

立法會
Legislative Council

LC Paper No. CB(1)1067/14-15
(These minutes have been seen
by the Administration)

Ref : CB1/SC/9/14/1

Subcommittee on
Building (Administration) (Amendment) Regulation 2015 and
Building (Minor Works) (Fees) (Amendment) Regulation 2015

Minutes of meeting held on
Monday, 1 June 2015, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Tony TSE Wai-chuen, BBS (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Cyd HO Sau-lan, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHAN Han-pan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Public Officers attending : **Agenda item II**

Mr Arsene YIU Kai-cheuk
Principal Assistant Secretary for Development
(Planning and Lands)³

Mr LEUNG Siu-man
Assistant Director/Corporate Services
Buildings Department

Miss Bonita Wong Man-yin
Government Counsel
Department of Justice

Clerk in attendance: Ms Sharon CHUNG
Chief Council Secretary (1)2

Staff in attendance : Ms Carrie WONG
Assistant Legal Adviser 4

Mr Raymond CHOW
Senior Council Secretary (1)6

Ms Christina CHIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr Abraham SHEK, the member who had the highest precedence in the Council among those present at the meeting, presided over the election of Chairman of the Subcommittee. He invited nominations for the chairmanship.

2. Mr Abraham SHEK nominated Mr Tony TSE and the nomination was seconded by Ir Dr LO Wai-kwok. Mr TSE accepted the nomination. There being no other nomination, Mr TSE was elected Chairman of the Subcommittee. Members agreed that there was no need to elect a Deputy Chairman.

II Meeting with the Administration

(L.N. 93 of 2015 -- Building (Administration)
(Amendment) Regulation 2015

L.N. 94 of 2015 -- Building (Minor Works) (Fees)
(Amendment) Regulation 2015

File Ref.: DEVB(PL-B) 30/30/ -- Legislative Council Brief

LC Paper No. LS66/14-15 -- Legal Service Division Report
LC Paper No. CB(1)907/14-15(01) -- Marked-up copy of the
Building (Administration)
(Amendment) Regulation 2015
prepared by the Legal Service
Division

LC Paper No. CB(1)907/14-15(02)	Marked-up copy of the Building (Minor Works) (Fees) (Amendment) Regulation 2015 prepared by the Legal Service Division
LC Paper No. CB(1)907/14-15(03)	Paper on Building (Administration) (Amendment) Regulation 2015 and Building (Minor Works) (Fees) (Amendment) Regulation 2015 prepared by the Legislative Council Secretariat (Background brief))

3. Ir Dr LO Wai-kyok declared that he was an engineer but neither a structural engineer, geotechnical engineer nor an authorized person.

4. Mr IP Kwok-him and Mr Abraham SHEK suggested that the meeting be suspended for a few minutes to allow some of the Subcommittee members who were also members of the Panel on Housing to go to another conference room where the Panel meeting was held to vote on a motion. Members agreed to the suggestion.

(The meeting was suspended at 4:37 pm and resumed at 4:44 pm.)

5. The Subcommittee deliberated (index of proceedings in the **Appendix**).

Legislative timetable

6. The Chairman concluded that the Subcommittee had completed the scrutiny of the Building (Administration) (Amendment) Regulation 2015 and the Building (Minor Works) (Fees) (Amendment) Regulation 2015 ("the two Amendment Regulations") and would not move any amendment to the two Amendment Regulations.

7. The Subcommittee noted that the expiry date of the scrutiny period of the two Amendment Regulations was 17 June 2015 and the deadline for giving notice of amendment to the two Amendment Regulations was 10 June 2015. Members agreed that the Chairman would report the Subcommittee's deliberations to the House Committee at its meeting on 5 June 2015.

III Any other business

8. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 1
Legislative Council Secretariat
6 July 2015

