

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

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(By E-mail)

19 May 2016

Ms Vanessa Cheng
Assistant Legal Adviser
Legal Service Division
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Cheng,

Fire Services (Amendment) Bill 2015

Thank you for your letters of 15 February and 23 March 2016 on the captioned Bill. With respect to your suggestions on consequential amendments in the letter of 15 February, our response is set out at **Annex**. As regards the matters raised in your letter of 23 March, we will respond separately in an information paper submitted to the Bills Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alex Chan'.

(Alex Chan)
for Secretary for Security

c.c. Director of Fire Services (Attn: Mr Lo Siu-hang) (Fax: 2312 0376)
Department of Justice (Attn: Ms Rayne Chai) (Fax: 3918 4613)

Fire Services (Amendment) Bill 2015

The Government's Response to the Consequential Amendments Suggested in the letter of 15 February 2016 from the Legal Service Division of the Legislative Council¹

Consequential amendments

The Legal Service Division of the Legislative Council suggested the Government to consider whether related and consequential amendments should be made to the several existing legal provisions in view of the implementation of the Registered Fire Engineer (RFE) Scheme.

2. Having regard to the nature of these provisions, we have categorised them into four types, namely provisions concerning fire safety standards, provisions concerning licensing conditions, provisions concerning the power of entry of public officers, as well as provisions concerning the scope of duty. The analysis is set out below.

(a) Provisions concerning fire safety standards

3. Relevant provisions concerning fire safety standards include (relevant extract at Appendix 1) -

- (i) paragraphs 1(c), 2(1), 2(2), 2(3)(c), 2(4) and 2(5) of Schedule 1 to the Karaoke Establishment (Licensing) Regulation (Cap. 573A);
- (vii) sections 4(1)(c)(i), 4(1)(g)(v) and 4(1)(j) of the Ventilation of Scheduled Premises Regulation (Cap. 132CE); and
- (viii) regulations 4(1)(c)(i), 4(1)(e)(iv) and 4(1)(h) of the Building (Ventilating Systems) Regulations (Cap. 123J).

4. The provisions set out in paragraph 3 relate to the specific requirements

¹ The Government has previously responded to other matters raised in the letter from the Legal Service Division of the Legislative Council dated 15 February vide LC Paper No. CB(2)970/15-16(03).

of fire safety standards of certain installations, fixtures, systems, etc., which are all regulated by the Director of Fire Services (DFS) at present. We are of the view that such fire safety standards should continue to be determined by DFS for the sake of public safety after the implementation of the RFE Scheme. We therefore consider that no related or consequential amendments to the above provisions are required for the implementation of the RFE Scheme. The Fire Services Department (FSD) will stipulate, in the proposed code(s) of practice for RFEs, the fire safety standards that RFEs should follow when conducting fire safety risk assessment and providing compliance certification services.

(b) Provisions concerning licensing conditions

5. Relevant provisions concerning licensing conditions include (relevant extract at Appendix 2) -

- (ii) section 30 of the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613A);
- (iii) section 29 of the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A); and
- (v) regulation 53 of the Places of Public Entertainment Regulations (Cap. 172A).

6. The provisions set out in paragraph 5 stipulate that the licensees of the prescribed premises concerned should ensure the fire safety requirements (including the provision of fire service installations and equipment (FSIs)) of the prescribed premises are maintained **at all times** during the validity period of the licences. It does **not** mean that the relevant premises can be granted a licence only when these requirements are complied with during the licence application process. Given that the duties of RFEs encompass fire safety risk assessment and compliance certification **during the licence application process** only, we are of the view that as far as the regulatory responsibility of the fire safety of FSIs during the licence validity period is concerned, the existing practice should continue, i.e. it should rest with DFS. In other words, the FSIs in the relevant prescribed premises should be maintained to the satisfaction to DFS throughout the validity period of a licence. Hence we consider that no related or consequential amendments to the above provisions are required for the implementation of the RFE Scheme.

(c) Provisions concerning the power of entry of public officers

7. Relevant provisions concerning the power of entry of public officers include (relevant extract at Appendix 3) -

- (iv) section 7(1)(g) of the Places of Public Entertainment Ordinance (Cap. 172);
- (v) regulation 169 of the Places of Public Entertainment Regulations (Cap. 172A);
- (vi) section 100 of the Public Health and Municipal Services Ordinance (Cap. 132); and
- (viii) regulation 6 of the Building (Ventilating Systems) Regulations (Cap. 123J).

