

立法會
Legislative Council

LC Paper No. CB(1)2901/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/SS/7/10

**Subcommittee on Buildings Energy Efficiency (Fees) Regulation and
Buildings Energy Efficiency (Registered Energy Assessors)
Regulation**

**Minutes of the second meeting held on
Monday, 28 February 2011, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon Tanya CHAN

Public Officers attending : **Agenda item I**

Miss Katharine CHOI
Principal Assistant Secretary for the Environment (Energy)
Environment Bureau

Mr Philip HAR
Assistant Secretary for the Environment (Energy)³
Environment Bureau

Mr LI Kwok-keung
Assistant Director/Electricity and Energy Efficiency
Electrical and Mechanical Services Department

Mr MAK Ka-chun
Chief Engineer/Energy Efficiency B
Electrical and Mechanical Services Department

Ms Mandy NG
Government Counsel
Department of Justice

**Attendance by
Invitation**

: Agenda item I

ASHRAE Hong Kong Chapter

Mr LI Siu-lam

Ms Claudia CHAN Ka-wai

The Hong Kong Institution of Engineers

Ir Dr CHAN Fuk-cheung
Senior Vice President

The Registered Elevator & Escalator Contractors
Association Ltd.

Mr LAU Chun-ming
Director / Secretary

Asian Institute of Intelligent Buildings

Mr PAU Wai-keung
Council Chairman

Building Services Operation and Maintenance
Executives Society

Mr Cary KWAN Chi-yin

Institution of Mechanical Engineers, Hong Kong
Branch

Dr C W TSO
Immediate Past Chairman

Hong Kong Association of Energy Engineers

Mr Eric K W LAU
Vice Chairman

CIE (Hong Kong)

Mr CHUNG Tse-ming
Honorary Secretary

The Hong Kong Institute of Surveyors

Mr Raymond CHAN
Chairman of Planning & Development Division

The Chartered Institution of Building Services
Engineers (Hong Kong Branch)

Mr Victor LEUNG

Trace Democracy Party Community

Mr CHAN Chung-yau
Chairman

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Mr Franco KWONG
Council Secretary (1)2

Miss Ariel SHUM
Clerical Assistant (1)2

Action

I Meeting with deputations and the Administration

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| (LC Paper No. 1421/10-11(01)) | CB(1) | - List of follow-up actions arising from the discussion at the meeting on 22 February 2011 |
| LC Paper No. 1421/10-11(02)
L.N. 18 of 2011 | CB(1) | - Administration's response to CB(1) 1421/10-11(01))
- Buildings Energy Efficiency (Fees) Regulation |
| L.N.19 of 2011 | | - Buildings Energy Efficiency (Registered Energy Assessors) Regulation |
| File Ref: ENB 24/26/22 | | - The Legislative Council Brief issued by the Environment Bureau |
| LC Paper No. LS 24/10-11 | | - Legal Service Division Report on subsidiary legislation gazetted on 21 January 2011 |
| LC Paper No. CB(1)1313/10-11 | | - Paper on Buildings Energy Efficiency (Fees) Regulation and Buildings Energy Efficiency (Registered Energy Assessors) Regulation prepared by the Legislative Council Secretariat (background brief) |
| LC Paper No. CB(1)1321/10-11(01) and (02) | No. | - Assistant Legal Adviser's letter dated 28 January 2011 to the Administration and the Administration's reply letter dated 8 February 2011 |
| LC Paper No. CB(1)1321/10-11(03) and (04) | No. | - Assistant Legal Adviser's letter dated 9 February 2011 to the Administration and the Administration 's reply letter dated 11 February 2011 |

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

Action

2. The Subcommittee received views from 11 deputations attending the meeting.

3. The Subcommittee noted that of a total of five written submissions received, three were provided by the deputations attending the meeting and two were provided by organizations/individuals who did not attend the meeting.

4. The Subcommittee noted that, among the deputations which had provided views on the Buildings Energy Efficiency (Fees) Regulation, only one considered that the fee for an application for registration as a registered energy assessor (REA) and for renewal of the registration at \$2,100 and \$1,100 respectively were on the high side, whereas the others generally considered the fee levels acceptable. At the request of the Subcommittee, the Administration provided a comparison of relevant registration and renewal fees of other categories of professionals including Authorized Person, Registered Structural Engineer and Registered Lift/Escalator Engineers for members' reference.

