

立法會
Legislative Council

LC Paper No. CB(2)2679/07-08
(These minutes have been
seen by the Administration)

Ref : CB2/SS/7/07

Subcommittee on Building (Planning) (Amendment) Regulation 2008

Minutes of the 4th meeting
held on Thursday, 12 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building

Members present : Hon Emily LAU Wai-hing, JP (Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP

Member absent : Hon CHEUNG Hok-ming, SBS, JP

Public Officers attending : Item I
Labour and Welfare Bureau
Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation
Ms Elia WONG Ngai-lui
Assistant Secretary for Labour and Welfare
(Rehabilitation)
Buildings Department
Mr MO Kim-ming
Assistant Director / New Buildings 1

Mr Alex CHOW Kim-ping
Chief Building Surveyor / Kowloon

Mr HUI Siu-wai
Chief Building Surveyor / Legal

Department of Justice

Ms Frances HUI Hang-ka
Senior Government Counsel

Food and Environmental Hygiene Department

Mr LO Fu-wai
Assistant Director (Operations) 1

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mr Chris LAI
Senior Council Secretary (2) 7

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I. Meeting with the Administration

[L.N. 124 of 2008, Legislative Council Brief, LC Paper Nos. LS86/07-08, CB(2)2305/05-06(04), CB(2)2084/07-08(01), CB(2)2231/07-08(01) to (03), CB(2)2254/07-08(01) and CB(2)2258/07-08(01)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. On the application of the Building (Planning) (Amendment) Regulation 2008 (the Amendment Regulation), members noted that the Equal Opportunities Commission had vide its letter dated 11 June 2008 provided further views on whether the existence of section 84 of the Disability Discrimination Ordinance (Cap. 487) alone provided sufficient safeguards that buildings to be built by Government departments or public authorities would comply with the requirements stipulated in the Amendment Regulation (LC Paper No. CB(2)2231/07-08(01)). The Administration stressed that the Government fully

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observed the requirements in the Design Manual 1997, and would continue to comply with the standards stipulated in Amendment Regulation and make reference to the Best Practice Section of Design Manual 2008 as far as practicable in the design and construction of new government buildings and refurbishment of existing government buildings.

3. The Administration advised that its original intention was to commence the Amendment Regulation in October 2008. As the scrutiny period of the Amendment Regulation has been extended to 9 July 2008 by a resolution at the Council, it would be prudent for the Administration to publish the Commencement Notice in the Gazette after the completion of the vetting period on 9 July 2008. As such, the Commencement Notice would be tabled in the first meeting of the Council in the 2008-2009 session. While members considered that the Amendment Regulation should come into force as early as possible, they agreed that it would be for Members of the Fourth Legislative Council (LegCo) to decide whether a subcommittee should be formed to study the Commencement Notice. To allow time for the scrutiny of the Commencement Notice in accordance with the Interpretation and General Clauses Ordinance (Cap.1), members noted that the Amendment Regulation would likely come into operation in December 2008.

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4. To facilitate members to consider the amendments proposed to the Third Schedule to the Building (Planning) Regulations, the Administration was requested to prepare a comparison table on the current design requirements under the Building (Planning) Regulations and the key changes to these design requirements as proposed in the Amendment Regulation.

