

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Bills Committee on Entertainment Special Effects Bill

**Minutes of the meeting
held on Friday, 12 May 2000 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Howard YOUNG, JP (Chairman)
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon Timothy FOK Tsun-ting, SBS, JP

Members Absent : Hon Bernard CHAN
Hon Andrew WONG Wang-fat, JP
Hon YEUNG Yiu-chung

Public Officers Attending : Mr Alan SIU
Deputy Secretary for Information Technology and
Broadcasting (2)

Mr Esmond LEE
Acting Commissioner for Television and Entertainment
Licensing

Miss Adeline WONG
Principal Assistant Secretary for Information
Technology and Broadcasting (B)

Miss Miranda NG
Senior Assistant Law Draftsman

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Mr John MAK
Senior Engineer (Film Services)
Television and Entertainment Licensing Authority

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Stanley MA
Senior Assistant Secretary (2) 6

I. Election of Chairman

Nominated by Mr MA Fung-kwok and seconded by Mr David CHU Yu-lin, Mr Howard YOUNG was elected chairman of the Bills Committee.

II. Meeting with the Administration

2. The Chairman welcomed representatives of the Administration to the meeting.

3. At the invitation of the Chairman, Deputy Secretary for Information Technology and Broadcasting (2) (DS/ITB(2)) introduced the main features of the Entertainment Special Effects Bill (the Bill) with the aid of a power-point presentation.

Timeframe for completion of scrutiny and public consultation

4. The Chairman sought members' views as to whether deliberations of the Bill could be completed by 9 June 2000. Mr MA Fung-kwok responded that the film and entertainment industry was in general supportive of the proposals of the Bill. He suggested that to facilitate deliberation work, the Bills Committee should proceed to scrutinize the provisions of the bill and consult the public simultaneously. Mr David CHU Yu-lun shared the same view. The Chairman asked the clerk to invite representatives from concerned organizations to the next meeting, and to invite submissions from the public by issuing a press release and putting an invitation for submissions on the LegCo's website on the Internet.

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5. DS/ITB(2) confirmed that the Administration had consulted the Film Services Advisory Committee and the film and entertainment industry on the proposed regulatory regime, and both had expressed support for the Bill.

Schedule of implementation

6. Mr MA Fung-kwok enquired about the implementation schedule for the proposals of the Bill. DS/ITB(2) responded that after enactment of the Bill, the Administration would aim to introduce the necessary subsidiary legislation into the LegCo in October 2000. He anticipated that the proposals under the Bill and the subsidiary legislation to be introduced could be implemented by the end of 2000.

Merits of the proposed regulatory regime

7. The Chairman enquired about the merits of the proposed regulatory regime over the existing one from the perspectives of the film and entertainment industry and special effects operators.

8. DS/ITB(2) said that the merits of the new regulatory regime over the existing regime were detailed in the Administration's paper [LC Paper No.CB(2)1966/99-00(01)] tabled at the meeting. He drew members' attention to the following -

- (a) A one-stop licensing authority (the Entertainment Special Effects Licensing Authority (the Authority)) would be set up to process applications for licences and permits for the use, etc. of special effects materials; and
- (b) The processing time for issue of discharge permits would be reduced from the existing 12 to three working days for simple applications such as simple gunfight or small-scale explosion scenes; and six for complicated applications such as large-scale special effects scenes, medium-scale explosion scenes or the production of special effects scenes which required the Authority to conduct site visits. Only the more complicated applications requiring the Authority to consult other departments would take 12 working days to process.

Licence and permit fees

9. The Chairman noted that fees for the licences and permits would be charged on a cost-recovery basis and enquired about the level of fees to be charged.

10. DS/ITB(2) responded that the level of fees for issue of the various

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licences and permits would be prescribed by way of subsidiary legislation in accordance with clause 26 of the Bill. He assured members that since the new regulatory regime would streamline the licensing procedures and reduce the administrative costs, the fees payable in respect of the issue, renewal, certification, replacement or alteration of the required licences and permits would be pitched at reasonable levels. Moreover, the proposed two-year validity period for the licences would also obviate the need for frequent licence renewals and hence help reduce the financial burden on the licensees. To address members' concerns, he undertook to provide a comparison between the existing and proposed level of fees for the various licences and permits for members' information.

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11. The Chairman requested the Administration to provide an estimate of the permit fees for producing a typical special effects scene. He was of the view that the Administration should seek the support of the operators concerned in respect of the charges for storage and conveyance permits arising from implementation of the proposals in the Bill. Mr MA Fung-kwok added that the film and entertainment industry had indicated support for the requirements of the new regulatory regime, but pointed out that fees should not be set at levels which might cause a significant cost burden on the trade operators.

12. DS/ITB(2) responded that the Administration would provide a comparison between the permit fees required under the current regulatory regime and such fees under the Bill for producing a typical entertainment special effects scene.

