

立法會
Legislative Council

LC Paper No. CB(1) 1462/11-12
(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 third meeting
held on Wednesday, 30 November 2011, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
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 Starry LEE Wai-king, JP
Hon IP Kwok-him, GBS, JP
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP
Hon Cyd HO Sau-lan
Hon Tanya CHAN
- 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 HUI Siu-wai
Deputy Director of Buildings

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

Mr Thomas LEUNG
Chief Building Surveyor/Legal Services
Buildings Department

Ms Rayne CHAI
Senior Government Counsel
Department of Justice

Mr Henry CHAN
Government Counsel
Department of Justice

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

I. Confirmation of minutes

(LC Paper No. CB(1) 437/11-12 — Minutes of the meeting held
on 11 November 2011)

The minutes of the meeting held on 11 November 2011 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1) 453/11-12(01) — Background brief on the subsidiary legislation for the implementation of Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme
- LC Paper No. CB(1) 453/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 17 November 2011
- LC Paper No. CB(1) 480/11-12(01) — Administration's response to CB(1) 453/11-12(02)
- LC Paper No. CB(1) 480/11-12(02) — Submission from a member of the public (Chinese version only))

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

3. The Administration was requested to -

- (a) advise how the Administration could ensure compliance of registered inspectors (RIs) if a marking scheme for RIs was not considered feasible. To facilitate building owners to ascertain the performance of RIs, consideration should be given to providing a checklist on the major duties of RIs for reference of owners. To also consider including in a conspicuous space of the publicity materials for the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS) the channels through which complaints against RIs could be lodged with a view to enhancing public awareness on these channels;
- (b) advise the means through which the Administration could approach and contact owners of buildings without any form of management to fulfill the statutory requirements under MBIS and MWIS;
- (c) consider setting a set of standard criteria for assessing the eligibility of building owners for the financial assistance to be provided to facilitate compliance with MBIS and MWIS. To also advise the Administration's stance on the proper range of financial assistance to be provided to owners;

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- (d) advise the application of clause 5(2)(c) to target buildings given the different fire safety provisions under the Buildings Ordinance (Cap. 123), Fire Safety (Commercial Premises) Ordinance (Cap. 502) and Fire Safety (Buildings) Ordinance (Cap. 572);
- (e) advise whether and how the structure of buildings could be inspected under MBIS;
- (f) make it clear to owners that the cost of repair or testing of building was not part of the inspection cost. Given that the repair cost was probably much higher than the inspection cost, consideration should be given to providing financial assistance to building owners in need to carry out the repair;
- (g) provide a flowchart showing the different stages of MBIS and MWIS and the lead time between each stage; and
- (h) give an undertaking that the Administration would, in consultation with the professional institutes, provide clear guidelines in the Code of Practice to facilitate RIs to ascertain the presence of unauthorized building works in the course of building inspection as these should be included in their reports to the Building Authority.

4. Members agreed to continue discussion at the next meeting scheduled for Friday, 2 December 2011, at 8:30 am.

III. Any other business

5. There being no other business, the meeting ended at 10:30 am.

**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 third meeting
held on Wednesday, 30 November 2011, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000057 - 000210	Chairman	The minutes of the meeting held on 11 November 2011 (LC Paper No. CB(1) 437/11-12) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000211 - 001340	Chairman Administration	Administration's explanation on its response to the list of follow-up actions arising from the discussion at the meeting on 17 November 2011 (LC Paper No. CB(1) 480/11-12(01)).	
001341 - 002027	Mr KAM Nai-wai Chairman Administration	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) how the Administration could ensure compliance of registered inspectors (RIs) if a marking scheme for RIs was not considered feasible, and how to enhance public awareness on the complaint channels; and</p> <p>(b) when the review of the eligibility criteria for financial assistance under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS) would be completed by Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA).</p> <p>Administration's response -</p> <p>(a) due to the great variety and volume of work of RIs, it would be difficult let alone fair to conduct regular assessment on the performance of RIs who had to make a lot of professional judgment in the course of work;</p>	<p>The Administration to -</p> <p>(a) advise how it could ensure compliance of RIs if a marking scheme for RIs was not considered feasible; and</p> <p>(b) consider including in a conspicuous space of the publicity materials for MBIS and MWIS the channels through which complaints against RIs could be lodged with a view to enhancing public awareness on these channels.</p>

