

立法會
Legislative Council

LC Paper No. CB(1) 2222/09-10
(These minutes have been seen
by the administration)

Ref : CB1/BC/2/09/2

Bills Committee on Buildings Energy Efficiency Bill

Minutes of ninth meeting
held on Thursday, 27 May 2010, at 4:30 pm
in Conference Room B of the Legislative Council Building

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon IP Kwok-him, GBS, JP
Hon Tanya CHAN

Member absent : Hon Vincent FANG Kang, SBS, JP

Public officers attending : Environment Bureau
Miss Katharine CHOI
Principal Assistant Secretary for the Environment
(Energy)
Mr Philip HAR
Assistant Secretary for the Environment (Energy)
Electrical and Mechanical Services Department
Mr LI Kwok-keung
Acting Assistant Director/Electricity and Energy
Efficiency

Mr MAK Ka-chun
Chief Engineer/Energy Efficiency B

Department of Justice

Mr Gilbert MO
Deputy Law Draftsman
(Bilingual Drafting & Administration)

Miss Mandy NG
Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Franco KWONG
Council Secretary (1)1

I. Confirmation of minutes

(LC Paper No. CB(1) 1992/09-10 — Minutes of the meeting held on
26 April 2010)

The minutes of the meeting held on 26 April 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 2021/09-10(01) — List of follow-up actions arising
from the discussion at the
meeting on 5 May 2010

LC Paper No. CB(1) 2021/09-10(02) — Administration's response to
CB(1) 2021/09-10(01)

LC Paper No. CB(1) 1799/09-10(03) — Submission from The Law
Society of Hong Kong (English
version only)

LC Paper No. CB(1) 2048/09-10(01) — Administration's response to
CB(1) 1799/09-10(03)

LC Paper No. CB(1) 1799/09-10(02) — Assistant Legal Adviser's letter
dated 3 May 2010 to the
Administration

LC Paper No. CB(1) 2048/09-10(02) — Administration's response to
CB(1) 1799/09-10(02))

Relevant papers

- | | | |
|-----------------------------------|---|--|
| (LC Paper No. CB(3) 233/09-10 | — | The Bill |
| Ref: ENB 24/26/22 | — | The Legislative Council Brief |
| LC Paper No. LS 24/09-10 | — | Legal Service Division Report |
| LC Paper No. CB(1) 840/09-10(01) | — | Background brief on Buildings Energy Efficiency Bill |
| LC Paper No. CB(1) 1353/09-10(03) | — | Assistant Legal Adviser's letter dated 2 March 2010 to the Administration |
| LC Paper No. CB(1) 1364/09-10(01) | — | Administration's response to CB(1) 1353/09-10(03)) |
| LC Paper No. CB(1) 1492/09-10(03) | — | Assistant Legal Adviser's letter dated 19 March 2010 to the Administration |
| LC Paper No. CB(1) 1511/09-10(01) | — | Administration's response to CB(1) 1492/09-10(03) (clauses 2 to 15 only) |
| LC Paper No. CB(1) 1799/09-10(01) | — | Administration's response to CB(1) 1492/09-10(03) (paragraphs 25 to 49 only) |
2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
- (a) meet with the Hong Kong Law Society to address the concerns raised in its submission on the Bill, and to advise the Bills Committee of the deliberation;
 - (b) review clause 17(1) to make it clear the party which should be held responsible for obtaining the Form of Compliance in respect of the major retrofitting works;
 - (c) provide information on the specific standards of prescribed building services installations in the draft code of practice;
 - (d) consider including in clause 13 or the code of practice a specific time frame within which a Certificate of Compliance Registration should be renewed before expiry; and
 - (e) review whether it was necessary to retain the word "即" in the Chinese rendition of clause 17(4).

