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Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 4 July 2017**

Registered Fire Engineer Scheme

Purpose

This paper sets out background information on the Administration's proposal to implement the Registered Fire Engineer ("RFE") Scheme and highlights members' major deliberations on the subject.

Background

2. At present, a person who intends to run certain types of premises 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 the applicant can be issued a licence or a similar instrument (hereafter collectively referred to as "a licence") by the regulatory authorities.¹ Under the Fire Services Ordinance (Cap. 95) ("FSO"), the Fire Services Department ("FSD") is the only party vested with the statutory authority to issue fire safety certification for buildings or premises (hereafter collectively referred to as "prescribed premises").

3. In order to facilitate business operation and optimize the use of professional human resources, the Administration proposed in the 2014 Policy Address to introduce a third-party fire safety certification scheme, namely the

¹ Those premises requiring a licence or 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 schools needs a certificate of registration.

RFE Scheme, to leverage professional engineers and qualified persons in the market for the provision of fire safety risk assessment and certification services.

The Fire Services (Amendment) Bill 2015

4. The Administration introduced the Fire Services (Amendment) Bill 2015 ("the 2015 Bill") into the Legislative Council ("LegCo") on 16 December 2015. The 2015 Bill sought to expand the scope of FSO to provide for RFEs and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises; empower the Chief Executive ("CE") in Council to make regulations for the RFE Scheme and for regulating RFEs; and make related, consequential and other minor amendments.

5. A Bills Committee was formed to scrutinize the 2015 Bill. It completed scrutiny of the 2015 Bill in June 2016 and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 29 June 2016. However, due to other legislative priorities, the resumption of Second Reading debate did not take place and the Bill lapsed upon the prorogation of the Fifth LegCo on 16 July 2016.

The Fire Services (Amendment) Bill 2016

6. The Administration re-introduced the Fire Services (Amendment) Bill 2016 ("the 2016 Bill") into LegCo on 30 November 2016. According to the Administration, the 2016 Bill was by and large a replica of the Fire Services (Amendment) Bill 2015 but had incorporated the then agreed Committee stage amendments that were regulations made by CE in Council for the RFE Scheme and for regulating RFEs, except those concerning fees to be charged in relation to the registration and de-registration of RFEs, were to be subject to the positive vetting procedure. The relevant Bills Committee completed its scrutiny of the 2016 Bill and raised no objection to the resumption of the Second Reading debate on the Bill, which was subsequently passed by LegCo on 1 March 2017.

Major deliberations of the Bills Committee

7. The major views and concerns expressed by members of the Bills Committee on the regarding the introduction of the RFE Scheme are summarized in the ensuing paragraphs.

Operation of Registered Fire Engineer Scheme

8. Expressing support for the RFE Scheme, which would offer applicants an additional option of completing the fire safety risk assessment and certification procedures, members were concerned about how the introduction of the RFE Scheme could help expedite the whole licensing process of the prescribed premises.

9. Taking the licensing process of food premises as an example, the Administration pointed out that it currently took around 17 days for FSD to conduct fire safety risk assessment and formulate fire safety requirements upon receipt of the referral of a licence application from the licensing authority, and around 14 days to conduct compliance inspection and certification after the licence applicant concerned notified FSD of the completion of the relevant fire services works. It was estimated that upon the implementation of the RFE Scheme, the time required for fire safety risk assessment and certification for the licensing of food premises should be reduced to about five and three days respectively.

10. Some members expressed concern over the level of services to be provided by FSD upon the launch of the RFE Scheme. The Administration assured members that FSD would maintain its existing services to the licence applicants of the prescribed premises after the roll-out of the RFE Scheme. Licence applicants could opt to continue to use the services provided by FSD if they so wished, or engage the services of RFEs at different stages of the licensing process. FSD would conduct a fee review in due course to reflect its involvement and workload in the licensing process. The review, however, had to take into account the fact that the existing fee level of FSD was below the full-cost recovery level.

