

LC Paper No. CB(1)523/99-00
(These minutes have been
seen by the Administration)

Ref: CB1/BC/9/98/2

**Bills Committee on
Electricity (Amendment) Bill 1999**

**Minutes of meeting held on
Wednesday, 23 June 1999, at 10:45 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Fred LI Wah-ming (Chairman)
Dr Hon Raymond HO Chung-tai, JP
Hon Ronald ARCULLI, JP
Hon CHAN Kam-lam
Hon SIN Chung-kai

Public officers attending : For Agenda Item III

Mr Eric JOHNSON
Principal Assistant Secretary for Economic Services

Mr Roger LAI Sze-hoi
Regulatory Services Controller, Electrical and
Mechanical Services Department, EMSD

Mr Stephen CHAN Hung-cheung
Acting Chief Engineer (Electricity Legislation),
EMSD

Mr SIU Kam-wah
Senior Engineer (Nuclear & Utility Safety), EMSD

Mr Geoffrey FOX
Senior Assistant Law Draftsman

Attendance by invitation : For Agenda Item II
Hong Kong Construction Association

Mr Patrick CHAN
Secretary General

Clerk in attendance : Ms Estella CHAN
Chief Assistant Secretary (1)4

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Daniel HUI
Senior Assistant Secretary (1)5

I Confirmation of minutes

(LC Paper No. CB(1)1536/98-99 - Minutes of meeting held on 12 February 1999)

Minutes of the meeting held on 12 February 1999 were confirmed.

II Discussion with deputations

(LC Paper No. CB(1)1540/98-99 - Submission of the Electrical and Mechanical Contractors' Association)

LC Paper No. CB(1)1555/98-99 - Submission of the Hong Kong Construction Association)

2. Members noted that among the two organizations which were invited to make submissions on the Bill and the draft Electricity Supply Lines (Protection) Regulation (the Regulation) only the Hong Kong Construction Association had agreed to attend the meeting.

Meeting with the Hong Kong Construction Association (HKCA)

3. Briefing members on HKCA's comments on the Bill and the draft Regulation, Mr Patrick CHAN, Secretary General of HKCA, said that the Association generally supported the objective of the Bill and the draft Regulation which was safety oriented. The Association however objected to the proposed imprisonment penalty because the consequences of damaging electricity supply lines should be less serious than those of damaging gas pipes

and the Association was of the view that a fine would achieve a sufficient deterrent effect. The Association was also concerned about the availability of sufficient registered "competent persons" after enactment of the draft Regulation. He added that a sufficient grace period should be allowed before the Regulation became effective so that the industry would be able to adjust to the new requirements. He urged the Administration to consult with the industry before finalizing an effective date for the Regulation.

4. In reply to Mr Ronald ARCULLI's question on the industry's concern about the availability of "competent persons", Mr Patrick CHAN elaborated that currently the work of locating underground electricity supply lines at work sites was usually carried out by site supervisors who were experienced workers and did not normally possess academic or professional qualifications. The Association doubted about the sufficient supply of registered competent persons if the qualifying requirements for registration as a competent person included academic or professional qualifications. In this regard, the Chairman said that the Administration had indicated that the pre-requisite for registration as a competent person was attendance of a 2-day training course organized by the Construction Industry Training Authority (CITA) on use of a cable locating device.

III Discussion with the Administration

(LC Paper No. CB(1)1571/98-99 - Letter dated 22 June 1999 from the Administration)

The Administration's Responses to comments of the Hong Kong Construction Association and the Electrical and Mechanical Contractors' Association

5. Responding to HKCA's concern about availability of sufficient "competent persons", the Chief Engineer/Electricity Legislation(CE/EL) advised that currently there were about 250 persons qualified for registration as "competent persons". On the basis that there were about 1,500 work sites in the vicinity of underground electricity supply lines at any one time in Hong Kong and that each of these work sites lasted for seven days, these 250 "competent persons" should be able to meet the demand for their service because a competent person could provide service to a few work sites during a period of time. Moreover, training courses provided by the CITA would be able to churn out about 30 potential competent persons per week, hence an additional 700 potential competent persons could be trained during the 6-month grace period after the Regulation was enacted. As regards consultation with the industry before finalizing a date for the Regulation to take effect, CE/EL advised that the Administration would adopt a flexible stance and would discuss with the industry to ensure sufficient number of competent persons were trained before the Regulation became effective.

6. On the comments raised by the Electrical and Mechanical Contractors' Association in its written submission, CE/EL advised that the act of installation of an earth electrode was intended to be covered by the term "ramming" in paragraph (a)(vi) of the definition of "works" in section 2 the draft Regulation and this position would be reflected in the code of practice for the Electrical (Wiring) Regulations in the next edition of the code.

