

立法會
Legislative Council

LC Paper No. CB(1)1390/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/16

Bills Committee on Waterworks (Amendment) Bill 2017

Minutes of first meeting
on Friday, 19 May 2017, at 10:45 am
in Conference Room 2 of the Legislative Council Complex

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Dr Hon Helena WONG Pik-wan (Deputy Chairman)
Hon LEUNG Kwok-hung
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon POON Siu-ping, BBS, MH
Hon SHIU Ka-fai
Hon LAU Kwok-fan, MH
Dr Hon YIU Chung-yim

Member absent : Dr Hon Junius HO Kwan-yiu, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

Public officers attending : Agenda item II
Mr Vincent MAK
Deputy Secretary for Development (Works) 2

Mr Bobby NG, BBS
Team Leader/ Legislative Review
Water Supplies Department

Mr Horace LEE
Senior Engineer/ Legislative Review (2)
Water Supplies Department

Clerk in attendance: Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance: Ms Wendy KAN
Assistant Legal Adviser 6

Mr Joey LO
Senior Council Secretary (1)8

Miss Judy YEE
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Election of Chairman and Deputy Chairman

Election of Chairman

Mr LEUNG Che-cheung, the member who had the highest precedence in Council among members of the Bills Committee present at the meeting, presided at the election of the chairmanship of the Bills Committee. Mr LEUNG invited nominations for the chairmanship of the Bills Committee.

2. Ir Dr LO Wai-kwok was nominated by Mr LAU Kwok-fan and the nomination was seconded by Mr POON Siu-ping. Ir Dr LO Wai-kwok accepted the nomination.

3. There being no other nomination, Ir Dr LO Wai-kwok was elected Chairman of the Bills Committee. Ir Dr LO Wai-kwok then took the chair.

Election of Deputy Chairman

4. The Chairman called for nominations for the deputy chairmanship for the Bills Committee. Dr Helena WONG nominated herself and the nomination was seconded by Mr LEUNG Che-cheung. There being no other nomination, the Chairman declared that Dr Helena WONG was elected as the Deputy Chairman of the Bills Committee.

II. Meeting with the Administration

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| (LC Paper No. CB(3)458/16-17 | -- | The Bill |
| LC Paper No. CB(1)962/16-17(01) | -- | Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only) |
| File Ref: DEVB(CR)(W)1-10/49 | -- | Legislative Council Brief issued by the Development Bureau |
| LC Paper No. LS56/16-17 | -- | Legal Service Division Report |
| LC Paper No. CB(1)962/16-17(02) | -- | Paper on Waterworks (Amendment) Bill 2017 prepared by the Legislative Council Secretariat (background brief) |
| LC Paper No. CB(1)962/16-17(03) | -- | Assistant Legal Adviser's letter dated 9 May 2017 to the Administration |
| LC Paper No. CB(1)970/16-17(01)
<i>(tabled at the meeting and subsequently issued on 19 May 2017)</i> | -- | Administration's paper on Waterworks (Amendment) Bill 2017 (power-point presentation material)) |

5. The Bills Committee deliberated (Index of proceedings attached at **Annex**).

6. During the deliberations of the Bills Committee, the Chairman suspended the meeting at 10:52 am. The meeting was resumed at 10:54 am.

Follow-up actions to be taken by the Administration

7. The Administration was requested to advise the Bills Committee of –
- (a) a comprehensive account of how the Administration would proceed (e.g. by way of amendment bill, new legislation, charter, or the issue of code of practice, etc.) to deal with the four areas of issues, including the issue under the Waterworks (Amendment) Bill 2017 currently being considered by the Bills Committee, as listed in the holistic review of the Waterworks Ordinance (Cap. 102) ("WWO") and Waterworks Regulations (Cap. 102A) ("WWR") set out in LC Paper No. CB(1)970/16-17(01), namely examining the roles, involvements and responsibilities of relevant parties including the developers, contractors and other persons involved in works related to plumbing systems; examining the licensing/registration regime for parties responsible for the construction, etc. of plumbing systems; reviewing and streamlining the control process on design, construction and approval of plumbing systems; and reviewing and strengthening the regulatory framework of plumbing materials, together with its relevant implementation timetable and progress;
 - (b) a detailed explanation of why plumbing workers' worries of the risk of being charged with the offence under the proposed section 14(4) of WWO would be alleviated with the proposed new statutory defence provision under the proposed section 14(5) of WWO, to the effect that a person designated for carrying out the plumbing works, who contravened section 14(3) of WWO, could prove that he or she had no reasonable grounds to believe that the carrying out of the relevant works would contravene section 14(3) of WWO;
 - (c) the details of the studies on the establishment of drinking water standards, the sampling protocol, the Water Safety Plan and the relevant proposals completed in March 2017 by the expert consultants appointed by the Development Bureau, including the recommendations and the Administration's timetable to implement the relevant recommendations;
 - (d) the relevant skills and training a person had normally acquired to carry out specified plumbing works under the instruction and supervision of a licensed plumber or registered plumbing worker, and the details of such specified plumbing works, as stipulated in the proposed section 15(6)(d) of WWO;

