

立法會
Legislative Council

LC Paper No. CB(2)1719/15-16
(These minutes have been seen
by the Administration)

Ref : CB2/BC/2/15

Bills Committee on Fire Services (Amendment) Bill 2015

Minutes of the second meeting
held on Monday, 22 February 2016, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Hon Tony TSE Wai-chuen, BBS (Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Dr Hon Kenneth CHAN Ka-lok
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon IP Kwok-him, GBS, JP

Public Officers attending : Miss Shirley YUNG Pui-man
Deputy Secretary for Security 2
Security Bureau

Mr Alex CHAN Yuen-tak
Principal Assistant Secretary for Security B
Security Bureau

Miss Venus TSOI Yuen-san
Assistant Secretary for Security B2
Security Bureau

Mr Shane LO Siu-hang
Assistant Director (Fire Safety)
Fire Services Department

Mr Terrance TSANG Wing-hung
Deputy Chief Fire Officer (Fire Safety)
Fire Services Department

Mr Ryan KWOK Pak-chiu
Divisional Officer (Policy) 1
Fire Services Department

Ms Rayne CHAI Chih-hui
Acting Senior Assistant Law Draftsman (I) 2
Department of Justice

Miss Queenie WU Chung-yi
Government Counsel
Department of Justice

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Ms Janet SHUM
Senior Council Secretary (2) 5

Ms Louisa YU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration

[File Ref.: SBCR 1/2361/14, LC Paper Nos. LS21/15-16, CB(2)881/15-16(01) to (03) and CB(3)207/15-16]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

- Admin 2. The Bills Committee requested the Administration to:
- (a) provide the regulatory framework for the Registered Fire Engineer ("RFE") Scheme proposed to be covered in a new subsidiary legislation to be made after the passage of the Fire Services (Amendment) Bill 2015 ("the Bill"), including, among others, the requirements for registration as an RFE, the powers and procedures of the registration committee, and the acts or omissions that constituted a disciplinary offence on the part of an RFE;

Action

- (b) advise whether an RFE who had committed misconduct in the provision of fire safety risk assessment and certification services under the proposed RFE Scheme would be subject to civil or criminal sanctions in addition to disciplinary actions;
- (c) provide a breakdown, by rank and salary range, of the number of staff of the Fire Services Department currently involved in the process for making fire risk assessment of buildings or premises and certifying compliance with the relevant fire safety requirements, as well as an estimate of the number of those staff who could meet the proposed requirements for registration as an RFE;
- (d) provide justifications on how the implementation of the proposed RFE Scheme could shorten the time required by the prescribed premises for obtaining the relevant licence, permit or certificate for operating the premises; and
- (e) provide a response to the concerns raised by Hon WU Chi-wai in his letter dated 22 February 2016 (LC Paper No. CB(2)935/15-16(01)).

II. Any other business

3. Members noted that the next meeting would be held on Monday, 29 February 2016, at 10:45 am to receive views from deputations on the Bill. The Chairman advised that depending on the number of deputations attending the meeting, arrangements would be made to reserve a segment of the meeting for members to discuss with the Administration on its response to the issues of concern raised by members.

4. There being no other business, the meeting ended at 4:32 pm.

Council Business Division 2
Legislative Council Secretariat
10 June 2016

**Proceedings of the second meeting of
the Bills Committee on Fire Services (Amendment) Bill 2015
held on Monday, 22 February 2016, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000320 - 000631	Chairman	Opening remarks	
000632 - 001942	Chairman Admin	Briefing by the Administration on the Fire Services (Amendment) Bill 2015 ("the Bill") as detailed in the Legislative Council Brief (File Ref.: SBCR 1/2361/14) issued by the Security Bureau on 2 December 2015 and the Powerpoint presentation materials (LC Paper No. CB(2)933/15-16(01)).	
001943 - 002403	Chairman Admin	The Administration's brief response to the issues raised by Mr WU Chi-wai in his letter dated 22 February 2016 (LC Paper No. CB(2)935/15-16(01)) which was tabled at the meeting, and its undertaking to provide a written response after the meeting.	Admin
002404 - 003334	Chairman Ir Dr LO Wai-kwok Admin	<p>Ir Dr LO Wai-kwok's expression of support in principle for the proposed Registered Fire Engineer ("RFE") Scheme which would allow licence applicants of those premises proposed to be covered under the RFE Scheme ("the prescribed premises") to opt between RFEs and the Fire Services Department ("FSD") in the making of fire risk assessment and formulation of fire safety requirements, and the conducting of compliance check. In his view, the establishment of the Fire Discipline under the Hong Kong Institution of Engineers ("HKIE") and the acceptance of the relevant Corporate membership of HKIE for registration with the Engineers Registration Board as Registered Professional Engineer ("RPE") in the Fire Discipline in the last decade would help to underpin the implementation of the RFE Scheme.</p> <p>Ir Dr LO Wai-kwok's enquiry as to whether the choice between engaging RFEs or FSD was on the licence applicants' own wish or on the advice of FSD; and whether engineers holding Corporate membership in the Fire Discipline of HKIE and RPEs in the Fire Discipline could register for all the three classes of RFEs (i.e. RFE (Risk Assessment) ("RFE(RA)"), RFE (Fire Service Installation) ("RFE(FSI)") and RFE (Ventilating System) ("RFE(VentS)").</p> <p>The Administration's response that:</p> <p>(a) licence applicants could, based on their preference, choose to engage the services of RFEs and/or FSD at different stages of the licensing process; and</p> <p>(b) RPEs in the Fire Discipline, as well as RPEs in other disciplines (such as the Building Services Discipline and Mechanical Discipline) with proof of having the relevant training, who possessed the relevant working experience would be eligible to register as RFEs.</p>	

