

立法會
Legislative Council

LC Paper No. CB(1)2415/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/09/2

Bills Committee on Buildings (Amendment) Bill 2010

**Twenty-first meeting on
Friday, 20 May 2011, at 4:30 pm
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)
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon Priscilla LEUNG Mei-fun

Members absent : 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
Hon CHEUNG Hok-ming, GBS, JP
Hon Tanya CHAN

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 Daniel FONG Siu-wai
Assistant Secretary for Development (Buildings) 1

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

Mr Manuel NG Man-chun
Government Counsel
Department of Justice

Clerk in Attendance : Ms Annette LAM
Chief Council Secretary (1)7

Staff in Attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Daniel SIN
Senior Council Secretary (1)7

I Confirmation of minutes

(LC Paper No. CB(1)2189/10-11 -- Minutes of meeting on
11 February 2011)

The minutes of the meeting held on 11 February 2011 were confirmed.

II Meeting with the Administration

Papers issued since last meeting

- (LC Paper No. CB(1)2020/10-11(01) -- Letter from Hon KAM Nai-wai dated 20 April 2011 (Chinese version only) on the Administration's response to members' questions on the Buildings (Amendment) Bill 2010
- LC Paper No. CB(1)2020/10-11(02) -- Letter from Hon KAM Nai-wai dated 20 April 2011 (Chinese version only) on the Buildings (Amendment) Bill 2010)

Discussion of outstanding issues

- (LC Paper No. CB(1)2177/10-11(01) -- List of follow-up actions arising from the discussion at the meeting on 20 April 2011
- LC Paper No. CB(1)2177/10-11(02) -- Administration's response to issues raised at the meeting on 20 April 2011
- LC Paper No. LS62/10-11 -- Paper prepared by Legal Service Division on the proposed amendments to include the new building safety initiatives
- LC Paper No. CB(1)1896/10-11(02) -- Administration's response to issues raised at the meetings on 11 February, 16 and 28 March 2011
- LC Paper No. CB(1)2230/10-11(01) -- Updated Administration's response to issues raised at the meetings on 16 March 2011)

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)1423/10-11(01) -- Updated paper on proposed major Committee Stage amendments prepared by the Administration
- 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)1706/10-11(03) -- List of follow-up actions arising from the discussion at the meeting on 16 March 2011)

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

III Any other business

- Clerk 3. The Chairman instructed the Secretariat to seek members' views whether the Administration's proposed Committee Stage Amendments related to enhancing building safety should be incorporated into the Bill, bearing in mind the Legal Adviser's advice that the amendments might fall outside the scope of the Bill. The matter would be further discussed at the next meeting scheduled for 7 June 2011.
4. There being no other business, the meeting ended at 6:30 pm.