Admin 5. The Subcommittee conducted clause-by-clause examination of both Regulations. To facilitate members' discussion, the Administration was requested to –

- (a) provide information on the registration fees and registration renewal fees payable by other professionals (e.g. marine surveyors) who performed a similar role or duties as those of an REA;
- (b) consider a suggestion that an avenue of appeal should be provided for any aggrieved REA against decisions of the Director or a disciplinary board in disciplinary proceedings against REAs;
- (c) reconsider members' views that the effective date of registration of REAs should also be included in the Register of REAs;
- (d) address members' concern that a grace period might be needed to be granted to applicants for renewal of registration under section 6(3)(b) of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (the REA Regulation), so as to put it beyond doubt that the declarations certified and forms of

compliance/energy audit forms issued by an REA during the "time gap" of 28 days were also valid;

- (e) address the concern of the legal adviser to the Subcommittee that sections 5(5) and 9(5) of the REA Regulation as currently drafted might give rise to a doubt that whether an expired registration of REA could still be valid before the name of the REA concerned was removed by the Director of Electrical and mechanical Service in accordance with section 9(5); and
- (f) propose a resolution to amend section 18(8) of the REA Regulation to confer protection on documents subject to legal professional privilege in the situation that the disciplinary board only directed the person concerned to produce documents without requiring him to attend a hearing before the disciplinary board.

6. Members noted that the next meeting would be held on Wednesday, 2 March 2011, at 8:30 am to continue discussion on both regulations with the Administration.

II Any other business

7. There being no other business, the meeting ended at 10:38 am.

Council Business Division 1
Legislative Council Secretariat
16 August 2011

**Subcommittee on Buildings Energy Efficiency (Fees) Regulation and
Buildings Energy Efficiency (Registered Energy Assessors) Regulation**

**Proceedings of the second meeting
on Monday, 28 February 2011, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with deputations and the Administration			
000456 – 000749	Chairman	Opening remarks	
000750 – 000941	Chairman Mr LI Siu-lam, ASHRAE Hong Kong Chapter	Presentation of views (LC Paper No.: CB(1)1421/10-11(03))	
000942 – 001125	Chairman Ir Dr CHAN Fuk-cheung, The Hong Kong Institution of Engineers (HKIE) Mr KAM Nai-wai	Presentation of views (LC Paper No.: CB(1)1460/10-11(03))	
001126 – 001316	Chairman Mr LAU Chun-ming, The Registered Elevator & Escalator Contractors Association Ltd.	Presentation of views	
001317 – 001350	Chairman Mr PAU Wai-keung, Asian Institute of Intelligent Buildings (AIIB)	Expression of views that AIIB supported the need for energy conservation by taking measures to enhance the energy efficiency of building service installations. AIIB supported the proposed Buildings Energy Efficiency (Fees) Regulation and Buildings Energy Efficiency (Registered Energy Assessors) Regulation (the Regulations).	
001351 – 001515	Chairman Mr Cary KWAN Chi-yin, Building Services Operation and Maintenance Executives Society (BSOMES)	Expression of views that BSOMES supported the Regulations and the proposed levels of prescribed fees and the validity period of Certificate of Compliance Registration (COCR).	
001516 – 001730	Chairman Dr C W TSO, Institution of Mechanical Engineers, Hong Kong Branch (IMEHK)	Expression of views – (a) the levels of prescribed fees were reasonable; (b) applicants should be the members of	

