

Fire Services (Amendment) Bill 2001

Administration's response to issues raised at the Bills Committee meeting held on 10 December 2002

- (a) *To expand the scope of the legal professional privilege under proposed section 8A(3) to cover information which a person might be required to give under proposed section 8A(2)(f)(ii).*
- (b) *To expand the obligation of non-disclosure under proposed section 8A(5) to cover information derived from documents obtained or inspected or copies taken under proposed section 8A(2)(g).*
- (c) *To delete the phrase "a motor vehicle or" from proposed sections 25(1)(he) and 25(1)(hf).*
- (d) *To consider whether the drafting of the Chinese version of proposed section 8A(4) required any improvement.*

Since the introduction of the Bill, Members and the Assistant Legal Adviser (ALA) of the Legislative Council have made useful comments on the Bill and the draft Fire Service (Fire Hazard Abatement) Regulation. We appreciate such efforts to make the Bill more workable and better reflect the policy intent and have agreed with Members and ALA (see ref.: CB(2)2833/01-02(02) and CB(2)523/02-03(02)) to propose a number of Committee Stage Amendments (CSAs). In addition, we would like to take the opportunity to initiate a few further CSAs to refine the Bill.

Annex 2. A list of draft CSAs is now at **Annex I** for Members' consideration. A summary of the position is set out below.

Committee stage amendments to be made to the Bill

Clause 3

3. Having regard to the comments of ALA in her letter of 9.10.2001(see ref.: CB(2)2833/01-02(01)), we propose to amend paragraph (e) under the definition of "fire service installation or equipment".

New clause 3A and Clause 4

4. In view of the comments of ALA in her letter and the request of Members, we propose to amend s.8A(3) by expanding the scope of legal professional privilege to cover answers given by a person under the proposed s.8A(2)(f).

5. As Members have suggested, we propose that the Chinese version of the proposed s.8A(4) be refined for better presentation and consistency with the English version. In view of the proposed amendment to s.8A(4), the existing s.8(3) which has similar wording would need to be amended correspondingly. We propose to insert a new clause 3A.

6. In response to ALA's comments, we propose to stipulate clearly in s.8A(5) that the obligation of non-disclosure should also cover information derived from documents obtained or inspected or copies taken under the new s.8A(2)(g).

Clause 4 – the proposed s.8B

7. We also propose to refine the Chinese text of the proposed s.8B in view of ALA's comments.

Clause 5

8. In response to ALA's comments, we propose to make a series of textual refinements to the proposed s.9(f).

Clause 10 – the proposed s.25(1)(hb), (hd) and (hi)

9. As agreed with ALA, we propose a few textual refinements.

Clause 10 – the proposed s.25(1)(he) and (hf)

10. As noted in paragraphs 2(c) and 3 of the Administration's response to issues raised at the Bills Committee meeting held on 12 November 2002 (see ref.: CB(2)523/02-03(02)), we will fine-tune the provisions of ss.17 and 18 of the draft Fire Service (Fire Hazard Abatement) Regulation to exclude whole vehicles from the proposed control. As such, and agreed with Members at the Bills Committee meeting held on 10 December 2002, we consider it also

appropriate to adjust the empowering provisions in the proposed s.25(1)(he) and (hf) by removing reference to “a motor vehicle or”.

Clauses 20, 21 and 22

11. To maintain consistency with the amendment proposed in para. 3 above, clauses 20, 21(b) and 22(b) should be amended in the same manner as set out in that paragraph.

12. In clauses 21(b) and 22(b), as agreed with ALA, we propose to add “or place” in paragraphs (d) of the definitions regarding fire service installation or equipment in the Places of Public Entertainment Regulations (Cap.172 sub. leg.) and the Fire Safety (Commercial Premises) Ordinance (Cap.502) to align with similar definitions in the Fire Services Ordinance (Cap.95) and the Public Health and Municipal Services Ordinance (Cap.132).