Registration of Registered Fire Engineers

11. Members noted that the qualifications and experience requirements for registration as an RFE would be provided for in the new regulations to be made under FSO as appropriate after the passage of the 2016 Bill. The Administration's initial proposal was to allow persons from different backgrounds (including registered professional engineers of the relevant disciplines under the Engineers Registration Ordinance (Cap. 409), persons with undergraduate degrees relevant to the duties of RFEs, and practitioners with sufficient experience) to enter the trade, provided that they had the relevant and sufficient academic and professional training and working experience. Members were concerned about whether there would be a sufficient supply of qualified personnel to meet the service demand arising from the implementation of the RFE Scheme.

12. The Administration advised that according to a Business Impact Assessment study conducted from mid-2012 to mid-2013, there would be a sufficient supply of potential RFE candidates in the market. In addition, it was expected that the implementation of the RFE Scheme would attract more people to develop a professional career in the fire engineering field. Members were advised that a registration committee consisting of professionals and representatives from the academia would be established to provide professional advice to DFS on matters including whether to accept qualified persons who had relevant experience and/or completed the relevant fire engineering courses to register as an RFE of the relevant classes. An interview board panel and interview boards would also be formed to conduct professional interviews in respect of the applications for registration and recommend to DFS if the applications should be approved. The Administration assured members that it would continue to engage the relevant professional bodies and stakeholders before finalizing the implementation details of the RFE Scheme.

Regulatory mechanism for Registered Fire Engineers

13. Members were of the view that a comprehensive regulatory mechanism should be put in place to ensure the quality of work of RFEs. Some members were concerned about the disciplinary regime applicable to RFEs, in particular those who were not members of any of the self-regulatory professional bodies, for example, Hong Kong Institution of Engineers or Hong Kong Institute of Surveyors, and would not be subject to the disciplinary actions imposed on the respective professions.

14. The Administration advised that FSD would issue codes of practice or guidance notes for RFEs to observe. A disciplinary board panel would be formed for inquiring into and dealing with cases in which an RFE was suspected to have failed to discharge the duties properly. Apart from disciplinary offences, RFEs would be subject to criminal liability if, among other things, an RFE had issued a fire safety certificate that was false or misleading. In addition, FSD intended to require that the safety requirements formulated by an RFE (risk assessment) had to be endorsed by FSD before they were issued to the licence applicants concerned. Such arrangement would help ensure that a consistent set of fire safety standards would be applied. To assess and uphold the quality of certification work of RFEs, FSD would select premises on a random basis and conduct audit inspections on at least 70% of the certification performed by RFEs.

15. According to the Administration, FSD had also sought advice from the Corruption Prevention Department of the Independent Commission Against Corruption ("ICAC") for suitable control measures to prevent malpractices and

conflict of interest. The recommended measures of ICAC would be set out in the new regulations to be made under FSO after the passage of the 2016 Bill, or in the codes of practice or guidance notes issued by FSD for RFEs.

Implementation of the Registered Fire Engineer Scheme

16. According to the Administration, the implementation details of the RFE 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 RFE Scheme, etc. will be covered in the new regulations to be made by CE in Council under FSO after the passage of the 2016 Bill. The RFE Scheme will be rolled out after the passage of the new regulations. The plan of FSD is to conduct a review to assess the effectiveness of the RFE Scheme two years after its operation, and consider whether and to what extent the scope of duties of RFEs should be expanded.

17. The Administration will brief the Panel on Security on the proposed implementation details of the RFE Scheme at the meeting on 4 July 2017.

Relevant papers

18. A list of relevant papers available on the LegCo website is in the **Appendix**.

Appendix

Relevant papers on Registered Fire Engineer Scheme

Committee	Date of meeting	Paper
Panel on Security	3.11.2015 (Item IV)	Agenda Minutes
Bills Committee on Fire Services (Amendment) Bill 2015	--	Report of the Bills Committee to the Legislative Council
Panel on Security	11.11.2016 (Item IV)	Agenda Minutes
Bills Committee on Fire Services (Amendment) Bill 2016	--	Report of the Bills Committee to the Legislative Council

Council Business Division 2
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