 – 000804	Chairman	Opening remarks	
000805 – 001351	The Hong Kong Institute of Surveyors (HKIS)	Presentation of views (LC Paper No. CB(1)1440/09-10 (01) issued to members by email on 22 March 2010)	
001352 – 001747	The Hong Kong Institute of Architects (HKIA)	Presentation of views (LC Paper No. CB(1)1440/09-10 (02) issued to members by email on 22 March 2010)	
001748 – 002300	Hong Kong Institute of Real Estate Administrators (HKIREA)	Presentation of views (LC Paper No. CB(1)1463/09-10 (01) issued to members by email on 25 March 2010)	
002301 – 002730	The Hong Kong Association of Property Management Companies (HKAPMC)	Presentation of views (LC Paper No. CB(1)1463/09-10 (02) issued to members by email on 25 March 2010)	
002731 – 003127	Hong Kong General Building Contractors Association Limited (HKGBCAL)	Presentation of views (LC Paper No. CB(1)1476/09-10(01) issued to members by email on 26 March 2010)	
003128 – 003505	The Hong Kong Institution of Engineers (HKIE)	Presentation of views (LC Paper No. CB(1)1390/09-10(03) issued to members on 16 March 2010)	
003506 – 003823	Eastern District Council (EDC)	EDC supported the mandatory inspection schemes in general, but was worried that the schemes might not be effective in addressing the problems of partitioning of private premises which affected structural safety of buildings. The various	

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		building maintenance financial assistance schemes should also apply to civil servants co-operative building society's properties.	
003824 – 004308	Mr SUEN Kai-cheong, Chairman of Wan Chai District Council	(a) Mr SUEN supported the principles as enshrined in the Bill that owners should be responsible for maintaining their properties.  (b) Mr SUEN criticized the insufficient support given at district level. Some owners' corporations (OCs) had withdrawn from building maintenance projects as they could not raise sufficient funds.	
004309 – 004821	Miss Jacqueline CHUNG, Wan Chai District Council member	(a) Miss CHUNG agreed that buildings selected for the Mandatory Building Inspection Scheme (MBIS) should be included in the Mandatory Windows Inspection Scheme (MWIS) at the same time.  (b) Miss CHUNG suggested that technical advice, support and guidance should be provided to help owners select competent and eligible contractors, and prevent tender-rigging activities.	
004822 – 005356	Kwun Tong District Council (KTDC)	Presentation of views (LC Paper No. CB(1)1476/09-10(02) issued to members by email on 26 March 2010)	
005357 – 005530	Chairman Mr Abraham SHEK	(a) The Chairman requested deputations to provide written submissions of their presentations.  (b) Mr Abraham SHEK said that deputations could provide details about tender-rigging activities that they were aware of.	

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005531 – 010033	Chairman Administration	<p>(a) The Administration advised that it would seek the necessary resources to implement the two inspection schemes. The Urban Renewal Authority (URA) and the Hong Kong Housing Society (HKHS) had also agreed to assist within their means.</p> <p>(b) As regards partitioning or other alteration works in private premises, the Administration was reviewing the enforcement programmes of the Director of Buildings (DB) and other authorities, and it would develop policy strategies as appropriate.</p>	
010034 – 010808	Chairman Administration	<p>(a) The Administration advised that subsidiary legislation, codes of practice and practice notes to be promulgated would specify the detailed operational requirements for MBIS and MWIS. Public education and publicity materials would be produced to raise stakeholders' awareness and understanding of the schemes.</p> <p>(b) On regulation of service standards, the Bill would require registered professionals' personal attention to prescribed inspections and repairs, especially in certain critical processes.</p> <p>(c) Measures would be put in place to help prevent tender-rigging activities. Under the Bill, a professional who carried out building inspection would not be allowed to act as contractors; the Buildings Department (BD) would step up supervision of inspectors and contractors and initiate disciplinary or prosecution proceedings against malpractice; and relevant</p>	