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003335 - 004421	Chairman Mr WONG Ting-kwong Admin	<p>Mr WONG Ting-kwong's enquiry as to whether RFEs would be required to undergo continuing professional development; and his concern that if engaging RFEs for the fire safety risk assessment and certification services required for the licensing process would result in a higher cost as compared to using FSD's services, many of the licence applicants of the prescribed premises would prefer to continue using FSD's services due to cost consideration.</p> <p>The Administration's response that:</p> <p>(a) matters of details or technical, procedural or operational nature of the RFE Scheme and regulation of RFEs would be provided in a new regulation to be introduced under the Fire Services Ordinance (Cap. 95) ("the principal Ordinance") after the passage of the Bill. The initial view of the Administration was that the validity period of the certification of registration of an RFE would be for a few years. An RFE could submit an application for renewal to FSD before the certificate of registration expired. FSD would approve the renewal after examining the application and concluding that the applicant possessed the relevant qualifications and practical experience; and</p> <p>(b) service fees to be charged by RFEs would be determined by the market forces of demand and supply. As regards the service fees to be charged by FSD, given that FSD would in certain cases only need to endorse the fire safety requirements formulated by an RFE(RA) (instead of providing the services direct) upon the launch of the RFE Scheme, the existing service fee charged by FSD in this regard would be revised to reflect the above change. It should, however, be noted that the existing fee level of FSD, which was below full cost recovery, would be subject to revision under the "user pays" principle.</p> <p>In response to Mr WONG Ting-kwong's concern about the difficulties currently encountered by owners of those residential buildings without owners' corporation in carrying out fire safety improvement works, the Administration's advice that under the current legislative exercise, the RFE Scheme would only cover the prescribed premises set out in Annex C to the LegCo Brief. Subject to the outcome of the review to be conducted after running the RFE Scheme for about two years, consideration would be given to the possibility of extending the Scheme to other areas, such as certification of fire safety upgrading works.</p>	
004422 - 005340	Chairman Dr Kenneth CHAN Admin	<p>Dr Kenneth CHAN's enquiry about whether former officers of FSD would be eligible for registration as RFEs, as well as the Administration's timetable for mapping out the details of the new regulation which would provide for the implementation details of the RFE Scheme; and his request for the Administration to provide, as far as practicable, the draft of the regulation to facilitate members' consideration of the Bill.</p>	

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		<p>The Administration's response that:</p> <ul style="list-style-type: none"> (a) apart from RPEs in the relevant disciplines, other qualified persons with professional qualifications and working experience relevant to the duties of the three classes of RFE could also apply for registration as RFEs; (b) it would provide after the meeting the initial view of the Administration on certain implementation details of the RFE Scheme, such as the requirements for registration as an RFE and the powers and procedures of the Registration Committee, for members' reference; and (c) subject to the passage of the Bill in the current legislative session, the plan of the Administration was to introduce the new regulation to provide for the implementation details of the RFE Scheme into LegCo by early 2017. <p>Making reference to the implementation of the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme by the Buildings Department ("BD"), Dr Kenneth CHAN's remark that the list of RFEs and statistics on their fees and charges should be made public to facilitate the decision of licence applicants of the prescribed premises in selecting RFEs.</p>	Admin
005341 - 010141	Chairman Ms Cyd HO Admin	<p>Ms Cyd HO's sharing of the concern of Mr WONG Tingkwong on the difficulties currently encountered by owners of old residential buildings in carrying out the relevant fire safety improvement works; and her enquiry about whether the absence of definition of the term "prescribed premises" in the Bill would have the effect of widening the implementation of the RFE Scheme in all premises (including residential buildings), but not only the prescribed premises.</p> <p>The Administration's advice that there was no cause for such concern for the following reasons:</p> <ul style="list-style-type: none"> (a) the principal Ordinance and its subsidiary legislation currently did not provide for any third party other than the Director of Fire Services or a person authorized by him or her to perform fire safety risk assessment and certification. The Bill sought to introduce the RFE Scheme so that qualified persons in the private market might also provide such services; and (b) the prescribed premises to which the RFE Scheme would apply would be listed out in the new regulation. The Bill had introduced amendments to a number of legislation governing the prescribed premises to which the RFE Scheme would apply. These amendments, if passed, would allow the relevant regulatory authorities to accept the fire safety requirements imposed by RFEs and fire safety certificates issued by RFEs as proof of compliance with the relevant fire safety requirements when processing licence applications. 	

