



立法會秘書處

LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : LS/S/13/10-11  
本函檔號 OUR REF : 2869 9707  
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圖文傳真 FACSIMILE :

By Fax (2147 5834)

9 February 2011

Mr Philip HAR  
AS for the Env (Energy) 3  
Environment Bureau  
Energy Division  
46/F, Revenue Tower  
5 Gloucester Road  
Wanchai, HK

Dear Mr HAR,

**Buildings Energy Efficiency (Registered Energy Assessors) Regulation  
(L.N. 19 of 2011) (the Regulation)**

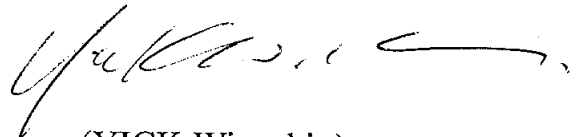
We thank you for your reply of 8 February 2011 and would have follow-up questions as follows-

- (a) In relation to your reply concerning section 18 of the Regulation and the documents subject to legal professional privilege, given that there is an express provision in section 18 of the Regulation to provide safeguards against production of any self-incriminating document (under common law principles), for the avoidance of doubt, would it be desirable to do the same in respect of documents subject to legal professional privilege? We note that similar approach has been adopted in existing legislation (see section 152FD of Companies Ordinance (Cap. 32), sections 58 and 62 of Interception of Communications and Surveillance Ordinance (Cap. 589), section 56 of Financial Reporting Council Ordinance (Cap. 588), section 380 of Securities and Futures Ordinance (Cap. 571) and section 8A of Fire Services Ordinance (Cap. 95)).
- (b) In relation to your reply concerning avenue of appeal on decisions made in the disciplinary proceedings under the Regulation-

- (i) it appears that section 32(1)(m) of the Ordinance only covers decisions of the Director of Electrical and Mechanical Services (the Director) made under section 13 of the Regulation to institute disciplinary proceedings against Registered Energy Assessors (REAs), but it is not clear whether any aggrieved REA can appeal against the determination of the Director under section 14 of the Regulation. If that is the case, REAs concerned cannot appeal against any determination of the Director in disciplinary proceedings. Does this reflect the intention of the Administration?
- (ii) In those Ordinances quoted in your reply, it is noted that the decisions or orders made in disciplinary proceedings are subject to appeal either to the Court of Appeal (the Engineers Registration Ordinance (Cap. 409) or to a statutory appeal board (the Gas Safety Ordinance (Cap. 51) and the Electricity Ordinance (Cap. 406)). However, in the Regulation, no avenue of appeal is provided against decisions made by the Director or a disciplinary board in disciplinary proceedings against REAs. Since REAs would be subject to various sanctions as a result of the disciplinary proceedings under the Regulation, please consider whether it is desirable that an opportunity of appeal be given to REAs aggrieved by decisions made in disciplinary proceedings by the Director or the disciplinary board.

It is appreciated that your further reply in both languages could reach us as soon as possible, preferably before noon on 11 February 2011.

Yours sincerely,



(YICK Wing-kin)  
Assistant Legal Adviser

cc. DoJ (Attn.: Miss Selina LAU, Sr Govt Counsel (By Fax: 2869 1302))  
LA  
SALA1