

立法會
Legislative Council

LC Paper No. CB(2)283/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/BC/25/00

**Bills Committee on
Fire Services (Amendment) Bill 2001**

**Minutes of meeting
held on Tuesday, 15 October 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon IP Kwok-him, JP (Chairman)
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP
- Members Absent** : Hon CHOY So-yuk
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP
Hon Frederick FUNG Kin-kee
- Public Officers Attending** : Mr David WONG
Principal Assistant Secretary for Security(B)
- Mr LAU Kwai-shan
Chief Fire Officer (Licensing and Certification)
Fire Services Department
- Mr CHOW Wing-tak
Acting Chief Fire Officer (Headquarters)
Fire Services Department

Mr K P LAI, Allen
Senior Government Counsel
Department of Justice

Mr Damian CHAN
Assistant Secretary for Security(B2)

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Mr Stanley MA
Senior Assistant Secretary (2)6

I. Confirmation of minutes
[LC Paper No. CB(2)2748/01-02]

The minutes of the meeting held on 15 July 2002 were confirmed.

II. Meeting with the Administration

2. The Bills Committee deliberated on the Administration's response to issues raised at the last meeting [paragraphs 1 to 20 of LC Paper No. CB(2)22/02-03(01)] (Index of proceedings attached at **Annex**).

3. Ms Miriam LAU expressed concerns about enforcement against improper conveyance/stowage of motor vehicles and spare parts of motor vehicles in freight containers. She pointed out that it would be difficult for drivers in the transport trade to ascertain whether the motor vehicles and spare parts in a particular container were free of fuel stains. Noting that a container which was well ventilated or open at the top would not be caught by the offence provisions, Ms LAU suggested that the Administration should consider imposing a mandatory requirement for using open containers to convey/stow used motor vehicles and spare parts.

4. The Chairman and Mr James TO expressed reservations about Ms Miriam LAU's suggestion. They were of the view that a minimalist approach should be adopted as far as legislation was concerned. They considered that the suggestion might not be the best option for the trade and flexibility should be allowed for operators in conveyance/stowage of used motor vehicles and

spare parts. The Administration gave a similar view. The Chairman suggested that the Bills Committee should consider the views of organisations concerned before further considering the issue.

5. Some members were concerned about the time taken for a magistrate to hear an application lodged by a bona fide purchaser, mortgagee or chargee for a rescission of a closure order, or by a mortgagee/chargee who would be entitled or permitted to occupy or possess the premises concerned or would be the immediate landlord of the occupier of the premises for a conditional suspension order. They considered that the operational experience under other ordinances which provided for a similar mechanism might provide a useful reference.

6. Ms Cyd HO expressed concern about the situation of innocent persons residing in premises in respect of which a closure order was made. She considered that these persons should be allowed to continue habitation on the premises. She pointed out that in the course of scrutinizing the Public Health and Municipal Services (Amendment) Bill 2001, the Administration had adopted the views of members and proposed Committee Stage amendments to let innocent residents continue habitation in food premises in respect of which a closure order was made. In response, the Administration explained the proposed mechanism for a bona fide purchaser, mortgagee or chargee to seek relief from a closure order.

7. Some members questioned the need to empower Fire Services Department (FSD) officers to demand instant production of a person's proof of identity in taking enforcement action against offences that created potential fire hazards. They considered the existing practice of requesting the assistance of the Police for identification of a responsible person sufficient and reasonable. The Administration explained that FSD officers were currently empowered to require a person to give his correct personal particulars for the purpose of issuing a Fire Hazard Abatement Notice provided that a notice in writing had been served upon such person for at least 24 hours. This provision had proved to be ineffective, as the person suspected to be responsible could ignore an officer's request for personal particulars and simply walk away. With a statutory authority to obtain personal particulars, the person who failed to comply with such requirement without reasonable excuse might be held liable for an offence under the proposed new section 21 of the draft Fire Services (Fire Hazard Abatement) Regulation.

