

立法會
Legislative Council

LC Paper No. CB(1) 1465/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/3/11/1

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

**Minutes of the fifth meeting
held on Monday, 5 December 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king, JP
Hon IP Kwok-him, GBS, JP
Hon Tanya CHAN

Members absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHEUNG Hok-ming, GBS, JP

Public officers attending : **For item I**

Mr Ryan CHIU
Principal Assistant Secretary for Development
(Planning and Lands)³

Mr Daniel FONG
Assistant Secretary for Development (Buildings)¹

Mr HUI Siu-wai
Deputy Director of Buildings

Mr TSE Kin-leung
Assistant Director/Mandatory Building Inspection
Buildings Department

Mr Thomas LEUNG
Chief Building Surveyor/Legal Services
Buildings Department

Ms Rayne CHAI
Senior Government Counsel
Department of Justice

Mr Henry CHAN
Government Counsel
Department of Justice

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

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Mrs Mary TANG
Senior Council Secretary (1)1

I. Meeting with the Administration

(LC Paper No. CB(1) 519/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 30 November 2011)

Background information on the Regulations and Commencement Notice

Building (Inspection and Repair) Regulation (L.N. 146), Building (Administration) (Amendment) Regulation 2011 (L.N. 147), Building (Minor Works) (Amendment) Regulation 2011 (L.N. 148), and Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011 (L.N. 149)

Ref: DEVB (PL-CR) 2/15-08 — The Legislative Council Brief
(issued by Development Bureau
in October 2011)

LC Paper No. LS3/11-12(*issued on 2 November 2011*) — Legal Service Division Report

LC Paper No. CB(1) 359/11-12(01) — Marked-up copy of the
(*issued for the meeting 17 November 2011*) Building (Administration)
(Amendment)
Regulation 2011, and Building
(Minor Works) (Amendment)
Regulation 2011 (Restricted to
Members)

The Subcommittee deliberated (Index of proceedings attached in **Annex**).

2. The Administration was requested to -

- (a) advise whether owners of buildings who had benefited from other assistance schemes would still be entitled to the financial assistance to be offered under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS). To provide more details about the assistance to be rendered by the Hong Kong Housing Society, Urban Renewal Authority and Home Affairs Departments to owners of target buildings;
- (b) consider using larger font size for publicity materials to be issued under MBIS and MWIS to cater for the need of elderly building owners;
- (c) advise the duties and liabilities of technical representatives/specialists to be appointed by Registered Inspectors (RIs), and the means through which the performance of technical representatives/specialists could be monitored;
- (d) advise whether the specified lead time for different stages of MBIS/MWIS was statutory or indicative. To also advise the application of the lead time in the event that the building concerned was deemed unsafe during a prescribed inspection;
- (e) advise whether RIs would be required to report subdivision of flats identified during a prescribed inspection;

Building (Inspection and Repair) Regulation

- (f) review the drafting of paragraph 2 of Schedule 1 to make it clear that the fire safety provisions under the Regulation only confined to the three items referred to; and

- (g) advise the provisions under the Regulation which carried criminal liabilities and the penalties in the event of non-compliance.

Building (Administration) (Amendment) Regulation 2011

- (h) advise the application of proposed section 5A to contractors or suppliers who were relatives of RIs, and the consequences in the event of non-compliance.

3. Members agreed to continue discussion at the next meeting to be held on Wednesday, 7 December 2011, at 8:30 am. They also agreed to cancel the meeting originally scheduled for 8 December 2011.

II. Any other business

4. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
2 April 2012

**Subcommittee on Building (Inspection and Repair) Regulation,
Building (Administration) (Amendment) Regulation 2011,
Building (Minor Works) (Amendment) Regulation 2011, and
Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011**

**Proceedings of the fifth meeting
held on Monday, 5 December 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000715 - 000916	Chairman	<p>Discussion on the legislative timetable</p> <p>Members' agreement to -</p> <p>(a) provide a verbal report on the deliberations of the Subcommittee to the House Committee at its meeting on 9 December 2011;</p> <p>(b) cancel the meeting originally scheduled for 8 December 2011; and</p> <p>(c) hold an additional meeting before 14 December 2011 if necessary.</p>	
000917 - 003033	Administration Chairman	Administration's explanation on its response to follow-up actions arising from the discussion at the meeting on 30 November 2011 (LC Paper No. CB(1) 536/11-12(01).	
003034 - 003354	Mr IP Kwok-him Administration	<p>Mr IP Kwok-him's enquiries -</p> <p>(a) whether owners of buildings who had benefited from other assistance schemes would still be entitled to the financial assistance to be offered under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS); and</p> <p>(b) implementation details of MWIS, the inspection works of which would involve individual owners rather than owners' corporation (OCs).</p> <p>Administration's explanation -</p> <p>(a) eligible owners who need to carry out</p>	The Administration to advise whether owners of buildings who had benefited from other assistance schemes would still be entitled to the financial assistance to be offered under MBIS and MWIS.

