

立法會
Legislative Council

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Tel : 2869 9270

Date : 11 March 2011

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 16 March 2011

**Proposed resolution under section 34(2) of the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for the Environment will move at the Council meeting of 16 March 2011 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Buildings Energy Efficiency (Registered Energy Assessors) Regulation published in the Gazette as Legal Notice No. 19 of 2011. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Secretary will deliver when moving the proposed resolution is also attached.

(Ms Dora WAI)
for Clerk to the Legislative Council

Encl.

Interpretation and General Clauses Ordinance

Resolution

(Under section 34(2) of the Interpretation and General Clauses Ordinance
(Cap. 1))

Buildings Energy Efficiency (Registered Energy Assessors) Regulation

Resolved that the Buildings Energy Efficiency (Registered Energy Assessors) Regulation, published in the Gazette as Legal Notice No. 19 of 2011 and laid on the table of the Legislative Council on 26 January 2011, be amended as set out in the Schedule.

Schedule

Amendments to Buildings Energy Efficiency (Registered Energy Assessors) Regulation

1. **Section 3 amended (Register of Registered Energy Assessors)**
Section 3—
Repeal paragraph (c)
Substitute
“(c) the validity periods of all certificates of registration issued to the assessor under section 5(4)(b) or 6(6)(b); and”.
2. **Section 5 amended (Determination of application)**
 - (1) After section 5(2)—
Add
“(2A) For the purposes of subsection (2)(a), the Director may accept the attendance or completion of any course that the Director considers relevant as the qualification or education of the applicant.”.
 - (2) Section 5—
Repeal subsection (5)
Substitute
“(5) The registration is valid for the period beginning on the date on which the certificate of registration is issued and ending on the day before—
 - (a) the 10th anniversary of the date on which the certificate is issued; or

- (b) the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9, whichever is the earlier.”.

3. Section 7 amended (Validity of renewed registration)

- (1) Section 7(1)—

Repeal

“Subject to section 9, a registration”

Substitute

“A registration”.

- (2) Section 7(1)(a)—

Repeal

everything after “the application and”

Substitute

“ending on—

- (i) the 10th anniversary of the expiry date of the current registration; or
- (ii) the day before the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9, whichever is the earlier;”.

- (3) Section 7(1)(b)—

Repeal

“for a period of 10 years”

Substitute

“for the period”.

- (4) Section 7(1)(b)—

Repeal

“; or”

Substitute

“and ending on the day before—

- (i) the 10th anniversary of the date on which the certificate is issued; or
- (ii) the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9, whichever is the earlier; or”.

- (5) Section 7(1)(c)—

Repeal

everything after “the application and”

Substitute

“ending on—

- (i) the 10th anniversary of the expiry date of the current registration; or
- (ii) the day before the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9, whichever is the earlier;”.

4. Section 9 amended (Removal from Register of Registered Energy Assessors)

Section 9—

Repeal subsection (5).

5. Section 13 amended (Commencement of disciplinary proceedings)

Section 13(3)—

Repeal

“of prospective disciplinary proceedings to the Secretary”

Substitute

“to the Secretary under subsection (2)(b)”.

6. Section 15 amended (Disciplinary board panel)

(1) Section 15(1)(d)—

Repeal

“discipline; and”

Substitute

“discipline;”.

(2) Section 15(1)(e)—

Repeal

“(Cap. 409).”

Substitute

“(Cap. 409); and”.

(3) After section 15(1)(e)—

Add

“(f) not more than 10 members who are not, in the opinion of the Secretary, from the engineering profession.”.

(4) Section 15(3)(b), before “has”—

Add

“(in the case of an appointment under subsection (1)(a), (b), (c), (d) or (e))”.

7. Section 16 amended (Disciplinary board)

Section 16(2)—

Repeal

“all 5 categories of members specified in section 15(1)”

Substitute

“5 different categories of members specified in section 15(1), one of whom must be a member appointed under section 15(1)(f)”.

