

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

Ref : CB2/BC/10/00

Bills Committee on Fire Safety (Buildings) Bill

**Minutes of the meeting
held on Monday, 8 April 2002 at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members Present** : Hon IP Kwok-him, JP (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon CHOY So-yuk
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Members Absent** : Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Frederick FUNG Kin-kee
- Public Officers Attending** : Mr David WONG
Principal Assistant Secretary for Security
- Mr C C LEE
Chief Fire Officer (Fire Safety)
- Mr LAM Tat-wah
Senior Divisional Officer (Building Improvement & Support)
- Mr Sam HO
Acting Assistant Director/Existing Building 2
- Mr HO Cham
Chief Building Surveyor
Fire Safety

Mr Sunny CHAN
Senior Government Counsel

Ms Stella CHAN
Government Counsel

Mr Damian CHAN
Assistant Secretary for Security

Clerk in Attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration to provide a response to the following issues raised by members at the meeting -

- a) To examine whether clause 13(3) needed to be amended so as to give more flexibility to the court to ensure that the court may, due to unforeseeable difficulties, consider factors other than the compliance with the requirements of the relevant fire safety direction or fire safety compliance order when dealing with an application for revocation of a prohibition order;
- b) To provide information on ordinance(s) which contained provisions similar to clause 13(3);
- c) To seek views from the Law Society of Hong Kong regarding the effect of clause 14 on prospective property buyers;
- d) To consider issuing a notice to each of the owners of the building individually in the event that an order referred to in clause 14(2) had been made against the owners' corporation;
- e) To advise on whether a prior notice to owners or occupiers of the intended entry would be a more appropriate measure for authorized officers to enter and inspect the premises without warrant;

- f) To advise on whether owners or occupiers would commit an offence under clause 18 if they refused authorized officers to enter their premises without a warrant to carry out inspection work; and
- g) To consider the appropriateness of including all police officers as authorized officers in enforcing the Bill

II. Dates of next meetings

3. Members agreed that the next two meetings be held on -

- a) 29 April 2002 at 2:30 pm; and
- b) 10 May 2002 at 8:30 am

to continue examining the Bill clause-by-clause.

4. There being no other business, the meeting ended at 4:34 pm.

Council Business Division 2
Legislative Council Secretariat
14 May 2002

**Proceedings of the meeting of the
Bills Committee on Fire Safety (Buildings) Bill
on Monday, 8 April 2002, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0224	Chairman	Welcoming remarks and continuing clause-by-clause examination of the Bill Clause 13 - Right to apply to District Court for revocation of prohibition order	
0302 - 0330	Ms Audrey EU	Reason(s) for stipulating in clause 13(1)(b) that owner or occupier might apply to the District Court for revocation of the prohibition order relating to the building or part of a building if the relevant enforcement authority failed to issue a certificate of compliance within 28 days after the request was made	
0331 - 0439	Admin	Ditto	
0440 - 0542	Ms Audrey EU	Ditto	
0543 - 0708	Admin	Ditto	
0709 - 0811	Ms Audrey EU	Ditto	
0812 - 0859	Chairman	Ditto	
0900 - 1143	Admin	Ditto	
1144 - 1303	Chairman	Ditto	
1304 - 1411	Ms Cyd HO	Whether clause 13(3) was too restrictive as it stipulated that the District Court must refuse an application for revocation of the prohibition order on the sole basis that the requirements of the relevant fire safety direction or fire safety compliance order had not been complied with, irrespective of whether such requirements were reasonable	
1412 - 1516	Chairman	Ditto	
1517 - 1839	Admin	Ditto	
1840 - 2019	Ms Cyd HO	The concern that clause 13(3) would deprive owners or occupiers the opportunity to appeal against the District Court's decision to refuse their applications for revocation of prohibition order, despite the provisions in clauses 6 and 7, having regard to an incident whereby a fire safety compliance order was issued to the wrong owners	
2020 - 2308	Admin	Ditto	
2309 - 2516	Ms Cyd HO	Ditto	
2517 - 2809	Admin	Ditto	
2810 - 2824	Chairman	Whether "within 28 days" referred to in clause 13(1)(b) could be shortened	