Time marker	Speaker	Subject(s)	Action required
		<p>prescribed repair could obtain financial and technical assistance through existing assistance schemes for maintenance works, including the Integrated Building Maintenance Assistance Scheme (IBMAS), Building Maintenance Grant Scheme for Elderly Owners (BMGSEO), and Comprehensive Building Safety Improvement Loan Scheme;</p> <p>(b) under IBMAS, owners would not be eligible for the subsidy if the proposed maintenance works items had previously been subsidized and completed within the past five years, unless the items concerned had become defective or dangerous again;</p> <p>(c) under BMGSEO, an applicant would be eligible to obtain the maximum subsidy of \$40,000 if the last subsidy had been granted for more than five years; and</p> <p>(d) under MWIS, statutory notices would be issued to require individual owners to arrange inspection of the windows and carry out any repair as necessary within their premises. Notices would also be issued to OCs for windows in the common areas.</p>	
003355 - 004328	Miss Tanya CHAN Administration	<p>Miss Tanya CHAN views/enquiries -</p> <p>(a) larger font size should be used for publicity materials to be issued under MBIS/MWIS to cater for the need of elderly building owners;</p> <p>(b) the qualifications, duties and liabilities of technical representatives/specialists to be appointed by Registered Inspectors (RIs); and</p> <p>(c) whether owners could apply for extension of time in carrying out the prescribed inspection/repair works</p> <p>Administration's response -</p>	<p>The Administration to-</p> <p>(a) consider using larger font size for publicity materials to be issued under MBIS and MWIS to cater for the need of elderly building owners; and</p> <p>(b) advise the duties and liabilities of technical representatives/specialists to be appointed by RIs,</p>

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		<p>(a) larger font size would suitably be used for publicity materials to be issued under MBIS/MWIS;</p> <p>(b) the qualifications for the technical representatives had been set out in the draft Code of Practice for MBIS and MWIS (CoP);</p> <p>(c) while an RI might appoint a technical representative to perform on his behalf the duty in supervising prescribed repair under section 24 of the Building (Inspection and Repair) Regulation (the Regulation), the RI concerned would still be personally responsible for the supervision of the prescribed repair according to section 24(5) of the Regulation and assumed full responsibilities for the completion report he had signed and submitted under section 35(3) of the Regulation;</p> <p>(d) an RI was exempted from the statutory duty to personally carry out the inspection in case a specialist was engaged to carry out a detailed investigation under section 21 of the Regulation. However, the RI concerned was duty bound to supervise the specialist under the same section; and</p> <p>(e) under MBIS/MWIS, an extra three months would be given to target buildings without OCs to allow owners to form OCs or coordinate the inspection/repair works.</p>	<p>and the means through which the performance of technical representatives/ specialists could be monitored.</p>
004329 - 005345	<p>Chairman Administration Mr IP Kwok-him</p>	<p>Chairman's enquiries -</p> <p>(a) whether the specified lead time for different stages of MBIS/MWIS was statutory or indicative;</p> <p>(b) the application of the lead time if the building concerned was deemed unsafe during a prescribed inspection; and</p> <p>(c) the lead time of six months for repair of windows under MWIS might be</p>	<p>The Administration to advise whether the specified lead time for different stages of MBIS/MWIS was statutory or indicative. To also advise the application of the lead time in the event that the building concerned was deemed unsafe during a prescribed</p>

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		<p>unnecessarily long given the relatively simple works involved.</p> <p>Administration's explanation -</p> <p>(a) while the prescribed inspection had to be carried out within a time limit as specified in the notice, flexibility would be allowed to cater for circumstances of individual cases;</p> <p>(b) RIs and qualified persons (QPs) were required to notify the Building Authority (BA) of any case of emergency in relation to safety of buildings/windows as revealed during the course of prescribed inspection or supervision of prescribed repair. The Buildings Department would handle the emergency cases in accordance with the relevant provisions of the Buildings Ordinance (Cap. 123) (BO); and</p> <p>(c) sufficient time should be allowed for owners to carry out inspection/repair of windows, given that MWIS was a new scheme. In addition, individual owners might appoint the same RI to coordinate the prescribed inspection and repair of the windows in their units as RI for inspecting/repairing windows in the common parts of the building. So, a longer lead time might be required in such cases.</p>	<p>inspection.</p>
<p>005346 - 010124</p>	<p>Chairman Administration Mr IP Kwok-him</p>	<p>Chairman's enquiry/request -</p> <p>(a) whether water tanks for fire fighting would need to be inspected under MBIS; and</p> <p>(b) need to review the drafting of paragraph 2 of Schedule 1 to make it clear that the fire safety provisions under the Regulation only confined to the three items referred to.</p> <p>Administration's explanation -</p> <p>(a) water tanks completed according to the</p>	<p>The Administration to review the drafting of paragraph 2 of Schedule 1 to make it clear that the fire safety provisions under the Regulation only confined to the three items referred to.</p>