8. The provisions set out in paragraph 7 empower the public officers to enter the prescribed premises concerned to ascertain the efficient working order of FSIs and/or ventilating systems for law enforcement actions. We consider that no related or consequential amendments to the above provisions are required for the implementation of the RFE Scheme because unlike public officers, the power of entry of an RFE to the prescribed premises should be bound by the private contractual agreement between the RFE engaged and the licence applicant, rather than provided by law.

(d) Concerning the scope of duty

9. Relevant provisions concerning the scope of duty include (relevant extract at Appendix 4) –

- (vi) section 101 of the Public Health and Municipal Services Ordinance (Cap. 132); and
- (viii) regulation 7(b) of the Building (Ventilating Systems) Regulations (Cap. 123J).

10. The provisions set out in paragraph 9 relate to those ventilating systems which existed before the enactment of these provisions. The provisions state that, unless and until these pre-existing ventilating systems constitute a fire

hazard in the opinion of DFS, such ventilating systems need not comply with the requirements as set out in section 94A of Cap. 132 and regulation 4 of Cap. 123J. As such, we are of the view that such provisions only deal with pre-existing ventilating systems in which DFS is the sole authority to determine whether such systems constitute a fire hazard. Such a task is not within the scope of duty of RFEs.

11. When a licence application for a prescribed premises is made after the implementation of the RFE Scheme, the licence applicant will be required to install new ventilating systems or alter the existing ventilating system to the present-day fire safety standard. The new or altered ventilating systems, which are caught by section 101(b) of Cap. 132 or regulation 7(a) of Cap. 123J, will have to comply with the requirements stipulated under section 4 of Cap. 132CE or regulation 4 of Cap. 123J as appropriate. Hence when a licence applicant makes a new application for a prescribed premises, he/she can engage RFEs to conduct fire safety risk assessment and formulate fire safety requirements, following the code(s) of practice to be issued by DFS. We consider that no related or consequential amendments to the above provisions are required for the implementation of the RFE Scheme.

Security Bureau
Fire Services Department
May 2016

Provisions concerning fire safety standards

(i) paragraphs 1(c), 2(1), 2(2), 2(3)(c), 2(4) and 2(5) of Schedule 1 to the Karaoke Establishment (Licensing) Regulation (Cap. 573A)

Chapter:	573A 	Title:	KARAOKE ESTABLISHMENTS (LICENSING) REGULATION	Gazette Number:	L.N. 153 of 2002; L.N. 253 of 2002
Schedule:	1	Heading:	FIRE SERVICE REQUIREMENTS FOR KARAOKE ESTABLISHMENT	Version Date:	08/01/2003

[section 3]

1. Restrictions on location

Karaoke establishments shall not be located-

- (a) on basement level 4 or below;
- (b) in a building or any part of a building that is designed and constructed for industrial use; or
- (c) in any part of a building that is designed and constructed for commercial use if industrial use is permitted in any other part of the building and the part for commercial use is not completely separated from the part for industrial use by a buffer of non-fire-hazardous occupancy to the satisfaction of the Director of Fire Services.

2. General requirements

(1) All combustible materials used as false ceilings, partitions or wall furnishings shall conform to British Standard 476: Part 7 Class 1 or 2 Rate of Surface Spread of Flame or to another standard acceptable to the Director of Fire Services, or shall be brought up to any of those standards by treating with a fire retardant paint or solution acceptable to the Director of Fire Services.

(2) All draperies and curtains, if installed, shall be made of fire resistant material and conform to British Standard 5867: Part 2 fabric type B when tested in accordance with

British Standard 5438 or to another standard acceptable to the Director of Fire Services, or shall be brought up to any of those standards by treating with a fire retardant solution acceptable to the Director of Fire Services.

(3) All carpets within the protected means of escape shall-


(a) be made of pure wool;

(b) conform to British Standard 5287 when tested in accordance with British Standard 4790; or

(c) be manufactured to a standard acceptable to the Director of Fire Services.

Carpets that do not meet any of the above requirements shall also be accepted as complying with fire safety requirements if their pile height does not exceed 10 mm and they do not cover more than 5% of the protected means of escape calculated on a floor-by-floor basis.

