

立法會
Legislative Council

LC Paper No. CB(1)1525/10-11

Ref: CB1/SS/7/10

Paper for the House Committee meeting on 11 March 2011

**Report of the Subcommittee on Buildings Energy Efficiency (Fees)
Regulation and Buildings Energy Efficiency (Registered Energy
Assessors) Regulation**

Purpose

This paper reports on the deliberations of the Subcommittee on Buildings Energy Efficiency (Fees) Regulation and Buildings Energy Efficiency (Registered Energy Assessors) Regulation.

Background

2. The Buildings Energy Efficiency Bill (enacted as the Buildings Energy Efficiency Ordinance) was passed by the Legislative Council (LegCo) on 24 November 2010 and the enacted Ordinance was gazetted on 3 December 2010. The Buildings Energy Efficiency Ordinance (Cap. 610) (the Ordinance) seeks to mandate the compliance with codes of practice promulgated by the Electrical and Mechanical Services Department (EMSD) concerning the energy efficiency of four types of building services installations and energy audits. Those installations are air-conditioning, electrical, lift and escalator and lighting installations.

3. The Ordinance imposes the following duties on building developers, owners of building services installations and owners of certain commercial buildings -

- (a) developers of buildings specified in Schedule 1 to the Ordinance are required to make declarations relating to compliance of buildings' design and building services

installations with specified standards and requirements. These declarations which are respectively called stage one and stage two declarations are required to be certified by registered energy assessors (REAs). After a stage two declaration has been submitted by a developer, a Certificate of Compliance Registration will be issued by the Director of Electrical and Mechanical Services (DEMS) to the developer concerned;

- (b) owners of the building services installations that serve any unit or common area of buildings (which are specified in Schedule 1 to the Ordinance) are required to obtain Forms of Compliance issued by REAs in respect of the building services installations involved in major retrofitting works, and the Forms of Compliance must contain declarations by the relevant REAs that they are satisfied that the building services installations comply with the specified standards and requirements; and
- (c) owners of commercial buildings and commercial portions of composite buildings are required to cause energy audits to be carried out by REAs in respect of the central building services installations once every 10 years.

4. By virtue of the Buildings Energy Efficiency Ordinance (Commencement) Notice 2010 (L.N. 167 of 2010), Parts 1, 7 to 11 of and Schedules 1 to 5 to the Ordinance, which relate to the registration of REAs, the power of the Secretary for the Environment (the Secretary) to make regulations and other procedural matters, came into operation on 21 February 2011. Parts 2 to 6 of the Ordinance, which contain the regulatory regime of the Ordinance, have not been brought into operation pending the making of subsidiary legislation on the fees prescribed under the Ordinance and on registration of REAs.

Buildings Energy Efficiency (Fees) Regulation (L.N.18 of 2011) (the Fees Regulation)

5. The Fees Regulation is made by the Secretary under section 42 of the Ordinance to prescribe the fees payable under the Ordinance and the

Buildings Energy Efficiency (Registered Energy Assessors) Regulation (i.e. L.N. 19 in ensuing paragraph).

Buildings Energy Efficiency (Registered Energy Assessors) Regulation (L.N.19 of 2011) (the REA Regulation)

6. The REA Regulation is made by the Secretary under section 42 of the Ordinance to provide for the following matters -

- (a) the information that must be contained in the Register of REAs, which will be made available to the public for inspection for free;
- (b) the procedures for registration of REAs (including registration of public officers as REAs), the renewal of registration and removal of names from the Register of REAs;
- (c) the eligibility criteria for registration as REAs; and
- (d) the procedures for conducting disciplinary proceedings against REAs by DEMS or a disciplinary board appointed by the Secretary, and the orders that may be made by DEMS or the disciplinary board against an REA.

7. Both regulations were gazetted on 21 January 2011 and tabled in the Legislative Council on 26 January 2011. Both regulations will come into operation on 21 March 2011. After the commencement of the REA Regulation, a 18-month period will be allowed for eligible persons to be registered as REAs before Parts 2 to 6 of the Ordinance, which contain the regulatory regime of the Ordinance, are brought into operation.

