

**立法會**  
**Legislative Council**

LC Paper No. CB(1)651/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/1/09/1

**Subcommittee on Building (Minor Works) (Fees) Regulation**

**Minutes of meeting held on  
Wednesday, 28 October 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHAN Kin-por, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LI Fung-ying, BBS, JP  
Hon Albert CHAN Wai-yip  
Hon CHEUNG Hok-ming, GBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon Tanya CHAN  
Hon IP Wai-ming, MH
- Member absent** : Hon LEE Wing-tat
- Public officers attending** : Mr Tommy YUEN Man-chung  
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  
Assistant Secretary for Development  
(Buildings) 1
- Mr LAM Siu-tong  
Deputy Director of Buildings

Mr CHEUNG Tin-cheung  
Chief Building Surveyor (Legal)  
Buildings Department

Miss Selina LAU Suet-ching  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Mr WONG Siu-yee  
Senior Council Secretary (1)7

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

Mr Simon CHEUNG  
Senior Council Secretary (1)5

Ms Christina SHIU  
Legislative Assistant (1)7

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## **I Election of Chairman**

Ir Dr Raymond HO, the member who had the highest precedence in the Council among members of the Subcommittee, presided over the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

### Election of Chairman

2. Mr CHAN Kin-por was elected as the Chairman of the Subcommittee.

### Election of Deputy Chairman

3. Members agreed that it was not necessary to elect a Deputy Chairman for the Subcommittee.

## **II Meeting with the Administration**

### Background information on the Regulation

(L.N. 178 of 2009

-- The Building (Minor Works)  
(Fees) Regulation

- File Ref: DEVB(PL-B) 30/30/120 -- Legislative Council Brief
- LC Paper No. LS1/09-10 -- Legal Service Division Report
- LC Paper No. CB(1)147/09-10(01) -- Background brief on the Building (Minor Works) (Fees) Regulation prepared by the Legislative Council Secretariat)

4. With the aid of PowerPoint presentation, the Administration briefed the Subcommittee on the Building (Minor Works) (Fees) Regulation (the Fees Regulation).

5. The Subcommittee deliberated (index of proceedings attached at **Annex**).

6. The Subcommittee requested the Administration to provide further information/written response to the following issues raised at the meeting:

- (a) the possibility of reducing the review fees for all applicants and waiving the review fees for applicants seeking review of decisions on registration application for the first time;
- (b) detailed information on the procedures for consulting the relevant sectors before setting/amending the various fees under the Fees Regulation, and the considerations and processes involved in setting/amending those fees; and
- (c) as some applicants might apply for registration as natural persons (i.e. individuals) or as non-natural persons (i.e. companies), the measures that the Administration would adopt to ensure that they were applying for registration under the appropriate category.

*(Post-meeting note: The Administration's written response (LC Paper No. CB(1)279/09-10(01) was issued to members on 6 November 2009.)*

7. The Subcommittee agreed that the Chairman should move a motion at the Council meeting on 4 November 2009 to extend the scrutiny period of the subsidiary legislation to 2 December 2009

8. The Subcommittee agreed to invite relevant organizations to give their views on the Fees Regulation at the next meeting.