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		<p>(b) complaint channels would be clearly set out in the relevant publicity materials; and</p> <p>(c) it was expected that HKHS and URA would complete the review by early 2012, in time before the notices of prescribed inspection for the first batch of target buildings under MBIS would be issued in the last quarter of 2012.</p>	
002028 - 003147	Mr IP Kwok-him Chairman Administration	<p>Mr IP Kwok-him's views -</p> <p>(a) need for clear guidelines on how the performance of RIs could be assessed, and how complaints against RIs could be lodged; and</p> <p>(b) more public discussion should be held on the eligibility criteria for financial assistance under MBIS and MWIS rather than relying on the review by HKHS and URA, which was mainly based on the rateable value of properties.</p> <p>Administration's response -</p> <p>(a) the duties and responsibilities of RIs had been clearly set out in the Regulations. Audit checks would be made on 30% of the inspection/completion reports to ensure compliance with the required standards. Useful information would be included in the publicity materials to facilitate building owners to ascertain the performance of RIs;</p> <p>(b) HKHS and URA would provide one-stop technical and financial assistance for building owners to comply with MBIS and MWIS;</p> <p>(c) it was not considered appropriate to set a target percentage for buildings to be eligible for financial assistance lest this might benefit building owners not genuinely in need; and</p> <p>(d) rateable value of properties was not the only factor in considering the eligibility for financial assistance. Other methods,</p>	

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		such as means test, would also be adopted in deciding the eligibility for certain financial assistance schemes.	
003148 - 003517	Ms LI Fung-ying Administration	<p>Ms LI Fung-ying's request for provision of assistance to elderly owners, particularly those of aged buildings without any form of management, who might not be able to receive the notices for prescribed inspections under MBIS and MWIS due to various reasons.</p> <p>Administration's response -</p> <p>(a) efforts would be made to assist owners in setting up owners' corporation (OCs); and</p> <p>(b) a mechanism would be worked out to notify individual owners of buildings without OCs.</p>	The Administration to advise the means through which it could approach and contact owners of buildings without any form of management to fulfill the statutory requirements under MBIS and MWIS
003518 - 004329	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's views -</p> <p>(a) need for clear guidelines in the Code of Practice to facilitate compliance by RIs; and</p> <p>(b) it was important for RIs to make recommendations on how best the buildings should be repaired given that repair cost could be very substantial.</p> <p>Administration's response that the draft Code of Practice had been issued in August 2011 following extensive consultation.</p>	
004330 - 004447	Chairman Assistant Legal Adviser 1 (ALA1) Mr KAM Nai-wai	<p>ALA1's explanation on the power of the Legislative Council in amending commencement notices -</p> <p>(a) commencement notice was a piece of subsidiary legislation subject to scrutiny and amendment by the Legislative Council; and</p> <p>(b) while the Legislative Council could repeal a commencement notice, the Administration could introduce an amended version immediately after the</p>	

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		relevant commencement notice had been repealed.	
004448 - 004911	Mr KAM Nai-wai Administration	<p>Mr KAM Nai-wai's views -</p> <p>(a) need for a checklist on the major duties of RIs for reference of owners to facilitate them in ascertaining the performance of RIs; and</p> <p>(b) standard criteria should be established to assess the eligibility of buildings for financial assistance.</p> <p>Administration's response -</p> <p>(a) publicity and education programmes would be made to enhance public understanding on MBIS/MWIS;</p> <p>(b) eligibility criteria for financial assistance would be worked out having regard to the estimated inspection cost and affordability of building owners; and</p> <p>(c) it was not appropriate to set a target number of buildings which would be eligible for financial assistance.</p>	<p>The Administration to -</p> <p>(a) consider providing a checklist on the major duties of RIs for reference of owners to facilitate them in ascertaining the performance of RIs;</p> <p>(b) consider setting a set of standard criteria for assessing the eligibility of building owners for the financial assistance to be provided to facilitate compliance with MBIS and MWIS; and</p> <p>(c) advise its stance on the proper range of financial assistance to be provided to owners.</p>
004912 - 005609	Chairman Administration	<p>Continuation of clause-by-clause examination of the Building (Inspection and Repair) Regulation</p> <p>Part 2 Clause 4 - Scope of prescribed inspection</p>	
005610 - 010535	Chairman Mr IP Kwok-him Administration	<p>Clause 5 - Standard of prescribed inspection</p> <p>Mr IP Kwok-him's enquiry on the building and fire safety standards to be applied in building inspections.</p> <p>Administration's explanation -</p> <p>(a) commercial, domestic or composite buildings completed before</p>	

