

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2495/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/4/09/2

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

**Seventh meeting on  
Tuesday, 8 June 2010, at 2:30 pm  
in the Chamber 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)  
Dr Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king  
Dr Hon Priscilla LEUNG Mei-fun  
Hon Tanya CHAN

**Members absent** : Hon Miriam LAU Kin-ye, GBS, JP  
Hon LEE Wing-tat  
Hon CHEUNG Hok-ming, GBS, JP

**Public officers** : Mr Tommy YUEN Man-chung  
**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 CHEUNG Tin-cheung  
Chief Building Surveyor / Legal  
Buildings Department

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

Miss Elaine NG Pui-kei  
Government Counsel  
Department of Justice

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

**Staff in attendance :** Mr Kelvin LEE  
Assistant Legal Adviser 1

Mr Daniel SIN  
Senior Council Secretary (1)5

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**I Confirmation of minutes**

(LC Paper No. CB(1)2146/09-10 -- Minutes of meeting on 6 May  
2010)

. The minutes of the meetings held on 6 May 2010 were confirmed.

## **II Meeting with the Administration**

### Enforcement and manpower

- (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)
- LC Paper No. CB(1)1624/09-10(01) -- Administration's paper on enforcement against registered professionals and contractors
- LC Paper No. CB(1)2168/09-10(01) -- Administration's further paper on enforcement against registered professionals and contractors)

### Outstanding issues from previous meetings

- (LC Paper No. CB(1)1983/09-10(01) -- Administration's paper on response to issues raised at previous meetings
- LC Paper No. CB(1)1983/09-10(02) -- Administration's paper on subsidiary legislation and practice notes
- LC Paper No. CB(1)2003/09-10(01) -- Letter from Assistant Legal Adviser to the Administration dated 13 May 2010
- LC Paper No. CB(1)2136/09-10(01) -- Administration's letter dated 2 June 2010 in response to letter from Assistant Legal Adviser (LC Paper No. CB(1)2003/09-10(01))
- LC Paper No. CB(1)2164/09-10(01) -- Summary of views of organizations and individuals made at the meeting on 20 March 2010 and the Administration's response)

### 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 Legislative Council Secretariat (Background brief)

- LC Paper No. CB(1)2114/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 27 May 2010
- LC Paper No. CB(1)1935/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 6 May 2010
- LC Paper No. CB(1)1782/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 19 April 2010
- LC Paper No. CB(1)1609/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 31 March 2010
- LC Paper No. CB(1)1500/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 20 March 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)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide the following information --
  - (a) A breakdown of the 110 prosecutions taken against registered professionals and contractors under the Buildings Ordinance (Cap. 123) since 1990 by profession (e.g. number of authorized persons, registered engineers and registered contractors, etc.).
  - (b) The number of cases where these registered professionals or contractors were prosecuted or disciplined for allowing their practice licenses being used by a third party.
  - (c) The number of prosecution or disciplinary cases that were initiated from Buildings Department's on-going monitoring mechanism, and the number of cases initiated from investigation after an incident or complaint.
  - (d) An estimate of the amount of funding that would be set aside to subsidize first building inspections under the Mandatory Building Inspection Scheme.
  - (e) Details of different assistance schemes launched to help owners maintain their properties and how the Administration would consolidate these schemes and streamline their application procedures.

**III Any other business**

4. There being no other business, the meeting ended at 4:33 pm.

Council Business Division 1  
Legislative Council Secretariat  
9 July 2010

**Proceedings of the  
Bills Committee on Buildings (Amendment) Bill 2010  
Seventh meeting on Tuesday, 8 June 2010, at 2:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 – 001022	Chairman	Opening remarks and confirmation of minutes (LC Paper No. CB(1)2146/09-10)	
001023 – 001402	Chairman Administration	The Administration's briefing on the manpower of the Buildings Department (BD) (LC Paper No. CB(1)1417/09-10(02)) and the plan to review the overall resource requirement to cope with the workload when the proposed package of measures to improve building safety, including the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS), was implemented.	
001403 – 001607	Ms Starry LEE Administration	(a) Ms LEE suggested that the Administration should provide sufficient BD's staff to handle public enquiries related to the two inspection schemes.  (b) The Administration advised that the Hong Kong Housing Society (HKHS), the Urban Renewal Authority (URA) and the Administration would make available adequate resources to carry out public education and publicity measures to support the operation of the two inspection schemes.	
001608 – 002130	Chairman Administration	The Administration's briefing on enforcement against registered professionals and contractors, including statistics and examples of cases of prosecution and disciplinary proceedings (LC Paper No. CB(1)1624/09-10(01) and CB(1)2168/09-10(01))	

