

立法會
Legislative Council

LC Paper No. CB(1) 2442/09-10
(These minutes have been seen
by the administration)

Ref : CB1/BC/2/09/2

Bills Committee on Buildings Energy Efficiency Bill

Minutes of tenth meeting
held on Friday, 4 June 2010, at 3:10 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 CHAN Hak-kan
Hon Tanya CHAN
- Members absent** : Hon Vincent FANG Kang, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Cyd HO Sau-lan
- 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) 2077/09-10 — Minutes of the meeting held on
5 May 2010)

The minutes of the meeting held on 5 May 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 2140/09-10(01) — List of follow-up actions arising
from the discussion at the
meeting on 27 May 2010

LC Paper No. CB(1) 2140/09-10(02) — Administration's response to
CB(1) 2140/09-10(01))

Relevant papers

(LC Paper No. CB(3) 233/09-10 — The Bill

Ref: ENB 24/26/22 — The Legislative Council Brief

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)
- 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))
2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
 3. The Administration was requested to -
 - (a) consult The Hong Kong Institute of Architects on the draft codes of practices, particularly with reference to the specific requirements under the Bill for prescribed building services installations to be maintained "to a standard not lower than" that applied in the Certificate of Compliance Registration/Form of Compliance, and to revert back to the Bills Committee outcome of the consultation;
 - (b) provide the views of The Hong Kong Association of Property Management Companies on the Bill. To also advise the percentage of buildings in Hong Kong which were managed by members of the Association;
 - (c) provide information on the publicity plan on the requirements of the Bill to enhance public awareness and to facilitate compliance;
 - (d) provide in tabular form the penalties for different offences under the Bill and their nature and comparison with similar offences provided in other ordinances;
 - (e) advise whether a certificate of satisfaction/compliance would be issued upon compliance with the requirements under an improvement notice, and whether provisions would be made in the Bill for such certificate; and
 - (f) review the need for the extensive powers of authorized officers under clause 29 with reference to other similar environmental legislation, such as the Genetically Modified Organisms (Control of Release)

Ordinance (Cap. 607) and the Product Eco-responsibility Ordinance (Cap. 603), given that the objective of the Bill was only to ensure energy efficiency of buildings.

III. Any other business

4. There being no other business, the meeting ended at 5:15 pm.

Council Business Division 1
Legislative Council Secretariat
6 July 2010

**Bills Committee on
Buildings Energy Efficiency Bill**

**Proceedings of the tenth meeting
on Friday, 4 June 2010, at 3:10 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>			
000001 - 000140	Chairman	The minutes of the meeting held on 5 May 2010 (LC Paper No. CB(1) 2077/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000141 - 002830	Chairman Administration ALA5 Ir Dr Raymond HO Prof Patrick LAU	<p>Administration's explanation on its response to members' concerns raised at the meeting on 27 May 2010 (LC Paper No. CB(1) 2140/09-10(02)).</p> <p>Members and ALA5's views and concerns -</p> <p>(a) clause 12 required the owner/responsible person of a unit of a building to ensure that the prescribed building services installations were maintained to "a standard not lower than" that applied in the Certificate of Compliance Registration (COCR)/Form of Compliance (FOC), failing which would commit an offence;</p> <p>(b) how the test of "to a standard not lower than" could be applied;</p> <p>(c) the standards of prescribed building services installations to be spelt out in the codes of practices had to be clear and specific so that no one would be unnecessarily caught under the Bill. However, this might not be the case in the draft codes of practice. For instance, paragraph 5.5.3 only required the provision of suitable lighting control point(s) for each functional activity;</p>	The Administration to consult HKIA on the draft codes of practices, particularly with reference to the specific requirements under the Bill for prescribed building services installations to be maintained "to a standard not lower than" that applied in COCR/FOC and to revert back to the Bills Committee outcome of the consultation.

