

立法會
Legislative Council

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(These minutes have been seen by
the Administration)

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Bills Committee on Fire Safety (Buildings) Bill

Minutes of the third meeting
held on Wednesday, 28 May 2001 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members Present : Hon IP Kwok-him, JP (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon CHOY So-yuk
Hon Frederick FUNG Kin-kee
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, JP

Member Attending : Dr Hon YEUNG Sum

Public Officers Attending : Mr David WONG
Principal Assistant Secretary for Security

Mr Damian CHAN
Assistant Secretary for Security

Mr C C LEE, JP
Chief Fire Officer (Protection)
Fire Safety

Mr C K CHAN
Senior Divisional Officer (Protection)
Building Improvement & Support

Mr C C TSANG
Assistant Director
Existing Buildings 2

Mr HO Cham
Chief Building Surveyor
Fire Safety

Mr W B MADDAFORD
Senior Assistant Law Draftsman

Mr Vidy CHEUNG
Senior Government Counsel

**Deputation by
Invitation** : Mr CHAN Tak-chor, MH
Vice-chairman
Central and Western District Council

**Clerk in
Attendance** : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

**Staff in
Attendance** : Miss Anita HO
Assistant Legal Adviser 2

Miss Mary SO
Senior Assistant Secretary (2) 8

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The Chairman welcomed Mr CHAN Tak-chor to the meeting and invited him to give his views on the Fire Safety (Buildings) Bill (the Bill).

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I. Meeting with deputation/individual

2. Mr CHAN Tak-chor presented his views on the Bill as set out in his submission tabled at the meeting. His views were summarised as follows -

- (a) There was doubt as to whether enacting legislation to require owners of buildings of several storeys and comprised few units was necessarily the best way to ensure public safety. As the fire load and the flow of people of these buildings were generally low, public safety should be ensured if the owners/occupiers concerned took steps to remove the fire hazards of their buildings, such as by clearing means of escape and keeping smoke doors closed, restore and reinstate the building fire safety measures and structures to workable and satisfactory condition and to the standards specified in their approved buildings. The Administration should raise public awareness about fire safety and assist building owners to form owners' corporations (OCs) or mutual aid committees so that the management of their buildings could be improved;
- (b) There would be practical difficulties for owners to fully comply with the new fire safety requirements proposed by the Bill because of the physical constraints and/or structural problems of their buildings. For example, the rooftops of some old buildings could not support the installation of a standard fire service water tank;
- (c) Although a loan scheme had been set up to provide financial assistance to building owners to implement the new fire safety requirements, it was envisaged that many owners would not apply for it because of the complicated application procedures; and
- (d) There was a need for the Administration to step up its monitoring on the work performed by fire service installation contractors, as there were instances whereby a fire had broken out in a building which supposedly had undergone fire safety improvement works just a week ago.

(Post-meeting note : Mr CHAN Tak-chor's submission was issued to members vide LC Paper No. CB(2) 1668/00-01(03) on 29 May 2001.)

3. Mrs Sophie LEUNG said that in order to ensure the smooth implementation of the Bill, the Administration, before enforcing it, should make the building owners affected understood as to why they had to comply with the new fire safety requirements and their obligations in complying such. Mrs LEUNG asked Mr CHAN Tak-chor whether owners or occupiers of old buildings in the Central and Western District were aware of the existence of the Bill. Mr CHAN Tak-chor responded that in his contact with the owners of old buildings in the Central and Western District, most of them were not aware of the existence of the Bill. Under this circumstance, Mrs LEUNG urged the Administration to widely consult the public on the various

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proposals contained in the Bill, before submitting a notice to resume the Second Reading debate on the Bill.

4. Ms Audrey EU agreed that public education on fire safety was necessary. She, however, wondered whether using such a means to replace enacting legislation to upgrade fire safety standards in old buildings was adequate. Ms EU pointed out that despite the fact that the Administration had all along been promoting fire safety through different programmes and activities, many owners and occupiers still failed to observe fire safety requirements. Ms EU sought clarification from Mr CHAN Tak-chor as to whether it was his stance that buildings of several storeys and with few units should be exempted from the Bill, as the existing legislation concerned, if strictly adhered to, was suffice to ensure public safety.

5. Mr CHAN Tak-chor responded that public education on the importance of fire safety was necessary. However, implementation of fire safety requirements would invariably involve many complicated legal and technical issues. To this end, Mr CHAN urged that the Home Affairs Department (HAD) should improve and expand its services to assist building owners to solve building management problems as proper building management was integral to building fire safety. Mr CHAN clarified that he was not in a position to determine that the fire safety standards in buildings of several storeys and with few units did not need to be upgraded to the standards proposed by the Bill. He was merely stating the fact that although the fire safety standards of old buildings of several storeys and with few units did not meet the modern day standards, the level of their fire risk should be low if the existing fire safety legislation had been strictly adhered to. Moreover, owners of some old buildings would have difficulties in complying with the new fire safety requirements because of the physical constraints of their buildings and lack of financial means.