- (e) the details of the arrangement for the Water Authority ("WA") or any person authorized by WA in writing to enter any premises with a warrant or consent of the occupier of the premises concerned to ascertain whether there was in respect of a fire service or inside service any contravention of section 12 of WWO; and
- (f) the details of the arrangement for WA or a public officer authorized by WA in writing to enter any non-domestic premises without a warrant or consent of the occupier of the premises concerned to ascertain whether specified plumbing works were being, or had been, carried out in contravention of the proposed section 15 of WWO.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)1093/16-17(02) on 9 June 2017.)

Invitation of views

8. Members agreed to invite views on the Bill from interested parties and members of the public by placing an invitation on the website of the Legislative Council ("LegCo") and issuing invitation letters to the 18 District Councils. The Chairman drew members' attention to the proposed list of organizations to be invited to give views which was tabled at the meeting, and invited members to inform the Secretariat of any specific organizations they wished to invite by 25 May 2017.

(Post-meeting note: An invitation for public submissions on the Bill was uploaded onto the LegCo website on 23 May 2017. Invitation letters for views on the Bill from the District Councils and organizations which were endorsed by the Bills Committee were also issued. Upon the deadline on 25 May 2017, the Secretariat received no further suggestions of organizations to be invited for views on the Bill.)

Dates of second and third meetings

9. The Chairman advised that the second and third meetings would be held on 12 June 2017 at 9:00 am and 19 June 2017 at 10:45 am respectively. Members agreed.

III. Any other business

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

Council Business Division 1
Legislative Council Secretariat
25 August 2017

**Proceedings of the first meeting of
the Bills Committee on Waterworks (Amendment) Bill 2017
on Friday, 19 May 2017, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000440	Mr LEUNG Che-cheung Ir Dr LO Wai-kwok Mr POON Siu-ping Dr Helena WONG	<p><u>Election of Chairman</u></p> <p>Ir Dr LO Wai-kwok was elected as Chairman of the Bills Committee.</p> <p><u>Election of Deputy Chairman</u></p> <p>Dr Helena WONG was elected as Deputy Chairman of the Bills Committee.</p>	
000441 – 000627	Chairman	Opening remarks	
000628 – 000834	Chairman Administration	Briefing by the Administration on the Waterworks (Amendment) Bill 2017 ("the Bill") (LC Paper No. CB(3)458/16-17 and File Ref: DEVB(CR)(W)1-10/49) with the aid of a Power-point presentation (LC Paper No. CB(1)970/16-17(01)).	
000835 – 001005	Chairman	The Chairman suspended the meeting for two minutes.	
001006 – 001603	Chairman Administration	The Administration continued the briefing on the Bill.	
001604 – 003248	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG supported in principle that amendments to the Waterworks Ordinance (Cap. 102) ("WWO") and Waterworks Regulations (Cap. 102A) ("WWR") should be made to improve and upgrade the standards of the plumbing works required of fire services and inside services, and expressed that –</p> <p>(a) the Democratic Party saw the importance of introducing a piece of legislation on the safety of drinking water; and</p> <p>(b) the Administration should provide a full picture of how the Administration would proceed to deal with the four areas of issues listed in the holistic review of WWO and WWR set out in LC Paper No. CB(1)970/16-17(01), together with its relevant implementation timetable and</p>	The Administration to follow up as stated in paragraph 7(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>progress.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> (a) the four areas in the holistic review of WWO and WWR were handled concurrently; (b) after due consideration and review, the Administration considered it prudent to prioritize legislative amendments to WWO and WWR to deal with the duties of licensed plumbers ("LPs") and plumbing workers in carrying out the plumbing works and the standards of plumbing materials respectively; (c) a piece of subsidiary legislation would be introduced in the next phase to revise the requirements in relation to pipes or fittings installed in fire services or inside services, taking into account the recommendations made in the Report of the Commission of Inquiry into Excess Lead Found in Drinking Water in respect of the latest applicable standards in the legislation for plumbing materials; and (d) to control and regulate plumbing materials in the long run, the Administration would also consider means other than legislative amendments, such as code of practice. <p>At the Chairman's and Dr Helena WONG's request, the Administration undertook to provide a comprehensive account of how the Administration would proceed (e.g. by way of amendment bill, new legislation, charter, or the issue of code of practice, etc.) to deal with the four areas of issues, including the issue under the Waterworks (Amendment) Bill 2017 currently being considered by the Bills Committee, as listed in the holistic review of WWO and WWR set out in LC Paper No. CB(1)970/16-17(01), namely examining the roles, involvements and responsibilities of relevant parties including the developers, contractors and other persons involved in works related to plumbing systems; examining the licensing/registration regime for parties responsible for the construction, etc. of plumbing systems; reviewing and streamlining the control process on design, construction and</p>	