**III Any other business**

Next meeting

9. Members agreed that the next meeting would be held on Monday, 9 November 2009, at 2:30 pm.
  
10. There being no other business, the meeting ended at 10:11 am.

Council Business Division 1  
Legislative Council Secretariat  
10 December 2009

**Subcommittee on Building (Minor Works) (Fees) Regulation**

**Proceedings of meeting  
on Wednesday, 28 October 2009, at 8:30 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 – 000258	Ir Dr Raymond HO	Election of Chairman	
000259 – 000359	Chairman Mr CHAN Wai-yip	Soliciting members' views on the need for electing a Deputy Chairman	
000400 – 002313	Chairman Administration	PowerPoint presentation by the Administration (LC Paper No. CB(1)177/09-10(01) issued to members via Lotus Notes on 28 October 2009)	
002314 – 003908	Ms LI Fung-ying Administration	<p>Expression of views by Ms LI Fung-ying that:</p> <ul style="list-style-type: none"> <li>(a) the sector was concerned about the fees level;</li> <li>(b) it was unfair to charge a fee for applicants seeking application reviews;</li> <li>(c) it would be difficult for the sector to understand, among other things, the registration and fee-charging arrangements;</li> <li>(d) the Administration should explain why "non-natural persons" (companies) had to pay for both application and registration, and clarify the mechanism for adjusting fees in future; and</li> <li>(e) top-up training courses should be run at a time convenient to minor works practitioners</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<p>Response of the Administration that:</p> <ul style="list-style-type: none"><li data-bbox="703 338 1257 651">(a) the Administration and a working group comprising frontline practitioners, developers, contractors and representatives of professional institutes had thoroughly discussed the proposed fees, and the working group had no adverse comments;</li><li data-bbox="703 701 1257 1014">(b) separating application and registration fees would reduce the costs to be borne by unsuccessful non-natural person applicants, there was no such need for natural person applicants in view of the high expected success rate and the low fees involved;</li><li data-bbox="703 1064 1257 1176">(c) for cost recovery, it was necessary to impose fees for seeking reviews of unsuccessful applications;</li><li data-bbox="703 1225 1257 2022">(d) small contractors and individual frontline practitioners would apply as natural persons whereas medium and large contractors capable of performing works of a larger scale would apply as non-natural persons. The mode of operation of the two types of contractors would be different. For natural persons, the contractors had to carry out works personally. For non-natural persons, the companies would hire workers to carry out works under the supervision of qualified personnel. The two groups of contractors would operate on different bases and there would not be any grey area in registration;</li></ul>	

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		<p>(e) the Administration would widely publicize the Minor Works Control System (MWCS) through the mass media, the working group and briefings to members of the construction industry and relevant stakeholders;</p> <p>(f) the Administration would duly consult relevant stakeholders when there was a need to adjust the fees in future. Any change in fees would be subject to vetting by the Legislative Council; and</p> <p>(g) consideration would be given to running the top-up training course for minor works practitioners in the evening</p>	
003909 – 004724	Miss Tanya CHAN Administration	<p>Miss Tanya CHAN's enquiry on why seeking registration on the basis of experience required a higher fee than that on the basis of qualifications; and her view that apart from educating the sector, the Administration should also educate the public on how to distinguish Registered Minor Works Contractors (RMWCs) from non-RMWCs</p> <p>Response of the Administration that:</p> <p>(a) more procedures and resources were involved in vetting applications on the basis of experience and therefore the corresponding fees would be higher; and</p> <p>(b) the Administration would promote the MWCS to the general public through television, radio, owners' corporations and management</p>	

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		<p>companies; and</p> <p>(c) the Administration would explore with relevant stakeholders on ways to achieve easy identification of RMWCs</p>	
004725 – 010151	Mr Albert CHAN Administration	<p>Expression of views by Mr Albert CHAN that:</p> <p>(a) he opposed to the registration system because it would impose a burden on small minor works contractors;</p> <p>(b) the Administration should avoid using highly technical legal terms such as "natural persons" and "non-natural persons" in its documents;</p> <p>(c) he shared the view that it was unreasonable to charge a fee for application review and considered that the review fee should be subsumed into the application fee because it was the right of an applicant to seek review of his application;</p> <p>(d) household minor works should not be covered; and</p> <p>(e) some projects might include minor works of different classes and practitioners might unknowingly fail to adhere to the necessary requirements</p> <p>Response of the Administration that:</p> <p>(a) the registration system would help rectify the existing situation where many minor works projects were</p>	



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		<p>carried out illegally;</p> <p>(b) household minor works such as replacing sanitary fittings and internal partitioning were exempted works. They were not required to comply with the MWCS requirements;</p> <p>(c) the Administration would provide guidelines to practitioners indicating that where certain works were falling within other types or items of minor works but were considered to be associated works arising from a particular minor works item (e.g. patching up repair to external wall in connection with the installation of a supporting structure for an air conditioning unit, the associated works could be undertaken by the same contractor);</p> <p>(d) while it was justifiable to impose an affordable review fee to recover the costs incurred, consideration would be given to exploring whether there was room to further adjust such fee; and</p> <p>(e) the Administration did not use the terms "natural persons" and "non-natural persons" in the Fees Regulation, and clear and layman terms would be adopted in publicity materials</p>	
010152 – 010602	Mr CHEUNG Hok-ming Administration	<p>Enquiries by Mr CHEUNG Hok-ming on:</p> <p>(a) whether construction of village buildings in the New Territories and related electricity and water</p>	