III. Any other business

4. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
10 June 2010

**Bills Committee on
Buildings Energy Efficiency Bill**

**Proceedings of the ninth meeting
on Thursday, 27 May 2010, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000830 - 000911	Chairman	The minutes of the meeting held on 26 April 2010 (LC Paper No. CB(1) 1992/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000912 - 001809	Administration Chairman ALA5	Administration's explanation on its response to members' concerns raised at the meeting on 5 May 2010 (LC Paper No. CB(1) 2021/09-10(02)).	
001810 - 004450	Chairman Administration ALA5 Prof Patrick LAU	<p>Administration's explanation on its response to the submission from The Law Society of Hong Kong on 27 April 2010 (LC Paper No. CB(1) 2048/09-10(01)).</p> <p>Chairman's view and enquiry -</p> <p>(a) the Administration should meet with the Law Society of Hong Kong to address their concerns given the possible impacts of the Bill on future conveyancing practices; and</p> <p>(b) clause 17 as drafted was not clear on the party which should be held responsible for obtaining the Form of Compliance (FOC) for the major retrofitting works, particularly upon sale of the premises.</p> <p>Administration's response that the policy intent was to hold the person who carried out the retrofitting works responsible for obtaining a FOC upon completion of the works.</p>	<p>The Administration to -</p> <p>(a) meet with the Hong Kong Law Society to address the concerns raised in its submission on the Bill, and to advise the Bills Committee of the deliberation; and</p> <p>(b) review clause 17(1) to make it clear the party which should be held responsible for obtaining the FOC in respect of the major retrofitting works.</p>

Time marker	Speaker	Subject(s)	Action required
		Prof Patrick LAU's view that it might be necessary to spell out clearly in clause 17 that the person who carried out the retrofitting works should obtain FOC.	
004451 - 005245	Prof Patrick LAU Administration Chairman	<p>Prof Patrick LAU's views -</p> <p>(a) it might be difficult to administer FOCs given the numerous major retrofitting works to be carried out in buildings across the territory;</p> <p>(b) interior designers and decoration workers might not be aware of the need to obtain FOCs for major retrofitting works; and</p> <p>(c) legal practitioners should be responsible to ensure compliance with the Bill in the course of property transactions.</p> <p>Administration's response -</p> <p>(a) for a building with multiple ownerships, individual owners had to obtain FOCs in respect of the major retrofitting works carried out in their units. They also had to maintain the building services installations to a standard not lower than that applied in the latest FOC; and</p> <p>(b) FOCs had to be certified by the Registered Energy Assessors (REAs) who were qualified engineers.</p>	
005246 - 010747	Chairman Administration ALA5 Mr IP Kwok-him Miss Tanya CHAN	<p><u>Clause-by-clause examination</u> (LC Paper No. CB(1) 1511/09-10(01))</p> <p>Clause 12 - Duties of owners and responsible persons of building with Certificate of Compliance Registration</p> <p>Chairman's enquiries -</p> <p>(a) whether the code of practice would contain specified standards for</p>	The Administration to provide information on the specific standards of prescribed building services installations in the draft code of practice.