6. The Chairman invited the Administration to respond to the views expressed by Mr CHAN Tak-chor.

7. Principal Assistant Secretary for Secretary (PAS/S) said that the Administration would carefully consider the views and concerns expressed by Mr CHAN Tak-chor on the Bill. PAS/S then gave a preliminary response as to why there was a need to introduce new legislation to bring the fire safety standards of old private buildings up to that of the modern day and the various initiatives undertaken by the Administration to improve building fire safety. PAS/S said that the Bill was only one of the initiatives in the package of proposals to improve private buildings covered in the 1998 public consultation exercise. Other initiatives included abatement of fire hazards in buildings and promotion of fire safety culture in the community by the Fire Services Department (FSD), demolition of unauthorised rooftop structures and other unauthorised building works by the Buildings Department (BD); regular inspections by the Electrical & Mechanical Services Department to monitor the conditions of communal electrical installations in buildings; and better support provided by HAD to assist building owners to form OCs or mutual aid committees and to help owners and OCs to solve building management problems. On the other hand, over time, fire

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safety standards had advanced to higher standards for the better protection of the public. But the existing legislation concerned, namely, the Buildings Ordinance and the Fire Services Ordinance, could only impose the improved standards upon new buildings when the relevant building plans were submitted for approval. For old private buildings, new legislation and enabling powers were required to impose improved or additional fire safety measures which were not originally included in the approved building plans. It was on this premise that the Bill was proposed to improve fire safety standards in old composite and domestic buildings.

8. Having regard to the constraints of the designs of old private buildings and in order to minimise the financial impact on the owners concerned, PAS/S said that the Administration had excluded from the Bill certain requirements originally proposed in the 1998 consultation document, such as fire resisting separation between the commercial and domestic portions, which was a unique feature of composite buildings. For the domestic parts of composite buildings and for domestic buildings generally, taking into account the lower fire load and fire risks normally associated with residential purposes, the Bill only proposed the provision of the most essential items such as fire hydrant/hose reel systems to offer the occupants or fire-fighters a ready means of tackling an outbreak of fire.

9. PAS/S further said that the Administration understood that some building owners might have difficulties in complying with the new fire safety requirements due to structural problems of their buildings. To this end, a flexible and pragmatic approach would be adopted in taking enforcement actions and reference would be drawn to the valuable experience gained in the implementation of the Fire Safety (Commercial Premises) Ordinance over the past three years. For example, if an authorised person or a registered engineer certified that the rooftop of the building concerned could not support a standard fire service water tank due to structural problems, and that no alternative place was available for such installation, FSD would consider accepting a water tank of smaller capacity. In the enforcement of the Fire Safety (Commercial Premises) Ordinance, FSD had approved 11 applications for installing fire service water tank of substandard capacities.

10. To help alleviate possible cash flow problems that some building owners might encounter, PAS/S said that the Administration had obtained approval from the Finance Committee of the Legislative Council on 27 April 2001 to merge the Fire Safety Improvement Loan Scheme and the Building Safety Improvement Loan Scheme to form the Comprehensive Building Safety Improvement Loan Scheme (the Scheme). With a commitment of \$700 million, the scope of the Scheme was extended, the eligibility criteria were relaxed to render assistance owners for carrying out repair works and improving building safety, and the application procedures were simplified. While repayment terms under the Scheme would be 36 months at an interest rate with no gain or loss to the public purse, persons in financial hardship might be given the flexibility to repay at no interest rate over an extended period to 72 months or they might defer repayment until transfer of the property.

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11. PAS/S added that the Comprehensive Strategy for Building Safety and Timely Maintenance undertaken by a Task Force under the Planning and Lands Bureau (PLB) should also help owners and occupiers in complying with the upgraded fire safety standards. For example, the Director of Buildings would designate building coordinators, each for a pool of buildings, to serve as district-based contacts and to provide "one-stop" service for owners. In addition, BD would compile a comprehensive layman's guide on building safety and general maintenance for publication this year. The Director of Home Affairs had also started to re-structure and expand her headquarters and to re-constitute outreaching teams in District Offices to provide assistance to building owners and OCs, respond to enquiries and mediate in case of disputes. To complement the efforts of local District Offices, the two Building Management Resource Centres would assist in referring enquiries and complaints.