Time marker	Speaker	Subject(s)	Action required
		approval of plumbing systems; and reviewing and strengthening the regulatory framework of plumbing materials, together with its relevant implementation timetable and progress.	
003249 – 004156	Chairman Ms Alice MAK Administration	<p>Ms Alice MAK relayed the worries of workers who were carrying out plumbing works that many of them were concerned about the risk of being charged with an offence if the plumbing materials they used were found to be substandard but they had been informed otherwise by the persons in charge or representatives of the developers or contractors.</p> <p>The Administration responded that –</p> <p>(a) plumbing workers' worries of the risk of being charged with the offence under the proposed section 14(4) of WWO would be alleviated with the proposed new statutory defence provision under the proposed section 14(5) of WWO, to the effect that a person designated for carrying out the plumbing works, who contravened section 14(3) of WWO, could prove that he or she had no reasonable grounds to believe that the carrying out of the relevant works would contravene section 14(3) of WWO; and</p> <p>(b) compared to the offence of strict liability in the current WWO, the proposed statutory defence provision would give a more comprehensive protection to plumbing workers as it would shift the onus of proof from the workers to the prosecution.</p> <p>At the request of Ms MAK, the Administration undertook to provide a detailed explanation of why the amended WWO would alleviate the workers' worries.</p>	The Administration to follow up as stated in paragraph 7(b) of the minutes.
004157 – 005050	Chairman Mr POON Siu-ping Administration	<p>Mr POON Siu-ping enquired –</p> <p>(a) about the time required for approval of an application of installing a separate water meter;</p> <p>(b) if any provisions would be proposed in the Bill so that prosecution against offenders would not be time-barred due to the lapse of</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>over six months between the time of committing the offence under WWO or WWR and the subsequent discovery of the offence; and</p> <p>(c) whether LPs had been consulted individually on the Bill during the consultation period.</p> <p>The Administration responded that –</p> <p>(a) approval for an application of installing a separate water meter would normally be granted within 30 days upon the receipt of the application and all the relevant documents;</p> <p>(b) the Administration had introduced a proposed provision in WWO that any prosecution under WWO or WWR might be brought within a period of six months from the date on which the offence was discovered by, or came to the notice of, the Water Authority ("WA");</p> <p>(c) while LPs had not been consulted individually to express their views on the Bill, the Water Supplies Department ("WSD") had set up a Consultative Group for Legislative Review ("LRCG") to consult major stakeholders of the plumbing industry and two public consultation forums were conducted to seek the views of the public as well as other stakeholders on various issues in relation to the legislative amendments of WWO and WWR; and</p> <p>(d) LRCG consisted of 20 representatives from professional bodies, plumbing trade associations, plumbers associations, a workers union, construction sector, developers and the Consumer Council. Members of LRCG in general were supportive of the proposed legislative amendments.</p>	