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Conveyance and storage of special effects materials

13. The Chairman and Mr MA Fung-kwok expressed concern about the procedures and requirements for conveyance and storage of pyrotechnic and non-pyrotechnic special effects materials exceeding the prescribed exempted quantities specified under the Bill and other relevant ordinances. Mr MA pointed out that non-pyrotechnic special effects materials used for the production of entertainment special effects were also governed by the labelling and packaging requirements under the Dangerous Goods Ordinance and that cylinders containing liquefied petroleum gas must comply with the safety requirements in the Gas Safety Ordinance. He enquired about the arrangements which would be imposed by the Fire Services Department (FSD) and the Electrical and Mechanical Services Department (EMSD) in this regard.

14. Acting Commissioner for Television and Entertainment Licensing (Atg. CTEL) said that under the existing regime, the conveyance of pyrotechnic materials on land and by sea required two removal permits issued by the Commissioner of Mines and Director of Marine (D of M) respectively, and a separate removal permit was required for transporting the leftover pyrotechnic materials from the set to the store. The new regulatory regime would require only one permit for conveyance of pyrotechnic special effects materials by land

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and by sea, as well as unused materials to the approved storage location upon the completion of filming. In addition, a conveyance permit would not be required if the pyrotechnic special effects materials to be conveyed did not exceed the exempted quantities and that such conveyance was supervised by an approved special effects operator. Furthermore, exempted quantities of pyrotechnic materials were not required to be carried by dangerous goods vessels under a permit issued by the D of M provided that they were carried by a vessel of a type specified by the D of M and supervised by an approved special effects operator.

15. As regards applications for store licences for non-pyrotechnic special effects materials for quantities above the exempted levels, Atg. CTEL said that to address the concerns of the film and entertainment industry, the FSD and EMSD had undertaken to streamline the procedures for processing applications for store licences for quantities above the exempted levels. The Administration would continue to liaise with FSD and EMSD to simplify the application procedures as well as to speed up the approval process.

Special effects operators and use of special effects materials

16. The Chairman sought clarifications about the use and discharge of pyrotechnic materials and other dangerous goods by qualified special effects operators in films, television programmes and theatrical performances.

17. DS/ITB(2) said that holders of special effects operator licences were qualified to use pyrotechnic and non-pyrotechnic special effects materials which would be prescribed by way of subsidiary legislation under the Entertainment Special Effects Ordinance. With a single discharge permit, they could conduct multiple discharges of special effects materials, including rehearsals, re-shooting and serial discharge, at the same location for a designated period of time.

18. Mr James TO enquired about the classification of special effects materials and the criteria for issue of special effects operator licences which would be prescribed in the regulation to be made under the Bill.

19. DS/ITB(2) responded that to protect the safety of the operators and members of the public, the Bill stipulated that prior registration of pyrotechnic special effects materials with the Authority would be required before such materials were allowed to be used in Hong Kong for producing special effects in film, television programmes and theatrical performances. The Authority would maintain, and make publicly available, a register of the manufacturer, item description, classification, authorization and restrictions of all such registered materials, including those materials which were commonly used by the local entertainment industry.

20. Mr James TO asked for further information regarding the interpretation

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and assessment of "fit and proper" in respect of applicants for a special effects operator licence and other licences as stipulated under clauses 6(2), 19(1)(b) and (c), and 24(1)(b) and(c) of the Bill. Recalling the deliberations of the Bills Committee on Firearms and Ammunition (Amendment) Bill 1999, he asked whether the Administration would consult the Commissioner of Police for applicants who had a criminal conviction record. Mr TO held the view that persons with criminal convictions should be provided with the opportunity to integrate into the community and lead a normal life, and their applications for licences should therefore be carefully considered in the light of the seriousness and time lapse of their conviction records.

21. DS/ITB(2) said that in considering whether an applicant was a fit and proper person for the issue of a licence, the Authority should have regard to the character and conduct of the individual, as specified under clauses 6(3), 19(2) and 24(2) of the Bill. He undertook to discuss the issue with the Police and report to the Panel at the next meeting.

22. Senior Engineer (Film Services) of the Television and Broadcasting Licensing Authority (SE(FS)) supplemented that some of the 68 local special effects operator who had received provisional recognition from the Television and Entertainment Licensing Authority had a criminal conviction record.

23. Mr MA Fung-kwok held the view that unlike actors involving in filming of gunfight scenes, special effects operators and special effects materials suppliers were responsible for the direct control of the pyrotechnic and non-pyrotechnic special effects materials. In the light of public safety, they should be subject to a set of stringent and enforceable requirements in respect of personal character and conduct.

Submission of the Hong Kong Academy for Performing Arts (HKAPA)

24. In response to the views of the HKAPA, Atg. CTEL said that the Bill covered the use of pyrotechnic materials and other dangerous goods for producing special effects scenes in theatrical performances. He pointed out that it would not be appropriate to specify that members of the Appeal Board panel and an appeal board should come from certain associations, such as the Hong Kong Association of Theatre Technicians and Scenographers, and the Hong Kong Arts Administrator's Association, as proposed in the HKAPA's submission.

25. Mr MA Fung-kwok shared the view of the HKAPA that the Appeal Board panel should comprise special effects operators or persons specialized in theatrical performances. However, he expressed reservation about mandatory nomination from certain associations of special effects operators and executive producers engaged in the theatrical performances. He stressed that there should be members in the future Appeal Board panel who were familiar with the use of special effects materials in stage performance, and the appeal board

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members should be independent and impartial in the hearing of the appeal.