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002131 – 002534	Prof Patrick LAU Chairman Administration	Prof LAU and the Chairman asked the Administration to provide a breakdown of the 110 prosecutions against registered professionals and contractors under the Buildings Ordinance (Cap. 123) since 1990 by profession (e.g. number of authorized persons, registered engineers and registered contractors, etc.).	Administration to take action as required in paragraph 3 of the minutes
002535 – 003015	Ms Starry LEE Administration Chairman	<p>(a) Ms LEE enquired about the safeguards to prevent collusion between registered professionals and contractors in bidding for building repair contracts.</p> <p>(b) The Administration advised that professional institutes had been invited to launch joint publicity and public education campaigns with the Government to raise owners' awareness. The public was encouraged to report malpractice so that professional institutes could follow up through their disciplinary mechanism.</p> <p>(c) In response to Ms LEE, the Administration explained that the 110 prosecution and disciplinary cases were initiated as a result of BD's regular inspections, investigations after complaints and building-related incidents.</p>	
003016 – 003834	Mr KAM Nai-wai Administration	<p>(a) Mr KAM asked the Administration to provide the number of cases where the registered professionals or contractors were prosecuted or disciplined for allowing their practice licenses being used by a third party.</p> <p>(b) Mr KAM was worried that the quality of building inspections would be adversely affected if the registration requirements for</p>	Administration to take action as required in paragraph 3 of the minutes

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		<p>Registered Inspectors (RIs) were not stringent enough. He asked what professional qualifications would be required for registration as an RI.</p> <p>(c) The Administration responded that the Bill, and the code of practice to be published, required RIs to be personally involved in the inspection of buildings and supervision of the carrying out of repair works, especially at certain critical junctures. Breach of the requirement would constitute an offence or professional misconduct. RIs would need to be professionally qualified and have adequate experience in the carrying out of inspections and supervision of repair works. They should be members of the Hong Kong Institution of Engineers (HKIE), Hong Kong Institute of Architects (HKIA) or Hong Kong Institute of Surveyors (HKIS) in the relevant discipline, and a registration board would interview the applicants to examine their qualifications and experience to ensure their competency.</p> <p>(d) Mr KAM asked the Administration to provide the number of prosecution or disciplinary cases that were initiated from Buildings Department's on-going monitoring mechanism, and the number of cases initiated from investigation after an incident or complaint.</p>	<p>Administration to take action as required in paragraph 3 of the minutes</p>
003835 – 004603	Deputy Chairman Prof Patrick LAU Chairman Administration	<p>(a) The Deputy Chairman and Prof LAU suggested that clerks of works and associate or affiliate members of professional institutes should be eligible for registration as RIs.</p>	



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		<p>(b) Prof LAU said that professional institutes had comprehensive disciplinary mechanisms to ensure delivery of professional quality services.</p> <p>(c) The Administration agreed to discuss the suggestion further with the professional institutes, but maintained that building inspections and supervision of repair works should be handled by registered professionals whereas the associate or affiliate members should play a supporting or complementary role.</p>	
004604 – 005132	Chairman Administration	The Administration's briefing on LC Papers No. CB(1)1983/09-10(01) and explanation on the subsidy arrangements for first building inspections under MBIS.	
005133 – 005543	Ms Starry LEE Administration Chairman	<p>(a) Ms LEE suggested that the eligibility criterion on number of residential units for the first building inspection subsidy should be relaxed because the Administration had agreed to consider relaxing a similar criterion under Operation Building Bright.</p> <p>(b) The Administration explained that the first building inspection subsidy scheme would be launched by URA and HKHS using their own resources. The two organizations would accord priority in helping buildings with no more than 400 residential units. The criterion had earlier already been relaxed from the ceiling of 200 residential units under other assistance schemes of the HKHS.</p> <p>(c) Ms LEE disagreed that buildings with more than 400 residential units should be excluded from the subsidy</p>	

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		<p>scheme. The Chairman said that some owners' corporations (OCs) were made up of owners from a few buildings where the combined number of units likely exceeded 400. Some buildings under the Tenants Purchase Scheme also had more than 400 units. The scheme should be reviewed to cater for these circumstances.</p>	
005544 – 010131	Prof Patrick LAU Administration Chairman	<p>(a) Prof LAU asked how many buildings could benefit from the subsidy scheme. The Administration estimated that roughly 80% of the target buildings were eligible.</p> <p>(b) Prof LAU asked if indicative building inspection fees had been drawn up. The Administration explained that HKIS had agreed to make available such information for public reference.</p>	
010132 – 010734	Ms Cyd HO Chairman Administration	<p>(a) Ms HO was concerned that the average annual rateable values of buildings with many large units would be high. Owners of small unit in these buildings would be less likely to benefit from the first inspection subsidy. She asked how the Administration would help retired property owners with limited means to afford building inspection and repair costs.</p> <p>(b) The Administration explained that financial assistance schemes such as the Building Maintenance Grant Scheme for Elderly Owners and Comprehensive Building Safety Improvement Load Scheme were available.</p> <p>(c) Ms HO asked the Administration to provide an estimate of the amount of</p>	Administration to take action as

