

立法會
Legislative Council

LC Paper No. CB(1) 543/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/3/11/1

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

**Minutes of the second meeting
held on Thursday, 17 November 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Tanya CHAN

Members absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Hon IP Kwok-him, GBS, JP

Public officers attending : **For item I**

Mr Rex CHANG, JP
Deputy Secretary for Development (Planning and
Lands)²

Mr Ryan CHIU
Principal Assistant Secretary for Development
(Planning and Lands)³

Mr Daniel FONG
Assistant Secretary for Development (Buildings)¹

Mr TSE Kin-leung
Assistant Director/Mandatory Building Inspection
Buildings Department

Mr Thomas LEUNG
Chief Building Surveyor/Legal Services
Buildings Department

Mr Humphrey HO
Chief Structural Engineer/Mandatory Building
Inspection 1
Buildings Department

Ms Rayne CHAI
Senior Government Counsel
Department of Justice

Attendance by invitation : For item I

Institute of Clerks of Works and Construction
Inspectorate (Hong Kong)

Mr KUNG Tung-shing
Deputy Chairman

Individual

Ms CHUI Ling-chi

**Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1**

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

Mrs Mary TANG
Senior Council Secretary (1)1

Miss Jacqueline CHUNG
Council Secretary (1)1

I. Meeting with deputations and the Administration

Meeting with deputations

The Chairman invited views from the following deputations -

- (a) Institute of Clerks of Works and Construction Inspectorate (Hong Kong); and
- (b) Ms CHUI Ling-chi.

2. The deputations presented their views to the Subcommittee.

Meeting with the Administration

(LC Paper No. CB(1) 359/11-12(01) — Marked-up copy of the Building (Administration) (Amendment) Regulation 2011, and Building (Minor Works) (Amendment) Regulation 2011)

Background information on the Regulations and Commencement Notice

Building (Inspection and Repair) Regulation (L.N. 146), Building (Administration) (Amendment) Regulation 2011 (L.N. 147), Building (Minor Works) (Amendment) Regulation 2011 (L.N. 148), and Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011 (L.N. 149)

Ref: DEVB (PL-CR) 2/15-08 — The Legislative Council Brief

LC Paper No. LS3/11-12 — Legal Service Division Report

3. The Subcommittee deliberated (Index of proceedings attached in **Annex**).

4. The Administration was requested to -

- (a) advise the selection criteria for target buildings under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS). To also advise the application of MBIS and MWIS to buildings under Operation Building Bright;
- (b) advise the basis upon which the estimated inspection cost of \$10,000 to \$20,000 per building block or an average of \$800 per unit was arrived at. To also advise how the Administration could ensure an adequate pool of registered inspectors (RIs) as

the supply of RIs and the prescribed items to be inspected under MBIS and MWIS would have a definite effect on the inspection cost;

- (c) provide previous cases of possible tender-rigging to enhance public awareness on the one hand and prevent future recurrences on the other. To also consider involving the Independent Commission Against Corruption in this respect;
- (d) advise the feasibility of a marking scheme for RIs as in the case of the Performance Assessment Scheme and Contractors' Performance Rating System for registered lift/escalator engineers/contractors. To consider specifying in the Regulations the channels through which complaints against RIs could be lodged. To also step up publicity on the penalties for non-compliance with the Regulations by RIs to facilitate better understanding on the liabilities of RIs;
- (e) consider including in the Regulations a requirement for RIs to comply with the codes of practice issued under MBIS and MWIS. Publicity should also be stepped up on the need for compliance with codes of practice by RIs;
- (f) advise the assistance and the eligibility criteria for such assistance to be provided by the Administration, Hong Kong Housing Society and Urban Renewal Authority to facilitate compliance with MBIS and MWIS by building owners, in particular elderly owners and those of buildings without owners' corporations. To also advise the circumstances where tenants could not locate the owners to carry out the necessary works within the specified timeframes; and
- (g) consider the feasibility of setting a target percentage for buildings to be eligible for assistance to be provided under MBIS and MWIS.

5. The Chairman reminded members of the next meeting scheduled for Wednesday, 30 November 2011, at 8:30 am. Members agreed that additional time-slots should be reserved for future Subcommittee meetings to continue examining the subsidiary legislation. They also noted that the Chairman would move a resolution at the Council meeting on 23 November 2011 to extend the period for amending the subsidiary legislation to 21 December 2011.

(Post-meeting note: Members were notified of the following schedule of future meetings of the Subcommittee vide LC Paper No. CB(1) 387/11-12 on 18 November 2011 -

- (a) Friday, 2 December 2011, at 8:30 am;
- (b) Monday, 5 December 2011, at 10:45 am;
- (c) Wednesday, 7 December 2011, at 8:30am; and
- (d) Thursday, 8 December 2011, at 10:45 am.)

