

立法會
Legislative Council

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Paper for the House Committee meeting on 8 October 1999

**Report of the Bills Committee on
Electricity (Amendment) Bill 1999**

Purpose

This paper reports on the deliberations of the Bills Committee on Electricity (Amendment) Bill 1999 ("the Bill").

Background

2. The Electricity Ordinance ("the Ordinance") provides for, among other things, the safe supply of electricity, including the reporting to the Director of Electrical and Mechanical Services of electrical accidents and unintended interruptions to the electricity supply causing distress or inconvenience to the public. The Ordinance currently has no provisions to protect electricity supply lines from damage arising out of works despite substantial number of incidents of damage to underground electricity cables and overhead electricity line caused primarily by works contractors in recent years. Subsequent to the passage of the Gas Safety (Amendment) (No.2) Bill 1995, which sought to require contractors working in the vicinity of gas pipes to take reasonable measures to avoid damages to gas pipes, the Administration has proposed similar legislation for the protection of electricity supply lines.

The Bill

3. The Bill seeks to require contractors to take reasonable measures to ascertain the existence and alignment of electricity supply lines before carrying out works in the vicinity of such lines and to include penalty provisions in order to achieve a deterrent effect. The Director of Electrical and Mechanical Services ("the Director") would be empowered under the Bill to make regulations which would provide for a Code of Practice to be issued by the Director. A person would be deemed to have complied with the requirements of the regulation if he can demonstrate that he has complied with the Code of Practice. The Bill also seeks to amend the Ordinance to make a distinction between "electricity supply line" which was to be protected under the proposed legislation and "supply" which applies to the supply of an electrical product only.

The Bills Committee

4. At the meeting of the House Committee on 29 January 1999, Members decided to form a Bills Committee to study the Bill. The membership list of the Bills Committee of which Hon Fred LI Wah-ming was elected Chairman is at **Appendix I**.

5. The Bills Committee held seven meetings to discuss the Bill with the Administration, at one of which representatives of the Hong Kong Construction Association were present to discuss the Association's views on the Bill. Members of the Bills Committee also visited a construction site to observe the operation of a cable locator in locating underground electricity cables. In connection with the Bill, the Bills Committee also studied the draft Electricity Supply Lines (Protection) Regulation ("the Regulation"), which is to be made under the Ordinance in due course after the Bill has passed into law, and invited 40 trade bodies and other interested parties to give views on the provisions. A list of the trade bodies and other interested parties which have given views to the Bills Committee is at **Appendix II**.

Deliberations of the Bills Committee

6. Members of the Bills Committee support the introduction of provisions in the Ordinance to protect electricity supply lines from damage arising out of works. There are however a number of concerns with regard to certain provisions in the Bill. The concerns are summarised in the following paragraphs.

Definition of "electricity supply line" and "electricity line"

7. The Administration had proposed a Committee Stage amendment (CSA) to clause 3(b) and consequential amendments to other clauses to effect a further distinction between the terms "electricity supply line" and "electricity line". Under the proposal, the term "electricity line" would be used to cover the whole field of safety requirements of electricity supply in the general context of the Ordinance and the term "electricity supply line" would be defined in accordance with the specific purposes of the Bill, i.e. to afford protection to electricity supply lines which are owned by an electricity supplier. Members are aware that there is another term "electric line" defined in other subsidiary legislation made under the same Ordinance which can apply to the cables and lines owned by electricity suppliers. For the sake of consistency and in order to avoid confusion, the Bills Committee requests the Administration to review related definitions in the Ordinance and all the relevant subsidiary legislation. Members accept the Administration's subsequent proposal to effect changes to dispense with the previously proposed definition of "electricity line" and to re-draft the definitions of "electricity supply line" and "electric line" in the Ordinance in order to present the definitions more clearly. These changes will involve Committee Stage amendments to the Bill to -

- (a) provide a definition of "electric line" taken from the existing subsidiary legislation but re-drafted for clarity; and
- (b) amend the proposed definition of "electricity supply line" so that it means an electric line, or any cable used in conjunction with such a line for the purpose of transmitting control signals, which is owned by an electricity supplier.

Furthermore, as the definitions of "electricity supply line" and "electric line" in the Ordinance will also apply to its subsidiary legislation, the definition of "electric line" in the Electricity Supply Regulations and the Electricity (Special Areas) Regulations will be repealed.

