

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1516/03-04

(These minutes have been seen  
by the Administration)

Ref : CB1/BC/9/02/2

**Bills Committee on Buildings (Amendment) Bill 2003**

**Minutes of fifteenth meeting held on  
Monday, 22 March 2004, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Cyd HO Sau-lan (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon Margaret NG  
Hon Miriam LAU Kin-yee, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Albert CHAN Wai-yip  
Hon LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Andrew WONG Wang-fat, JP  
Dr Hon TANG Siu-tong, JP  
Hon LI Fung-ying, JP  
Hon WONG Sing-chi
- Public officers attending** : Ms Olivia NIP  
Deputy Secretary for Housing, Planning and Lands  
(Planning and Lands)<sup>2</sup>
- Mr Rick CHAN  
Assistant Secretary for Housing, Planning and Lands  
(Buildings)<sup>1</sup>
- Mr AU Choi-kai  
Assistant Director (Support)  
Buildings Department

Mr HO Kwok-hung  
Chief Building Surveyor (Legal)  
Buildings Department

Mr CHENG Kim-fung  
Senior Assistant Law Draftsman  
Department of Justice

**Clerk in attendance :** Miss Odelia LEUNG  
Chief Council Secretary (1)4

**Staff in attendance :** Mr LEE Yu-sung  
Senior Assistant Legal Adviser 1

Ms Connie SZETO  
Senior Council Secretary (1)4

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Action

- I. Meeting with the Administration**  
(LC Paper No. CB(3)566/02-03 -- The Buildings (Amendment) Bill 2003  
LC Paper No. CB(1)2156/02-03(04) -- Marked-up copy of the Buildings (Amendment) Bill 2003)

The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

Follow-up actions to be taken by the Administration

2. The Administration was requested :

*Clause 2 (section 2 of the Buildings Ordinance (BO))*

- (a) to provide examples of provisions where certain important things affecting the operation of the principal ordinance were set out in subsidiary legislation by notice published in the Gazette. Some members considered that the list of different categories of minor works should be provided in a schedule to BO for easy reference;

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- (b) to provide the updated version of different categories of minor works which was being discussed by the Administration with the trade and inform the Bills Committee of the progress of consultation with the trade;

*Clause 5 (section 4 of BO)*

- (c) to review whether it was appropriate to delete the offence for contravention of section 4(3)(b) and the proposed section 4(3A)(b). Members had different views on the issue. Some members were of the view that since the relevant persons would be held liable for certifying works which were not in compliance with the ordinance and its regulation under the existing provisions, there was no need for a separate offence provision for contravention of sections 4(3)(b) and 4(3A)(b). A member however objected to the deletion of this offence and considered that the penalty for defective and substandard building works should be strengthened to enhance deterrence;
- (d) to review the drafting of sections 4(3)(b) and 4(3A)(b) to ensure consistency between the Chinese versions of the two provisions; and
- (e) to confirm whether "regulations" referred to in section 4(3A)(b) included Code of Practice.

**II. Any other business**

Date of next meeting

3. Members noted that the next meeting would be held on Thursday, 1 April 2004, at 8:30 am. The Bills Committee would meet with the concern group on the minor works control regime formed by minor works (MW) contractors, and the Hong Kong Licensed Plumbers Association Limited, as well as continue to examine the Bill clause-by-clause.

4. Mr Abraham SHEK suggested that the Bills Committee should meet with the Hong Kong Federation of Electrical and Mechanical Contractors Limited which had expressed concern about the proposed MW control regime. Members agreed.

*(Post-meeting note: As the Hong Kong Federation of Electrical and Mechanical Contractors Limited was represented by the concern group on the minor works control regime, it was not necessary to meet with the former organization separately. At the request of the Hong Kong Water*

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Works Professional Association Limited and with the concurrence of the Chairman, the Bills Committee would also meet with the organization at the next meeting.)

5. The meeting ended at 10:35 am.

Council Business Division 1  
Legislative Council Secretariat  
15 April 2004

**Proceedings of the fifteenth meeting of the  
Bills Committee on Buildings (Amendment) Bill 2003  
on Monday, 22 March 2004, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000154	Chairman	Opening remarks	
000155 - 002100	Ms Audrey EU Administration Miss Margaret NG Chairman	<p><u>Clause-by-clause examination of the Bill</u> (LC Paper Nos. CB(3)566/02-03 &amp; CB(1)2156/02-03(04))</p> <p>Clause 2 (section 2 of the Buildings Ordinance (BO)) - Interpretation</p> <p>(a) The Administration's advice that the notice specifying different categories of minor works (MW) under the proposed section 8A(2A) would be subsidiary legislation under BO</p> <p>(b) Some members' suggestion to specify different categories of MW in a schedule to BO as this would be more user-friendly to property owners; amendments to the schedule would be subject to negative vetting by the Legislative Council</p> <p>(c) Urge for the Administration to consider the suggestion in (b) and request for provision of examples of provisions where certain important things were set out in subsidiary legislation by notice published in the Gazette</p>	The Admin. to take action under para. 2(a) of the minutes
002101 - 002930	Administration Miss Margaret NG Chairman	<p>Consultation with MW contractors on the types of works to be included in different categories of MW</p> <p>(a) Request for the Administration to provide the updated list of different categories of MW and inform the Bills Committee of the progress of</p>	The Admin. to take action under para. 2(b) of the