12. Regarding the concern raised by Mr CHAN Tak-chor about the lack of monitoring of the works performed by the fire service installation contractors, Chief Fire Office (Protection) (CFO(P)) said that according to regulation 6 of the Fire Service (Installations and Equipment) Regulations (the Regulations), only registered contractors could undertake statutory fire service installation works. At present, there were 252 class 1 contractors and 330 class 2 contractors registered with FSD. Registered Class 1 contractors were considered fit to install, maintain, repair and inspect any fire service installation or equipment (other than portable equipment) which contained an electrical circuit or other apparatus for the detection and warning, by alarm or otherwise, of smoke or fire; whereas registered class 2 contractors were considered fit to install, maintain, repair and inspect any fire service installation or equipment (other than portable equipment) which contained pipes and fittings designed or adapted to carry water or some other fire extinguishing medium or any type of electrical apparatus other those specified in class 1.

13. CFO(P) further said that according to the Regulations, whenever a registered contractor installed, maintained, repaired or inspected any fire service installation or equipment in any premises, he/she were required within 14 days after completion of the work issued to the person on whose instructions the work was undertaken a certificate and forwarded a copy thereof to the Director of Fire Services. The certificate should state, amongst others, whether or not the fire service installation or equipment was in efficient working condition. Person who signed the certificate would commit an offence and would be liable on conviction to a fine of \$5,000 if the certificate contained information which was false or misleading. CFO(P) pointed out that in the enforcement of the Fire Safety (Commercial Premises) Ordinance, FSD had inspected and tested all fire service installations or equipment which the registered fire service installation contractors had certified to be in efficient working condition. FSD intended to adopt the same approach when enforcing the Bill.

14. Ms Cyd HO asked whether the Administration would consider exempting owners of buildings of several storeys and with few units from the Bill. PAS/S responded that from a fire protection point of view, the Administration could not

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categorically say that the risk inherent in one kind of buildings was lower than another, as many factors included the intended use, type of occupancy, means of escape provision, provision and maintenance of fire services installations, building height, size and construction, etc. had to be taken into account in assessing the level of fire risk. The fire risk of a particular building could only be determined on its individual merits.

15. CFO(P) supplemented that there was a need to upgrade the fire safety standards of old buildings. According to the findings of a territory-wide buildings survey conducted by FSD in early 1998, while the fire safety provisions of many old private buildings were not up to the current standards, the fire safety condition in composite buildings, amongst the different types of private buildings, was the most unsatisfactory. The result was generally in line with a sample survey conducted by BD, which found that 80% of the composite buildings had serious deficiencies in exit routes. As a general indication, the fire safety construction and fire service installations in old buildings, i.e. the pre-1987 buildings, did not meet the present day standards. CFO(P) assured members that FSD would undertake a flexible and pragmatic approach in enforcing the Bill. For example, if the composite buildings and domestic buildings were not exceeding, say, six storeys in height, the provision of fire hydrant might be waived as firemen could lay flexible fire fighting hoses along the staircases within a very short period of time after arrival, and the provision of portable fire extinguishers might be accepted as an alternative measure if space was not available in the common areas for the installation of standard or even reduced sized hose reel drums.

II. Meeting with the Administration

(LC Paper Nos. CB(2) 1614/00-01(01)-(03))

16. Members noted the Administration's responses to the joint submission from Mr IP Kwok-him, Mr YEUNG Wai-foon and Mr WONG Chit-man of the Central and Western District Council and to the submission from Mr YEUNG Wai-sing of the Eastern District Council tabled at the meeting.

(Post-meeting note: The Administration's responses to the joint submission from Mr IP Kwok-him, Mr YEUNG Wai-foon and Mr WONG Chit-man of the Central and Western District Council and to the submission from Mr YEUNG Wai-sing of the Eastern District Council were issued to members vide LC Paper Nos. CB(2) 1668/00-01(01) and (02) on 29 May 2001.)

17. Responding to the Chairman's enquiry about the sharing of costs for improving fire safety measures, PAS/S said that such would be governed by the terms of the deed of mutual covenant (DMC) of each building or in proportion to the owners' shares in the buildings. In general, if a fire safety direction was served on a building owner in respect of the relevant part he/she exclusively occupied directing him/her to comply with fire safety requirements with respect to that part, the building owner would have

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to bear the cost incurred in the upgrading works. One example was the installation of an automatic sprinkler system inside a non-domestic unit of a composite building. On the other hand, if separate fire safety directions were served on a number of building owners in respect of the relevant part each of them did not exclusively occupy directing them to comply with the same fire safety requirements with respect to that part, these building owners would be jointly responsible and have to share the cost incurred in the upgrading works amongst themselves according to the terms of the relevant DMC or in accordance with the respective shares of the owners of the buildings. One example was the provision of emergency lighting within the common areas.

18. The Chairman pointed out that owners of composite buildings would have difficulties to come to an agreement on the sharing of cost for the installation of a fire service water tank, as the domestic parts of the buildings would only be required to put in place a fire hydrant/hose reel system while the non-domestic parts would, in addition to the installation of a fire hydrant/hose reel system, be required to put in place an automatic sprinkler system. CFO(P) pointed out that new composite buildings would have to install two separate water tanks to supply water to the fire hydrant/hose reel system and the automatic sprinkler system to satisfy current codes. The arrangement for allowing a single fire service water tank to supply water to the fire hydrant/hose reel system and the automatic sprinkler system was already a relaxation. The sharing of costs would be determined by the owners/parties concerned.