The Subcommittee

8. At the meeting of the House Committee on 11 February 2011, Members decided to form a subcommittee to scrutinize the Fees Regulation and the REA Regulation. The membership list of the Subcommittee is at **Appendix I**. Under the chairmanship of

Hon Audrey EU, the Subcommittee has held four meetings and has also received views from representatives of professional bodies and organizations concerned. A list of deputations which have submitted views to the Subcommittee is at **Appendix II**.

9. To allow sufficient time for the scrutiny of the Fees Regulation and the REA Regulation, the Council passed a resolution on 16 February 2011 to extend the scrutiny period of both regulations from 23 February 2011 to 16 March 2011.

Deliberations of the Subcommittee

Fee levels

10. The Subcommittee notes that for the fees payable under the Ordinance, the respective fee for a submission of a stage two declaration by the developer or an application for the renewal of a Certificate of Compliance Registration is prescribed at \$760; and the respective fee for a duplicate of Certificate of Compliance Registration, a copy of a Form of Compliance or a copy of an energy audit form is prescribed at \$155.

11. The Subcommittee also notes that for the fees payable under the REA Regulation, the fee for an application for registration as an REA is prescribed at \$2,100, and the fee for an application for renewal of such registration is prescribed at \$1,100. The registration is valid for a period of 10 years beginning on the date on which the certificate of registration is issued.

12. Hon KAM Nai-wai has asked the Administration to explain the basis for setting the fees at the proposed levels. The Administration has advised that in line with the Government policy on fee charging, the fees prescribed in the Fees Regulation are to be levied on a cost recovery basis. At the request of the Subcommittee, the Administration has provided the information on similar fees for members' reference¹.

¹ Under section 12(2) of the Lifts and Escalators (Safety) Ordinance (Cap. 327), the owner of a building is required to deliver to DEMS a certificate declaring that the relevant lifts and escalators are in safe working order, and to pay a prescribed fee (\$710). Under regulation 20(6) of the Electricity (Wiring) Regulations (Cap. 406E), the endorsement fee payable by an owner of a fixed electrical installation for each certificate delivered to DEMS when submitting periodic test reports to DEMS is \$695.

13. The Subcommittee notes that, among the deputations which have provided views on both regulations, only one considers that the fee for an application for registration as an REA and for renewal of the registration at \$2,100 and \$1,100 respectively are on the high side, whereas the others generally consider the fee levels acceptable. At the request of the Subcommittee, the Administration has provided a comparison of relevant registration and renewal fees of other categories of professionals including Authorized Person, Registered Structural Engineer and Registered Lift/Escalator Engineers for members' reference, as follows -

Name of profession	Ordinance under which the registration is held	Registration fee	Renewal fee
Authorized Person	Buildings Ordinance (Cap. 123)	\$4,150 for a period of 5 years	\$1,200 for period of 5 years
Registered Structural Engineer			
Registered Lift / Escalator Engineers	Lift and Escalators (Safety) Ordinance (Cap. 327)	\$4,490	Not applicable

Registration

(Sections 3 - 12 of the REA Regulation)

Eligibility criteria for registration as REAs

14. The Subcommittee notes that sections 5(1)(a), 5(1)(b) and 5(2) of the REA Regulation set out the eligibility criteria for registration as REAs. Sections 5(1)(a) and 5(1)(b) provide that Registered Professional Engineers (RPEs) or corporate members of the Hong Kong Institution of Engineers (HKIE) or persons having equivalent qualification recognized by HKIE in electrical, mechanical, building services or environmental disciplines, who possess relevant post-qualification working experience and knowledge, may apply to DEMS for registration as REAs.

15. Under section 5(2), it is stipulated that an applicant may also be eligible for registration if his/her knowledge, qualification, education, experience and training are considered, as a whole, "comparable to those matters set out in subsection (1)(a) or (b)". Subcommittee members

have enquired about the policy intent of section 5(2), and the criteria that DEMS would consider in deciding whether an applicant's knowledge, qualification, education, experience and training are "comparable to those matters set out in subsection (1)(a) or (b)".