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		<p>information and one-stop assistance would be provided to improve owners' knowledge in building maintenance and proper tendering procedures.</p> <p>(d) The Administration would consider measures to improve the user-friendliness of various financial assistance schemes, working with HKHS to expedite the launching of the Voluntary Building Classification Scheme, and encouraging owners of buildings that were not selected for mandatory inspections to participate in the Scheme.</p>	
010809 – 011800	Chairman Administration	<p>(a) Responding to HKIE, the Administration advised that the ten-year inspection cycle under MBIS might be shortened in the long term, in the light of the experience gathered during implementation. Guidelines would be issued to clarify the scope of "common areas" and what structures should be covered in prescribed inspections.</p> <p>(b) Responding to HKIA's suggestion that other types of technical personnel should also be qualified for registration as registered inspectors (RIs), the Administration advised that under the Bill only building professionals could be registered as RIs. The Bill would require RIs' personal involvement in prescribed inspections and supervision of prescribed repairs at critical stages, and only routine supervision might be delegated to technical personnel.</p> <p>(c) Responding to HKIREA, the Administration advised that the range of professionals qualified to be</p>	

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		<p>registered as RIs would be widened and they would be subject to new sets of professional conduct and disciplinary regime under the Bill.</p> <p>(d) The Administration agreed with HKAPMC that a small number of buildings might be selected to test out the new inspection schemes.</p> <p>(e) Responding to HKGBCAL, the Administration advised that existing windows which were installed according to past standards but were well maintained would not need to be replaced or upgraded to comply with the new standards.</p> <p>(f) Responding to EDC, the Administration clarified that civil servants co-operative societies buildings were also eligible for the some building maintenance financial assistance schemes.</p> <p>(g) As regards tender-rigging activities, the Administration advised that preventive measures would be introduced, including expanding the pool of RIs and contractors, prohibiting professionals to be inspectors and contractors at the same time, as well as requiring personal involvement of RIs in prescribed inspections and repairs.</p>	
011801 – 012614	Chairman Ms Audrey EU HKIE HKIA HKIS	<p>(a) Ms EU asked if members of professional bodies could offer voluntary assistance to owners of buildings without OCs.</p> <p>(b) HKIE advised that a pamphlet was being prepared to provide basic information on building maintenance for audience without technical background. HKIA advised that</p>	

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		<p>volunteers were deployed in Home Affairs Department's (HAD) resource centres in the past to answer public enquiries, and similar service could be reinstated if necessary. HKIS advised that some of its members provided voluntary assistance to users of the Property Management Advisory Centres of HKHS, and HKIS was ready to organize more seminars at district level.</p> <p>(c) Ms EU asked if there was an indicative price range of various professional services.</p> <p>(d) HKIE advised that it was considering providing indicative prices for various professional services in conjunction with other professional bodies. HKIS advised that it had collected information on the price range of standard services and the standard cost of work items. HKIS advised that it planned to develop a building maintenance cost index for different types of buildings of various age and conditions.</p>	
012615 – 013320	Chairman Prof Patrick LAU Administration HKIA	<p>(a) Prof LAU said that the Construction Industry Council (CIC), which comprised representatives from HKIA, HKIE and HKIS, could co-ordinate inputs from the sectors on the Bill and the various issues involved.</p> <p>(b) Prof LAU said that technical personnel, such as clerks of works, should also qualify for registration as RIs because they had the necessary training and knowledge.</p> <p>(c) HKIA advised that clerks of works were eligible to become affiliate</p>	

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		<p>members of HKIA. The Bill could be relaxed to allow any members of HKIA, not just registered architects, to be registered as RIs.</p> <p>(d) The Administration advised that the Bill intended to allow only building professionals to be registered as RIs and to require their personal involvement in inspections and works supervision, following the comments received from previous public consultation exercises.</p>	
013321 – 014032	Chairman Mr WONG Kwok-hing Administration	<p>(a) Mr WONG suggested that a summary of views of deputations and the Administration's response should be prepared.</p> <p>(b) Mr WONG agreed with HKAPMC that a registration regime for management companies should be established.</p> <p>(c) Mr WONG considered that HAD did not have sufficient frontline staff to help residents handle building management matters, where the problem was most serious in old buildings without OCs, not being managed by an estate management agent, and where many of the owners did not care about the building's conditions.</p> <p>(d) The Administration responded that these views would be relayed to the Home Affairs Bureau (HAB). To tackle the building maintenance problems of old buildings, the foremost step was to organize owners to form OCs. Even in the absence of OCs, owners could still group together to carry out repairs in common areas of buildings. As a last resort, BD could carry out the</p>	