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010142 - 011531	Chairman Mr YIU Si-wing Admin Ir Dr LO Wai-kwok	<p>Citing the licensing process of hotels and guesthouses which could take more than 12 months as an example, Mr YIU Si-wing's remark that merely shortening the time required for fire risk assessment and compliance inspection and certification as required of in the licensing process would bring little improvement to help expedite the whole licensing process.</p> <p>The Administration's response that at present, the fire safety risk assessment and certification process had accounted for a substantial proportion of time in the whole licensing process of the prescribed premises. The Security Bureau would relay the concern of members over the long processing time required for licence applications to the relevant Government departments for consideration.</p> <p>In response to Mr YIU Si-wing's view that FSD should provide guidelines for the setting of fees by RFEs and his enquiry about the liability of an RFE engaged by a licensing consultant in case of the latter's failure to discharge properly the duties in the licensing process, the Administration's advice that:</p> <p>(a) the fees to be charged by RFEs would depend on the type and size of premises as well as the demand for and supply of the services. According to the Business Impact Assessment ("BIA") study conducted from mid 2012 to mid 2013, it was estimated that a respective pool of 150 and 1 500 RPEs could meet the qualification requirements for RFE(RA) and RFE(FSI) and/or RFE(VentS); and</p> <p>(b) the new regulation would provide for the issuance of codes of practice and the establishment of a disciplinary mechanism for the RFE Scheme. As regards disputes between an RFE and a licensing consultant, these would be subject to the private contractual arrangements between the two parties concerned.</p> <p>The Chairman and Ir Dr LO Wai-kwok's remark that similar to the case of authorized persons and registered structural engineers, it was necessary to set out in the legislation the disciplinary mechanism governing the professional misconduct of RFEs; and the Administration's advice that more details in this regard would be provided in its written response on the regulatory framework of the RFE Scheme.</p>	Admin
011532 - 012340	Chairman Mr WU Chi-wai Admin	<p>Mr WU Chi-wai's enquiry on:</p> <p>(a) the rationale for providing the regulatory framework of the RFE Scheme in the new regulation but not in the principal Ordinance, which was different from the arrangement of some other regulatory frameworks, such as the licensing regime for property management practitioners as set out in the Property Management Services Bill;</p> <p>(b) the number of frontline personnel out of the pool of the 150 and 1 500 RPEs who, according to the BIA study, could meet the qualification requirements for RFE(RA)</p>	

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		<p>and RFE(FSI) and/or RFE(VentS) respectively, so as to ensure that there would be a sufficiently large pool of service providers on the market in order to lower the service charge of RFEs which was estimated to be in the range of \$30,000 to \$200,000; and</p> <p>(c) whether the plan of the Administration was to allow RFEs to provide all fire safety risk assessment and certification services currently provided by FSD in the long run, and if this was so, how the Administration could ensure that the relevant works of fire service installations and equipment in buildings could meet the requirements of BD.</p> <p>The Administration's response that:</p> <p>(a) the proposed arrangement to provide the implementation details of the RFE Scheme in a new regulation had made reference to the existing arrangement for regulating the registration of fire service installation contractors for which the implementation details were provided for in the Fire Service (Installation Contractors) Regulations (Cap. 95A) made under the principal Ordinance;</p> <p>(b) given that the BIA study was conducted two to three years ago, it was expected that there would be an increase in the number of persons meeting the qualification requirements for RFEs in recent years; and</p> <p>(c) it would review the effectiveness of the RFE Scheme and consider whether and, if so, to what extent the scope of duties of RFEs should be expanded about two years after the introduction of the RFE Scheme.</p>	
012341 - 013622	Chairman Ms Cyd HO Admin Mr James TO	<p>Ms Cyd HO's remark that merely shortening the time required for fire risk assessment and certification as required of in the licensing process would not help much to shorten the time required by licence applicants of the prescribed premises in obtaining the relevant licence, permit or certificate for operating the premises; and her concern about whether the implementation of the RFE Scheme would lead to a brain drain of staff of FSD to the private sector.</p> <p>The Administration's response that:</p> <p>(a) taking the licensing process of food premises as an example, it currently took about 17 days for FSD to conduct fire safety risk assessment and formulate fire safety requirements, and around 14 days to conduct compliance inspection and certification. RFEs were expected to be able to provide the above services with greater flexibility and complete the services within a shorter turnaround time. This would create an incentive for the licence applicants of the prescribed premises to switch from using FSD's services. According to the BIA study, hotel operators would likely opt to engage RFEs to provide the above services; and</p>	