16. The Administration has explained that sections 5(1)(a), 5(1)(b) and 5(2) are to cater for different groups of eligible persons applying for registration as REAs. Section 5(2) is intended to cover an applicant whose competence is comparable to his counterparts seeking registration under section 5(1), by looking at his knowledge, qualification, education, experience and training, as a whole. According to the Administration, section 5(2) aims to provide reasonable flexibility for DEMS to allow registration of a competent candidate who does not have the prescribed qualification required by section 5(1). An example is that an engineer who has a qualification not locally recognized but has expertise and extensive practical experience, such as having implemented special building projects of high energy efficiency performance and has ample and well recognized engineering knowledge on energy efficiency of building services installations in buildings, may also be considered eligible under section 5(2) for registration. The Administration has advised that similar arrangement could be found in other registration mechanisms for the relevant authorities to determine special cases. For example, section 12(1)(a)(iii) of the Engineers Registration Ordinance (Cap. 409) for registration of an RPE and section 5(2B) of the Lifts and Escalators (Safety) Ordinance (Cap. 327) for registration of lift engineers or escalator engineers.

17. With regard to sections 5(1)(a) and 5(1)(b), Subcommittee members have enquired what kind of experience and knowledge are referred to by the expressions "practical experience" and "knowledge required" in those sections. The Administration has advised that examples of "practical experience" includes the experience of applying energy efficiency requirements in building services installations and the experience of carrying out energy audits under the Ordinance. As regards "knowledge required", the Administration has explained that it means the knowledge required for the performance of the duties and functions of an REA under the Ordinance. The Administration has planned that, after the enactment of both regulations, it would publish guidelines and publicity materials on the procedural matters relating to

the performance of the duties and functions of an REA under the Ordinance, as well as on the codes of practice concerning the energy efficiency of building services installations. In submitting the application/renewal application, the applicant would be required to make a declaration that he has read the relevant guidelines and codes of practice and has the knowledge required for the performance of the duties and functions of an REA under the Ordinance.

18. At the suggestion of Subcommittee members, the Administration has agreed to request HKIE to organize continuing professional development (CPD) courses on the relevant guidelines and codes of practice. Some Subcommittee members are of the view that, in addition to making the aforementioned declaration, applicants concerned should be required to complete these CPD courses in order to satisfy the requirement of possessing the "knowledge required" under sections 5(1)(a) and 5(1)(b).

Provision of an avenue for persons who are neither RPEs nor corporate members of HKIE for registration as REAs

19. Prof Hon Patrick LAU has enquired whether persons from other professions (such as surveyors and architects) can be eligible to be registered as REAs under the proposed registration framework. The Administration has pointed out that, under section 5(2) of the REA Regulation, DEMS may allow any person from other professions who can satisfy DEMS that his knowledge, qualification, education, experience and training, when considered as a whole, are comparable to his counterparts who are RPEs (to be registered under section 5(1)(a)) or members of HKIE or persons having equivalent qualification recognized by the HKIE (to be registered under section 5(1)(b)) to apply for registration as REA.

20. Notwithstanding the Administration's explanation, Prof Hon Patrick LAU has queried that section 5(2)(a)(i) as currently drafted would, in effect, restrict the flexibility for DEMS in exercising discretion to allow suitable person from other professions to be registered as an REA. He has pointed out that DEMS may be bound by section 5(2)(a)(i) to only accept applications from applicants who can satisfy DEMS that his knowledge, qualification, education, experience and training, when

considered as a whole, are comparable to his counterparts who are RPEs or corporate members of HKIE. Prof LAU has also queried that, as the specific functions required to be performed by an REA are essentially about conducting assessments to ascertain compliance with the mandatory requirements in the Building Energy Codes, it is doubtful whether one really has to have attained such a high professional standard in terms of knowledge, qualification and experience, etc. as that required of an RPE or a corporate member of HKIE, in order to be qualified as an REA. Prof LAU has further proposed that an amendment should be made to the REA Regulation such that other than professional engineers, persons from other professions who have completed relevant accredited academic courses and with the relevant experience should be eligible for registration as REAs. He considered that this approach would allow DEMS greater flexibility and provide an objective basis to facilitate the Director's consideration of applicants from any person from professions other than engineering for registration as an REA. Mr KAM Nai-wai has expressed support for Prof LAU's proposed amendments.

21. After consideration of members' views, the Administration has agreed to move amendments to section 5(2) to provide that for the purpose of section 5(2)(a), DEMS may accept the attendance or completion of any course that DEMS considers relevant as the qualification or education of the applicant.