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		<p>approved plans were items of prescribed inspection under MBIS.;</p> <p>(b) fire safety provisions to be regulated under the Regulation were those parts in respect of means of escape, fire resisting constructions and means of access for firefighting and rescue, which were under the purview of BO; and</p> <p>(c) matters that were related to the installation, repair, maintenance or inspection of fire service installations or equipment fell under the purview of the Fire Service Ordinance (Cap. 95) (FSO).</p>	
010125 - 011800	<p>Ms Starry LEE Administration Chairman Mr IP Kwok-him</p>	<p>Ms Starry LEE's enquiries -</p> <p>(a) whether RIs would be required to report subdivision of flats identified during a prescribed inspection; and</p> <p>(b) the assistance to be provided to OCs under MBIS/MWIS.</p> <p>Chairman's enquiry on how RI could identify signs of suspected subdivision.</p> <p>Mr IP Kwok-him's recollection that the requirement to report on signs of suspected subdivision of flats had been discussed at length by the then Bills Committee on Buildings (Amendment) Bill 2010.</p> <p>Administration's response -</p> <p>(a) clear guidelines were set out in CoP to assist RIs to report to BA signs of suspected subdivision of flats during the course of prescribed inspection. These included presence of multiple flat door openings, door bells or drain pipe connections etc; and</p> <p>(b) assistance would be provided by the Hong Kong Housing Society (HKHS), Urban Renewal Authority (URA) and Home Affairs Department (HAD) to owners of target buildings.</p>	<p>The Administration to -</p> <p>(a) advise whether RIs would be required to report subdivision of flats identified during a prescribed inspection; and</p> <p>(b) provide more details about the assistance to be rendered by HKHS, URA and HAD to owners of target buildings.</p>

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011801 - 012154	Administration Chairman Mr IP Kwok-him	Clause 22 - Proposal and revised proposal for prescribed repair in respect of buildings	
012155 - 012258	Administration	Clause 23 - Proposal and revised proposal for prescribed repair in respect of windows	
012259 - 012520	Administration Chairman	Clause 24 - Appointment of representative of registered inspector	
012521 - 012627	Administration Chairman	Clause 25 - Power of Building Authority to reject appointment of representative	
012628 - 012717	Administration	Clause 26 - Application Clause 27 - Duty of registered inspector and qualified person on cessation to act	
012718 - 012934	Administration Mr IP Kwok-him Chairman	Clause 28 - Duty of registered inspector in case of nomination under section 30D(10) of Ordinance	
012935 - 013135	Administration Chairman	Clause 29 - Prescribed repair must not be carried out if registered inspector or qualified person becomes unwilling or unable to act	
013136 - 013821	Administration Chairman	Clause 30 - Duty of registered inspector and qualified person to deliver copy of document	
013822 - 013907	Administration Chairman	Clause 31 - Duty of registered inspector and qualified person to provide to Building Authority any information as may be required	
013908 - 014339	Administration Chairman Ms Starry LEE Mr IP Kwok-him	Clause 32 - Duty of registered contractor to keep inspection report on site	
014340 - 014404	Administration	Clause 33 - Completion of document	
014405 - 014425	Administration Chairman	Clause 34 - Material and form of report and proposal	
014426 - 014901	Administration Chairman Mr IP Kwok-him	Clause 35 - Preparation of and signature on report and proposal Chairman's enquiry on the provisions under the Regulation which carried criminal	The Administration to advise the provisions under the Regulation which carried criminal liabilities and the

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		liabilities and the penalties in the event of non-compliance.	penalties in the event of non-compliance
014902 - 014913	Administration	Clause 36 – Duty imposed by this Regulation not to prejudice any other duty imposed by Ordinance or other enactment	
014914 - 014932	Chairman Administration	Schedule 1 and 2	
014933 - 015031	Administration Chairman	Clause-by-clause examination of the Building (Administration)(Amendment) Regulation 2011 (LC Paper No. CB(1) 359/11-12(01))	
015032 - 015117	Chairman Administration	<p>Clause 1 - Commencement</p> <p>Clause 2 - Building (Administration) Regulations amended</p> <p>Clause 3 - Regulation 2 amended (interpretation)</p>	
015118 - 015952	Chairman Administration	Clause 4 - Part II heading amended (authorized persons, registered structural engineers, registered geotechnical engineers and registered contractors)	
015953 - 020203	Administration Chairman Mr Abraham SHEK	<p>Clause 5 - Regulation 3 amended (qualification for inclusion in register)</p> <p>Clause 6 - Regulation 4 amended (requirements upon application for inclusion in register)</p> <p>Clause 7 - Regulation 5A added</p> <p>Chairman's enquiry on the application of proposed section 5A to contractors or suppliers who were relatives of RIs, and the consequences in the event of non-compliance.</p> <p>Administration's response that the proposed provision was modeled on existing section 5 which imposed identical control over authorized persons, registered structural engineers and registered geotechnical engineers.</p>	The Administration to advise the application of proposed section 5A to contractors or suppliers who were relatives of RIs, and the consequences in the event of non-compliance.

Time marker	Speaker	Subject(s)	Action required
020204 - 020230	Chairman	The next meeting would be held on Wednesday, 7 December 2011, at 8:30 am.	

Council Business Division 1
Legislative Council Secretariat
2 April 2012