

LC Paper No. CB(1)526/99-00
(These minutes have been
seen by the Administration)

Ref: CB1/BC/9/98/2

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

**Minutes of meeting held on
Thursday, 23 September 1999, at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Fred LI Wah-ming (Chairman)
Hon Ronald ARCULLI, JP
Hon CHAN Kam-lam
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, JP
Hon SIN Chung-kai
- Public officers attending** : Miss Amy CHAN
Acting Principal Assistant Secretary for Economic
Services
- Mr Roger LAI Sze-hoi
Regulatory Services Controller, Electrical and
Mechanical Services Department
- Mr Stephen CHAN Hung-cheung
Chief Engineer (Electricity Legislation), Electrical
and Mechanical Services Department
- Mr SIU Kam-wah
Senior Engineer (Nuclear & Utility Safety),
Electrical and Mechanical Services Department
- Ms Phyllis POON
Government Counsel

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 Discussion with the Administration

(LC Paper No. CB(1)1919/98-99(01) - Letter dated 14 September 1999
from the Administration

LC Paper No. CB(1)1919/98-99(02) - updated version of the
Administration's response to
submissions by trade bodies

LC Paper No. CB(1)1973/98-99- the Administration's response to
comments of the Hong Kong
Construction Association)

The draft Electricity Supply Lines (Protection) Regulation

Members scrutinized the draft Electricity Supply Lines (Protection) Regulation (the draft Regulation) and deliberated on the following proposed sections.

Proposed section 10(4)

2. Referring to Hong Kong Construction Association's (HKCA) suggestion that the draft Regulation should allow a "competent person" to carry out the investigation works with the assistance of a team under his/her direct supervision, Mr Ronald ARCULLI pointed out that existing wording of section 10(4)(a) of the draft Regulation did not allow a competent person to delegate any part of the investigation to another person. He said that from the practical point of view, a competent person had to be allowed flexibility to delegate part of the investigation work to other people although the legal responsibility still lay with the competent person. He suggested that the wording of section 10(4)(a) be suitably amended to accommodate HKCA's request. In response, the Chief Engineer/Electricity Legislation (CE/EL) advised that a competent person could carry out the investigation with the assistance of a team of supporting staff but the investigation work had to be under his/her direct supervision i.e. the key parts of the investigation work could not be delegated. The Regulatory Services Controller (RSC) emphasized that the Electrical and

Mechanical Services Department would adopt a reasonable approach in deciding whether a competent person had complied with section 10(4)(a) in relation to delegation of work.

Admin.

3. Mr ARCULLI opined that if the Administration's stance was that delegation of work by a competent person was allowed under certain circumstances, the wording of section 10(4)(a) should be amended to reflect the policy intent and provide a basis for the industry to follow. As requested by members, the Administration agreed to amend the wording of section 10(4)(a) to state explicitly that while a competent person could not delegate investigation work to another person, he/she could carry out the investigation with the assistance of a team under his/her direct supervision at the work site.

Proposed section 18(1)

4. In response to the Chairman's enquiry on the Administration's response to HKCA's comments on proposed section 18(1), the Government Counsel advised that the Administration considered it inappropriate to add the expression proposed by HKCA to the end of section 18(1) because as currently drafted, section 18(1) was a deeming provision that would apply to any reference in the Regulation to take reasonable steps or reasonable measures. She further advised that to make its purpose and effect more apparent to the reader, the Administration proposed to move section 18(1) to section 10. The Assistant Legal Adviser 2 (ALA2) advised that from the drafting point of view, the Administration's proposal would improve the clarity of the relevant provision.

Admin.

5. Mr ARCULLI pointed out that under section 17(5) of the draft Regulation, a person who failed to comply with instructions in a remedial notice issued under section 11 committed an offence. He asked whether it would be a defence for a person acting in accordance with the procedures set out in the Code of Practice on Working near Electricity Supply Lines (Code of Practice) but still failed to comply with the instructions in a remedial notice. In response, CE/EL advised that while it was possible that instructions in a remedial notice would elaborate on measures required in addition to the procedures set out in the Code of Practice, it was unlikely that there would be contradictory requirements in the Code of Practice and a remedial notice. If there were some minor differences, the instructions in the remedial notice should prevail. Mr ARCULLI said that if that was the case, section 10(1) of the draft Regulation should be amended to reflect this policy intent. As requested by members, the Administration agreed to consider necessary amendments to section 10(1) to address Mr ARCULLI's concern.

Resumption of Second Reading debate on the Bill

6. The Chairman said that the Bills Committee had completed deliberation on the Bill and the draft Regulation. There would be Committee Stage Amendments (CSAs) to be moved by the Administration. As the Bills Committee had mixed views on the proposed penalty provisions, the Bills Committee would not propose any CSA in this regard. Aiming to resume Second Reading on the Bill at the Legislative Council meeting on 27 October 1999, the Chairman said that a report of the Bills Committee would be submitted to the House Committee meeting on 8 October 1999. He also informed the Administration that the deadline to give notice of resumption of Second Reading on the Bill was 11 October 1999, and the deadline to give notice of CSAs was 16 October 1999.

(Post-meeting note : The report of the Bills Committee was submitted to the House Committee at its meeting on 8 October 1999.)

7. There being no other business, the Chairman declared the meeting closed at 11:30 am.

Legislative Council Secretariat
2 December 1999