

立法會
Legislative Council

LC Paper No. CB(1)2903/10-11
(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 third meeting held on
Wednesday, 2 March 2011, at 8:30 am
in Conference Room B 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
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon Tanya CHAN
- Member absent** : Hon Abraham SHEK Lai-him, SBS, JP
- 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

Miss Selina LAU
Senior Government Counsel
Department of Justice

Ms Mandy NG
Government Counsel
Department of Justice

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

Action

I Meeting with the Administration

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| LC Paper No. 1450/10-11(01) | CB(1) - | List of follow-up actions arising from the discussion at the meeting on 28 February 2011 |
| LC Paper No. 1450/10-11(02) | CB(1) - | Administration's response to CB(1) 1450/10-11(01)) |
| L.N. 18 of 2011 | - | 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) - 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) - 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**). The Subcommittee continued with clause-by-clause examination of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (the REA Regulation).

Admin 2. To facilitate members' discussion at the next meeting, the Administration was requested to –

- (a) propose amendment to section 13(3) of the REA Regulation in the light of the wording suggested by Assistant Legal Adviser at the meeting;
- (b) consider members' views that sections 15 and 16 should be amended to the effect that lay persons could be appointed to the disciplinary board;
- (c) amend section 18(4) to expressly provide that the legal cost incurred under section 18(4) would be met by general revenue;

Action

- (d) include in the speech to be delivered by the Secretary for the Environment the coverage of the "costs or expenses of the hearing" and the "costs or expenses of the Director or any other person in the proceedings" under section 19(2); and
- (e) in respect of the disciplinary proceedings under the REA Regulation, to advise on the standard of proof adopted and who would be charged with the responsibility to provide evidence.

3. Members noted that the next meeting would be held on Monday, 7 March 2011, at 8:30 am to continue discussion with the Administration.

II Any other business

4. There being no other business, the meeting ended at 10:00 am.

Council Business Division 1
Legislative Council Secretariat
18 August 2011

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

**Proceedings of the third meeting
on Wednesday, 2 March 2011, at 8:30 am
in Conference Room B of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action required |
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| Agenda item I – Meeting with the Administration | | | |
| 000650 – 000830 | Chairman | Opening remarks | |
| 000831 – 001410 | Administration | The Administration's briefing of its paper on its response to issues raised at the last meeting on 28 February 2011 (LC Paper No. CB(1)1450/10-11(02)). | |
| 001411 – 001632 | Chairman Administration ALA8 | Discussion on the proposed amendment to section 3 of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (the REA Regulation) (Annex to CB(1)1450/10-11(02)) | |
| 001633 – 002015 | Chairman Administration ALA8 | Discussion on the proposed amendments to sections 5, 7 and 9 of the REA Regulation | |
| 002016 – 002250 | Chairman Administration ALA8 | Discussion on the proposed amendment to section 18 of the REA Regulation | |
| 002251 – 002446 | Chairman Administration | <u>Continuation of clause-by-clause examination</u> Section 13 – Commencement of disciplinary proceedings | |
| 002447 – 002636 | Chairman Administration | Section 14 – Determination of Director | |
| 002637 – 003556 | Chairman Administration Mr KAM Nai-wai | Section 15 – Disciplinary board panel Chairman and Mr KAM Nai-wai's views that the composition of the disciplinary board should include a lay member, similar to the existing disciplinary boards for medical practitioners, social workers and solicitors. The Administration's response – (a) it would be more appropriate to appoint professional engineers to be members of disciplinary boards, as the disciplinary | |

| Time marker | Speaker | Subject(s) | Action required |
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| | | <p>proceedings might involve analysis of building energy efficiency data and/or professional judgments; and</p> <p>(b) reference had been made to the composition of the appeal board under the Buildings Energy Efficiency Ordinance (Cap. 610) (the Ordinance) which only comprised professional engineers from different disciplines.</p> | |
| 003557 – 004207 | Chairman Administration ALA8 | <p>Section 16 – Disciplinary board</p> <p>In response to Chairman's enquiries, the Administration responded that "the Secretary" meant the Secretary for the Environment. In addition, the remuneration to the members of disciplinary boards was set by the Secretary for Financial Services and the Treasury, subject to the annual adjustment for inflation. The current remuneration per hearing was some \$700.</p> <p>Discussion on the question (e) raised by ALA8 in CB(1)1321/10-11(01) and the Administration's response to the question (e) in CB(1)1321/10-11(02).</p> | |
| 004208 – 010145 | Chairman Prof Patrick LAU Administration Ir Dr Raymond HO | <p>Prof Patrick LAU's views –</p> <p>(a) the drafting of section 16(2) should be revised; and</p> <p>(b) the composition of the disciplinary board should include other professionals such as lawyers and architects so as to better ensure that the disciplinary proceedings would be conducted in a fair manner.</p> <p>The Administration's response –</p> <p>(a) during the discussion on the Buildings Energy Efficiency Bill, the relevant Bills Committee agreed that the number of members of appeal board should be five;</p> <p>(b) the inquiry committee under the Engineers Registration Ordinance (Cap. 409) (ERO) only comprised professional engineers; and</p> <p>(c) the Technical Task Force had been consulted on the proposed composition of disciplinary board.</p> | The Administration to provide information (para 2 of minutes) |

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| | | <p>Ir Dr Raymond HO pointed out that ERO had been enacted for over two decades. To keep up with the times, he shared the views of Prof Patrick LAU that the disciplinary board panel should be expanded to include a lay person category.</p> <p>Members agreed that there was no need to increase the number of members of a disciplinary board, which was proposed to be five. However, it should be specified that one of five members had to be from the lay person category.</p> <p>The Administration agreed to follow up this matter.</p> | |
| 010146 – 010800 | Chairman Administration ALA8 | On the advice of ALA8, the Administration agreed to amend section 13(3) to better reflect the policy intent that, under the scenarios covered in section 13(3), the Director of Electrical and Mechanical Services could not determine a disciplinary case pursuant to section 13(2)(a), but had to refer it to the Secretary for the Environment in accordance with section 13(2)(b). | The Administration to provide information (para 2 of minutes) |
| 010801 – 011714 | Chairman Administration ALA8 Miss Tanya CHAN | <p>Section 17 – Proceedings of disciplinary board</p> <p>Discussion on the question (g) raised by ALA8 in CB(1)1321/10-11(01) and the Administration's response to the question (g) in CB(1)1321/10-11(02).</p> <p>In response to ALA8's enquiry, the Administration advised that a disciplinary board might engage any barrister or solicitor to attend a hearing of the board to advise it on any matter relating to the hearing.</p> <p>Discussion on the legal cost incurred by the proceedings of a disciplinary board.</p> <p>To address the Chairman's concerns, the Administration agreed to propose an amendment to section 18(4) and to include in the speech to be delivered by the Secretary for the Environment the coverage of the "costs or expenses of the hearing" and the "costs or expenses of the Director or any other person in the proceedings" under section 19(2).</p> | The Administration to provide information (para 2 of minutes) |
| 011715 – 011910 | Chairman Administration ALA8 | Section 18 – Hearing | |

| Time marker | Speaker | Subject(s) | Action required |
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| 011911 – 012450 | Chairman Administration ALA8 Miss Tanya CHAN | Section 19 – Determination of disciplinary board In response to Chairman's enquiry on the standard of proof adopted and who would be charged with the responsibility to provide evidence, the Administration agreed to provide supplementary information. | The Administration to provide information (para 2 of minutes) |
| 012451 – 012738 | Chairman Administration | Scheduling the next meeting | |

Council Business Division 1
Legislative Council Secretariat
18 August 2011