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Bills Committee on Fire Services (Amendment) Bill 2015

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper sets out background information on the Administration's proposal to amend the Fire Services Ordinance (Cap. 95) ("FSO") and summarises discussions of the Panel on Security ("the Panel") on the legislative proposal.

Background

2. Currently, a person who intends to run certain types of premises ("the Applicant") has to obtain a certificate or letter issued by the Director of Fire Services, certifying that the premises concerned 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 by the regulatory authorities. Under FSO, the Fire Services Department ("FSD") is the only party vested with the statutory authority to issue fire safety certification for buildings or premises.

3. Before issuing the certificate or letter, FSD officers will inspect the premises to assess the fire risk. According to the fire risk assessment result, FSD officers will issue a set of fire safety requirements to the Applicant, stipulating the fire safety works required (e.g. provision of fire service installations and equipment and ventilating systems). The Applicant will then engage a registered fire service installation contractor, other contractors or workers to carry out the required works. Upon notification by the Applicant that the required fire safety works have been completed, FSD officers will conduct compliance inspection. If the requirements have been complied with, FSD will issue a certificate or letter to the Applicant, with which he can submit to the relevant regulatory authority for obtaining the relevant licence. In 2014,

the total number of licence applications involving provision of fire safety risk assessment and certification services by FSD was about 3 600.

4. The Efficiency Unit ("EU") has conducted a Departmental Business Study for FSD with a view to enhancing FSD's business-friendliness. The EU has recommended FSD to reduce its involvement in day-to-day inspection and certification by devolving the responsibility of fire safety certification to the industry. Taking the licensing process of food premises as an example, it currently takes around 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.

The Fire Services (Amendment) Bill 2015 ("the Bill")

5. The Administration introduced the Bill into the Legislative Council ("LegCo") on 16 December 2015. According to the LegCo Brief (File Ref.: SBCR 1/2361/14) issued by the Security Bureau on 2 December 2015, the Administration proposes to introduce a Registered Fire Engineers ("RFE") Scheme ("the proposed Scheme") to leverage professional engineers and qualified persons in the market for the provision of fire safety risk assessment and certification services. Under the proposed Scheme, a person applying to become an RFE has to be a registered professional engineer of relevant disciplines under the Engineers Registration Ordinance (Cap. 409), or possess relevant fire engineering qualification and experience as considered appropriate by the Director of Fire Services. RFEs will be categorised into three classes to carry out the tasks of conducting risk assessment as well as compliance inspection and certification. A qualified person may register as an RFE for any one or all of the following three classes -

- (a) Registered Fire Engineer (Risk Assessment) - who will conduct fire risk assessments and formulate fire safety requirements for any prescribed premises;
- (b) Registered Fire Engineer (Fire Service Installation) - who will conduct compliance inspections on the fire safety requirements (except those relating to ventilating system) in any prescribed premises and issue fire safety certificates upon confirmation of compliance; and
- (c) Registered Fire Engineer (Ventilating System) - who will conduct compliance inspections on the fire safety requirements relating to ventilating system(s) in any prescribed premises and issue fire safety certificates upon confirmation of compliance.

6. The Bill seeks to empower the Chief Executive in Council to make regulations for a scheme for fire safety risk assessment, and certification on compliance with fire safety requirements, by registered fire engineers for certain premises and for regulating registered fire engineers.

Deliberations of the Panel

7. The Panel was consulted on the legislative proposal on 3 November 2015. The deliberations and concerns of members are summarised in the following paragraphs.

The proposed Scheme

8. Members noted that with the introduction of the proposed Scheme, the Administration envisaged that the time required for fire safety risk assessment and certification for the licensing of food premises, which currently took about 31 days for FSD, should be reduced to about seven to eight days for RFEs. Concern was raised as to whether the engagement of RFEs would in the long term replace FSD's fire safety risk assessment and certification. According to the Administration, the proposed Scheme aimed to provide greater flexibility to applicants by offering them an additional option in completing the fire safety risk assessment and certification process.

9. Noting that RFEs would be categorised under the proposed Scheme into three classes, members had sought information on whether a qualified person could register under all the three classes of RFEs and whether the registration of an RFE would be subject to a validity period. According to the Administration, a qualified person might register as an RFE under all the three classes of RFEs and a registration would be valid for five years.

Monitoring the standards of RFEs

10. Some members expressed concern about whether measures would be introduced to monitor the performance standards of RFEs. Some members also raised concern about the possibility of conflict of interests, if an RFE was involved in carrying out fire safety risk assessment, the fire safety works concerned and certification. It was suggested that a mechanism should be established to prevent RFEs who carried out risk assessment and certification from involving in the fire safety works concerned.

11. Members were advised that RFEs would be required, on every occasion of certifying the required fire safety works, to declare having no association

with the works concerned. In order to ensure consistency in fire safety standards after the implementation of the proposed Scheme, FSD intended to require at the initial implementation stage that all the fire safety requirements formulated by RFEs should be submitted to FSD for endorsement. In addition, to assess the quality of certification performed by RFEs, FSD would select premises on a random basis and conduct audit inspections on at least 70% of the certification performed by RFEs.

12. Members were concerned whether an RFE would be subject to penalty for non-compliance with the requirements under the proposed Scheme. According to the Administration, a disciplinary mechanism would be established for inquiring into and dealing with cases where an RFE had, or was suspected to have, failed to discharge his duties properly. The actions to be taken against non-compliance would include imposition of a fine, revocation of registration as RFE and prosecution for criminal offences as appropriate.

Fee levels

13. Some members raised concern over the level of fees to be charged by RFEs. These members asked whether a fees schedule would be drawn up for the services provided by RFEs and whether a ceiling would be imposed on the fees to be charged by RFEs.

14. The Administration advised that the fees to be charged by RFEs would be determined by the market forces of demand and supply. According to a consultancy study commissioned by FSD on the business impact assessment of the proposed Scheme, depending on the type and size of the concerned premises, the estimated fees to be charged by an RFE would range from about \$30,000 to \$200,000.

Relevant papers

15. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

**Relevant papers on
the Fire Services (Amendment) Bill 2015**

Committee	Date of meeting	Paper
Panel on Security	3.11.2015 (Item IV)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
16 February 2016