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		<p>inspection and maintenance on owners' behalf, and recover the cost from the owners, but the responsibility to maintain building safety should ultimately be building owners' and the Administration would only use such power under exceptional circumstances.</p> <p>(e) The Chairman said the Development Bureau should liaise with HAB, requesting the latter to attend Bills Committee meetings where necessary and provide a paper to explain how the Administration would co-ordinate among various parties to provide assistance to property owners in carrying out building maintenance and management.</p>	<p>The Administration to take action as required in paragraph 3 of the minutes</p>
<p>014033 – 014846</p>	<p>Chairman Deputy Chairman HKIS HKIA HKIE Administration</p>	<p>(a) The Deputy Chairman supported early introduction of a registration system for management companies, and agreed to allow experienced technical personnel to be registered as RIs. He agreed to widen the registration eligibility to cover associate members of HKIE and affiliate members of HKIA.</p> <p>(b) HKIS advised that the basic principle was that persons eligible to become RIs should have the necessary experience and professional qualifications as they needed to make judgment on the spot during an inspection or works supervision. Technical personnel could assist in the process to improve efficiency, but should not replace professionals in decision-making. Clerks of works were probably not trained for identifying problems, determining their causes or prescribing solutions, nor were these functions part of their</p>	

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		<p>job nature.</p> <p>(c) The Administration advised that prescribed inspections must be carried out personally by professionals; it was contrary to the intention of the Bill to permit technical personnel to become RIs.</p> <p>(d) Prof LAU said that the contents of training programmes for clerks of works covered the necessary skills to enable them to carry out building inspections.</p>	
<p>014847 – 015906</p>	<p>Chairman Ms Miriam LAU HKGBCAL HKIA HKIREA Mr SUEN Kai-cheong, Chairman of Wan Chai District Council EDC KTDC</p>	<p>(a) Ms LAU asked if it was plausible to suggest, as BD mentioned, that building defects due to interior alteration of private premises could be observed from inspections of common areas or external walls.</p> <p>(b) HKIA advised that in around 70 per cent of ordinary cases, inspections of common areas or external walls should be sufficient to determine building problems. HKIREA advised that any structural problems would first appear as cracks. By observing the distribution and spread of the cracks, professionals should be able to identify possible building defects, and prescribe detailed examinations to determine the root problems.</p> <p>(c) EDC had reservation on BD's view and cited a case where drilling of structural beams inside a private premises was not discovered until owners overheard it from workers' discussion.</p> <p>(d) Ms LAU asked if deputations considered that providing one-stop service advice for owners was</p>	

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		<p>sufficient to enable them to select the right professionals for carrying out the inspection and maintenance works.</p> <p>(e) Mr SUEN said that although an inspector was prohibited from being the contractor at the same time, malpractice still existed in reality. The support given to property owners was not enough for them to tackle these situations. Owners were reluctant to form OCs because owners tried to avoid being held liable for any mistakes in a tendering exercise.</p> <p>(f) KTDC considered that clerks of works often did not dare to challenge contractors, and the Administration should play a more active role to help owners carry out building maintenance.</p>	
015907 – 020705	Chairman Mr LEE Wing-tat Administration HKIS	<p>(a) Mr LEE doubted if the Bill would be effective in addressing building maintenance as many issues were related to building management.</p> <p>(b) Mr LEE said that owners had high incentives to partition their properties into suites, and yet BD staff did not inspect private premises until there was imminent danger. Such an approach would only allow the problem of interior alteration to persist and deteriorate.</p> <p>(c) The Administration responded that it was exploring how interior alteration activities could be regulated. However, tackling interior alteration was not the main object of the two inspection schemes under the Bill.</p>	

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		<p>(d) Mr LEE said that some professionals charged as low as around \$3,000 for a works supervision contract. He was concerned about possible collusion between inspectors and contractors, and suggested that safeguards should be introduced to protect property owners.</p> <p>(e) HKIS advised that property owners should refer such incidents to HKIS for investigation into possible malpractice. It was collaborating with the Independent Commission Against Corruption on public education programmes to raise public awareness on improper practices in building maintenance.</p>	
020706 – 021625	Chairman Mr KAM Nai-wai HKIA HKIREA HKAMPC EDC Administration	<p>(a) Mr KAM said that widening the eligibility for registration as RIs would only create more problems.</p> <p>(b) Mr KAM said the problem with tender-rigging lied in the tendering procedure itself where owners tended to accept the lowest bids often without regard to details. Professional institutes should monitor their members' conduct more closely to curb tender-rigging and other malpractice.</p> <p>(c) HKIA advised that professional architects, engineers and surveyors would personally attend to work supervision, especially at critical points in the inspection or supervision process. HKIA had reminded its members that they must deliver professional standard services to clients even when they accepted a low cost contract.</p> <p>(d) HKIREA advised that a professional was personally liable for misconduct</p>	