Bills Committee on Buildings (Amendment) Bill 2010

**Proceedings of the Twenty-first meeting
on Friday, 20 May 2011, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000500 – 000841	Chairman	Opening remarks and confirmation of minutes of meeting held on 11 February 2011 (LC Paper No. CB(1)2189/10-11).	
000842 – 001142	Administration	The Administration's briefing on its paper (LC Paper No. CB(1)2177/10-11(02)).	
001143 – 002545	ALA7 Chairman	ALA7's briefing on the Legal Service Division Report (LC Paper No. LS62/10-11).	
002546 – 003222	Dr Margaret NG Administration	Dr NG's comments that the Administration's proposed committee stage amendments (CSAs) related to entry into private premises should not be included in the current exercise. She supported the advice given by ALA7 that the Administration's proposal was out of scope of the Amendment Bill.	
003223 – 003609	Mr James TO Administration	(a) Mr TO's suggestion of applying the proposed signboards control measures to signboards in buildings subject to the Mandatory Building Inspection Scheme (MBIS) / Mandatory Window Inspection Scheme (MWIS) only. (b) The Administration's disagreement with Mr TO's approach.	
003610 – 004256	Dr Priscilla LEUNG Chairman Administration	(a) Dr LEUNG's concern that the signboard control system under which certain existing unauthorized signboards would be allowed to remain after safety checks and necessary strengthening by registered professionals/contractors might lead to disputes and confusion.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(b) The Administration's response that the proposed system was similar to the Household Minor Works Validation Scheme. It was a pragmatic way to control existing unauthorized signboards to ensure public safety.</p> <p>(c) Dr LEUNG indicated no objection to the Administration proceeding with the proposed signboard control system.</p>	
004257 – 005128	Mr KAM Nai-wai Administration	<p>(a) Mr KAM's queries about:-</p> <p>(i) whether taking out the proposed building safety-related CSAs would affect the imposition of the 20% surcharge on defaulted works and the penalty for refusing to share cost of prescribed inspection or repair under MBIS/MWIS; and</p> <p>(ii) the number of signboards that would be subject to periodic inspection under the MBIS.</p> <p>(b) The Administration's response that:-</p> <p>(i) the provisions on surcharge for defaulted works and penalty for refusing to share the cost of prescribed inspection or repair were included in the original Amendment Bill and would not be affected if the proposed CSAs relating to building safety issues were ruled out of scope of the Amendment Bill, but the provisions relating to control of signboards would be removed; and</p> <p>(ii) by making reference to the proportion of old buildings</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>among the overall building stock, it was roughly estimated that there were around 70 000 unauthorized signboards at buildings aged 30 years or above.</p> <p>(c) Mr KAM's suggestion that the signboard control system should only apply to buildings under MBIS.</p> <p>(d) The Administration's response that such measures might cause more confusion and disputes during the enforcement actions.</p>	
005129 – 005953	Ms Starry LEE Administration Chairman	<p>(a) Ms LEE requested the Administration to provide the Department of Justice (DoJ)'s advice on whether the Administration's CSAs were consistent with the long title of the Amendment Bill.</p> <p>(b) Ms LEE's query on how the Administration's work would be affected if the proposed provisions of seeking a court warrant for entering a private premises for inspection and enforcement could not be included in this legislative amendment exercise.</p> <p>(c) The Administration's confirmation that the DoJ had advised that the proposed CSAs were consistent with the scope and objectives of the Amendment Bill.</p> <p>(d) The Administration's response that Building Department's efficiency in tackling building safety problems arising from building works associated with sub-divided units would be affected if the CSAs could not be passed.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(e) Ms LEE indicated support for the Administration to proceed with the proposed CSAs in the current legislative exercise, but suggested that alternative measures be adopted in case the CSAs were ruled out of scope of the Amendment Bill.</p>	
<p>005954 – 010310</p>	<p>Ms Cyd HO Chairman Administration</p>	<p>(a) Ms HO's comment that the proposed provisions on application for court warrant to enter into private premises were out of scope of the Bill. She suggested that the Administration should prepare a separate Bill covering these proposals.</p> <p>(b) Ms HO's query that, if the Administration's proposed signboard control system was implemented for buildings under the MBIS only, whether there might be any signboard straddling two buildings which were subject to different signboard controls.</p> <p>(c) The Administration's response that it was not aware of any signboard that straddled between a new and an old building.</p>	
<p>010311 – 012049</p>	<p>Mr KAM Nai-wai Administration Chairman</p>	<p>(a) Mr KAM's query on why the 20% surcharge for defaulted works or the penalty for refusal to share the cost of prescribed inspections and repair should be restricted to buildings under MBIS / MWIS only, while the proposed signboard control system would apply to all signboards.</p> <p>(b) The Administration's explanation that the proposed signboard control system was built on existing policies which applied to all signboards. The proposed surcharge for default of cost of prescribed inspection and repair works was introduced specifically in</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>respect of buildings under MBIS / MWIS.</p> <p>(c) Mr KAM's query whether such surcharge would be applicable to owners who participated in the MBIS / MWIS voluntarily.</p> <p>(d) The Administration's reply that these provisions would not be applicable to inspection and repair works conducted on a voluntary basis.</p>	
012050 – 012928	Ms Miriam LAU Chairman Administration	<p>(a) Ms LAU's suggestion that the Administration could submit inter partes application to the court rather than to seek a warrant for entering into a private premises for conducting inspection.</p> <p>(b) The Administration's explanation that the operational experience of other departments indicated that with the issue of a court warrant, owners would more readily co-operate and grant entry for inspection and / or necessary repair works.</p> <p>(c) Ms LAU's suggestion that the Administration should consider seeking Executive Council's approval to amend the long title of the Bill so as to widen its scope to cover the proposed CSAs, or introduce a separate Bill to effect the provisions.</p> <p>(d) The Administration's response that it would consider introducing the proposed CSAs in a separate bill rather than amending the long title of this Amendment Bill.</p>	
012929 – 013843	Prof Patrick LAU Chairman	<p>(a) Prof LAU supported pursuing the proposed CSAs related to entry into private premises for inspection in a separate Bill.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		(b) Prof LAU said Hon Abraham SHEK and Ir Dr Hon Raymond HO shared the same views.	
013844 – 014136	Ms Cyd HO Administration	Ms HO's comments that the Administration should take note of the advice tendered by the Legal Adviser and introduce a separate bill to pursue the proposed CSAs.	
014137 – 014305	Prof Patrick LAU Chairman	(a) Prof LAU's comments on the problems of unauthorized building works (UBW). (b) The Chairman's response that the problems of UBW were not within the scope of the Amendment Bill.	
014306 – 014837	Chairman Mr KAM Nai-wai Administration	(a) The Chairman concluded that the scrutiny of the Bill was completed. (b) The Secretariat would collect views of members who were absent from the meeting and prepare a paper summarizing the positions of members. (c) The Administration would separately reply to Mr KAM's letter dated 20 April 2011.	Clerk to take action as required in paragraph 2 of the minutes
014838 – 015135	Chairman	The next meeting would be held on 7 June 2011.	