

**For discussion
on 11 November 2016**

Legislative Council Panel on Security

Registered Fire Engineer Scheme

PURPOSE

This paper reports on the legislative progress of the Registered Fire Engineer (RFE) Scheme.

THE PROPOSED REGISTERED FIRE ENGINEER SCHEME

2. Currently, a person who intends to run specified types of premises¹ (an Applicant) has to obtain a certificate or letter issued by the Director of Fire Services (DFS), certifying that the premises have complied with all relevant fire safety requirements and will not expose persons therein to any undue risk of fire, before he can be issued a licence or a similar instrument (hereafter collectively referred to as “a licence”) by the regulatory authorities. Under the Fire Services Ordinance (FSO, Cap. 95), the Fire Services Department (FSD) is the only party vested with the statutory authority to issue fire safety certification for buildings or premises.

3. In order to facilitate business operation and make better use of professional human resources, it is proposed to implement the RFE Scheme to allow qualified persons in the market to provide fire safety risk assessment and certification services. The Scheme can reduce FSD’s work in the inspection and certification of fire service installations and equipment (FSI) and ventilating system, thereby enabling the Department to save its resources in the long run for better undertaking of other duties.

4. The Scheme will offer Applicants an additional option of completing the fire safety risk assessment and certification procedures. Opting for the

¹ Under the existing legislation, certain types of premises will require a “licence”, a “permit”, a “certificate of compliance” or a “certificate of registration” to operate. For instance, those premises requiring a “licence” or a “permit” to operate include general restaurants, factory canteens, funeral parlours, cinemas, theatres, karaoke establishments, hotels, guesthouses, places of public entertainment etc. A club-house requires a “certificate of compliance” to operate, whereas a school needs a “certificate of registration”. Such premises are hereafter collectively referred to as “**prescribed premises**”.

services provided by RFEs will allow greater flexibility, and possibly a shorter turnaround time for completing the required risk assessment and certification services. This will be particularly appealing to those Applicants who can afford higher operating expenses. Besides, RFEs will be able to provide services with greater flexibility, such as conducting on-site risk assessment at more flexible hours.

5. Upon implementation of the Scheme, FSD will maintain its existing risk assessment and certification services for Applicants. In other words, an Applicant may, based on his/her preference, choose to engage the services of RFEs and/or FSD at different stages of the licensing process.

6. To regulate RFEs, the Government will formulate the qualifications and experience requirements for their registration to ensure that the persons registered will possess relevant professional knowledge and working experience. Besides, FSD will prepare and issue codes of practice/practice notes with which RFEs are required to comply. A disciplinary board panel will be formed for inquiring into and dealing with cases in which an RFE is suspected to have failed to discharge his/her duties properly. In addition, provisions on criminal offences will be formulated to specify that some misbehaviours, such as carrying out the duties of an RFE without registration, or issuing a fire safety certificate that is false or misleading, will be liable to criminal sanction.

7. In order to ensure that a consistent set of fire safety standards will be applied, FSD will require that fire safety requirements formulated by a registered fire engineer (risk assessment) have to be endorsed by FSD before they are issued to the Applicants. In addition, to assess and uphold the quality of certification work of RFEs, FSD will select premises on a random basis for audit inspections of the certification completed by the registered fire engineer (fire service installation) / registered fire engineer (ventilating systems) after he issues the fire safety certificates to the Applicants.

LEGISLATIVE PROGRESS

8. The existing FSO and its subsidiary legislation do not provide for any third party other than FSD to perform fire safety risk assessment and certification. It is therefore necessary for the Government to introduce a bill to create enabling provisions to empower the Chief Executive in Council (CE in Council) to make regulations for the proposed RFE Scheme and other related matters. The implementation details of the Scheme, including the

registration mechanism and duties of RFEs, the disciplinary and appeal mechanisms, as well as the issue of codes of practice in relation to the Scheme, etc. will be covered in a new piece of subsidiary legislation to be made by CE in Council after the passage of the Bill.

9. We briefed the Legislative Council (LegCo) Panel on Security in November 2015 on the proposed RFE Scheme. The Fire Services (Amendment) Bill 2015 (the 2015 Bill) was then introduced into LegCo in December 2015 for First and Second Reading. The Bills Committee of LegCo held five meetings between February and June 2016. At its last meeting of 7 June 2016, the Bills Committee raised no objection to the Government's plan to resume the Second Reading debate. Nevertheless, the Second Reading debate of the 2015 Bill could not be resumed before prorogation of the Fifth LegCo and the Bill lapsed automatically.

10. In the light of the general support for the RFE Scheme, we plan to introduce the Fire Services (Amendment) Bill 2016 (the 2016 Bill) into LegCo shortly. The 2016 Bill, by and large a replica of the 2015 Bill but with the then agreed Committee Stage Amendments (CSAs) incorporated, seeks to –

- (a) **empower** CE in Council to make regulations for the RFE Scheme and for regulating the RFEs. These new regulations, except those concerning fees to be charged in relation to the registration and de-registration of RFEs, are to be made subject to the approval of LegCo;
- (b) **amend** the Fire Service (Installations and Equipment) Regulations (FS(IE)R, Cap. 95B) to **permit** FSD officers and the relevant class of RFEs to inspect and test FSI; and
- (c) make **consequential amendments** to the legislation governing the premises prescribed by regulations made under the FSO to the effect that fire safety risk assessment and certification services provided by RFEs will be recognised and accepted by the relevant regulatory authorities.

11. In the 2015 Bill, the new regulations covering details of the RFE Scheme were originally proposed to be made subject to negative vetting pursuant to the arrangements stipulated in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), with reference to the rule-making

procedure of other similar subsidiary legislation provided under the FSO². During the Bills Committee's deliberation, some Members suggested that the Government should consider subjecting the new regulations to the approval of LegCo (i.e. the positive vetting procedures under section 35 of Cap. 1). The Government did not object, with the exception of the regulations providing for the fees for registration and de-registration of RFEs (as fees of similar nature are typically specified by subsidiary legislation under other laws of Hong Kong subject to the negative vetting procedure). This was agreed by the Bills Committee. The Government proposed CSAs to the 2015 Bill to this effect, but the resumption of the Second Reading debate of the Bill did not take place. We propose incorporating the said CSAs in the 2016 Bill.

LEGISLATIVE TIMETABLE

12. The tentative legislative timetable of the 2016 Bill is as follows –

Publication in the Gazette	18 November 2016
First Reading and commencement of Second Reading debate	30 November 2016
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

13. Members are invited to note the progress of the above legislative exercise.

Security Bureau November 2016

² Including the Fire Service (Installation Contractors) Regulations (Cap. 95A) and the FS(IE)R (Cap. 95B), which provides for the regulation of the registration and disciplinary matters of fire service installation contractors, as well as the duties of the registered fire service installation contractors.