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		<p>HKIE in the electrical, mechanical, environmental or building services disciplines;</p> <p>(c) the members of IMEHK should be eligible to apply for registration under section 5(2)(a)(i) of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (the REA Regulation); and</p> <p>(d) there was a need to provide an appeal mechanism to review the decisions of the disciplinary board where necessary.</p>	
001731 – 001916	Chairman Mr Eric K W LAU, Hong Kong Association of Energy Engineers (HKAEE)	Presentation of views (LC Paper No.: CB(1)1460/10-11(01))	
001917 – 002020	Chairman Mr CHUNG Tse-ming, CIE (Hong Kong) (CIEHK)	Expression of views that CIEHK supported the enactment of the Regulations.	
002021 – 002325	Chairman Mr Raymond CHAN, The Hong Kong Institute of Surveyors (HKIS)	Expression of views that members of HKIS in maintenance or property and facility management discipline should be eligible to be registered as REAs and representatives of users (such as developers, building owners, surveyors and architects) should be appointed to the disciplinary boards.	
002326 – 002418	Chairman Mr Victor LEUNG, The Chartered Institution of Building Services Engineers (Hong Kong Branch)	Expression of views that the mechanism to determine the applications for registration of REA should take into account the practical knowledge and experience of applicants in the works relating to energy efficiency in buildings.	
002419 – 002442	Chairman Mr CHAN Chung-yau, Trace Democracy Party Community	Presentation of views	
002443 – 002945	Chairman Administration	The Administration's response to the views of deputations.	
002946 – 003755	Chairman Prof Patrick LAU Administration	Prof Patrick LAU's views/concerns – (a) there was a need to specify the	

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		<p>qualifications required for REA registration under section 5(2) of the REA Regulation. Professions in other discipline such as surveyors and architects should be eligible to be registered as REAs;</p> <p>(b) it seemed to him that the prescribed fee for application for registration as an REA, i.e. \$2,100, was higher than that for registration as an authorized person; and</p> <p>(c) he shared the views of HKIS and considered that users should be appointed to the disciplinary board panel.</p> <p>The Administration's response –</p> <p>(a) the experience or knowledge required under section 5(2) and the composition of disciplinary board were explained in CB(1)1421/10-11(02); and</p> <p>(b) the prescribed fees for registration as an authorized person and renewal of registration under the Buildings Ordinance (Cap. 123) were \$4,150 and \$1,200 respectively for a period of five years.</p>	
003756 – 004029	Chairman Ir Dr Raymond HO Administration	<p>Ir Dr Raymond HO's views that users should be appointed to the disciplinary board panel; and other professions should be allowed to register as REAs.</p> <p>At the request of Ir Dr Raymond HO, the Administration agreed to provide information on the registration fees and registration renewal fees payable by other professionals (e.g. marine surveyors) who performed a similar role or duties as those of an REA.</p>	The Administration to provide information (para. 5(a) of minutes)
004030 – 004400	Chairman Mr Cary KWAN, BSOMES Administration	<p>Mr Cary KWAN's enquiry on whether several COCRs of a building with different expiry dates could be renewed in one go.</p> <p>The Administration's response –</p> <p>(a) a developer was required to submit declarations with a prescribed fee in</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>respect of a building for obtaining a COCR which was valid for 10 years; and</p> <p>(b) during the validity period, the subsequent building owner was not required to obtain additional COCRs for retrofitting works of building services installations. If there were major retrofitting works, the building owner was only required to obtain a Form of Compliance (FOC).</p>	
004401 – 005059	Chairman Mr Eric LAU, HKAEE	<p>In response to the Chairman's enquiry, Mr Eric LAU expressed further views on the requirements of post qualification experience under sections 5(1)(a) and 5(1)(b) respectively; and the required training for registration as REAs.</p> <p>The Chairman expressed concern about the application of section 5(2).</p>	
005100 – 005400	Chairman Ir Dr CHAN Fuk-cheung, HKIE	<p>Ir Dr CHAN Fuk-cheung advised that –</p> <p>(a) in line with the world trend, HKIE currently adopted the competency assessment approach for assessment of engineers, instead of through written examination. The competency assessment was mainly a peer interview. During the interview, an applicant needed to demonstrate his professional knowledge and experience based on the works he completed in the past few years; and</p> <p>(b) HKIE also provided a mature candidate route to applicants who had no relevant academic qualification.</p>	
005401 – 005629	Chairman Administration Dr C W TSO, IMEHK	<p>The Chairman invited the Administration to respond to the deputation's views about the appeal mechanism of the disciplinary board and the use of electronic forms for application and renewal of REA registrations. The Administration's response –</p> <p>(a) the decisions of disciplinary board would be subject to judicial review; and</p> <p>(b) the specified forms were in hardcopy</p>	<p>The Administration to provide information (para. 5(b) of minutes)</p>