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>funding that would be set aside to subsidize first building inspections under MBIS, and details of different assistance schemes launched to help owners maintain their properties and how the Administration would consolidate these schemes and streamline their application procedures.</p>	<p>required in paragraph 3 of the minutes</p>
<p>010735 – 010848</p>	<p>Ms Starry LEE Administration Chairman</p>	<p>(a) Ms LEE disagreed that buildings with slightly more than 400 residential units should be excluded from the first time inspection subsidy scheme, and suggested that the Administration should review the criterion.</p> <p>(b) The Administration agreed to consider members' views on the issue.</p>	
<p>010849 – 011430</p>	<p>Chairman Administration</p>	<p>The Administration's briefing on its paper (LC Paper No. CB(1)1983/09-10(01)), including the operation mode of HKHS's Property Management Advisory Centres (PMACs) and the measures to prevent tender-rigging activities.</p>	
<p>011431 – 012907</p>	<p>Ms Starry LEE Administration Chairman</p>	<p>(a) Ms LEE suggested that only members or associate members of professional institutes should be allowed to conduct building inspections and repairs, and indicative price lists should be provided for public information.</p> <p>(b) The Administration advised that the Bill already required that building inspections and repairs should only be conducted by registered professionals. Professional institutes were encouraged to step up monitoring of members' professional conduct, and invited to develop indicative price lists. Meanwhile,</p>	

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		<p>the Administration would develop guidelines for property owners advising them on how to prevent tender-rigging activities.</p> <p>(c) Ms LEE suggested that the Administration should tighten quality control of RIs' performance to curb tender-rigging and other malpractices.</p> <p>(d) The Administration advised that the number of contractors and registered professionals would increase after the implementation of the minor works control system and the proposed registration system for RIs. This would enhance competition and make tender-rigging more difficult.</p> <p>(e) The Administration further advised that it planned to conduct desk checks to audit 100% of RIs' reports and sample site checks to audit about 30% of the inspection reports and repair works. In response to Ms LEE, the Administration agreed to consider inviting OCs or residents to be present during BD's on-site inspections.</p> <p>(f) Ms LEE suggested that the Administration should increase the percentage of sample checks.</p>	
012908 – 013818	Ms Cyd HO Administration Chairman	<p>(a) Ms HO suggested that the Administration should ensure that OCs had allowed sufficient opportunities for individual owner's participation in the building inspection and repair process before subsidies were disbursed.</p> <p>(b) Ms HO asked when the Administration expected the number of RIs would meet the demand. The Administration responded that</p>	

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		<p>from a questionnaire survey conducted among members of various professional institutes, several thousands of respondents were interested to register as RIs.</p> <p>(c) Ms HO suggested that the Administration should, say, through the Home Affairs Department, collect and publicize owners' feedback on the performance of RIs and contractors to facilitate other OCs to select service providers.</p> <p>(d) The Administration advised that there might be legal implications with the suggestion. Professional institutes might be in a better position to regulate the conduct and practices of their members in terms of tender bidding, quality of service, etc.</p> <p>(e) The Chairman commented that the low utilization rates of meeting rooms of the PMACs might be due to inconvenient opening hours rather than low demand. He suggested the Administration should review the arrangements.</p>	
013819 – 014401	Chairman Administration	The Administration's briefing on its paper (LC Paper No. CB(1)1983/09-10(01)), including the rationale of exempting residential buildings not exceeding three storeys in height from MBIS.	
014402 – 015630	Mr James TO Administration Chairman	<p>(a) Mr TO asked whether owners would be liable if the appointed RI failed to conduct the prescribed inspection or submit the relevant report to the Building Authority (BA).</p> <p>(b) The Administration explained that owners would not be liable if they had reasonable excuse for failing to comply with BA's orders/notices.</p>	

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		<p>(c) Mr TO asked if owners would be liable if the RI failed to identify or report a building defect that required repair.</p> <p>(d) The Administration explained that owners would not be liable under the BO if they fulfilled their duty to appoint an RI to conduct prescribed inspection, and the inspectors might be subject to disciplinary actions for professional negligence.</p> <p>(e) Mr TO said that consideration should be given to making an RI criminally liable for failing to complete the prescribed inspection without reasonable excuse.</p> <p>(f) The Administration responded that the RI might commit professional misconduct and be subject to disciplinary actions.</p>	
015631 – 020235	Chairman Administration	The Administration's briefing on its paper (LC Paper No. CB(1)1983/09-10(02)), including the details of formulating the subsidiary legislation and practice notes under the Bill.	
020236 – 020329	Chairman	The next meeting would be held at 4:30 pm on 29 June 2010.	