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		<p>or mistakes made in connection with any of his duties under the relevant ordinances, and the records would be carried for life.</p> <p>(e) HKAMPC advised that professional management companies would be in a position to help property owners analyze and screen tendering and contract documents and co-ordinate inspections and repair works. HKAMPC suggested that the Administration should expedite the introduction of the management company registration system.</p> <p>(f) The Administration responded that the Bill provided for disciplinary action against professional malpractice. Property owners had been encouraged to report to BD any cases of malpractice, but few complaints had been received so far.</p>	
<p>021626 – 022454</p>	<p>Chairman Mr James TO HKIS Administration HKIA</p>	<p>(a) Mr TO asked how owners could judge if an RI had over-prescribed maintenance items or had been negligent in the building inspection.</p> <p>(b) HKIS considered that BD should take more on-site inspections to deter professional misconduct or negligence.</p> <p>(c) The Administration advised that inspection reports submitted by RIs would be vetted, and BD staff would conduct on-site inspections to audit check the validity of selected reports. In the initial implementation stage of MBIS, a higher proportion of the reports would be audit-checked. The proportion could be reduced over time. Detailed guidelines would be prepared for RIs on what should be covered in the inspections.</p>	

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022455 – 023023	Chairman Prof Patrick LAU Administration	Prof LAU said that CIC should be in a position to take the lead to co-ordinate professional inputs on tackling building safety issues, setting fee standards, and giving advice on the scope of building inspections and the contents of the inspection reports. He suggested that CIC should be invited to attend future hearings. He said that building management companies should have the responsibility to appraise service contracts from inspectors and contractors for property owners.	
023024 – 023936	Chairman Deputy Chairman HKIS HKIE Administration HKIA	<p>(a) The Deputy Chairman said that as the Bills Committee would need to consider which types of professionals could be registered as RIs, professional institutes could suggest what types of professional disciplines should be eligible.</p> <p>(b) HKIE considered that professional engineers of one of the five disciplines, namely, civil, structural, construction, building services, and material engineering were suitable for registration.</p> <p>(c) HKIA considered that all professional architects should have the training and knowledge to carry out inspections and works supervision, and should be eligible for registration.</p> <p>(d) HKIS considered that there should be information on the professional training and experience requisite for RIs so that a more detailed assessment could be made. As an initial view, building services engineers and material engineers might not be appropriate to be included in the registration regime for RIs.</p>	

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023937 – 024740	Chairman Mr KAM Nai-wai Administration HKIREA KTDC	<p>(a) Mr KAM said that BD only published a list of professionals qualified and interested to provide inspection and repair services. However, a professional would not have the full range of expertise for any kind of professional services. Users without a technical background would not know who should be engaged from the list to meet their building maintenance need.</p> <p>(b) HKIREA suggested that the list could be broken down by categories of professionals according to their expertise or the range of services they specialized in.</p> <p>(c) The Administration responded that the professionals who were included in BD's list should have the professional knowledge and expertise to carry out the works as required under the Buildings Ordinance (Cap.123) (BO). There was no plan to develop the list of professionals categorized by specialty.</p> <p>(d) Mr KAM said that the Administration should provide statistics of complaints received by the Building Authority against authorized persons and other professionals qualified to perform various functions under BO, and the number of disciplinary or prosecution actions initiated as a result. The statistics should include the number of persons removed from the various registers, fined or subjected to other sanctions under BO, as well as the number of convictions where prosecution actions were initiated.</p>	<p>The Administration to take action as required in paragraph 3 of the minutes</p>

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		<p>(e) KTDC advised that there were cases where contractors kept delaying rectifying outstanding defects of repair works until after the expiry of the warranty period.</p> <p>(f) The Administration advised that such deliberate delays could be controlled through contract enforcement.</p>	
024741 – 025148	Chairman Deputy Chairman HKIE HKIS Administration	<p>(a) The Deputy Chairman considered that professional institutes could advise members on the disciplines that should be included for registration as RIs.</p> <p>(b) HKIE did not agree that building services engineers and material engineers should be excluded from registration. Building issues such as fire safety required the expertise of the former, while the latter could advise on concrete repair matters.</p> <p>(c) HKIS considered that the interfacing issues between the two mandatory inspection schemes and the minor works control system should also be addressed.</p> <p>(d) The Administration advised that discussion had been held with the professional sectors and specific criteria would be applied for certain professional disciplines before they could be eligible for registration.</p>	
025149 – 025356	Chairman	Date of next meeting	