Time	Speaker	Subject(s)	Action required
2825 - 2925	Admin	Ditto	
2926 - 2953	Chairman	Ditto	
2954 - 3132	Admin	Ditto	
3133 - 3426	Ms Audrey EU	Ditto	
3427 - 3739	Admin	The Administration undertook to examine whether clause 13(3) needed to be amended to ensure that the court may, due to unforeseeable difficulties, consider factors other than the compliance with the requirements of the relevant fire safety direction or fire safety compliance order when dealing with an application for revocation of a prohibition order	✓ (Admin to provide a response)
3740 - 3854	Ms Cyd HO	Whether provision similar to clause 13(3) was provided for in other ordinances	
3855 - 3951	ALA2	Ditto	
3952 - 4325	Admin	Ditto	
4326 - 4359	Ms Cyd HO	The Administration should provide information on ordinance(s) which contained provisions similar to clause 13(3)	
4400 - 4404	Admin	The Administration agreed to Ms HO's request	✓ (Admin to provide a response)
4405 - 4424	Chairman	Clause 14 - Registration of notice of fire safety compliance order, etc. in the Land Registry	
4425 -4728	Ms Audrey EU	Ditto	
4729 - 5206	Admin	Ditto	
5207 - 5317	Ms Audrey EU	Ditto	
5318 - 5431	Admin	Ditto	
5432 - 5448	Chairman	Ditto	
5449 - 5626	Admin	Ditto	
5627 - 5858	Ms Audrey EU	Views from the Law Society of Hong Kong should be sought regarding the effect of clause 14 on prospective property buyers	
5859 - 5952	Chairman	Whether consideration could be given to issuing a notice to each of the owners of the building individually in the event that an order referred to in clause 14(2) had been made against the owners' corporation (OC)	
5953 - 010145	Admin	The Administration undertook to consider the Chairman's suggestion	✓ (Admin to provide a response)

Time	Speaker	Subject(s)	Action required
010146 - 010241	Chairman	How a fire safety compliance order or prohibition order could be directed to owners or occupiers of a building if the building did not have an OC	
010242 - 010430	Admin	Ditto	
010431 - 010439	Ms Audrey EU	Who would seek the views of the Law Society of Hong Kong regarding the effect of clause 14 on prospective property buyers	
010440 - 010445	Admin	The Administration undertook to seek the views of the Law Society of Hong Kong regarding the effect of clause 14 on prospective property buyers	✓ (Admin to provide a response)
010446 - 010503	Chairman	Clause 15 - Authorized officers	
010504 - 010601	Ms Cyd HO	Preparation work pertaining to the adaptation of certain provisions of the Bill to bring them into conformity with the implementation of the ministerial system	
010602 - 010657	Admin	Ditto	
010658 - 010704	Ms Cyd HO	Ditto	
010705 - 010722	Chairman	Clause 16 - Power to enter a building, etc. and other powers of authorized officers	
010723 - 010934	Ms Cyd HO	The need for having clause 16(1) which stipulated that an authorized officer might enter and inspect a building or part of a building without a warrant, as there was no urgency in carrying out such inspection work to justify the officers from entering the premises without a warrant. The fact that a warrant issued under clause 16 would continue in force for one month from the date of its issue, as referred to in clause 16(5), also showed that there was no urgency in carrying out such inspection work	
010935 - 011205	Admin	Ditto	
011206 - 011248	Ms Cyd HO	Ditto	
011249 - 011521	Admin	Ditto	
011522 - 011551	Chairman	Ditto	
011552 - 011718	Admin	Ditto	
011719 - 011903	Ms Cyd HO	Whether provision similar to clause 16(1) was provided for in other ordinances	
011904 - 012000	ALA2	Ditto	
012001 - 012255	Admin	Ditto	