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26. DS/ITB(2) said that the Administration would propose an amendment to Schedule 1 to include executive producers in stage performances.

Appeal Board Panel and Appeal Boards

27. Mr MA Fung-kwok asked how the chairman and members of an Appeal Board would be selected from among members of the Appeal Board panel. He pointed out that an Appeal Board should comprise a member with background on stage production for the hearing of an appeal from a person of the theatrical performance sector.

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28. DS/ITB(2) said that the chairman of an Appeal Board would be appointed by the Secretary for Information Technology and Broadcasting. The appointee would be a person qualified for appointment as a District Judge under section 5 of the District Court Ordinance. As provided under clause 37 and Schedule 2 of the Bill, the appointed chairman would appoint an appeal board to hear the appeal within 21 days after receipt of a notice of appeal and select four members from the appeal board panel having regard to the nature of the appeal. On composition of appeal boards as stipulated in Schedule 2, he would propose an amendment to include an executive producer from the stage performance sector.

Clause-by-clause examination

Clause 1 - Short title and commencement

29. Members had no comment on the clause.

Clause 2 - Interpretation

30. Mr James TO sought clarification as to the scope of the definition of net explosive quantity in relation to pyrotechnic special effects materials designed to produce heat, gas, sound, light or a combination of these effects resulting from a self-sustaining and self-contained exothermic chemical reaction by combustion, deflagration or detonation.

31. Principal Assistant Secretary for Information Technology and Broadcasting (B) explained that net explosive quantity was defined in relation to pyrotechnic special effects materials set out under the Special Effects Materials List which would be prescribed by regulation made under clause 26 of the Bill.

32. Mr James TO asked whether the ignition, initiation or firing of a material by light under the definition of "discharge" or "discharging" would include laser. SE(FS) responded in the affirmative.

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Clause 3 - Establishment of the Authority

Clause 4 - Functions of the Authority

Clause 5 - Special effects operators to be licensed

33. Members had no comment on the three clauses.

Clause 6 - Application for special effects operator licence

34. Mr James TO enquired about the qualifications and experience, examinations or assessment and other requirements as would be prescribed by the Authority in considering applications for special effects operator licence in accordance with clauses 6(2)(c), (d) and (e). He also enquired about the personal particulars which would be required under the application form as stipulated under clause 6(4) of the Bill. The Administration undertook to provide the relevant information for discussion at the next meeting.

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Clause 7 - Classification of special effects operator

35. In response to Mr MA Fung-kwok, DS/ITB(2) confirmed that by way of subsidiary legislation, the Authority might issue different types of licences in respect of different classes and streams of special effects operators, and specify in such licences different scope of operation in accordance with the qualifications and experience of the special effects operators.

Clause 8 - Exemptions from section 5

36. Responding to Mr James TO, DS/ITB(2) clarified that clause 8(c)(i) provided for the act of discharge of special effects materials in film shooting by actors who were not licensed special effects operators.

Clause 9 - Transitional arrangements for existing special effects operators

37. Miss Cyd HO asked about the number of qualified special effects operators in the industry. CTEL(Ag) said that the Administration had organized a series of training courses for local operators in the entertainment industry. So far, 68 local operators had received provisional recognition as Special Effects Assistants. Of these, 12 had attended further training and received provisional recognition as Special Effects Operators Class II (Film/Television) and seven of them had already obtained provisional recognition as Special Effects Operators Class I (Film/Television) after further training. He added that in anticipation of the introduction of the new licensing system, the Authority would organize training courses again for development of sufficient special effects operators before the commencement of the legislation.

38. In response to Mr James TO, DS/ITB(2) said that under the current proposal, a local special effects operator who had been provisionally

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recognized by the Authority would be deemed to have been granted a special effects operator licence for a period of 90 days after commencement of the legislation.

Clause 10 - Restriction on discharge of special effects materials

39. Members had no comment on the clause.

Clause 11 - Application for discharge permit

40. Noting that a discharge permit would be valid for only 24 hours, Mr James TO and Miss Cyd HO expressed concern about the costs of discharge permits for repeated use of special effects materials of a theatrical performance involving the same special effects scene. In response, the Administration undertook to provide a written response for discussion at the next meeting.

Clause 12 - Classification of discharge permits

41. Members suggested and the Administration agreed to consider issuing discharge permits that would cover multiple use of special effects materials under the same special effects scene.

Clause 13 - Exemptions from section 10

42. Responding to Mr James TO and Miss Cyd HO, DS/ITB(2) said that clause 13(1)(b) provided for the discharge of deteriorated or damaged pyrotechnic special effects materials by licensed special effects operators for the purpose of destruction of such materials in compliance with the prescribed requirements which would be established by way of a subsidiary legislation.

III. Dates of meetings

43. Members agreed to meet deputations at the next meeting scheduled for 19 May 2000 at 10:45 am, and to hold subsequent meetings on 24 and 26 May 2000 at 8:30 am.

44. The meeting ended at 10:45 am.