Proposed definition of "electric line"

7. The Principal Assistant Secretary for Economic Services (PAS/ES) advised that addressing members' concerns raised at the last meeting about the possible confusion of using the two different terms of "electric line" and "electricity line" in the subsidiary legislation and the principal ordinance, the Administration had proposed to delete the term "electricity line" and use "electric line" in both the principal ordinance and the subsidiary legislation. The existing definition of "electric line" in the subsidiary legislation would be repealed and a new definition of "electric line" which reflected the policy intent of the Bill and draft Regulation would be added to the principal ordinance. The definition of "electricity supply lines", which were the objects to be protected in the Bill and draft Regulation, would be linked to the new definition of "electric line".

8. In reply to Mr ARCULLI's question on whether there would be one definition of "electric line" to be used in both the principal ordinance and the subsidiary legislation if the proposed amendments were enacted, the Senior Assistant Law Draftsman (SALD) replied in the affirmative. Mr ARCULLI indicated that he had no objection to the amendments proposed by the Administration.

9. The Assistant Legal Adviser 2 (ALA2) advised that the latest amendments proposed by the Administration (LC Paper No. CB(1)1571/98-99) was clearer and acceptable from the drafting point of view.

Clause-by-clause examination of the Bill

10. Members examined the Bill clause by clause and deliberated on the following clauses.

Clause 2(b)

11. Members noted that the Administration would move a Committee Stage Amendment (CSA) to delete "owned by electricity suppliers", as these words would not be necessary with the new definition of "electricity supply lines" in place.

Clause 3(b)

12. Members noted that the Administration would move a CSA to amend the definition of "electric line", etc as set out in the Administration's letter dated 22 June 1999.

Clause 4(a)

13. Mr ARCULLI expressed concern that the wording "...activities...are performed without the risk of electrical accident..." entailed an absolute standard which was impossible to achieve. He suggested that "without the risk" be amended to "for the avoidance". PAS/ES agreed to consider Mr ARCULLI's suggestion and provide a response after the meeting.

Clause 4(c)

14. Members agreed that the Regulation made for the purpose of protection of electricity supply lines should be subject to positive vetting of the Legislative Council and requested the Administration to move a CSA to this effect. The Chairman said that the Bills Committee would move a CSA in this regard if the Administration declined to do so. PAS/ES agreed to give consideration to the issue.

15. In relation to proposed section 59(8)(b), Mr ARCULLI sought clarification on the circumstances under which the Director of Electrical and Mechanical Services (DEMS) might "direct a person to remedy a contravention". In response, SALD advised that section 11 of the draft Regulation specified the circumstances under which the Director might serve a remedial notice requiring a person to remedy a contravention for safety reasons. Section 13 of the draft Regulation provided the mechanism for appeals against notices issued under section 11.

16. ALA2 noted that the proposed section 59(8)(c) would empower the making of regulations on an appeal mechanism different from the existing appeal mechanism provided in the principal ordinance. SALD advised that as the draft Regulation was a new Regulation, the Administration would like to have the flexibility to design a new appeal mechanism suitable for its purpose. Section 13 of the draft Regulation provided for the appeal mechanism.

17. Referring to the proposed section 59(8)(d) which provided for making of regulations conferring power on DEMS to enter and inspect any premises for the purpose of giving effect to the object specified in the proposed section 59(1)(ia), Mr ARCULLI was concerned about the wide power to be conferred on DEMS and sought justifications for it. He also asked whether "any premises" included domestic premises. In response, SALD confirmed that domestic premises were included in "any premises" under the proposed section 59(8)(d). He also advised that section 14(4) of the draft Regulation provided

that a warrant issued by a magistrate would be required before the Director could exercise his power to enter and search a domestic premises. Under section 14(4)(b), the Director was empowered to search a domestic premises without a warrant only if he was satisfied that the delay likely to be occasioned in obtaining a warrant would be likely to result in the occurrence of an electrical accident.

18. As regards whether there was any electricity supply lines owned by power companies installed in domestic premises, the Regulatory Services Controller (RSC) advised that electricity supply lines owned by power companies were normally found in public areas.

19. Mr ARCULLI said that he objected to the proposed section 59(8)(f) which empowered the making of regulations providing for the penalty of imprisonment and indicated that he would consider moving a CSA to amend this proposed section. Dr Raymond HO pointed out that HKCA had expressed objection to the proposed imprisonment penalty and urged the Administration to review its stance in this respect. PAS/ES reiterated that the proposed imprisonment penalty was in line with existing penalty provision in the Gas Safety Ordinance. The proposal was justified as the number of casualty/fatality cases arising from damage to electricity supply lines was no less than the number of such cases relating to damage of gas pipes. As requested by members, PAS/ES agreed to provide the comparative data on fatality/casualty cases arising from damages to gas pipes and electricity supply lines in the last five years.

Way forward

Admin

20. The Chairman said that the Administration should provide draft CSAs in relation to paragraphs 13 and 14 above and the information requested as described in paragraph 19 above before 28 June 1999, so that members could decide whether further meetings of the Bills Committee were necessary. Meanwhile, members agreed to tentatively schedule the next meeting to be held on 29 June 1999, at 2:30 pm.

21. There being no other business, the meeting ended at 12:10 pm.