Difficulties for contractors to comply with the proposed requirements

8. The Bills Committee is concerned about the difficulties faced by contractors, particularly smaller firms, in complying with the proposed requirements of the Bill. Members note that as specified under the proposed Regulation, when carrying out works activities in the vicinity of electricity supply lines, a contractor should obtain relevant plans from the power company concerned showing the locations of any underground electricity cables around the works site. The contractor should also employ a "competent person" to locate the underground electricity cable and follow the procedures as set out in the Code of Practice on Working near Electricity Supply Lines ("the Code of Practice"). According to the Administration, a competent person can identify accurately the position of any underground electricity cables with the help of a cable detector. After sighting the operation of a cable locator at a construction site, members are satisfied with the accuracy, handiness and ease of operation of the cable locator.

9. As to the concern about whether there would be sufficient competent persons available to the industry, the Administration advises that to become registered as a competent person, an employee of the contractor needs only attend a 2-day training course provided by the Construction Industry Training Authority. There are currently about 200 persons who can meet the requirements for registration as competent persons under the proposed Regulation and it is estimated that before the proposed Regulation comes into effect there would be about 1,000 competent persons. Taking into account the total number of sites involving works carried out in the vicinity of underground electricity cables at any one time in a day, which is around 1,500, there should be sufficient competent persons to meet the market demand. Furthermore, there would be a grace period of six months before the Regulation would come into effect to allow sufficient time for persons meeting the registration requirement to be registered as a competent person under the Regulation. Members generally consider the situation acceptable.

Legal liability of contractors and competent persons

10. It is stipulated in the Bill that a contravention of the provisions under the Regulation constitutes an offence, which may entail a maximum penalty of \$200,000 and 12 months' imprisonment. Members hold different views on whether the penalty provisions were acceptable. Some members share the industry's concern that the penalty was excessive, given the view that unlike gas pipes, electricity cables might have curved after being laid underground causing difficulties in finding out the exact depth of a cable beneath ground level.

11. As presented by the Administration, the arguments for the penalty provisions include the need for consistency with the penalties set down in the Gas Safety Ordinance (Cap 51) and the Gas Safety (Gas Supply) Regulation for similar offences relating to works in the vicinity of gas pipes, and the maximum penalty is the upper limit of a set of different levels of penalties which the court might not apply fully. The Administration's data comparing the consequences to human life and property caused by damage to gas pipes and electricity cables over the years from 1994 to 1998 show that there were even more cases of personal injuries and fatalities associated with third party damage to electricity lines than those associated with third party damage to gas pipes. Members also note that interruption of electricity supply could cause substantial economic loss besides a serious threat to human life.

12. About the respective legal liabilities of a contractor and a competent person in a case of damage to underground electricity cable in which the contractor was the employer of the competent person, members are given to understand that if the contractor had taken all reasonable steps and reasonable measures as stipulated in the Code of Practice, including the employment of a competent person to ascertain the alignment and depth of an underground electricity cable, it would be a defence to the charge for damaging the underground cables under the Regulation. As regards the legal liability of the competent person, if the damage to the underground electricity cable was caused by the default of the competent person in ascertaining the alignment and depth of the cable, disciplinary action would be taken against the competent person under the Regulation.

Future vetting of the Regulation

13. Members note that the detailed requirements designed to ensure that works activities carried out in the vicinity of electricity supply lines do not prejudice safety or the continuity of the electricity supply are set out in the Regulation. In view of the substantial details in the Regulation and some members' serious concern about the severity of the penalty provisions, the Bills Committee considers it important for Legislative Council to have ample time to scrutinize the Regulation when the subsidiary legislation is tabled in the Council. Hence the "negative vetting" arrangement for passing the relevant subsidiary legislation as provided under the Bill is considered inappropriate. At the Bills Committee's request, the Administration undertakes to move a Committee Stage amendment to provide that the Regulation

would be subject to "positive vetting" by the Legislative Council.

Other drafting issues

14. Members are concerned about the absolute standard imposed by the words "without risk of" in the context of "measures designed to ensure that activities performed in the vicinity of electricity supply lines owned by electricity suppliers are performed *without risk of* electrical accident or interruption to the supply of electricity" under the proposed section 59(1)(ia). The Administration takes the Bills Committee's advice and proposes a CSA to replace the words "owned by electricity suppliers are performed without risk of" by the words "are performed in a manner that minimizes causing an".