**Proceedings of meeting of the Subcommittee on
Building (Administration) (Amendment) Regulation 2015 and
Building (Minor Works) (Fees) (Amendment) Regulation 2015
On Monday, 1 June 2015, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Election of Chairman			
000227 – 000454	Mr Abraham SHEK Ir Dr LO Wai-kwok Mr Tony TSE Mr IP Kwok-him	Election of Chairman	
Agenda Item II – Meeting with the Administration			
000455 – 000732	Chairman Administration	The Administration's briefing on the Building (Administration) (Amendment) Regulation 2015 ("B(A)(A)R") and the Building (Minor Works) (Fees) (Amendment) Regulation 2015 ("B(MW)(F)(A)R")	
000733 – 001408	Suspension of meeting		
001409 – 001621	Chairman Administration	The Administration continued its briefing on B(A)(A)R and B(MW)(F)(A)R.	
001622 – 003942	Mr IP Kwok-him Administration Chairman	<p>Considering that the "user pays" and "full cost recovery" principles should not be applied across the board for all government services regardless of the nature and purposes of individual services, as well as the impact of cost increases on the general public, Mr IP Kwok-him enquired --</p> <p>(a) how the costs for the registration services of the building professionals and contractors were worked out in view of the large magnitude of increases for some fee items, such as an upward adjustment of the fee for "application for registration as a general building/specialist contractor" by 40% from \$5,020 to \$7,030; and</p> <p>(b) whether the increased registration fee for general building/specialist contractor (from \$5,020 to \$7,030) would be transferred to building service users and have a knock-on effect on other government fees and charges.</p> <p>The Chairman expressed a similar concern over the increase in registration fees and sought information from the Administration on the efforts made by the Buildings Department ("BD") in streamlining work procedures and enhancing work efficiency for the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p data-bbox="608 277 1334 344">purpose of reducing or containing the costs of providing the services.</p> <p data-bbox="608 387 1043 421">The Administration replied that --</p> <p data-bbox="608 463 1334 745">(a) Under the "user pays" principle, users should pay for the service they used, instead of being subsidized by other taxpayers. Given that there were less than 2 000 authorized persons, structural engineers and geotechnical engineers in Hong Kong, the Administration considered it fair for these professionals to bear the full cost of the registration services.</p> <p data-bbox="608 788 1334 1077">(b) While the Consumer Price Index and the pay of the civil service had been increased by about 40% in the period from 2005 to 2014, all the fees under B(A)(A)R had not been reviewed for 10 years and did not reflect the costs of the relevant services at the 2015-2016 price level. Therefore, there was a need to revise these fees to achieve full cost recovery.</p> <p data-bbox="608 1120 1334 1373">(c) On the costing of each fee item for the registration services concerned, the fee was calculated on the basis of the empirical staff costs incurred in processing the registration applications, departmental expenses as well as other associated costs for convening the registration committee meetings.</p> <p data-bbox="608 1415 1334 1592">(d) BD had conducted a cost review exercise on the registration services concerned in 2014. In view of the concerns expressed by the registered minor works contractors ("RMWCs"), the Administration did not take the fee revision forward at that time.</p> <p data-bbox="608 1635 1334 1957">(e) Rather, BD had undertaken measures to contain the costs of delivery of services and review its work procedures. For example, for the renewal of an RMWC registration, upon streamlining the procedures in consultation with stakeholders, BD only required the applicant to provide the changes, if any, to the information submitted for the last registration, instead of providing all information afresh.</p> <p data-bbox="608 2000 1334 2103">(f) As for an application for registration as a general building/specialist contractor, an interview with the Contractors Registration Committee ("CRC") was</p>	

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		<p>required. BD had adopted a practice that each interview conducted by CRC should normally last not more than 40 minutes so as to control staff and meeting costs.</p> <p>(g) The benefits derived from the streamlined procedures had been factored into the costing of individual fee items. As a result, the increases of the fees under B(MW)(F)(A)R were mild and the fees for six items were adjusted downward.</p> <p>(h) The fee for "application for registration as a general building/specialist contractor" was just a one-off fee for contractors, and in comparison with the contract value of their works projects, such fee was a small amount with little impact on their operations.</p>	
003943 – 004650	Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok supported in principle the Administration's policy that fees charged for government services should in general be set at levels sufficient to recover the full cost of providing the services. However, given that the building professionals had already obtained the relevant qualifications and the high registration fees would impose a heavy burden on the newly qualified professionals, he asked why the fee for "application for inclusion of name in each list of the authorized person's/structural engineer's/geotechnical engineer's register" would be increased by 49.4% from \$4,150 to \$6,200.</p> <p>The Administration advised that the following administrative costs were incurred for providing the registration services for building professionals --</p> <p>(a) An application for registration as a building professional involved not only the processing of submitted documents, but also an interview to examine the applicant's knowledge about the statutory requirements under the Buildings Ordinance (Cap. 123) by the relevant registration committees which were formed by the representatives of BD and the relevant professional bodies. Members of these registration committees (if not BD staff) would be provided with honoraria for attending the interviews.</p> <p>(b) Arrangements to publish successful applicants' names in the Gazette.</p>	

