

LC Paper No. CB(1)514/99-00
(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
Tuesday, 25 May 1999, at 4:30 pm
in Conference Room B 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
- Member absent** : Hon SIN Chung-kai
- Public officers attending** : 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 Jonathan ABBOTT
Senior Assistant Law Draftsman
- 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)1368/98-99 - Letter dated 21 May 1999 from the Administration)

Briefing members on follow-up actions taken by the Administration since the last meeting of the Bills Committee on 15 March 1999, the Principal Assistant Secretary for Economic Services (PAS/ES) said that the draft Code of Practice on Working near Electricity Supply Lines (Code of Practice) had been revised taking into account comments received from relevant parties. A revised draft Code of Practice had been provided to members for reference (LC Paper No. CB(1)1325/98-99(01)). Some amendments to the draft Electricity Supply Lines Regulation (draft Regulation) had also been proposed to address members' concerns raised at the last meeting and to cater for comments from the industry. Moreover, the Administration had also proposed amendments to the definition of "electricity supply lines" for presentational reasons as set out in the Administration's letter dated 21 May 1999 (LC Paper No. CB(1)1368/98-99). The policy and legislative intent of the Bill and the draft Regulation were not affected by the proposed amendments.

Proposed amendments to the definition of "electricity supply lines"

2. Noting that the Administration was proposing to add a definition of a new term "electricity line" in clause 3 of the Bill, the Assistant Legal Adviser 2 (ALA2) pointed out that there was already a term "electric line" in the Electricity Supply Regulations made under the Electricity Ordinance (Cap. 406), the definition of which was very similar to the proposed definition of "electricity line". She enquired whether the two terms were referring to the same thing. Mr Ronald ARCULLI opined that if they were referring to the same thing, the term "electric line" used in the Electricity Supply Regulations and other subsidiary legislation under the Electricity Ordinance should also be amended to "electricity line" to maintain the consistency of the terms used in the principal ordinance and subsidiary legislation. In response, the Chief Engineer/Electricity Legislation (CE/EL) advised that the definition of "electricity line" was wider than that of "electric line". The term "electricity line" covered the cable for transmission of electricity as well as other apparatus in association with the oil-filled power cable for transmitting control signals in

the case of overhead electricity supply line, all of which were to be protected under the Bill and draft Regulation. PAS/ES further advised that the Electricity Supply Regulations enacted in 1911 required substantial amendments to make them up-to-date and the Administration was conducting a consultation exercise on changes needed for the Regulations. Subject to the results of the consultation exercise, the Administration was inclined to amend "electric line" used in the Electricity Supply Regulations to "electricity line" when the Regulations were amended in future.

3. Mr ARCULLI expressed grave concern about the inconsistency of terms used in the principal ordinance and the subsidiary legislation when the terms were referring to the same thing in effect. He opined that this anomaly might result in difficulties in prosecution when a person having damaged an "electricity supply line" could argue that the cable damaged by him was an "electric line" but not an "electricity line". The Senior Assistant Law Draftman (SALD) advised that as the Electricity Supply Regulations and the draft Electricity Supply Lines (Protection) Regulation targeted at different people and different activities, there should not be any problem to have two different terms with slightly different definitions. Any legal action taken under the future Electricity Supply Lines (Protection) Regulation would make reference to terms defined in that Regulation.

4. Dr Raymond HO Chung-tai said that the terms "electric line" and "electricity line" were commonly used in the industry and opined that if the two terms were used in two different pieces of subsidiary legislation under the Electricity Ordinance, both terms should be defined in the principal ordinance.

5. The Chairman enquired whether it was possible to amend all references of "electric line" in the subsidiary legislation to "electricity line" and to add a definition of "electricity line" in the principal ordinance at the same time. In response, the Regulatory Services Controller (RSC) advised that as the Administration's aim was to rewrite the existing Electricity Supply Regulations, it would take some time to complete the exercise, hence the amendment could not be tied in with the Bill. He reiterated that in drafting the new Electricity Supply Regulations, the Administration was inclined to use terms already defined in the principal ordinance. As regards penalties for damage to other cables and pipes, PAS/ES said that he understood that the Information Technology and Broadcasting Bureau was considering whether there was a need to introduce legislation to protect telecommunication lines from damage during works, though it should be noted that there were no safety considerations in relation to damage to such lines.