8. The Bills Committee requested the Administration to provide/consider the following -

- (a) statistics on the time lapse between the lodging and the hearing of an application for rescission of a closure order under relevant

sections of the Crimes Ordinance and the Dangerous Drugs Ordinance;

- (b) making reference to the provisions in the Public Health and Municipal Services (Amendment) Ordinance 2002 relating to habitation of innocent residents on premises in respect of which a closure order was made; and
- (c) the draft Fire Service (Fire Hazard Abatement) Regulation should specify the rank of the FSD officers who would be authorized to obtain personal particulars and the requirement that they should wear uniform whilst on duty.

III. Date of next meeting

9. Members agreed to hold the next meeting on Tuesday, 12 November 2002 at 9:00 am to meet organisations concerned and other deputations and continue discussion of the Administration's responses to members' concerns. Members also agreed to invite public views on the Bill by placing a notice onto the Council's website.

10. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 2
Legislative Council Secretariat
6 November 2002

Annex

**Proceedings of the meeting of the Bills Committee on
Fire Services (Amendment) Bill 2001
on Tuesday, 15 October 2002 at 10:45 am.
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0120	Chairman	Confirmation of minutes of meeting on 15 July 2002.	
0121 - 0545	Ms Miriam LAU Chairman Admin	Meeting with deputations at the next meeting.	
0546 - 1438	Ms Cyd HO Chairman Admin	Offences in relation to improper conveyance/stowage of motor vehicles in containers.	
1439 - 1945	Ms Miriam LAU Admin	Conveyance and storage of motor vehicles in containers which were open at the top or well ventilated.	
1945 - 2203	Ms Miriam LAU Chairman Admin	Responsibility of owners and drivers to ensure no fuel in the fuel tank of, or no fuel stains in, a motor vehicle or any part of a motor vehicle stowed in a container to be conveyed on land.	
2354 - 2834	Ms Miriam LAU Admin Chairman Ms Cyd HO	Feasibility of requiring the stowage of all used motor vehicles or parts of used motor vehicles to be conveyed in containers which were open at the top or well ventilated.	
2834 - 2857	Ms Miriam LAU Chairman Admin Mr James TO Ms Cyd HO	The interpretation of "knowingly" in offences for improper conveyance/stowage of motor vehicles in containers.	
3449 - 3508	Ms Cyd HO	Invitation of owners, drivers and trade operators to the next meeting to give views and suggestions about the Bill and the Regulation.	See para 9 of the minutes
3509 - 4328	Chairman Admin Mr James TO	Offences relating to illegal storage and supply of liquid fuel for transferring to a motor vehicle's fuel tank in unlicensed premises.	

4329 - 4851	Chairman Ms Audrey EU Admin	Mechanism for rescission or conditional suspension of a closure order by owners or bona fide purchaser, mortgagee or chargee of the premises concerned.	
4852 - 5000	Mr Michael MAK Admin Chairman Mr James TO	Statistics on the time lapse between the lodging and the hearing of an application for a rescission of a closure order under the Crimes Ordinance and the Dangerous Drugs Ordinance.	See para 8(a) of the minutes
5421 - 010051	Ms Audrey EU Admin	Sequence and procedures for issue of FHAN, FHO and a closure order.	
01 0052 - 01 0445	Ms Cyd HO Chairman Admin	Accommodation for innocent residents in the premises subject to a closure order.	See paragraph 8(b) of the minutes
01 0446 - 01 1230	Ms Audrey EU Admin Chairman	Closure or Prohibition Order under FSO and other ordinances.	
01 1231 - 01 1605	The Chairman Admin Mr Raymond HO	Power of authorised officers to require persons responsible for the abatement of a potential fire hazard to produce proof of identity.	
01 1606 - 01 1837	Ms Audrey EU Admin	Authorised officers should wear uniform and at a certain rank.	See para 8(c) of the minutes
01 1838 - 01 3239	Ms Audrey EU Chairman Admin Mr Michael MAK	Execution of the power to obtain personal particulars by authorised officers.	
01 3240 - 01 3941	Ms Cyd HO Chairman Admin	Resisting, obstructing or delaying FSD officers in their discharge of any lawful duty.	
01 3942 - 01 4200	Chairman	Date of next meeting	

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

Library

Council Business Division 2
Legislative Council Secretariat
 6 November 2002