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		<p>1 March 1987 were required to comply with the Fire Safety (Commercial Premises) Ordinance (Cap. 502) and/or Fire Safety (Buildings) Ordinance (Cap. 572) up to the standard as stated in the three relevant Codes of Practice on fire safety issued in 1995/1996 by the Building Authority (BA);</p> <p>(b) if the building concerned never had fire safety improvement works completed, other standards as stated in clauses 5(2)(a), (b) and (d) would apply. Nevertheless, RIs would recommend building owners to carry out fire safety enhancement works as stipulated in the said codes together with repairs to ensure compliance with the statutory provisions and avoid double handling;</p> <p>(c) if the building concerned had undergone fire safety improvement works under Cap. 502 or Cap. 572, the improved standard would apply accordingly; and</p> <p>(d) if more than one standard was applicable to a building, reference should be made to the latest of applicable standards.</p>	
010536 - 011042	Mr KAM Nai-wai Chairman Administration	<p>Mr KAM Nai-wai's views -</p> <p>(a) some owners of aged buildings might not be able to comply with the fire safety requirements under Cap. 502 and Cap. 572, such as the provision of water tank due to insufficient space; and</p> <p>(b) need to clarify the application of clause 5(2)(c) to target buildings given the different fire and building safety requirements.</p>	
011043 - 011642	Mr IP Kwok-him Chairman ALA1 Administration	<p>Mr IP Kwok-him's view that the improved standard should apply to buildings to which notices for compliance with building and/or fire safety provisions had been issued.</p> <p>ALA1's remark that the standard referred to in clause 5(2)(c) applied to improvements works which had been completed in respect</p>	The Administration to advise the application of clause 5(2)(c) to target buildings given the different fire safety provisions under the Buildings Ordinance (Cap. 123), Fire Safety

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		<p>of buildings in accordance with Cap. 502 and Cap. 572.</p> <p>Chairman's view that it should be clearly set out in clause 5(2)(c) the standard to be adopted for prescribed inspections.</p> <p>Administration's explanation that the fire safety provisions under the Buildings Ordinance (Cap. 123) mainly covered the means of escape, means of access for fire fighting and rescue and fire resisting construction and not fire services installations and equipment (such as fire service water tanks) which would be dealt with separately by the Fire Services Department (FSD) under Cap. 502 and Cap. 572.</p>	<p>(Commercial Premises) Ordinance (Cap. 502) and Fire Safety (Buildings) Ordinance (Cap. 572).</p>
011643 - 012300	Prof Patrick LAU Administration Chairman	<p>Prof Patrick LAU's views -</p> <p>(a) there should be clear guidelines on the standards to be adopted for prescribed inspections; and</p> <p>(b) consideration should be given to refining clause 5(2)(a) such that reference should be made to the standard in the latest building plans.</p> <p>Administration's explanation that clause 5(2)(a) had already provided that reference should be made to the standard of works as shown in any plan approved by BA in respect of the building, including the plans for alteration and addition after the completion of the building. For buildings which already had the fire safety measures improved under Cap. 502 or Cap. 572, since the improvements usually involved works not requiring approval (except addition of fire service water tanks) and therefore might not be shown on the approved building plans, RIs should distinguish on site whether such improvements had already been carried out or not. RIs should approach the Buildings Department (BD) for records if in doubt.</p>	
012301 - 012625	Ms LI Fung-ying Administration	Ms LI Fung-ying's concerns -	