II. Any other business

6. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
6 December 2011

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

**Proceedings of the second meeting
held on Thursday, 17 November 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with deputations and the Administration</i>			
000845 - 001214	Chairman	Welcoming remarks.	
001215 - 001828	Administration	Administration's explanation on the subsidiary legislation.	
001829 - 001927	Mr KUNG Tung-shing, Institute of Clerks of Works and Construction Inspectorate (Hong Kong)	Expression of views - (a) supported the implementation of the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS); and (b) need to monitor the modus operandi of the two schemes.	
001928 - 002044	Ms CHUI Ling-chi	Expression of views - (a) need to clarify the applicability of the prescribed inspections and repairs under MBIS and MWIS to buildings which had just undergone repairs under the Operation Building Bright (OBB); and (b) enquiry on the liabilities of owners corporations (OCs) under MWIS if individual owners refused to allow access to their premises for inspection.	
002045 - 002505	Administration Chairman	Administration's explanation - (a) OBB was jointly implemented by the Development Bureau, Buildings Department (BD); Hong Kong Housing Society (HKHS), and Urban Renewal Authority (URA) for provision of job opportunities and proper rehabilitation of buildings; (b) a Selection Panel (SP) would be set up to select target buildings, which included all buildings aged 30 years and 10 years	The Administration to advise - (a) the selection criteria for target buildings under MBIS and MWIS; and (b) the application of MBIS and MWIS to buildings under OBB.

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		<p>or above for MBIS and MWIS respectively, (including target buildings under OBB);</p> <p>(c) efforts would be made to coordinate the implementation of MBIS and MWIS such that buildings which had just undergone repairs under OBB might not be selected until after a reasonable time taking into account the condition of such buildings; and</p> <p>(d) as the notice under MWIS for inspection/repair of windows in individual premises was issued to the owner of premises, OC would have no liabilities if the premises owner refused to comply with the notice.</p>	
002506 - 003703	Mr Abraham SHEK Chairman Administration	<p>Mr Abraham SHEK's concerns/enquiries -</p> <p>(a) the supply of registered inspectors (RIs) would affect the inspection cost under MBIS and MWIS;</p> <p>(b) whether consideration could be given to relaxing the qualifications for RIs to include registered contractors;</p> <p>(c) whether a ceiling price could be set for the inspection cost under MBIS and MWIS; and</p> <p>(d) the number of aged buildings which were in need of repair.</p> <p>Chairman's enquiries -</p> <p>(a) an indicative inspection cost for say, a six-storey building of 50 years old;</p> <p>(b) the assistance to be provided to owners to carry out the prescribed inspections and repairs; and</p> <p>(c) the number of eligible RIs.</p> <p>Administration's response -</p> <p>(a) MBIS would cover private buildings aged 30 years or above. Of the some 18 500 such buildings in Hong Kong,</p>	The Administration to advise the basis upon which the estimated inspection cost of \$10,000 to \$20,000 per building block or an average of \$800 per unit was arrived at.

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		<p>4 000 were aged 50 years or above;</p> <p>(b) the estimated inspection cost would be around \$10,000 to \$20,000 per building block or \$400 to \$2,400 per flat with an average of \$800 per unit, depending on the total number of units;</p> <p>(c) subsidies would be made available for eligible owners to carry out the first mandatory building inspection;</p> <p>(d) RIs would need to be suitably qualified to carry out the prescribed inspection works. To provide more choices for building owners and to enhance market competition, the pool of eligible service providers would cover authorized persons, registered structural engineers, registered architects, registered professional engineers and registered professional surveyors. There were about 8 000 such building professionals available in Hong Kong;</p> <p>(e) Hong Kong Institute of Surveyors (HKIS) assessed that a full-time RI could inspect up to four buildings per month. As the target of MBIS was to inspect some 2 000 selected target buildings per year, about 100 active RIs would be sufficient to meet the anticipated demand; and</p> <p>(f) to facilitate healthy competition, MBIS and MWIS would fully commence when an adequate number of about 300 RIs were available in the market for the inspection of first batch of target buildings.</p> <p>Chairman's remark that the estimated inspection cost of \$10,000 to \$20,000 per building block might not be realistic.</p>	
003704 - 004805	Ms LI Fung-ying Administration Chairman	<p>Ms LI Fung-ying's concerns/enquiries -</p> <p>(a) the supply of RIs would have a definite effect on inspection cost;</p> <p>(b) the estimated number of buildings aged 30 years or above which did not have</p>	<p>The Administration to advise -</p> <p>(a) how it could ensure an adequate pool of RIs as the supply of RIs and the</p>