Time marker	Speaker	Subject(s)	Action required
005051 – 010301	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK Ka-ki's enquired about –</p> <p>(a) the timetable of examining the roles, involvements and responsibilities of relevant parties, in particular the developers and contractors, who were involved in the design, construction and maintenance, etc. of plumbing systems;</p> <p>(b) the timetable of introducing legislative amendments to ensure drinking water safety; and</p> <p>(c) the details of the studies on the establishment of drinking water quality standards, development of a comprehensive drinking water quality monitoring programme and the associated sampling protocol completed in March 2017 by expert consultants appointed by the Development Bureau ("DEVB"), and the timetable to implement the relevant recommendations.</p> <p>The Administration responded that –</p> <p>(a) WA had started on a holistic review of WWO and WWR to revamp the legislation to cater for the latest development of the plumbing trade, technologies and practices, including a review on the roles and responsibilities of trade personnel and technical requirements and plumbing material standards;</p> <p>(b) the Administration considered it prudent to prioritize legislative amendments to WWO to designate the persons for carrying out plumbing works and stipulate clearly the duties of LPs as the current section 15(1) of WWO did not reflect the existing policy intent and the industry practice that LPs might be assisted by workers in carrying out plumbing works;</p> <p>(c) the Administration would in due course seek the views of the Legislative Council ("LegCo") on any proposed legislative amendments at the appropriate time after the completion of the holistic review of WWO and WWR; and</p>	The Administration to follow up as stated in paragraphs 7(a) and (c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(d) the Administration was considering the studies by the expert consultants appointed by DEVB and would revert to LegCo at the appropriate time.</p> <p>The Administration undertook to provide details of the studies on the establishment of drinking water standards, the sampling protocol, the Water Safety Plan and the relevant proposals completed in March 2017 by the expert consultants appointed by DEVB, including the recommendations and the Administration's timetable to implement the relevant recommendations.</p>	
010302 – 010956	Chairman Dr YIU Chung-yim Administration	<p>Dr YIU Chung-yim enquired about –</p> <p>(a) how the proposed amendments to WWO under the Bill would ensure that the quality of prefabricated components used in plumbing materials would comply with the prescribed standards;</p> <p>(b) whether any provisions would be proposed to enhance the roles of related parties, such as professionals, project supervisors and project managers, in monitoring persons designated for carrying out plumbing works to ensure that works were completed in compliance with WWO;</p> <p>(c) the reason why the words "maintain" and "repair" were not included in the proposed section 14(1) of WWO, whereas under section 15(1) of WWO, the construction, installation, maintenance, alteration, repair or removal of fire services or inside services were collectively referred to as "construction, etc."; and whether the omission of "maintain" and "repair" in the proposed section 14(1) of WWO would have any implications on the industry practice; and</p> <p>(d) the liability of LPs and plumbing workers during the transitional period.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that –</p> <p>(a) the materials used in prefabricated components for plumbing works would still be subject to regulation in the amended WWO. LPs concerned had the responsibility to ensure the prescribed standards were met;</p> <p>(b) the roles, involvements and responsibilities of the relevant parties would be examined and defined in the next phase of the holistic review of WWO and WWR;</p> <p>(c) the amended section 14(1) permissions which were granted or first applied for before the commencement date of the amended WWO would continue to be effective and processed as if no amendments to WWO had been made in the transitional period; and</p> <p>(d) the drafting of relevant amendments to WWO as stipulated in the Bill would be explained in detail when the Bills Committee conducted the clause-by-clause examination of the Bill.</p>	
010957 – 012107	Chairman Mr LEUNG Kwok-hung Administration	<p>Mr LEUNG Kwok-hung shared the views of Ms Alice MAK that plumbing workers were at risk of being charged with an offence if the plumbing materials they used were found to be substandard but they had been informed otherwise by the persons in charge or representatives of developers or contractors.</p> <p>Mr LEUNG Kwok-hung questioned whether the amended WWO would be comprehensive enough to monitor the quality of prefabricated components as the standards and quality of prefabricated components used in plumbing works varied depending on the manufacturing countries. Mr LEUNG suggested setting up a dedicated institute to test and monitor the quality of prefabricated components, and a fund specified for victims of substandard prefabricated components used in plumbing works.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that –</p> <p>(a) the amended WWO would stipulate that all materials used in plumbing works (including the materials of prefabricated components) should comply with the prescribed standards;</p> <p>(b) currently, LPs were responsible for ensuring all materials used in plumbing works (including those in prefabricated components) should comply with the relevant standards. Since the incidents of excessive lead found in drinking water, WSD had enhanced the final inspections of plumbing works by testing of heavy metals and expanding the scope of water sampling; and</p> <p>(c) Mr LEUNG Kwok-hung's suggestions would be considered in the next phases of the holistic review of WWO and WWR for examining the roles, involvements and responsibilities of relevant parties including the developers and contractors, and reviewing and strengthening the regulatory framework of plumbing materials.</p>	