Register of REAs

22. Subcommittee members consider that members of the public may wish to know the relevant experience or seniority of the REAs and the validity periods of registration of REAs. The Subcommittee, therefore, considers that the Register of REAs should contain the effective date and validity periods of registration of REAs. Having considered members' views, the Administration has agreed to add a new subsection to section 3 of the REA Regulation to specify that the validity periods of all certificates of registration issued to an REA would be included in the Register.

Drafting of sections 5(5), 7 and 9 of the REA Regulation

23. The legal adviser to the Subcommittee has pointed out that under

section 9(1) of the REA Regulation, DEMS may remove from the Register of REAs the name of any person if, including but not limited to, the registration of the person has expired. Section 9(5) of the Regulation provides that on the removal of the name of the person, the registration of the person ceases to be valid. The legal adviser to the Subcommittee advises that these two provisions, as drafted, suggest that the registration of the person concerned could remain to be valid notwithstanding that it has expired and has not been renewed as long as the name of the person is not formally removed from the Register by DEMS.

24. The Administration has responded that section 9(5) only specifies that on the removal of the name of the person, the registration ceases to be valid. Section 9(5) does not have the effect of extending the validity period of a registration that has already expired. It only provides that once a name is removed, the registration ceases to be valid (notwithstanding the fact that the validity period of 10 years has not expired). The legal adviser to the Subcommittee has, however, pointed out that sections 5(5) (specifying that registration is valid for a period of 10 years) and 9(5) (specifying that registration ceases to be valid on the removal of the name of REA from the Register of REAs), when read together, it would be unclear at which point of time the registration should cease to be valid. Having considered the legal adviser's and Subcommittee members' views, the Administration has agreed to propose amendments to sections 5(5) and 9 to improve the drafting and address the ambiguity. In this connection, the Administration has advised that it would also be necessary to amend section 7 on "validity of renewed registration", the drafting of which has a similar problem as that of section 5(5).

Registration of public officers as REAs

25. The Subcommittee notes that a public officer may make an application to DEMS for registration as an REA under section 8 of the REA Regulation. The Administration has advised that as the Ordinance applies to the Government, the certification of compliance with the relevant building energy codes and the conduct of energy audits for government premises would have to be performed by public officers who have registered as REAs under section 8.

Disciplinary proceedings

(Sections 13 - 19 of the REA Regulation)

Appeal on decisions made in the disciplinary proceedings under the REA Regulation

26. The Subcommittee notes that under section 13, DEMS and the disciplinary board is to determine the disciplinary cases, depending on the nature and seriousness of the matter concerned. The Administration has advised that as soon as DEMS decides to take disciplinary action against an REA, the REA, if aggrieved, may appeal against that decision pursuant to section 32(1)(m) of the Ordinance. The appeal will then be heard and determined by an appeal board formed under section 35 of the Ordinance.

27. The Subcommittee notes that in determining a disciplinary case, DEMS may only order that the REA be reprimanded under section 14(4), whereas a disciplinary board may also order that the name of the REA be removed from the Register of REAs or a fine be imposed on the REA under section 19. The Administration envisages that DEMS will only determine relatively minor or routine cases. However, even for minor cases, if an REA requests that the case be heard by a disciplinary board, he can do so at any time before DEMS determines the case under section 14(3) of the REA Regulation. The decisions of the appeal board under the Ordinance and of the disciplinary board will be subject to judicial review by the Court of First Instance.

28. Some members including Hon Audrey EU and Hon Tanya CHAN have expressed concern that the only redress available to any aggrieved REA against decisions of the disciplinary board is to apply for judicial review to the Court of First Instance. The Subcommittee has requested the Administration to consider whether such decisions can be subject to appeal to the Court of First Instance.

29. The Administration has responded that a disciplinary board is an independent body established by law. The Administration does not consider it necessary to provide for an appeal mechanism against the orders made by a disciplinary board. This is also in line with the relevant arrangements of the appeal board under the Ordinance.

Composition of disciplinary board

30. Ir Dr Hon Raymond HO, Prof Hon Patrick LAU and Hon KAM Nai-wai have expressed strong views that the composition of the disciplinary board under section 16 of the REA Regulation should include a lay member so as to better ensure that the disciplinary proceedings would be conducted in a fair and impartial manner. To this end, they have further suggested that the disciplinary board panel under section 15 should be expanded to include a lay person category from which a disciplinary board is to appoint its lay member.