(vii) sections 4(1)(c)(i), 4(1)(g)(v) and 4(1)(j) of the Ventilation of Scheduled Premises Regulation (Cap. 132CE)

Chapter: 132CE  Title: **VENTILATION OF SCHEDULED PREMISES REGULATION** Gazette Number: L.N. 320 of 1999
Section: 4 Heading: **Requirements with respect to ventilating systems** Version Date: 01/01/2000

(1) Save as provided in subsection (2) and section 101 of the Ordinance, every ventilating system in any scheduled premises shall comply with the following provisions-

(c) no air intake for the ventilating system shall be sited in any place -

(i) which constitutes a fire hazard in the opinion of the Director of Fire Services;

(ii) where waste or rubbish is likely to accumulate; or

(iii) where the air is for any reason impure or likely to become impure;

(g) every duct shall-

(i) be wholly constructed of non-combustible material having a strength and durability similar to that of galvanized sheet iron or steel;

(ii) be accessible for the purposes of cleaning throughout its entire length;


(iii) where its size is sufficient to allow any person to enter therein, be fitted with access openings to allow a person to enter the same for the purpose of cleaning, and shall be constructed to bear the weight of any person who has so entered;

(iv) be provided with a smooth and impervious internal surface;

(v) where it passes through any floor, wall or ceiling, be fitted with a damper which shall be operated by fusible links of a type approved by the Director of Fire Services, and designed to operate up to a temperature of 69 degrees Celsius, and be so constructed or protected as to resist the action of fire for a period not less than the period for which the floor, wall or ceiling through which it passes is designed to resist the action of fire;

(j) every electrostatic filter or precipitator shall be of a type approved by the Director of Fire Services;

(viii) regulations 4(1)(c)(i), 4(1)(e)(iv) and 4(1)(h) of the Building (Ventilating Systems) Regulations (Cap. 123J)


Chapter: 123J  Title: **BUILDING (VENTILATING SYSTEMS) REGULATIONS** Gazette Number:
Regulation: 4 Heading: **Requirements with respect to ventilating systems** Version Date: 30/06/1997

(1) Save as provided in paragraph (2) of this regulation and in regulation 7, every ventilating system, to which these regulations apply, shall comply with the following provisions-

- (c) no air intake for the ventilating system shall be sited in any place-
 - (i) which in the opinion of the Director constitutes a fire hazard;
 - or
 - (ii) where waste or rubbish is likely to accumulate;
- (e) every duct shall-
 - (i) be wholly constructed of non-combustible material having a strength and durability not less than that of galvanized sheet-iron or steel;
 - (ii) be accessible for the purposes of cleaning throughout its entire length;
 - (iii) where its size is sufficient to allow any person to enter therein, be fitted with access openings to allow a person to enter the same and shall be constructed to bear the weight of any person who has so entered;
 - (iv) at the point where it passes through any floor, wall or ceiling, be fitted with a damper which shall be operated by fusible links of a type approved by the Director, and designed to operate up to a temperature of 69 degrees Celsius, and be so constructed or protected as to resist the action of fire for a period not less than the period for which the floor, wall or ceiling through which it passes is designed to resist the action of fire;
- (h) every electrostatic filter or precipitator shall be of a type approved by the Director.


Provisions concerning licensing conditions

(ii) section 30 of the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613A)

Chapter:	613A 	Title:	Residential Care Homes (Persons with Disabilities) Regulation	Gazette Number:	L.N. 111 of 2011; L.N. 112 of 2011
Section:	30	Heading:	Fire prevention equipment	Version Date:	18/11/2011

A residential care home for PWDs must, to the satisfaction of the Director of Fire Services, be provided with adequate apparatus and equipment to safeguard the residential care home against fire.

(iii) section 29 of the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A)

Chapter:	459A 	Title:	RESIDENTIAL CARE HOMES (ELDERLY PERSONS) REGULATION	Gazette Number:	
Section:	29	Heading:	Fire prevention equipment	Version Date:	30/06/1997

Every residential care home shall, to the satisfaction of the Director of Fire Services, be provided with adequate apparatus and equipment required as a safeguard against fire.

(v) regulation 53 of the Places of Public Entertainment Regulations (Cap. 172A)


Chapter:	172A 	Title:	PLACES OF PUBLIC ENTERTAINMENT REGULATIONS	Gazette Number:	
Regulation:	53	Heading:	Fire appliances, etc.	Version Date:	30/06/1997

Fire protection arrangements

(1) Fire Service installations and equipment shall be provided to the satisfaction of the Director of Fire Services.