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		forms. The use of electronic forms could be considered after the development of web platform.	
005630 – 010227	Chairman Miss Tanya CHAN Ir Dr CHAN Fuk-cheung, HKIE Administration	Miss Tanya CHAN's enquiry on the eligibility of applicants applied for registration as members of HKIE and Ir Dr CHAN Fuk-cheung's response.	
010228 – 010750	Chairman Mr Eric LAU, HKAEE Administration	Mr Eric LAU's enquiry on the "knowledge required" under section 5 and the Administration's response. The Chairman referred to the application form for REA registration provided by the Administration (Annex B to CB(1)1421/10-11(02)).	
010751 – 011529	Chairman Administration	The Administration's briefing on its paper on its response to issues raised at the last meeting on 22 February 2011 (LC Paper No.CB(1)1421/10-11(02)).	
011530 – 011810	Chairman Miss Tanya CHAN Administration	Miss Tanya CHAN's view that building owners and management companies might wish to know the validity periods of registration of REAs. The Administration's response that it would reconsider including the validity period of the registration of an REA in the Register of REAs.	The Administration to provide information (para. 5(c) of minutes)
011811 – 012930	Chairman Administration Mr KAM Nai-wai	Chairman and Mr KAM Nai-wai's concerns about the scope of application of section 5(2) and the Administration's explanation. The Administration would include an explanation of policy intent of section 5(2) in the speech to be delivered by the Secretary for the Environment on the amendments to the Regulations.	
012931 – 013355	Chairman Administration Mr KAM Nai-wai	<u>Continuation of clause-by-clause examination</u> Section 5 of the REA Regulation Chairman's enquiry on the performance pledge for processing an application for REA	

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		<p>registration.</p> <p>The Administration's response that if an applicant submitted his application with all relevant information required, the Administration could complete the registration process within 15 working days, which would be included in its performance pledge.</p>	
013356 – 013833	Chairman Administration ALA8	<p>Section 6 – Renewal of registration</p> <p>Given that a 28-day grace period would be granted to applicants for renewal of registration under section 6(3)(b) of the REA Regulation, ALA8 enquired whether the Register of REAs would show the "time gap" of 28 days.</p> <p>The Administration responded that the Register of REAs would specify the expiry date of a registration.</p>	
013834 – 014559	Chairman Administration	<p>Section 7 – Validity of renewed registration</p> <p>Chairman's enquiry about the feasibility that a grace period might be granted to applicants for renewal of registration under section 6(3)(b) of the REA Regulation, so as to put it beyond doubt that the declarations certified and FOC/energy audit forms issued by an REA during the "time gap" of 28 days were also valid.</p> <p>The Administration's response –</p> <p>(a) the Administration would issue reminders to REAs to renew their registrations a few months before the expiry;</p> <p>(b) REAs should have their responsibility to renew their registrations timely; and</p> <p>(c) The Administration agreed to reconsider the suggestion.</p>	The Administration to provide information (para. 5(d) of minutes)
014600 – 014808	Chairman Administration	Section 8 – Registration of public officers	

Time marker	Speaker	Subject(s)	Action required
014809 – 015613	Chairman Administration ALA8 Miss Tanya CHAN	Section 9 – Removal from Register of REAs ALA8's advice that sections 5(5) and 9 of the REA Regulation as currently drafted might give rise to a problem that, if there were two dates of cessation of validity in respect of the registration of an REA, there would be a doubt on which date of cessation should prevail. The Administration's response that it agreed to propose amendments to sections 5(5) and 9 to improve the drafting and address the ambiguity.	The Administration to provide information (para. 5(e) of minutes)
015614 – 015637	Chairman Administration	Section 10 – Duplicate of certificate of registration	
015638 – 020130	Chairman Administration	Section 11 – Change in particulars Discussion on the change in qualifications, such as a removal from the membership of HKIE.	
020131 – 020425	Chairman Administration	Scheduling the next meeting	
020426 – 020828	ALA8 Administration Chairman	ALA8's view that section 18(8) of the REA Regulation should be amended to confer protection on documents subject to legal professional privilege. The Administration's response that protection of legal professional privilege was provided under common law principles. At the Chairman's request, the Administration agreed to prepare an amendment to facilitate members' discussion at the next Subcommittee meeting.	The Administration to provide information (para. 5(f) of minutes)