

Buildings Energy Efficiency Bill

The Administration's response to Action Items at the Bills Committee meeting on 31 March 2010

Duty to ensure that a Certificate of Compliance Registration is in force at all times

We have explained in LC paper CB(1) 1492/09-10(02) that, the policy intent of clause 12(1) of the Buildings Energy Efficiency Bill (“the Bill”) (i.e. the owner of a building must ensure that at all times a Certificate of Compliance Registration (“COCR”) is in force in respect of the building) is to ensure that COCR is renewed in time.

2. Under Regulation 20 of the Electricity (Wiring) Regulations (Cap. 406E), fixed electrical installation must be inspected, tested and certified at least once every 12 months or once every 5 years depending on its approved loading and its type of premises. Under Regulation 20(5), the owner of the fixed electrical installation shall submit the certificate to the Director of Electrical and Mechanical Services (“DEMS”) for endorsement within 2 weeks after the date of the certificate.

3. The drafting in clause 12(1) of the Bill has not adopted the formulation of Regulation 20(5) of Cap. 406E, since we would like to highlight for building owners' attention that they should not only submit application to renew COCR in time; they should also ensure that they can obtain the renewed COCR in time, so as to ensure that the COCR is in force at all times. We consider that the current formulation of clause 12(1) of the Bill could better serve our policy intention.

Responsibilities of new owners for building services installations inside an individual unit in post-enactment building

4. According to clause 10(1) of the Bill, DEMS must issue a COCR to the developer in respect of the building if the developer has submitted a stage two declaration under clause 9(2)(a) of the Bill that **all** building services installations provided by the developer in the building at or before the time when the declaration is made have been designed, installed and completed in accordance with the specified standards and requirements. Hence, for building services installations which are provided by the developer for individual units, they should also have been certified compliance with the standard or requirement as included in the

code of practice issued or approved under clause 40 of the Bill.

5. For any unit in a post-enactment building, its responsible person (which may include owner) will have to comply with clause 12(3), which specifies that the responsible person must ensure that –

- (a) the building services installations serving the unit that are not the central building services installations in the building meet, and are maintained to, a standard not lower than that applied in the first COCR issued in respect of the building; and
- (b) if a Form of Compliance has been issued in respect of any building services installation serving the unit, the installation is maintained to a standard not lower than that applied in the latest Form of Compliance issued in respect of the installation.

6. In other words, the responsible person need not ascertain whether a particular building services installation serving his or her unit is covered under the first COCR. He or she is only required to maintain **all** building services installations serving the unit to a certain standard by complying with clause 12(3), and he or she may refer to the register on buildings with COCR kept under clause 11, on the standard (i.e. version of the code of practice) to which he or she should adhere to. It should also be noted that renewal of a COCR under clause 13 of the Bill only concerns central building services installations covered by the COCR, but not those building services installations serving individual units.

7. For those responsible persons who intend to use the existing building services installations in that unit which have been left by their predecessors, they must ensure that such installations meet the requirement in clause 12(3). In doing so, it is advisable for the responsible person to seek advice from a registered energy assessor to ensure the compliance. If non-compliance is identified, the relevant installations should be upgraded or replaced to meet the specified standards and requirements. .

Display of COCR

8. Clause 11(3) specifies that DEMS must make the register of buildings issued with a COCR available for public inspection. The register will be uploaded to the webpage of the Electrical and Mechanical Services Department (EMSD) for public inspection. A copy of the register will also be available at the head office of EMSD. As such, we

do not consider it necessary to require the display of COCR at the building.

Legislative procedures and timetable

9. After the enactment of the Buildings Energy Efficiency Ordinance, we plan to proceed with the following –

- (a) to submit the subsidiary legislation on the prescribed fees of the Ordinance and registration of registered energy assessors to the Legislative Council for negative vetting; and
- (b) after the enactment of the subsidiary legislation, to allow an 18-month period for registration by registered energy assessors, before other requirements under the Ordinance come into effect.

Definition of “common area”

10. As regards the definition of “common area”, we have explained in LC paper CB(1) 1492/09-10(02) that, the use of the phrase “without limiting paragraph (a), includes” makes it clear that paragraph (b) of the definition is to be read subject to paragraph (a) and serves to elaborate the main provision by setting out examples.

11. The phrase “without limiting paragraph (a)” is a standard drafting formula for this kind of definition and its use will enable readers to grasp the correlation between the two paragraphs readily. While in this particular context adopting “subject to paragraph (a)” may also bring out the meaning, the use of non-standard formulation is not desirable since “subject to” is often used in cases where the two provisions contains elements that are different in nature. For example, a provision provides for an exception of the other provision or a provision modifies the operation of the other provision. If paragraph (a) is complicated, readers may have to go through a more time-consuming comprehension process to ascertain the correlation between paragraphs (a) and (b).

**Environment Bureau
Electrical and Mechanical Services Department
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