012108 – 013135	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG shared Dr KWOK Ka-ki's view that the details of the studies completed in March 2017 by the expert consultants appointed by DEVB should be provided to the Bills Committee for further consideration.</p> <p>Dr Helena WONG reiterated the importance of a timetable and scope for handling the four areas in the holistic review of WWO and WWR to ensure that drinking water was safe; and enquired about the Administration's timetable for the resumption of Second Reading debate of the Bill.</p> <p>The Administration advised that –</p> <p>(a) DEVB, WSD and the relevant expert consultants continued to deliberate on the issues related to water safety. The Administration would provide details of the studies for consideration of the Bills Committee; and</p>	The Administration to follow up as stated in paragraph 7(c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		(b) subject to the Bills Committee's advice, the Administration would propose the resumption of Second Reading debate of the Bill by end of the 2016-2017 session and would not object to holding meetings on a more frequent basis to facilitate the Bills Committee's scrutiny of the Bill.	
013136 – 013323	Chairman Mr POON Siu-ping Administration	Mr POON Siu-ping enquired whether LPs who carried out the construction, etc. of fire services would also be invited to express their views at the next meeting. The Administration advised that – (a) the legislative amendments under the Bill did not seek to change the scope of works of plumbing workers of fire services and inside services; and (b) the Administration would welcome receiving views from deputations of plumbing works of fire services at the next meeting.	
013324 – 013602	Chairman Dr Helena WONG Administration	Meeting arrangement Dr Helena WONG made some suggestions about the deputations to be invited to the meeting on 12 June 2017.	
013603 – 014728	Chairman Dr Helena WONG Administration	In response to Dr Helena WONG's enquiry about the skills and training of persons, who worked under instruction and supervision, had acquired to carry out specified plumbing works, the Administration advised that – (a) plumbing works covered a lot of menial or repetitive tasks that could be carried out by other persons who worked under proper instruction and supervision; (b) the Administration proposed allowing other persons working under the instruction and supervision of LPs, skilled workers or semi-skilled workers registered for the relevant designated trade divisions (collectively referred to as "supervisors") to carry out the construction, etc. of plumbing systems;	The Administration to follow up as stated in paragraph 7(d) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(c) the arrangement in (b) would facilitate such other persons to acquire necessary work experience and trade skills for becoming LPs, skilled workers or semi-skilled workers for the relevant designated trade divisions in future; and</p> <p>(d) the supervisors would be provided with a guideline to ensure that work would be assigned to persons working under their instruction and supervision according to their skills and training.</p> <p>The Administration undertook to provide details of the relevant skills and training a person had normally acquired to carry out specified plumbing works under the instruction and supervision of an LP or registered plumbing worker, and the details of such specified plumbing works as stipulated in the proposed section.</p>	
014729 – 015956	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG asked whether there were proposed provisions to empower WA to enter domestic premises, where there were ongoing plumbing works or newly completed plumbing works, to ascertain specified plumbing works were being, or had been, carried out in accordance with WWO.</p> <p>The Administration advised that –</p> <p>(a) the proposed section 15A of WWO would empower WA to enter any non-domestic premises, without a warrant or consent of the occupier of the premises concerned, where plumbing works were being carried out for the purpose of ascertaining whether the works concerned were carried out by designated persons;</p> <p>(b) the Administration would not propose extending the power as stated in (a) to enter premises or part of the premises that is used for human habitation (i.e. domestic premises) so as to minimize intrusion into the privacy of the occupants; and</p>	The Administration to follow up as stated in paragraphs 7(e) and (f) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>(c) enforcement provisions on domestic premises were set out in section 12 of WWO. Section 12(2) of WWO stipulated that except in case of urgency, neither WA nor a person authorized by him might enter any premises unless with a warrant or consent of the occupier of such premises.</p> <p>The Administration undertook to provide details of the arrangements for WA to enter domestic and non-domestic premises to ascertain whether specified plumbing works had been carried out in contravention of the relevant provisions of WWO.</p>	
015957 – 020122	Chairman	Meeting arrangement	

Council Business Division 1
Legislative Council Secretariat
25 August 2017