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		(c) If an applicant failed in the interview, in general, a re-take in 6 months would be arranged free of charge. Given that the passing rate was as low as 20%, additional costs would be required for arranging second interviews.	
004651 – 005523	Mr CHAN Han-pan Administration	<p>Mr CHAN Han-pan asked whether --</p> <p>(a) RMWCs were charged for notifying BD the completion of minor works or works carried out under the Mandatory Building and Window Inspection Schemes; and</p> <p>(b) RMWCs were charged for requesting BD to review its decisions on matters related to the minor works that they had carried out.</p> <p>The Administration explained that --</p> <p>(a) The fee revisions under the two Amendment Regulations were only related to registration matters of building professionals and RMWCs, but not the individual works projects that they carried out.</p> <p>(b) While BD required RMWCs to report each works project that they undertook for record and spot-checks, BD did not charge RMWCs on such reports.</p> <p>(c) RMWCs were charged for requesting BD to review its decisions on the registration applications. However, BD would refund the fees paid by the RMWCs for the requests if new decisions were made.</p>	
005524 – 005812	Mr IP Kwok-him	<p>Mr IP Kwok-him said that he accepted the Administration's explanation on the rationale for adjusting the registration fees under the two Amendment Regulations. He considered that the registration fees concerned only occupied a small share of the total construction costs and did not have a direct impact on the general public. However, he expressed reservation on applying the "user pays" principle to the fees and charges (e.g. water tariffs) that had direct impact on the livelihood of people.</p>	
Section-by-section examination of the two Amendment Regulations			
005813 – 010535	Administration	<u>Building (Administration) (Amendment) Regulation 2015</u>	

Time marker	Speaker	Subject(s)	Action required
		<p><i>Section 1 -- Commencement</i></p> <p><i>Section 2 -- Building (Administration) Regulations amended</i></p> <p><i>Section 3 -- Regulation 42 amended (fees)</i></p> <p><u>Building (Minor Works) (Fees) (Amendment) Regulation 2015</u></p> <p><i>Section 1 -- Commencement</i></p> <p><i>Section 2 -- Building (Minor Works) (Fees) Regulation amended</i></p> <p><i>Section 3 -- Section 4 amended (fee for application for registration as registered minor works contractor for one or more items of class III minor works)</i></p> <p><i>Section 4 -- Section 7 amended (fee for application for registration of additional items of class III minor works)</i></p> <p><i>Section 5 --Section 8 amended (fee for request for review: application relating to one or more items of class III minor works)</i></p> <p>The Administration's briefing on the above sections</p> <p>Members raised no queries.</p>	
010536 – 010853	Administration Chairman	<p><i>Section 6 -- Section 10 amended (fee for application for registration as registered minor works contractor for one or more types of minor works under one or more classes)</i></p> <p>The Administration's briefing on the above section</p> <p>As regards the application fee for registration as an RMWC (company), the Chairman asked why the fee for Class II works was adjusted downward under B(MW)(F)(A)R, whereas the fee for Classes I and III works were adjusted upward.</p> <p>The Administration explained that --</p> <p>(a) As compared with a small number of RMWC (company) registration applications for Classes I and III works, a large number of Class II works-related applications enabled BD to achieve</p>	

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		<p>economy of scale and keep the cost low.</p> <p>(b) Unlike the registration applications for Class I works, which required CRC to conduct interviews, the registration applications for Class II works were handled solely by BD.</p>	
010854 – 011158	Administration	<p><i>Section 7 -- Section 11 amended (fee for registration as registered minor works contractor for one or more types of minor works under one or more classes)</i></p> <p><i>Section 8 -- Section 12 amended (fee for application for renewal of registration for one or more types of minor works under one or more classes)</i></p> <p><i>Section 9 -- Section 13 amended (fee for application for restoration of name to register for one or more types of minor works under one or more classes)</i></p> <p><i>Section 10 -- Section 14 amended (fee for application for registration of additional classes or types of minor works)</i></p> <p><i>Section 11 -- Section 15 amended (fee for application for approval of nomination of additional authorized signatory)</i></p> <p><i>Section 12 -- Section 17 amended (fee for request for review: application relating to one or more types of minor works under one or more classes)</i></p> <p>The Administration's briefing on the above sections</p> <p>Members raised no queries.</p>	
<u>Legislative timetable</u>			
011159 – 011652	Chairman Mr IP Kwok-him Ir Dr LO Wai-kwok Clerk Assistant Legal Adviser 4 ("ALA4")	<p>Members agreed that it was not necessary to invite relevant organizations to give views on the two Amendment Regulations.</p> <p>The Chairman concluded that the Subcommittee had completed the scrutiny of the two Amendment Regulations and the Subcommittee would not move any amendment to the Amendment Regulations.</p> <p>In response to the enquiry of Ir Dr LO Wai-kwok, the Clerk and ALA4 explained that subject to amendment, if any, the scrutiny period for the two Amendment Regulations would expire on 17 June 2015 if not extended, and the two Amendment Regulations would</p>	

Time marker	Speaker	Subject(s)	Action required
		come into operation on 20 July 2015. The Chairman said that he would report the deliberations of the Subcommittee to the House Committee on 5 June 2015.	

Council Business Division 1
Legislative Council Secretariat
6 July 2015