II. Date of next meeting

5. Members agreed to hold the next meeting on 16 June 2008 at 1:00 pm to continue discussion with the Administration.

6. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
22 July 2008

**Proceedings of the 4th meeting of the
Subcommittee on Building (Planning) (Amendment) Regulation 2008
on Thursday, 12 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000000 - 000550	Chairman	Opening remarks	
000551- 001751	Chairman Admin Mr Tommy CHEUNG	Briefing by the Administration on the mechanism and criteria for varying the requirements of regulation 72 of the Building (Planning) Regulations (B(P)R) (LC Paper No. CB(2)2254/07-08(01)) Breakdown on the applications from the food business industry for variation of the requirements	
001752 - 003301	Mr Tommy CHEUNG Chairman Admin Mr Fernando CHEUNG	Discussion on factors taken into account in considering applications for variation of requirements of B(P)R Request for the Administration to explain clearly to the food business industry the operation of the mechanism and criteria for varying the requirements Extent of application of the Amendment Regulation, i.e. to newly constructed or alteration and additions to existing private buildings	
003302 - 005447	Chairman Admin Mr Tommy CHEUNG	Discussion on changes to food business licensing procedures arising from the recommendations of the Team Clean's Report with regard to unauthorized building works (UBWs) The Administration's advice that if the raised platforms were UBWs, removal of such platforms was required under the new licensing procedures upon the implementation of the Team Clean initiative	
005448 - 010107	Mr Ronny TONG Admin Chairman	The views of Mr Ronny TONG that – (a) raised platforms within food premises which were in contravention with B(P)R at the time of construction were UBWs and should be removed or rectified; (b) it would be unjustifiable to exempt food premises from compliance with the obligatory design requirements; and (c) the Amendment Regulation should be applicable to new government buildings The Administration's advice that before the implementation of the Team Clean initiative, the Buildings Department would not raise adverse comment on restaurant licence applications because of the non-provision of access ramps to raised platforms within the food premises concerned	

Time marker	Speaker(s)	Subject(s)	Action required
010108 - 010855	Dr Fernando CHEUNG Admin Chairman	<p>The views of Dr Fernando CHEUNG that –</p> <ul style="list-style-type: none"> (a) raised platforms which were in contravention with the provisions of BO should be removed or rectified to ensure the provision of barrier free access in food premises to PWDs; and (b) PWDs should be provided with equal opportunities to patronize food premises <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) all newly constructed or alterations and additions to existing buildings would be required to comply with the requirements stipulated in the Amendment Regulation; and (b) prior to the implementation of the Team Clean initiative, BD was invited for comments on aspects relating to the building safety of food premises (as set out in paragraph 10 of the Administration's paper) in food business licence applications 	
010856 - 012337	Mr Tommy CHEUNG Admin	Clarification on the role of BD in restaurant licence applications before the implementation of the Team Clean initiative on 18 April 2006	
012338 - 012844	Mr Ronny TONG Admin	<p>The views of Mr Ronny TONG that –</p> <ul style="list-style-type: none"> (a) the food licensing procedures were outside the scope of the Amendment Regulation; (b) building works, including raised platforms in restaurants, should not be carried out in contravention of the provisions of BO in force at the time of construction; and (c) consideration should be given to providing a grace period for the food business licensees to remove or rectify any UBWs within the premises concerned 	
012845 - 013019	Dr Fernando CHEUNG	<p>Dr Fernando CHEUNG's views that –</p> <ul style="list-style-type: none"> (a) BD had a duty to ensure the provision of barrier free access to PWDs in food premises in accordance the design requirements; and (b) the application of B(P)R should be extended to new government buildings 	
013020 - 013359	Chairman ALA4 Mr Ronny TONG Clerk	<p>The Equal Opportunities Commission's letter on the application of section 84 of DDO (LC Paper No. CB(2)2231/07-08(01))</p> <p>Mr Ronny TONG's view that section 41 of BO should be amended to extend the applicability of the Ordinance to government buildings</p>	

Time marker	Speaker(s)	Subject(s)	Action required
013400 - 014300	Chairman Clerk ALA4 Mr Ronny TONG Admin	Procedures for members to address the Council on the Amendment Regulation The Chairman's view that the Secretary for Development should address the Council on the Amendment Regulation in response to members' concern about the Amendment Regulation	
014301 - 014737	Dr Fernando CHEUNG Admin ALA4 Mr Tommy CHEUNG	Further discussion on the impact of the recommendations of Team Clean's Report and changes to food business licensing procedures on the food business industry	
014738 - 020303	Chairman Admin Mr Tommy CHEUNG Dr Fernando CHEUNG ALA4 Mr Ronny TONG Clerk	Commencement date of the Amendment Regulation Need for the Subcommittee to hold another meeting	
020304 - 020517	Chairman Admin Mr Tommy CHEUNG	Regulations 2 and 3 of the Amendment Regulation	
<i>Any Other Business</i>			
020518 - 021320	Chairman Admin ALA4 Mr Tommy CHEUNG Dr Fernando CHEUNG	Date of next meeting The Administration to provide a comparison table on the current design requirements under B(P)R and the key changes to these design requirements as proposed in the Amendment Regulation	Admin