31. After discussion, the Subcommittee has agreed that there is no need to increase the number of members of a disciplinary board, which is proposed to be five under section 16(2). However, it should be specified that one of the five members has to be from the lay person category under section 15. Having regard to members' strong views, the Administration has proposed the following -

- (a) amendments to section 15(1) to provide that the disciplinary board panel is to consist of an additional category of not more than 10 members who are not, in the opinion of the Secretary, from the engineering profession; and
- (b) amendments to section 16(2) to specify that one of the five members of a disciplinary board has to be a member appointed from the above lay person category.

Documents protected by legal professional privilege

32. The legal adviser to the Subcommittee has proposed that section 18(8) of the REA Regulation be amended to confer protection on documents subject to legal professional privilege in the situation that the disciplinary board only directs the person concerned to produce documents without requiring him to attend or appear at a hearing before the disciplinary board. The Administration has explained that in relation to a hearing before a disciplinary board, protection of legal professional privilege is provided under common law principles and is consistent with Article 35 of the Basic Law. Nevertheless, having regard to the views

of the Subcommittee, the Administration has agreed to move amendments to section 18 to expressly provide for protection to the documents subject to legal professional privilege.

Cost of hearing and cost of engaging legal representatives by the disciplinary board

33. The Subcommittee notes that under section 18(4), a disciplinary board may engage any barrister or solicitor to attend a hearing of the board to render advice. The Subcommittee also notes that section 19(2) provides that the disciplinary board may make any order that it thinks fit regarding the payment of costs or expenses of the hearing. Hon Audrey EU considers that REAs being disciplined should not be required to pay huge sum for the cost arising from the appointment of legal adviser(s) to the disciplinary board. Having regard to the Subcommittee's views, the Administration has proposed to amend section 19(2) to make it clear that while a disciplinary board may make any order as it thinks fit, the board will only make an order if it is satisfied that it is just and equitable in all circumstances of the case to do so. Similar formulation is also found in existing law, e.g. section 23 of the Engineers Registration Ordinance (Cap. 409) and section 15 of the Product Eco-responsibility Ordinance (Cap. 603).

34. In response to members' enquiry, the Administration has advised that “costs” and “expenses” in disciplinary proceedings would normally include fees, charges, disbursements, expenses and remuneration.

Drafting of section 13(3)

35. On the advice of the legal adviser to the Subcommittee and members, the Administration has agreed to amend section 13(3) to better reflect the policy intent that, under the scenarios covered in section 13(3), DEMS cannot determine a disciplinary case pursuant to section 13(2)(a) but must refer it to the Secretary in accordance with section 13(2)(b).

The standard and burden of proof at disciplinary proceedings

36. Hon Audrey EU has enquired about the standard of proof and

burden of proof at disciplinary proceedings under the REA Regulation. The Administration has responded that based on the legal advice it has obtained, the party who initiates the disciplinary proceedings (i.e. DEMS) would have the burden to prove that, on the balance of probabilities, the matter mentioned in section 13(1) is established in respect of the REA.

Proposed amendments

37. The Subcommittee agrees to the amendments proposed by the Administration to the REA Regulation (**Appendix III**).

Advice sought

38. The House Committee is invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
9 March 2011

**Subcommittee on Buildings Energy Efficiency (Fees) Regulation and
Buildings Energy Efficiency (Registered Energy Assessors)
Regulation**

Membership list

Chairman Hon Audrey EU Yuet-mee, SC, JP

Members Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon Tanya CHAN

(Total : 7 Members)

Clerk Ms Joanne MAK

Legal Adviser Mr YICK Wing-kin

Date 22 February 2011

**Subcommittee on Buildings Energy Efficiency (Fees) Regulation and
Buildings Energy Efficiency (Registered Energy Assessors)
Regulation**

**List of deputations/individual which/who have submitted views to the
Subcommittee**

1. ASHRAE Hong Kong Chapter
2. Asian Institute of Intelligent Buildings
3. Building Services Operation and Maintenance Executives Society
4. CIE (Hong Kong) Limited
5. City University of Hong Kong
6. Hong Kong Association of Energy Engineers
7. Institution of Mechanical Engineers, Hong Kong Branch
8. Mr David CHAN
9. The Chartered Institution of Building Services Engineers (Hong Kong Branch)
10. The Hong Kong Institute of Surveyors
11. The Hong Kong Institution of Engineers
12. The Professional Green Building Council
13. The Registered Elevator & Escalator Contractors Association Ltd.
14. Trace Democracy Party Community

Interpretation and General Clauses Ordinance

Resolution of the Legislative Council

Buildings Energy Efficiency (Registered Energy Assessors) Regulation

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2011.