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		<p>OCs, and whether assistance would be provided to facilitate compliance with MBIS and MWIS by owners of these buildings; and</p> <p>(c) there were cases where building owners could not be contacted for repairs.</p> <p>Administration's response -</p> <p>(a) HKHS and URA would provide technical and financial assistance to building owners during the various stages of building inspection and repair. These would include provision of loans and subsidies for the cost of first mandatory building inspection and repair works to eligible owners as well as financial assistance of \$3,000 for buildings to set up OCs;</p> <p>(b) upon selection of target buildings, BD would issue advisory letters to respective owners notifying them of their statutory responsibility for mandatory building inspection under MBIS/MWIS. Formal notices would be served six months after the issuance of advisory letters; and</p> <p>(c) the responsibility for compliance with statutory notices under MBIS and MWIS rested with building owners not tenants.</p>	<p>prescribed items to be inspected under MBIS and MWIS would have a definite effect on the inspection cost; and</p> <p>(b) the circumstances where tenants could not locate the owners to carry out the necessary works within the specified timeframes.</p>
004806 - 010005	Mr KAM Nai-wai Chairman Administration	<p>Mr KAM Nai-wai's views -</p> <p>(a) need to define "eligible owners";</p> <p>(b) need to set out the liability of RIs and the channel for complaints against misconduct/negligence of RIs; and</p> <p>(c) as tender-rigging was not uncommon in building repair works (as evidenced by the 25 suspected cases of collusive tendering under OBB), need to provide previous cases of possible tender-rigging to enhance public awareness and prevent future recurrences.</p> <p>Administration's response -</p> <p>(a) HKHS and URA would provide</p>	<p>The Administration to provide previous cases of possible tender-rigging to enhance public awareness on the one hand and prevent future recurrences on the other. To also consider involving the ICAC in this respect.</p>

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		<p>one-stop technical and financial assistance for building owners under MBIS and MWIS. These would include subsidies for the cost of first mandatory building inspection. The rateable values of properties might be one of the eligibility criteria for such subsidies;</p> <p>(b) publicity on MBIS and MWIS would be stepped up in due course;</p> <p>(c) RIs were required to make a declaration on integrity and anti-tender-rigging on submission of tenders. They would face criminal charges and/or disciplinary actions for non-compliance with the law. Complaints against RIs could be dealt with by the Building Authority (BA), the professional institutes or the Police as appropriate. The Independent Commission Against Corruption (ICAC) would investigate suspected cases of corruption and tender-rigging;</p> <p>(d) Practice Notes on Best Practices on Tendering Procedures would be issued to provide clear guidelines for building professionals to follow throughout the whole tendering process.</p>	
010006 - 011847	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's views -</p> <p>(a) the inspection cost of \$10,000 to \$20,000 per building block might not be a realistic one;</p> <p>(b) the repair cost was more of a concern than the inspection cost as the former would depend on the scale of works and condition of buildings;</p> <p>(c) there should be clear guidelines on the standard of inspection and repair to facilitate open tendering. Consideration should be given to working out a table of charges so that OCs would have a reference on the costs to be incurred from the prescribed inspection; and</p>	

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		<p>(d) whether unauthorized building works (UBWs) would be dealt with under MBIS and MWIS.</p> <p>Chairman's query on whether a full-time RI could be able to inspect up to four buildings per month.</p> <p>Administration's response -</p> <p>(a) the inspection cost of about \$10,000 to \$20,000 per building block of less than 50 units was an estimate based on assumed work hours and previous experience in maintenance and repair work carried out by building owners. HKHS had also arrived at a similar figure on the inspection cost per flat following a trial on prescribed inspections in accordance with the draft Code of Practice for MBIS and MWIS which had been uploaded onto BD's website in August 2011. The Code also provided guidelines on inspection of UBWs in common areas/external walls which had to be recorded in the inspection report; and</p> <p>(b) RIs appointed to carry out prescribed inspections were required to assess the safety of buildings. As for UBWs, RIs were only required to record them in the inspection report unless UBWs were in immediate danger which should be promptly reported to BA for taking immediate action. BA would take enforcement action against UBWs recorded in the report in accordance with the existing policies.</p>	
011848 - 012653	Mr CHEUNG Hok-ming Administration Chairman	<p>Mr CHEUNG Hok-ming's views -</p> <p>(a) some owners, particularly elderly owners living in single-block aged buildings without OCs, might not be able to afford the cost incurred from prescribed inspections;</p> <p>(b) need to advise the eligibility criteria for subsidies for the first mandatory building inspection; and</p>	<p>The Administration to advise the assistance and the eligibility criteria for such assistance to be provided by the Administration, HKHS and URA to facilitate compliance with MBIS and MWIS by building owners, in particular elderly owners and</p>