Time marker	Speaker	Subject(s)	Action required
		<p>prescribed building services installation under the Bill; and</p> <p>(b) whether a daily fine would be imposed for continuing contravention.</p> <p>Administration's response -</p> <p>(a) the policy intents of clause 12 were to prevent subsequent alteration or replacement of building services installations with less energy efficient equipment/component, and to drive proper maintenance of the installations to avoid undue decline in energy efficiency;</p> <p>(b) the draft code of practice had been so drafted to include specific standards and requirements for the prescribed building services installation, such as lighting power density of lighting installation and coefficient of performance of air-conditioners, under the Bill. The draft code of practice had also been uploaded onto the website of the Electrical and Mechanical Services Department (EMSD) for public's reference. Relevant information would be provided after the meeting; and</p> <p>(c) clause 12 did not contain a daily fine for continuing offence.</p> <p>Mr IP Kwok-him's view and enquiry -</p> <p>(a) the existing standards for prescribed building services installations; and</p> <p>(b) need to ensure that the relevant trades were made aware of the updated standards and requirements under the code of practice.</p> <p>Administration's response that the existing standards for the prescribed building services installations were</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>broadly those being adopted under the voluntary Hong Kong Energy Efficiency Registration Scheme for Buildings, which formed the blueprint for the code of practice to be issued under clause 40 of the Bill.</p> <p>Miss Tanya CHAN's view that a copy of the draft code of practice should be provided to the Bills Committee.</p>	
010748 - 013654	<p>Chairman Administration ALA5 Mr IP Kwok-him Miss Tanya CHAN</p>	<p>Clause 13 - Renewal of Certificate of Compliance Registration</p> <p>Chairman, Mr IP Kwok-him and Miss Tanya CHAN's concern about the timely renewal of Certificate of Compliance Registration (COCR) in the absence of a specific time frame within which an application for renewal should be submitted. The Administration might not have sufficient time to process an application submitted shortly before expiry. There were also circumstances where applications were submitted long before the expiry of COCR.</p> <p>Administration's response -</p> <p>(a) clause 12 provided that owners should ensure COCR in force at all times;</p> <p>(b) clause 13 provided that if an application for renewal of COCR was made during the 12 months preceding the expiry of COCR, the renewed COCR would be effective from the date of that expiry. If an application was made more than 12 months preceding the expiry of COCR, the renewed COCR would be effective from the date of renewal. Hence, it was anticipated that early application for renewal would be uncommon as this might shorten the validity period of the existing COCR;</p>	<p>The Administration to consider including in clause 13 or the code of practice a specific time frame within which a COCR should be renewed before expiry.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(c) EMSD would issue notices six to 12 months before expiry of COCRs to remind owners the need for renewal and draw their attention to the lead time required by EMSD for processing an application so that owners could take this into account when renewing their COCRs. EMSD would also include notes in the relevant application forms to draw the applicants' attention to the lead time;</p> <p>(d) no specific time frame for renewal of COCR was provided so that owners with several properties could choose to submit multiple renewal applications for all the properties in one batch nearer the time to save administrative cost; and</p> <p>(e) separate penalty might be required to ensure compliance if a specific time frame for renewal application was included.</p> <p>Mr IP Kwok-him and Miss Tanya CHAN's view that a specific time frame for renewal of COCR should be included in clause 13 or the code of practice.</p>	
013655 - 014555	Chairman Administration Mr IP Kwok-him	<p>Clause 14 - Duplicate of Certificate of Compliance Registration available</p> <p>In response to Mr IP Kwok-him's enquiry, Administration advised that the proposed fee for a duplicate of COCR would be set out in a piece of subsidiary legislation. The level of the fee would be set at \$155 to recoup the administrative cost incurred.</p> <p>Chairman's enquiries -</p> <p>(a) the need for a separate definition on "owner of a central building services installation" which might differ from "owner" of a prescribed building; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) who would be held responsible for central building services installations provided in common area which had been leased out, given that owner of the common part might not be the owner of these installations.</p> <p>Administration's response -</p> <p>(a) the definitions of "owner" and "central building services installation" were provided under clause 2; and</p> <p>(b) central building services installations would be regarded as fixtures of the building and were included in the ownership of building.</p> <p>Discussion on the difference between duplicate and copy.</p>	
014556 - 015219	Chairman Administration	<p>Clause 15 - Exemption from specified standards and requirements</p> <p>Discussion on the need to set a time frame for application for exemption of building services installations.</p> <p>Chairman's enquiries -</p> <p>(a) the feasibility of combining clauses 15(1) and 15(3); and</p> <p>(b) examples of exemption.</p> <p>Administration's response -</p> <p>(a) clauses 15(1) and 15(3) served different purposes. The former specified the persons who would be eligible to apply for exemption, while the latter specified the grounds for exemption; and</p> <p>(b) for example, air-conditioning equipment specifically designed and incorporated for certain medical</p>	

Time marker	Speaker	Subject(s)	Action required
		equipment might be exempted for operational reasons.	
015120 - 015224	Chairman Administration	Clause 16 - Application of Part 3	
015225 - 020208	Chairman Administration ALA5 Mr IP Kwok-him	Clause 17 - Duty to obtain Form of Compliance for major retrofitting works Discussion on the need to retain the word " 即 " in the Chinese rendition of clause 17(4).	The Administration to review whether it was necessary to retain the word " 即 " in the Chinese rendition of clause 17(4).
020209 - 020233	Chairman	Date of next meeting.	