15. The Administration has also agreed to revise the draft Regulation in order to improve the clarify of drafting of certain provisions, such as stating more clearly that while a competent person cannot delegate investigation work to another person, he/she can carry out the investigation with the assistance of a team under his/her direct supervision on the works site.

Committee Stage Amendments

16. The complete set of CSAs proposed by the Administration is at **Appendix III**.

Recommendation

17. Despite members' divided views on the penalty provisions under the Bill, the Bills Committee supports the Bill and the CSAs proposed by the Administration, and recommends resumption of Second Reading debate on the Bill on 27 October 1999.

Advice Sought

18. Members are invited to note the deliberations of the Bills Committee and support the recommendation at paragraph 17 above.

Prepared by
Council Business Division 1
Legislative Council Secretariat
4 October 1999

立法會
《1999 年電力（修訂）條例草案》委員會
Legislative Council
Bills Committee on
Electricity (Amendment) Bill 1999

委員名單
Membership List

李華明議員(主席)	Hon Fred LI Wah-ming, JP (Chairman)
何鍾泰議員	Ir Dr Hon Raymond HO Chung-tai, JP
夏佳理議員	Hon Ronald ARCULLI, JP
陳鑑林議員	Hon CHAN Kam-lam
單仲偕議員	Hon SIN Chung-kai

合共： 5 位議員
Total: 5 Members

日期： 1999 年 7 月 9 日
Date: 9 July 1999

**List of trade bodies and other interested parties which have given views
to the Bills Committee on Electricity (Amendment) Bill 1999**

香港電訊有限公司

Cable & Wireless HK Limited (Property/Building Services)

中華電力有限公司

CLP Power Hong Kong Limited

建造業訓練局

Construction Industry Training Authority

消費者委員會

Consumer Council

港九電器工程電業器材職工會

Hong Kong & Kowloon Electrical Engineering & Appliances Trade Workers Union

香港有線電視有限公司

Hong Kong Cable Television Limited

香港建造商會

The Hong Kong Construction Association Ltd

香港機電工程承建商協會

Hong Kong Electrical and Mechanical Contractors' Association

香港電器工程商會有限公司

Hong Kong Electrical Contractors' Association Limited

香港電燈有限公司

The Hong Kong Electric Co Ltd

香港建築師學會

The Hong Kong Institute of Architects

香港電車有限公司

Hong Kong Tramways Limited

英國電機工程師學會香港分會

The Institution of Electrical Engineers

地鐵公司

Mass Transit Railway Corporation

新世界電話有限公司

New World Telephone Ltd

職業安全健康局

Occupational Safety & Health Council

DMA7169v5

1st draft: 16.6.99

2nd draft: 23.6.99

3rd draft: 24.6.99

4th draft: 25.6.99

5th draft: 29.6.99

ELECTRICITY (AMENDMENT) BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Amendment Proposed</u>
2(b)	By deleting “owned by electricity suppliers”.
3(b)	By deleting the proposed definition of “electricity supply line” and substituting - “ “electric line” () means - (a) a conductor used for the purpose of conveying, transmitting or distributing electricity and any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting such conductor, or any part of it; (b) any apparatus connected with such conductor or other thing mentioned in paragraph (a) for the purpose of conveying, transmitting or distributing electricity,

and in paragraph (a), reference to a conductor used for the purpose of conveying, transmitting or distributing electricity includes reference to a wire or to any other means used for that purpose;

“electricity supply line”()

means an electric line, or any cable used in conjunction with such a line for the purpose of transmitting control signals, which is owned by an electricity supplier;”.

- 4 (a) In paragraph (a), in the proposed section 59(1)(ia), by deleting “owned by electricity suppliers are performed without risk of” and substituting “are performed in a manner that minimizes causing an”.
- (b) In paragraph (c), in the proposed section 59(8), by adding “shall be subject to the approval of the Legislative Council and” after “subsection (1) (ia)”.

New By adding -

“Consequential Amendments
Electricity Supply Regulations

5. Interpretation

Regulation 1(1) of the Electricity Supply Regulations (Cap. 406 sub. leg.) is amended by repealing the definition of “electric line”.

Electricity Supply (Special Areas) Regulations

6. Interpretation

Regulation 2 of the Electricity Supply (Special Areas) Regulations (Cap. 406 sub. leg.) is amended by repealing the definition of “electric line”.