Time	Speaker	Subject(s)	Action required
012256 - 012401	ALA2	Consideration should be given to following the arrangements under the Fire Services Ordinance whereby the power of the Director of Fire Services to enter premises intended for domestic purposes was exercisable only in circumstances where 24 hours' notice in writing of the intended entry had been given to the occupiers	
012402 - 012616	Ms Cyd HO	Ditto	
012617 - 012807	Mr LAU Ping-cheung	Echoed similar views expressed by Ms HO, and suggested that the word "or" referred to in clause 16(1)(a) should be replaced with the word "and"	
012808 - 013027	Admin	The Administration would consider whether obtaining agreement from owners or occupiers of the intended entry would be a more appropriate measure for authorized officers to enter and inspect the premises without warrant Explained the intent of clause 16(1)(a) and (b)	✓ (Admin to provide a response)
013028 - 013059	Mr LAU Ping-cheung	Maintained his view that the word "or" referred to in clause 16(1)(a) should be replaced with the word "and"	
013100 - 013222	Admin	Reiterated the intent of clause 16(1)(a) and (b)	
013223 - 013234	Mr LAU Ping-cheung	Whether provisions similar to clause 16(1)(a) and (b) were provided for in other ordinances	
013235 - 013408	Admin	Ditto	
013409 - 013423	Mr LAU Ping-cheung	Whether the types of buildings covered by clause 16 included domestic buildings and domestic parts of composite buildings	
013424 - 013432	Admin	Ditto	
013433 - 013544	ALA2	Clause 16(1) and (2) might not be consistent with Article 14 of the Hong Kong Bill of Rights which guaranteed that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence" and with Article 29 of the Basic Law which prohibited "arbitrary or unlawful search of, or intrusion into, a resident's home or other premises"	
013545 - 013655	Ms Audrey EU	Whether owners or occupiers would commit an offence under clause 18 if they refused to allow authorized officers to enter their premises for inspection without a warrant	
013656 - 013908	Admin	Recalled written response to ALA's comments that clause 16(1) and (2) was consistent with Article 14 of the Hong Kong Bill of Rights and with Article 29 of the Basic Law. Response to Ms EU's question	

Time	Speaker	Subject(s)	Action required
013909 - 013926	Ms Audrey EU	Considered that owners or occupiers might still commit an offence under clause 18 for refusing authorized officers to enter their premises without a warrant to carry out inspection work even if the owners or occupiers had reasonable excuse to do so, having regard to the provision in clause 16(1)	
013927 - 013948	Admin	The Administration would advise on whether owners or occupiers would commit an offence under clause 18 if they refused authorized officers to enter their premises without a warrant to carry out inspection work	✓ (Admin to provide a response)
013949 - 014134	Miss CHOY So-yuk	Echoed similar views expressed by members regarding clause 16(1) and (2)	
014135 - 014259	Ms Cyd HO	Reiterated her views about amending clause 16 to the effect that a court warrant should be required to authorize entry and inspection of a domestic building or the domestic parts of a composite buildings; or as an alternative to a court warrant, to give a 24 hours' prior notice in writing to the owners or occupiers of the intended entry	
014300 - 014315	Admin	Reiterated that the Administration would review clause 16, taking into account members' views expressed at the meeting	
014316 - 014454	Chairman	The Administration should also consider the appropriateness of including all police officers as one type of authorized officers in enforcing the Bill	✓ (Admin to provide a response)
014455 - 014621	Chairman	Clause 17 - Authorized officers may request information about ownership or occupation of building	
014622 - 014712	Ms Audrey EU	Definition of "a person" referred to in clause 17(1)	
014713 - 014814	Admin	Ditto	
014815 - 014851	Ms Audrey EU	The need for having clause 17	
014852 - 015038	Admin	Ditto	
015039 - 015108	Ms Audrey EU	Considered using the words "may ask a person" referred to in clause 17(1) as too wide and open-ended	
015109 - 015159	Admin	Ditto	
015200 - 015224	Ms Audrey EU	Whether the word "identify" referred to in clause 17(1) included the address of the owner or occupier	
015225 - 015246	Admin	Ditto	

Time	Speaker	Subject(s)	Action required
015247 - 015350	Ms Cyd HO	Shared Ms EU's concern about the open-ended definition of "a person" referred to in clause 17(1), particularly having regard to the fact that the person concerned would be guilty of an offence and would be liable on conviction to a fine at level 4 if he could not provide information that might identify an owner or occupier of a composite building or a domestic building or part of such a building	
015351 - 015431	Admin	Response to Ms HO's concern	
015432 - 015513	Admin	Clarified that information requested about ownership or occupation of building could include the address of owner or occupier	
015514 - 015722	Chairman	Dates of next meetings	

Note : The audio records of the above proceedings are kept at the LegCo Library

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Legislative Council Secretariat
14 May 2002