8. Section 18 amended (Hearing)

Section 18(8)—

Repeal

everything after “any document”

Substitute

“which—

- (a) tends to incriminate himself or herself; or
- (b) the person would on grounds of legal professional privilege be entitled to refuse to give or produce.”.

9. Section 19 amended (Determination of disciplinary board)

Section 19(2), after “may”—

Add

“, if it is satisfied that it is just and equitable in all circumstances of the case to do so,”.

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SEN to move a resolution to amend the Buildings Energy Efficiency (Registered Energy Assessors) Regulation

at the sitting on 16 March 2011

President,

I move to amend the Buildings Energy Efficiency (Registered Energy Assessors) Regulation ("the Regulation"), as set out in the paper circulated to Members.

2. The Regulation was tabled in the Legislative Council on 26 January 2011 for vetting. A Subcommittee was then formed to scrutinize the Regulation. I would like to express my wholehearted gratitude to the Honourable Audrey Eu, Chairperson of the Subcommittee, and other Subcommittee members for their invaluable advice during the scrutiny.

3. The Regulation was made pursuant to section 42 of the Buildings Energy Efficiency Ordinance concerning the registration and regulation of, and disciplinary matters in respect of Registered Energy Assessors ("REAs"). The principal legislation seeks to mandate the compliance with codes of practice promulgated by the Electrical and Mechanical Services Department concerning the energy efficiency of four types of building services installations and energy audits. Those installations are air-conditioning, electrical, lift and escalator and lighting installations. Under the Ordinance, REAs are required to certify the declarations by building developers before submission to the Director of Electrical and Mechanical Services ("the Director"), that suitable design provisions have been incorporated into the

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planning and design of the buildings in accordance with the codes of practice. REAs may also issue Forms of Compliance regarding major retrofitting works conducted, and carry out energy audits for commercial buildings and commercial portion of composite buildings.

4. The Administration established two Task Forces which served as platforms for discussing the legislative proposal. Members of the Task Forces include representatives from professional bodies, major chambers of commerce, property management companies, real estate developers and retail associations. During the scrutiny of this Regulation, the Legislative Council Subcommittee also invited deputations to its meeting, and the majority of them are members of the Technical Task Force. They in general showed support to the Regulation.

5. A Register of REAs (“the Register”) will be made available to the public for inspection for free. The Subcommittee considered that, apart from expiry dates of the registration of REAs, members of the public may also have interest to know when an REA's registration commences. The Subcommittee thus asked the Administration to consider including relevant information in the Register. I thus propose to amend **section 3** to this effect.

6. **Section 5** of the Regulation provides for the registration of REAs. The Subcommittee considered that the Administration should allow professionals other than engineers to be registered as REAs after completing or taking relevant courses. In fact, sections 5(1)(a), 5(1)(b) and 5(2) already allow different groups of eligible persons to apply for registration as REAs. Specifically, section 5(2) provides reasonable flexibility for the Director to

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allow registration from a competent candidate, who fulfills the prescribed conditions, including satisfying the Director that his competence is comparable to his counterparts seeking registration under section 5(1) by looking at his knowledge, qualification, education, experience and training as a whole. Whether the applicant belongs to the engineering profession or others is not a factor to be considered. Having regard to the strong views of the Subcommittee, we propose to amend **section 5** to clearly state that the Director may accept the attendance or completion of any course that the Director considers relevant as the qualification or education of the applicant.

7. Members of the Subcommittee also requested that the disciplinary board, which handles disciplinary proceedings regarding REAs, should have lay members. Hence, I propose to amend **sections 15 and 16** of the Regulation. I also propose to amend **sections 7, 9, 13, 18 and 19** of the Regulation and the amendments are minor and technical in nature. All the proposed amendments have been supported by the Subcommittee.

8. I would like to thank the Subcommittee again for its invaluable advice, and ask for Members' support for the proposed amendments. Thank you.

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