Time marker	Speaker	Subject(s)	Action required
		consultation with the trade	minutes
002931 - 004629	Chairman Ir Dr Raymond HO Administration Ms Miriam LAU Mr LAU Ping-cheung Miss Margaret NG	Clause 4(d) (proposed new section 3(5CA)(a)(i)) - Geotechnical Engineer (GE) Registration Committee  (a) The Hong Kong Institution of Engineers (HKIE)'s support for adopting "15 years of experience in geotechnical engineering" as a requirement for the three registered professional engineers in the geotechnical engineering disciplines to be nominated by the Engineers Registration Board to sit in the GE Registration Committee during the first year of operation of the Committee  (b) HKIE's view that it was not necessary to specify in the provision that the experience required of the three members should be "post-qualification experience"  (c) The Administration's advice that the reference to "experience" in BO generally referred to "practical experience", hence no need for express stipulation	
004630 - 014434	Administration Ms Miriam LAU Ir Dr Raymond HO Chairman Mr LAU Ping-cheung Ms Audrey EU Mr Albert CHAN SALA1 Mr Abraham SHEK	Clause 5(e) (proposed new section 4(3A)(b)) - duty of authorized persons (AP), registered structural engineers (RSE) or registered geotechnical engineers (RGE) to notify the Building Authority (BA) of any contravention of building regulations which would result from the carrying out of Category I MW of which plans were submitted to BA for record before commencement of the works under the proposed section 14(1)(b)  (a) The Administration's view that it was the duty of AP, RSE and RGE to	

Time marker	Speaker	Subject(s)	Action required
		<p>supervise the carrying out of MW to ensure safety during the process; the provision was modelled on existing section 4(3)(b) in respect of the carrying out of building works or street works requiring approval of plans</p> <p>(b) Some members' view that it was the responsibility of BA to ensure approved plans comply with building regulations</p> <p>(c) The Administration's advice that BA only conducted "curtailed checking" on plans submitted under the proposed section 14(1)(a) for approval and it was the responsibility of AP, RSE, or RGE to notify BA of any contravention of regulations which would result from the carrying out of any works shown in approved plans</p> <p>(d) The HKIE's opposition to providing penalties for contravention of sections 4(3)(b) and 4(3A)(b)</p> <p>(e) Some members' view that it was not necessary to provide a separate offence for contravention of section 4(3)(b) and 4(3A)(b) as the relevant persons would be held liable for certifying works which did not comply with BO and its regulations</p> <p>(f) The Administration's preliminary consideration of deleting the offence provision in section 40(2AA) for contravention of sections 4(3)(b) and 4(3A)(b)</p> <p>(g) Concern about availability of sanction for contravention of sections</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>4(3)(b) and 4(3A)(b) if the offence provision was deleted</p> <p>(h) The Administration's advice that AP, RSE and RGE would be subject to disciplinary action under section 7 for professional negligence or misconduct; and penalties were provided in section 40 for offences concerning unauthorized building works, defective or substandard building works and construction danger</p> <p>(i) A member's opposition to deleting the offence for contravention of section 4(3)(b) and 4(3A)(b) and his view that the penalty for defective and substandard building works should be strengthened to enhance deterrence</p> <p>(j) Request for the Administration to consider the propriety of deleting the offence for contravention of section 4(3)(b) and 4(3A)(b) and to review the drafting of sections 4(3)(b) and 4(3A)(b) to ensure consistency between the Chinese versions of the two provisions</p>	<p>The Admin. to take action under para. 2(c) &amp; (d) of the minutes</p>
014435 - 015429	<p>Mr Albert CHAN Administration Ms Audrey EU Ms Miriam LAU</p>	<p>Clause 5(e) (proposed new sections 4(3A)(a), (c), (d), (e), (f)) - duties of AP, RSE, or RGE in relation to Category I MW</p> <p>(a) Enquiry on the duties of the relevant persons under the provisions, and the differences between subsections (3A)(b) and (3A)(c), (d), (e) and (f)</p> <p>(b) Enquiry on whether "regulations" referred to in section 4(3A)(b) included Code of Practice</p>	<p>The Admin. to take action under para. 2(e) of the minutes</p>



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		(c) The Administration's confirmation that contravention of sections 4(3A)(a), (c), (d), (e), (f) would not be an offence  (d) Requirement of relevant persons to certify completed MW under Regulation 25 of the Building (Administration) Regulations	
015430 - 015445	Chairman Mr Abraham SHEK	Date of next meeting and meeting with deputations	

Council Business Division 1  
Legislative Council Secretariat  
15 April 2004