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		<p>(d) the codes of practice as drafted might limit the flexibility to take into account the ever changing technologies in enhancing energy efficiency; and</p> <p>(e) the process of consultation on the draft codes of practice, and whether the Hong Kong Institute of Architects (HKIA) had been consulted.</p> <p>Administration's response -</p> <p>(a) the owner/responsible person of a unit of a building should be able to maintain the standards of prescribed building services installations under clause 12 if he did not alter or replace these installations with less energy efficient equipment;</p> <p>(b) improvement notice (IN) would be issued to require the owner concerned to remedy the contravention within a reasonable period of time before taking prosecution against non-compliance;</p> <p>(c) the Electrical and Mechanical Services Department had set up a Technical Task Force comprising representatives from different professional engineering bodies, relevant trade associations and academia. So far, over 10 meetings had been held to seek their views;</p> <p>(d) the draft codes of practice were prepared with reference to the Building Energy Code (2007 Edition) together with suitable modifications taking into account the views and suggestions from the Technical Task Force; and</p> <p>(e) Section 5.5 of the draft code of practice set out the requirements of lighting control, where clause 5.5.3 specifically stipulated the</p>	

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		<p>requirement of independent lighting control points for each group of lighting designed for a certain function in a multi-functional space.</p>	
002831 - 002930	Chairman Administration	<p>Chairman's view on the need to make it clear in clause 17 the policy intent to require the relevant party who, at the moment when the major retrofitting works are completed, to obtain FOC for the works.</p> <p>Administration's response that Committee Stage amendment (CSA) to this effect would be moved.</p>	
002931 - 005135	Chairman Administration Mr KAM Nai-wai Mr Abraham SHEK Prof Patrick LAU	<p><u>Continuation of clause-by-clause examination</u></p> <p>Clause 18 - Requirements applicable to Form of Compliance</p> <p>Chairman and Mr KAM Nai-wai's views and concerns -</p> <p>(a) whether the definition of "owner" included "property management company"; and</p> <p>(b) need to step up publicity on the Bill as many small-scale property management companies might not be aware of the requirements under the Bill.</p> <p>Administration's response -</p> <p>(a) "property management company" was defined under clause 2 as a business entity appointed by the owner of the building to manage the building;</p> <p>(b) a Trade Task Force comprising representatives from the relevant trades had been set up to gauge views on the Bill. The Hong Kong Association of Property Management Companies (HKAPMC), with members</p>	<p>The Administration to -</p> <p>(a) provide the views of The Hong Kong Association of Property Management Companies on the Bill;</p> <p>(b) advise the percentage of buildings in Hong Kong which were managed by members of the Association; and</p> <p>(c) provide information on the publicity plan on the requirements of the Bill to enhance public awareness and to facilitate compliance</p>

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		<p>managing about 90% of buildings in Hong Kong, was also a member of the trade task force; and</p> <p>(c) publicity would be stepped up when enactment of the Bill was approaching.</p> <p>Members' view that publicity efforts should be made before enactment of the Bill to facilitate public awareness and compliance with the Bill. Mr KAM Nai-wai's request for the Administration to provide the views of HKAPMC on the Bill, and to advise the percentage of buildings in Hong Kong which were managed by HKAPMC members.</p> <p>Mr Abraham SHEK's enquiry on whether there were objective criteria for "reasonable excuse" as set out in the proposed CSA to clause 18(10).</p> <p>Administration's response that a defence of due diligence was provided under the Bill such that a person who had taken all reasonable steps to avoid committing an offence would not be held liable for prosecution.</p>	
005136 - 005904	Chairman Administration Mr Abraham SHEK	<p>Clause 19 - Duplicate of Form of Compliance available</p> <p>In response to Chairman's enquiry, the Administration advised that the fee for a duplicate of FOC would be set at \$155 to recoup the administrative and staffing costs.</p> <p>Mr Abraham SHEK's view that the Administration should review the basis for setting prescribed fee given the relatively high staff cost of civil servants.</p>	
005905 - 010150	Chairman Administration	Clause 20 - Exemption from specified standards and requirements	
010151 - 010254	Chairman Administration	Clause 21 - Application of Part 4	