Provisions concerning the power of entry of public officers

(iv) section 7(1)(g) of the Places of Public Entertainment Ordinance (Cap. 172)

Chapter: 172  Title: **PLACES OF PUBLIC ENTERTAINMENT ORDINANCE** Gazette Number: L.N. 320 of 1999

Section: 7 Heading: **Power to make regulations for places of public entertainment** Version Date: 01/01/2000

Remarks:

(1) The Secretary for Home Affairs may by regulation provide for-

(g) the entry and inspection for the purposes of securing compliance with this Ordinance and of any regulations made thereunder of a place of public entertainment or a proposed place of public entertainment at any time by the Commissioner of Police, the Secretary for Home Affairs, the Building Authority, the Director of Fire Services and the Director of Marine, and any public officer authorized by them in that behalf, and any other officer authorized by the Chief Executive in that behalf;


(v) regulation 169 of the Places of Public Entertainment Regulations (Cap. 172A)

Chapter: 172A  Title: **PLACES OF PUBLIC ENTERTAINMENT REGULATIONS** Gazette Number:

Regulation: 169 Heading: **Right of entry** Version Date: 30/06/1997


The licensing authority, and any public officer authorized by the licensing authority, any police officer of or above the rank of inspector, the Building Authority and any public officer authorized by him, the Director of Fire Services and any fire services officer authorized by him, any health inspector and, in the case of water-borne craft, the Director of Marine and any public officer authorized by him, may enter at any time any place in respect of which an application for a licence has been received by the licensing authority or a licence has been issued in order to inspect the same for the purposes of the Ordinance.

(vi) section 100 of the Public Health and Municipal Services Ordinance (Cap. 132)

Chapter: 132  Title: **PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE** Gazette Number:
Section: 100 Heading: **Power of authorized officers to carry out tests** Version Date: 30/06/1997

For the purposes of the provisions of this Part, any public officer authorized in writing in that behalf by the Authority and any officer of the Fire Services Department authorized in writing by the Director of Fire Services may carry out such tests of the ventilating system in any scheduled premises as may be necessary to ascertain whether or not the same is in safe and efficient working order.


(viii) regulation 6 of the Building (Ventilating Systems) Regulations (Cap. 123J)

Chapter: 123J  Title: **BUILDING (VENTILATING SYSTEMS) REGULATIONS** Gazette Number:
Regulation: 6 Heading: **Power of authorized officer** Version Date: 30/06/1997

For the purposes of these regulations, any officer of the Fire Services Department authorized in writing by the Director may a carry out such tests of any ventilating system to which these regulations apply, as may be necessary to ascertain whether or not the same is in safe and efficient working order.

Provisions concerning the scope of duty

(vi) section 101 of the Public Health and Municipal Services Ordinance (Cap. 132)

Chapter: 132  Title: **PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE** Gazette Number:
 Section: 101 Heading: **Application of Part VIII to premises provided with ventilating systems at commencement of Ordinance, etc.** Version Date: 30/06/1997


(1) Where, at the commencement of this Ordinance, any scheduled premises are provided with a ventilating system, the provisions of section 93 and any regulations made under section 94A shall not apply to such premises unless and until-

- (a) the number of persons who may be accommodated in such premises is increased;
- (b) the ventilating system is removed or is altered in any way; or
- (c) the Authority is of opinion that the ventilating system constitutes a danger to health or the Director of Fire Services considers it to be a fire hazard.

(2) Upon the application of section 93 and any regulations made under section 94A to any such premises, the Authority may, subject to such conditions as it may specify, grant such exemption from or such modifications of the provisions of this Part as it thinks fit.

(3) Any licensee or owner of any scheduled premises who fails to comply with any condition specified under subsection (2) shall be guilty of an offence.

(viii) regulation 7(b) of the Building (Ventilating Systems) Regulations (Cap. 123J)

Chapter: 123J  Title: **BUILDING (VENTILATING SYSTEMS) REGULATIONS** Gazette Number:
 Regulation: 7 Heading: **Existing ventilating systems** Version Date: 30/06/1997

Where a ventilating system to which these regulations apply has been installed in any building before the commencement of these regulations there shall be no requirement to comply with the provisions of regulation 4 unless and until-

- (a) the ventilating system has been removed or is altered in any way; or
- (b) the Director is of the opinion that the ventilating system constitutes a fire hazard.