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		<p>(a) buildings might still be unable to meet the fire safety provisions after completion of repair works under MBIS, given the different requirements of BD and FSD; and</p> <p>(b) BD and FSD might need to work out a unified set of fire standards.</p> <p>Administration's response that RIs would advise owners on what should be done to meet the fire safety improvement requirements under Cap. 502 and Cap. 572 where applicable, e.g. whether the proposed repair contract should also cover, apart from meeting the requirements of BA on fire safety construction, those requirements of the Director of Fire Services on fire services installation and equipment.</p>	
012626 - 012803	Prof Patrick LAU	Prof Patrick LAU's support for the use of the latest safety standards for building inspection to ensure building safety.	
012804 - 013034	Ms LI Fung-ying Administration Chairman	<p>Ms LI Fung-ying's concern about the need to comply with new fire safety requirements introduced after completion of repair works under MBIS.</p> <p>Administration's response that RIs would be aware of new safety requirements and would advise owners accordingly. If in doubt, the RIs could always approach BD for relevant records.</p>	
013035 - 013110	Chairman Administration	<p>Chairman's enquiry on the number of buildings completed before 1 March 1987 which were required to comply with Cap. 502 and Cap. 572.</p> <p>Administration's response that the current estimate for the number of target buildings under Cap. 572 was approximately 13,000 which included composite or domestic uses, and that the number of commercial buildings under Cap. 502 was approximately 1 700. The inspection of the composite buildings would be completed around 2016 followed by inspection of domestic buildings.</p>	

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013111 - 013307	Administration	Division 2 - Prescribed Repair Clause 6 - Introductory Clause 7 - Scope of prescribed repair Clause 8 - Standard of prescribed repair	
013308 - 013549	Prof Patrick LAU Chairman Administration	Prof Patrick LAU's views - (a) owners should be made aware that the costs of repair and testing were additional to the average inspection cost of \$800 per unit; and (b) given that the repair cost was probably much higher than the inspection cost, consideration should be given to providing financial assistance to building owners in need to carry out the repair.	The Administration to make it clear to owners that the cost of repair or testing of building was not part of the inspection cost. Given that the repair cost was probably much higher than the inspection cost, consideration should be given to providing financial assistance to building owners in need to carry out the repair.
013550 - 014121	Chairman Administration Prof Patrick LAU	Chairman's enquiry on the time frame for repair works to be carried out after prescribed inspections. Administration's response - (a) building owners would be given three months to prepare documentation for prescribed inspection and engagement of RIs; (b) RIs would be allowed three months to complete the prescribed inspection; (c) owners were expected to complete the repair works in six months' time; and (d) testing might be carried out in the course of repair. Prof Patrick LAU's concern about the need to inspect the structure of buildings to ensure safety.	The Administration to - (a) advise whether and how the structure of buildings could be inspected under MBIS; and (b) provide a flowchart showing the different stages of MBIS and MWIS and the lead time between each stage.
014122 - 014140	Administration Chairman	Division 3 - Projection Clause 9 - Projection	
014141 - 014247	Chairman Administration	Division 4 - Representative of Qualified Person	

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		Clause 10- Representative of qualified person for purpose of section 30E(4) of Ordinance	
014248 - 014451	Chairman Administration	Part 3 Clause 11 - Notification of appointment of registered inspector and qualified person	
014452 - 015716	Chairman Administration Prof Patrick LAU	<p>Clause 12 - Documents to be submitted on completion of prescribed inspection in respect of buildings</p> <p>Prof Patrick LAU's view that clear guidelines should be provided in the Code of Practice to facilitate RIs to ascertain the presence of unauthorized building works (UBWs) in the course of building inspection as required under clause 12(2)(a)(v).</p> <p>Administration's explanation that while RIs were required to report on the presence of UBWs in the course of building inspection, the problem of UBWs would be dealt with separately from MBIS. However, RIs were obliged to report to BA any emergency situations for immediate rectification.</p>	The Administration to give an undertaking that it would, in consultation with the professional institutes, provide clear guidelines in the Code of Practice to facilitate RIs to ascertain the presence of UBWs in the course of building inspection as these should be included in their reports to BA.
015717 - 015921	Chairman Administration	Clause 13 - Documents to be submitted on completion of prescribed repair in respect of buildings	
015922 - 020502	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU's view that MBIS was in effect a mandatory repair scheme. Hence, owners should be made aware of the cost implications of repair.</p> <p>Administration's explanation -</p> <p>(a) the purpose of MBIS/MWIS was to ensure building safety which was indeed owners' responsibility; and</p> <p>(b) HKHS and URA would provide technical and financial assistance for both inspection and repair to owners where necessary.</p>	
020503 - 020620	Chairman	The next meeting would be held on Friday, 2 December 2011, at 8:30 am.	