19. Mr Frederick FUNG said that many owners of old private buildings lacked the financial means as well as the ability to undertake the complicated fire safety improvement works. Such a situation was aggravated by the fact that many old private buildings did not have OCs and that the non-domestic parts of many composite buildings were used for habitation purposes and vice versa. He expressed concern that non-compliance with the fire safety requirements would be subject to imprisonment. Mr FUNG suggested that the Administration should take over the fire safety improvement works for building owners who lacked the ability to undertake such works. Mr FUNG pointed out that such an arrangement was not new, as currently BD would carry out some repair works for owners and occupiers of buildings.

20. PAS/S responded that the Bill provided a basis for FSD and BD to assist owners and occupiers of buildings to comply with the required fire safety standards in their buildings to ensure public safety. PAS/S further said that building owners should not be overly concerned about structural constraints that would make full compliance with the new requirements difficult, as the Administration would adopt the same flexible and pragmatic approach in enforcing the Fire Safety (Commercial Premises) Ordinance. He pointed out that during the enforcement of the Fire Safety (Commercial Premises) Ordinance over the past three years, there was no record that the enforcement authorities had applied to the court for any prohibition order. PAS/S reiterated that the various initiatives undertaken by the Task Force on Building Safety and Preventive Maintenance under PLB would also help owners and occupiers of old

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private buildings to comply with the new fire safety requirements.

21. Assistant Director of Buildings (ADB) added that unlike repair works sometimes carried out by BD on behalf of owners, the fire safety requirements proposed in the Bill were essential new improvement works. He said that the enforcement authorities would have no default powers but resort to provide every assistance possible to owners and occupiers in complying with the new requirements as far as practicable.

22. Notwithstanding the various initiatives made to help owners and occupiers of buildings to comply with the new fire safety requirements, Mrs Sophie LEUNG urged the Administration to first assess how effective these initiatives were before enforcing the Bill. In order to avoid any misunderstandings or conflicts in the future, Mrs LEUNG urged the Administration to step up its efforts to explain to the public as to why they needed to comply with the new requirements.

23. Ms Cyd HO said that in order to avoid any dispute on the sharing of costs for improving the fire safety measures to the required standards, the existing unfair terms in the DMCs must first be resolved. As the Subcommittee on review of the Building Management Ordinance (Cap. 344) established under the Panel on Home Affairs was currently discussing the unfair terms in the DMCs, Ms HO suggested that the relevant paper(s) for the Subcommittee be forwarded to the Administration for a response.

Clerk

24. Miss CHOY So-yuk expressed doubt as to whether the Administration would indeed undertake a flexible and pragmatic approach in enforcing the Bill, having regard to the fact that it had consistently shown to do the contrary when removing the unauthorised rooftop structures and other building works. Miss CHOY was of the view that the Bill should state clearly under what circumstances the enforcement authorities would exercise flexibility in enforcing the Bill and how this would be carried out in practice. Miss CHOY also echoed the concerns expressed by deputations and members about the enforcement difficulties if the buildings did not have OCs.

25. The Chairman enquired how the situation where the non-domestic parts of composite buildings were used for domestic purposes would be dealt with. PAS/S responded that the Administration would adopt the same flexible and pragmatic approach in requiring owners of commercial premises used for domestic purposes to comply with upgraded fire safety standards when enforcing the Fire Safety (Commercial Premises) Ordinance, the details of which were set out in the Administration's response (2nd part) to issues raised by members at the Bills Committee meeting held on 14 March 2001 (LC Paper No. CB(2) 1379/00-01(02)). Regarding domestic buildings used for commercial purposes, ADB said that although the owners concerned would generally be required to comply with the fire safety requirements for domestic buildings, FSD/BD would also assess whether the fact that they had changed the original purpose of their premises would greatly increase the level of fire risk. If that was the case, action would be taken to prohibit these

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owners/occupiers to continue to use the domestic premises for commercial purposes by enforcing the existing legislation concerned.

26. In concluding the discussion, the Chairman requested the Administration to give a response to the following issues raised by members at the meeting -

- (a) Sharing of costs for fire safety measures;
- (b) Exemptions in respect of buildings with lower fire risks; and
- (c) Enforcement difficulties and complementary measures.

Adm PAS/S undertook to provide a response on these.

III. Date of next meeting

27. Members agreed that the next meeting be held on 18 June 2001 at 10:45 am.

28. There being no other business, the meeting ended at 4:30 pm.

Legislative Council Secretariat

15 October 2001