Time marker	Speaker	Subject(s)	Action required
010255 - 011940	Chairman Administration Mr Abraham SHEK Prof Patrick LAU Miss Tanya CHAN	<p>Clause 22 - Energy audit requirement</p> <p>Members' concerns and enquiries -</p> <ul style="list-style-type: none"> (a) the feasibility of and time required for conducting energy audit for all buildings in Hong Kong; (b) consequences in the event of poor energy efficiency; (c) whether there would be adequate supply of Registered Energy Assessor (REA) to cope with the demand for energy audit service; and (d) to avoid monopolization of energy audits by REA, consideration should be given to making available a price list for energy audits. <p>Administration's response -</p> <ul style="list-style-type: none"> (a) periodic inspection, testing and certification were similarly required for prescribed premises under other legislation, such as the Electricity (Wiring) Regulations (Cap. 406E), which had been successfully implemented for years; (b) energy audits aimed to enable owners of building to understand the energy performance of their buildings, and identify opportunities for enhancing energy efficiency to achieve energy savings. The implementation of recommendations in the energy audit reports was not mandatory; (c) according to statistics, around 2 000 qualified engineers were eligible for registration as REA. The supply of REA would be sufficient to carry out energy audits for the some 3 000 to 4 000 buildings as required in Schedule 5; (d) a 18-month grace period would also be given for registration of REA after 	

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		<p>commencement of the Ordinance, if enacted; and</p> <p>(e) it was not practical to provide a price list for energy audits, given the different design and sizes of building services installations in different buildings.</p>	
011941 - 013050	<p>Chairman Administration Mr Abraham SHEK Prof Patrick LAU Miss Tanya CHAN</p>	<p>Clause 23 - Owner to exhibit Energy Audit Form</p> <p>Chairman and Mr Abraham SHEK's enquiry on the rationale for setting the penalty at level 5 (i.e. a fine of \$50,000).</p> <p>The Administration's response that reference had been made to some similar provisions in other legislation. The proposed penalty aimed to ensure that energy audit forms would be properly exhibited.</p>	<p>The Administration to provide in tabular form the penalties for different offences under the Bill and their nature and comparison with similar offences provided in other ordinances</p>
013051 - 013122	<p>Chairman Administration</p>	<p>Clause 24 - Duplicate of Energy Audit Form available</p>	
013123 - 013535	<p>Chairman Administration ALA5 Mr Abraham SHEK</p>	<p>Clause 25 - Exemption from energy audit requirement (LC Paper No. CB(1) 1799/09-10(01))</p> <p>Discussion on the need to set a time limit for applying for exemption from energy audit requirement.</p>	
013536 - 015030	<p>Chairman Administration Miss Tanya CHAN ALA5</p>	<p>Clause 26 - Director may issue improvement notice (LC Paper No. CB(1) 2048/09-10(01))</p> <p>Chairman and Miss Tanya CHAN's enquiries on the person who should be held responsible for compliance with an IN after change of ownership.</p> <p>Administration's response that the former IN would cease to have effect after a change of ownership, and a new IN would be issued to the new owner if necessary.</p>	<p>The Administration to advise whether a certificate of satisfaction / compliance would be issued upon compliance with the requirements under an improvement notice, and whether provisions would be made in the Bill for such certificate.</p>

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		Miss Tanya CHAN's view that a certificate of satisfaction/compliance should be issued upon compliance with the requirements under IN.	
015031 - 015104	Chairman Administration	Clause 27 - Authorized officers	
015105 - 015140	Chairman Administration	Clause 28 - Authorized officers to prove identity	
015141 - 020530	Chairman Administration Mr Abraham SHEK Mr KAM Nai-wai ALA5	<p>Clause 29 - Powers of authorized officers</p> <p>Chairman, Mr Abraham SHEK and Mr KAM Nai-wai's concern on the need for the extensive powers for authorized officers and the heavy penalty in the event of non-compliance (fine at level 6 and imprisonment for six months), given that the policy intent of the Bill was to ensure energy efficiency of buildings.</p> <p>Administration's response that sufficient enforcement powers were required to deter non-compliance.</p>	<p>The Administration to review the need for the extensive powers of authorized officers under clause 29 with reference to other similar environmental legislation, such as the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) and the Product Eco-responsibility Ordinance (Cap. 603), given that the objective of the Bill was only to ensure energy efficiency of buildings</p>