New Clause 22A in Part II of the Bill

13. When the Bill was introduced into LegCo in July 2001, a separate Fire Safety (Buildings) Bill was then being scrutinized by another Bills Committee. The definition of “fire service installation or equipment” in the Fire Safety (Buildings) Bill followed the existing definition of the term in the Fire Services Ordinance. With the enactment of the Fire Safety (Buildings) Ordinance (Cap.572) in July 2002, the definition of “fire service installation or equipment” therein should be consequentially amended to align with the new definition now proposed in the Bill. Thus, Cap.572 should be covered in Part II of the Bill.

Security Bureau
January 2003

FIRE SERVICES (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary
for Security

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>In the proposed paragraph (e) of the definition of "fire service installation or equipment", by deleting "under" and substituting "the purposes of which are mentioned in".</p>
New	<p>By adding -</p> <p>"3A. General powers of entry</p> <p>Section 8(3) is amended by repealing everything after "該處所" and substituting "在防禦侵入者方面的有效程度，一如他在進入時所察覺到的狀況。".</p>
4	<p>(a) In the proposed section 8A -</p> <p>(i) in subsection (3), by deleting everything after "compel" and substituting "a person to disclose any information or produce any document that the person would on grounds of legal professional privilege</p>

be entitled to refuse to disclose or produce.";

(ii) in subsection (4), by deleting everything after "該處所" and substituting "在防禦侵入者方面的有效程度，一如他在進入時所察覺到的狀況。";

(iii) in subsection (5)-

(A) in paragraph (a), by deleting everything after "given" and substituting "or document obtained under subsection (2)(f) or (g), as the case may be; or";

(B) by adding "or (g)" before "or in the factory".

(b) In the proposed section 8B, by deleting everything after "但" and substituting "就該答案而對《刑事罪行條例》(第 200 章)第 36 條所訂罪行進行的法律程序除外。".

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In the proposed section 9(f)-

(a) by deleting "具有以下效力的";

(b) in subparagraph (i), by deleting "to close" and substituting "that closes";

(c) in subparagraph (ii), by deleting "to prohibit" and substituting "that prohibits";

(d) in subparagraph (iv), by deleting "any means" and substituting "the means".

- 10(b) (a) In the proposed section 25(1)(hb)-
- (i) by deleting “, 飭令”;
 - (ii) in subparagraph (i), by adding “規定” before “任何”;
 - (iii) in subparagraph (v), by deleting “any means” and substituting “the means”.
- (b) In the proposed section 25(1)(hd), by deleting “any means” and substituting “the means”.
- (c) In the proposed section 25(1)(he) and (hf), by deleting “a motor vehicle or a part of a motor vehicle, which” and substituting “a part of a motor vehicle that”.
- (d) In the proposed section 25(1)(hi), by deleting “某” and substituting “任何”.

20 In the proposed paragraph (e) of the definition of “fire service installation or equipment”, by deleting “under” and substituting “the purposes of which are mentioned in”.

- 21(b) (a) In the proposed paragraph (d) of the definition of “fire service installations and equipment”, by adding “or place” after “premises”.
- (b) In the proposed paragraph (e) of the definition of “fire service installations and equipment”, by deleting “under” and substituting “the purposes of

which are mentioned in".

- 22(b)
- (a) In the proposed paragraph (d) of the definition of "fire service installation or equipment", by adding "or place" after "premises".
 - (b) In the proposed paragraph (e) of the definition of "fire service installation or equipment", by deleting "under" and substituting "the purposes of which are mentioned in".

New By adding before Part III -

"Fire Safety (Buildings) Ordinance

22A. Interpretation

Section 3(1) of the Fire Safety (Buildings) Ordinance (21 of 2002) is amended in the definition of "fire service installation or equipment" -

(a) in paragraph (b), by repealing "or";

(b) by adding -

"(d) facilitating the evacuation from any premises or place in case of fire; or

(e) providing a stand-by power supply to an installation or equipment the purposes of which are mentioned in

paragraphs (a) to (d) in
the event of the loss of
normal power supply;".