Resolved that the Buildings Energy Efficiency (Registered Energy Assessors) Regulation, published in the Gazette as Legal Notice No. 19 of 2011 and laid on the table of the Legislative Council on 26 January 2011, be amended as set out in the Schedule.

Schedule

Amendments to Buildings Energy Efficiency (Registered Energy Assessors) Regulation

1. Section 3 amended (Register of Registered Energy Assessors)

Section 3—

Repeal paragraph (c)

Substitute

“(c) the validity periods of all certificates of registration issued to the assessor under section 5(4)(b) or 6(6)(b); and”.

2. Section 5 amended (Determination of application)

(1) After section 5(2)—

Add

“(2A) For the purposes of subsection (2)(a), the Director may accept the attendance or completion of any course that the Director considers relevant as the qualification or education of the applicant.”.

(2) Section 5—

Repeal subsection (5)

Substitute

“(5) The registration is valid for the period beginning on the date on which the certificate of registration is issued and ending on the day before—

(a) the 10th anniversary of the date on which the certificate is issued; or

- (b) the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9,
whichever is the earlier.”.

3. Section 7 amended (Validity of renewed registration)

- (1) Section 7(1)—

Repeal

“Subject to section 9, a registration”

Substitute

“A registration”.

- (2) Section 7(1)(a)—

Repeal

everything after “the application and”

Substitute

“ending on—

- (i) the 10th anniversary of the expiry date of the current registration; or
(ii) the day before the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9,
whichever is the earlier;”.

- (3) Section 7(1)(b)—

Repeal

“for a period of 10 years”

Substitute

“for the period”.

- (4) Section 7(1)(b)—

Repeal

“; or”

Substitute

“and ending on the day before—

- (i) the 10th anniversary of the date on which the certificate is issued; or
- (ii) the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9,

whichever is the earlier; or”.

- (5) Section 7(1)(c)—

Repeal

everything after “the application and”

Substitute

“ending on—

- (i) the 10th anniversary of the expiry date of the current registration; or
- (ii) the day before the date on which the name of the applicant is removed from the Register of Registered Energy Assessors under section 9,

whichever is the earlier.”.

4. Section 9 amended (Removal from Register of Registered Energy Assessors)

Section 9—

Repeal subsection (5).

5. Section 13 amended (Commencement of disciplinary proceedings)

Section 13(3)—

Repeal

“of prospective disciplinary proceedings to the Secretary”

Substitute

“to the Secretary under subsection (2)(b)”.

6. Section 15 amended (Disciplinary board panel)

(1) Section 15(1)(d)—

Repeal

“discipline; and”

Substitute

“discipline;”.

(2) Section 15(1)(e)—

Repeal

“(Cap. 409).”

Substitute

“(Cap. 409); and”.

(3) After section 15(1)(e)—

Add

“(f) not more than 10 members who are not, in the opinion of the Secretary, from the engineering profession.”.

(4) Section 15(3)(b), before “has”—

Add

“(in the case of an appointment under subsection (1)(a), (b), (c), (d) or (e))”.

7. Section 16 amended (Disciplinary board)

Section 16(2)—

Repeal

“all 5 categories of members specified in section 15(1)”

Substitute

“5 different categories of members specified in section 15(1), one of whom must be a member appointed under section 15(1)(f)”.

8. Section 18 amended (Hearing)

Section 18(8)—

Repeal

everything after “any document”

Substitute

“which—

- (a) tends to incriminate himself or herself; or
- (b) the person would on grounds of legal professional privilege be entitled to refuse to give or produce.”.

9. Section 19 amended (Determination of disciplinary board)

Section 19(2), after “may”—

Add

“, if it is satisfied that it is just and equitable in all circumstances of the case to do so,”.

Clerk to the Legislative Council

2011