6. In reply to the question on whether the phrase "any other apparatus" in the existing definition of "electric line" covered the additional items connected with electricity supply cables which were intended to be covered by the Bill and the draft Regulation, CE/EL advised that the phrase "any other apparatus" does not cover the "*cable used for transmitting the control signal*" which was also

proposed to be protected under the new Electricity Supply Regulation. These control cables were laid separately along the cable route without direct connection to the power cable and damage to these control cables might also cause interruption of supply to consumers, hence a more comprehensive definition of "electricity line" was being proposed.

7. As regards whether the Interpretation and General Clauses Ordinance (Cap. 1) included any provision on consistency of terms used in a principal ordinance and its subsidiary legislation, SALD advised that the Ordinance provided that a term used in the subsidiary legislation should have same meaning as the term used in the principal ordinance unless it was defined differently. He further advised that terms appeared in subsidiary legislation normally had the same meaning as terms used in the principal ordinance but it was not always so provided that there was a reason for it.

8. As requested by the Chairman, PAS/ES agreed to review whether the proposed term "electricity line" could be aligned with the term "electric line" as currently used in the Electricity Supply Regulations, or alternatively whether the term "electric line" could be amended to "electricity line" during the current legislative amendment.

Defence provision

9. Referring to the letter dated 21 May 1999 from the Administration (LC Paper No. CB(1)1368/98-99) in which the Administration indicated that there was no need to include in the Electricity Ordinance a provision similar to section 29 of the Gas Safety Ordinance (Cap. 51) on "onus of proving limits of what is practicable", Mr ARCULLI sought clarification on the reasons for the Administration's stance in this regard. PAS/ES advised that the Administration did not see the need to include in the Electricity Ordinance a provision similar to section 29 of the Gas Safety Ordinance because there was no application of a similar provision under the Electricity Ordinance. He drew to members' attention that a defence of due diligence was provided in section 18(1) and (2) of the draft Regulation. SALD further advised that section 29 of the Gas Safety Ordinance was not intended to be a defence provision. Mr ARCULLI disagreed and opined that provision similar to section 29 of the Gas Safety Ordinance was a defence provision under certain circumstances.

10. Mr ARCULLI noted that the Administration had proposed some amendments to section 18(1) and (2) of the draft Regulation and requested the Administration to elaborate on the reasons for the proposed amendments. SALD advised that the amendments were to make the original intent clearer, but not to make the scope of the provision narrower or wider. He added that the proposed amendments to section 18(1) or (2) would make it explicit that a contractor who complied with the Code of Practice without engaging a competent person would not have a defence under section 18(1) and (2). Mr ARCULLI pointed out that these amendments had substantial implication to

site contractors and urged that the revised draft Regulation should be sent to relevant trade bodies for comments. Dr Raymond HO shared Mr ARCULLI's views and suggested that the Hong Kong Construction Association and the Electrical and Mechanical Contractors' Association should be invited to comment on the revised draft Regulation. Members agreed to consult the two associations on the revised draft Regulation and invite them to present their views to the Bills Committee.

Other issues

11. Noting the likelihood of increased demand for registered "competent persons" after enactment of the Electricity Supply Lines (Protection) Regulation, Mr ARCULLI enquired about the Administration's plan in ensuring an adequate supply of registered "competent persons". He pointed out that insufficient supply of registered competent persons would jack up the wages for competent persons which might deter some site contractors from engaging a competent person to help locating the existence of underground electricity supply lines. RSC and CE/EL advised that the Construction Industry Training Authority had been conducting 2-day training course which was a pre-requisite for registration as a competent person. They said that some 400 competent persons could be trained during the six-month grace period after enactment of the Regulation which should be adequate to meet the anticipated demand for "competent persons" when the Regulation became effective.

12. As requested by Mr ARCULLI, CE/EL agreed to provide information on the average total number of sites involving works carried out in the vicinity of electricity supply lines in Hong Kong at any one time, if available.

Way forward

13. Members agreed to hold the next meeting on 23 June 1999 at 10:45 am to meet with deputations and further discuss with the Administration the follow-up actions required in paragraphs 8 and 12 above.

14. There being no other business, the meeting ended at 6:20 pm.