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		<p>(c) there might not be enough RIs for MBIS/MWIS given that a number of other schemes (including the registration of UBWs in the New Territories) which also required certification by building professionals. Besides, the inspection charge under MBIS/MWIS might not be attractive for these professionals.</p> <p>Administration's response -</p> <p>(a) the eligibility criteria and the level of subsidy for the first mandatory building inspection had yet to be finalized. As the statutory notices for prescribed inspections under MBIS cum MWIS would not be issued until the last quarter of 2012, this would allow ample time to work out the eligibility criteria and level of subsidy with reference to other similar schemes;</p> <p>(b) there was close liaison with professional institutes on the registration of RIs. For example, the HKIS and its members had indicated interest in registering as RIs; and</p> <p>(c) the qualifications of building professionals required for the registration of UBWs in the New Territories were not the same as RIs for MBIS/MWIS.</p>	<p>those of buildings without OCs.</p>
012654 - 013302	Miss Tanya CHAN Administration Chairman	<p>Miss Tanya CHAN's views -</p> <p>(a) declaration of interest as a non-executive director of URA;</p> <p>(b) need to apprise owners of the eligibility criteria and level of cost for inspection and repair works under MBIS/MWIS; and</p> <p>(c) might need to involve ICAC in the tendering process.</p> <p>Administration's response -</p> <p>(a) HKIS would issue indicative fees for prescribed inspections and indicative price for common repair items for owners' reference; and</p>	

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		(b) ICAC would be involved in the publicity programme on MBIS/MWIS.	
013303 - 014617	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's requests -</p> <p>(a) need to specify in the Regulations the channels through which complaints against RIs could be lodged;</p> <p>(b) advise the feasibility of a marking scheme for RIs as in the case of the Performance Assessment Scheme and Contractors' Performance Rating System for registered lift/escalator engineers/contractors, to facilitate OCs in identifying suitable RIs;</p> <p>(c) consider the feasibility of setting a target percentage for buildings to be eligible for assistance to be provided under MBIS and MWIS;</p> <p>(d) consider including in the Regulations a requirement for RIs to comply with the codes of practice issued under MBIS and MWIS; and</p> <p>(e) step up publicity on the penalties for non-compliance with the Regulations by RIs to facilitate better understanding on the liabilities of RIs.</p> <p>Administration's response -</p> <p>(a) there were various channels, including the Police and BD, through which complaints against dishonesty, misconduct or negligence of RIs could be lodged. Consideration would be given to including these channels in the publicity materials for MBIS/MWIS; and</p> <p>(b) there was currently no Performance Rating System for building professionals, but BD had been publicizing records on building professionals who had been subject to disciplinary actions due to misconduct/negligence.</p>	<p>The Administration to -</p> <p>(a) specify in the Regulations the channels through which complaints against RIs could be lodged;</p> <p>(b) advise the feasibility of a marking scheme for RIs as in the case of the Performance Assessment Scheme and Contractors' Performance Rating System for registered lift/escalator engineers/contractors;</p> <p>(c) consider the feasibility of setting a target percentage for buildings to be eligible for assistance to be provided under MBIS and MWIS;</p> <p>(d) consider including in the Regulations a requirement for RIs to comply with the codes of practice issued under MBIS and MWIS;</p> <p>(e) step up publicity on the penalties for non-compliance with the Regulations by RIs to facilitate better understanding on the liabilities of</p>

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			<p>RIs; and</p> <p>(f) step up publicity on the need for compliance with codes of practice by RIs.</p>
014618 - 015128	<p>Chairman Ms CHUI Ling-chi Administration</p>	<p>Ms CHUI Ling-chi's concerns about tender-rigging in building repair works under OBB and the interfacing between OBB and MWIS/MBIS.</p> <p>Administration's view that the problems arising from OBB were not related to the Regulations and should be dealt with separately by BD.</p>	
015129 - 015242	<p>Chairman Administration Mr KAM Nai-wai Administration Assistant Legal Adviser 1 (ALA1)</p>	<p>Clause-by-clause examination of the Building (Inspection and Repair) Regulation</p> <p>Clause 1 - Commencement Mr KAM Nai-wai's enquiries on the commencement of the Regulation, and whether members could amend the commencement date.</p> <p>Administration's advice that the Regulation would come into operation on a day to be appointed by the Secretary for Development by way of notice published in the Gazette.</p>	<p>ALA1 to advise whether members could amend the commencement date of the Regulation when the relevant Commencement Notice was published in the Gazette.</p>
015243 - 020124	<p>Chairman Administration</p>	<p>Clauses 2 and 3</p>	
020125 - 020224	<p>Chairman</p>	<p>The next meeting would be held on Wednesday, 30 November 2011, at 8:30 am. Additional time-slots would be reserved for future meetings of the Subcommittee. It was noted that the Chairman would move a resolution at the Council meeting on 23 November 2011 to extend the period for amending the subsidiary legislation to 21 December 2011.</p>	