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		<p>(b) it should be noted that staff of FSD currently involved in processing licence applications would still be required to meet the relevant professional qualification and working experience requirements in order to register as RFEs.</p> <p>Ms Cyd HO and Mr James TO's request for the Administration to provide a breakdown, by rank and salary range, of the number of staff of FSD currently involved in the process for making fire risk assessment of buildings or premises and certifying compliance with the relevant fire safety requirements, as well as an estimate of the number of those staff who could meet the proposed requirements for registration as an RFE.</p>	<p>Admin</p>
<p>013623 - 014743</p>	<p>Chairman Mr James TO Admin Mr WU Chi-wai</p>	<p>Mr James TO's request for the Administration to advise in writing whether an RFE who had committed misconduct in the provision of fire safety risk assessment and certification services under the RFE Scheme would be subject to civil or criminal sanctions (in particular, whether an RFE would be liable under the Prevention of Bribery Ordinance (Cap. 201) or commit an offence of misconduct in public office if he received bribes in the provision of services under the RFE scheme) in addition to disciplinary actions.</p> <p>The Administration's advice that at the initial implementation stage, the fire safety requirements formulated by an RFE(RA) would need to be endorsed by FSD. In addition, FSD would select premises on a random basis to conduct audit inspections within seven working days upon the issue of a fire safety certificate by an RFE(FSI) or an RFE(VentS). The new regulation would provide for, among others, circumstances under which an RFE would be regarded as having committed a disciplinary offence, as well as a disciplinary mechanism for inquiring into and dealing with cases where an RFE was suspected to have failed to discharge the duties properly. The Administration would provide after the meeting the proposed details in this regard.</p> <p>Noting that the new regulation would be subject to the negative vetting procedure under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), Mr WU Chi-wai opined that it was unreasonable to require members to scrutinize the Bill in the absence of the critical information on the regulatory framework of the RFE Scheme. He urged the Administration to consider incorporating the regulatory framework in the Bill.</p>	<p>Admin</p>
<p>014744 - 015232</p>	<p>Chairman Mr WU Chi-wai Admin</p>	<p>Mr WU Chi-wai's enquiry about the performance benchmark to be adopted by the Administration in assessing whether the fire safety risk assessment and certification services provided by RFEs under the proposed RFE Scheme could be completed in a shorter period of time when comparing to the time currently required of by FSD in the provision of these services.</p> <p>The Administration's assurance that FSD would maintain its existing fire safety risk assessment and certification services, including the time required for completing the relevant services, to the licence applicants of the prescribed premises.</p>	

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		In response to Mr WU Chi-wai's call for the Administration to put in place measures to ensure that the works carried out by RFEs in the future could meet the requirements of BD in order to shorten the processing time for licence applications, the Administration's reiteration that it would relay the concern to BD for consideration.	
015233 - 020000	Chairman Mr James TO Admin	Mr James TO's expression of his strong objection against the proposal of the Administration that the new regulation would be subject to negative vetting by LegCo. In response to Mr James TO's enquiry on the estimation of the period of time that could be shortened by engaging RFEs to provide the fire safety risk assessment and certification services, the Administration's advice that taking the licensing process of food premises as an example, it was expected that the period of time so required would be reduced from 31 days to about eight days.	
020001 - 020052	Chairman ALA5	The remark of the Legal Adviser to the Bills Committee that under existing law, some of the regulatory regimes in relation to professionals were governed by primary legislation which was enacted to deal with the registration of the professionals and the relevant matters, such as the Architects Registration Ordinance (Cap. 408), Engineers Registration Ordinance (Cap. 409) and Surveyors Registration Ordinance (Cap. 417).	
020053 - 020148	Chairman Mr WU Chi-wai	Mr WU Chi-wai's request for the Administration to provide justifications on how the implementation of the proposed RFE Scheme could shorten the time required by the licence applicants of the prescribed premises in obtaining the relevant licence, permit or certificate for operating the premises.	Admin
<i>Agenda item II: Any other business</i>			
020149 - 020200	Chairman	Closing remarks	