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		<p>works would in future be regulated under the MWCS; and</p> <p>(b) whether the MWCS would apply to the extension of village buildings beyond three storeys;</p> <p>Response of the Administration that:</p> <p>(a) the Buildings Ordinance (Cap. 123) (including the MWCS) did not cover buildings and related works in village areas of the New Territories that were covered by the certificate of exemption issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121); and</p> <p>(b) unauthorized building works in village houses would be dealt with under a separate mechanism</p>	
010603 – 011644	Mr Abraham SHEK Administration	<p>Expression of views by Mr Abraham SHEK that:</p> <p>(a) he supported the Fees Regulation and believed that it would help promote industrial safety and regulate minor works contractors;</p> <p>(b) the fees system was too complicated for frontline practitioners; and</p> <p>(c) given the high unemployment rate in the construction sector and the favourable pay level of civil servants, the Administration should consider not to apply the cost recovery principle in setting the fees</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Response of the Administration that:</p> <ul style="list-style-type: none"> <li>(a) the legislation was detailed as it had to cover all different scenarios;</li> <li>(b) most payments would be made in relation to two categories only, i.e. new application and renewal/restoration, and the Administration would continue to consult the relevant stakeholders through the working group and the established consultation channels to consider ways to facilitate fees payment;</li> <li>(c) the proposed fees for application and registration were reasonable and affordable;</li> <li>(d) the Administration used the 2007-2008 price level in fixing the proposed fees, which was about 10% below the present price level; and</li> <li>(e) to encourage frontline minor works practitioners to register, the Administration would provide free top-up training courses</li> </ul>	
011645 – 012820	Mr IP Wai-ming Administration	<p>Mr IP Wai-ming's enquiry on the differences between "renewal" and "restoration"; and his view that the Administration should simplify the registration procedures, lower the fees and make arrangements for RMWCs to work in construction sites without the need to register as construction workers</p> <p>Response of the Administration that:</p>	

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		<p>(a) "restoration" was for those who had been removed from the register to restore their names;</p> <p>(b) the Administration had discussed the issue with the industry, and minor works practitioners opined that the existing 99 designated trades of the Construction Workers Registration Ordinance. (Cap. 583) did not fit with their actual repertoire and a new schedule of minor works had to be created under the MWCS; and</p> <p>(c) the Administration would consider dovetailing the registration arrangements under the relevant ordinances, simplifying fee payment arrangements, and continue to consult the stakeholders and the working group concerned</p>	
012821 – 013422	Chairman Administration	<p>The Chairman's enquiry on why non-natural persons were required to pay for application and registration, whereas natural persons only had to pay a single fee for application and registration</p> <p>Response of the Administration that:</p> <p>(a) in view of the high anticipated success rate for natural persons and the low fees involved, separating application and registration fees for this category would generate inconvenience and additional administrative costs; and</p> <p>(b) the registration fees for non-natural persons were modeled</p>	

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		on the existing fees for registration of general building contractors; and those failing to register need not pay registration fees	
013423 – 014053	Ms LI Fung-ying Administration	<p>Ms LI Fung-ying's suggestion that the Subcommittee should invite relevant organizations to give their views on the Fees Regulation</p> <p>Ms LI Fung-ying's enquiries on:</p> <ul style="list-style-type: none"><li>(a) whether the Administration would consider reducing the review fees for all applicants and waiving the review fees for applicants seeking review of decisions on registration application for the first time; and</li><li>(b) as some applicants might apply for registration as natural persons (individuals) or as non-natural persons (companies), the measures that the Administration would adopt to ensure that they are applying for registration under the appropriate category</li></ul> <p>Ms LI Fung-ying's request for the Administration to provide detailed information on the procedures for consulting the relevant stakeholders before setting/amending the various fees under the Fees Regulation, and the considerations and processes involved in setting/amending those fees</p> <p>Ms LI Fung-ying's enquiry on whether the applicants were only required to pay the renewal fees for the highest class of minor works they were eligible to carry out</p> <p>The Administration's clarification that</p>	

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		on renewal of registration, RMWCs would only be required to pay for the highest class of minor works they were eligible to carry out	
014054 – 014231	Chairman	Invitation of relevant organizations to attend the next meeting and moving of a motion to extend the scrutiny period to 2 December 2009	
014232 – 014309	Chairman	Date of next meeting	

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10 December 2009