

Bills Committee on Fire Services (Amendment) Bill 2015

Draft Committee Stage Amendments proposed by the Government

Purpose

The Government proposes to introduce Committee Stage Amendments to amend the vetting procedure of the new subsidiary legislation which would stipulate the implementation details of the Registered Fire Engineer (RFE) Scheme. The draft Committee Stage Amendments and the marked-up version of relevant sections of the Fire Services Ordinance (Cap. 95, FSO) are at **Annex A** and **Annex B** respectively.

Committee Stage Amendments

2. As noted at the meeting of 24 May 2016, having considered Members' suggestion, we are of the view that with the exception of the fees for registration (including retention and restoration) and de-registration of RFEs, we have no objection to other details of the RFE Scheme being specified by a new regulation which is subject to the positive vetting procedure under section 35 of the Interpretation and General Clauses Ordinance (Cap. 1).

3. In this connection, we propose amendments to clause 5 of the Fire Services (Amendment) Bill 2015 (i.e. section 25 of the FSO) by adding a provision which specifies that the regulation(s) made on matters relating to the RFEs (except the fees for registration and de-registration) should be subject to the approval of the Legislative Council.

Presentation

4. Members are invited to note the above.

**Security Bureau
Fire Services Department
June 2016**

Fire Services (Amendment) Bill 2015

Committee Stage

Amendments to be moved by the Secretary for Security
(Draft)

<u>Clause</u>	<u>Amendment Proposed</u>
5	By renumbering the clause as clause 5(1).
5(1)	In the proposed section 25(1)(ga), by deleting “and fees to be charged in relation to the registration and de-registration”.
5(1)	By adding— “(gab) fees to be charged in relation to the registration and de-registration of registered fire engineers;”.
5	By adding— “(2) After section 25(3)— Add “(4) A regulation made under subsection (1)(ga), (gb), (gc), (gd), (ge), (gf), (gg), (gh) or (gi) is subject to the approval of the Legislative Council.”.”.

Chapter:	95	FIRE SERVICES ORDINANCE	Gazette Number	Version Date
		Long title	L.N. 194 of 2003	01/01/2004

To make better provision as to the constitution, duties and powers of the Fire Services Department and as to the discipline of members thereof and to make provision for the prevention of fire hazards, for the investigation into matters relating to a fire and for a welfare fund; and to regulate the registration of fire service installation contractors and to provide for the control of the sale, supply, installation, repair, maintenance and inspection of fire service installations or ~~equipment~~; and to provide for registered fire engineers and a scheme for fire safety risk assessment, and certification on compliance with fire safety requirements, by registered fire engineers for certain premises, and to make provision for purposes connected with the matters aforesaid.

(Amended 42 of 1961 s. 2; 1 of 1964 s. 2; 45 of 1971 s. 2; 7 of 2003 s. 2)

[13 August 1954]

(Originally 32 of 1954)

Chapter:	95	FIRE SERVICES ORDINANCE	Gazette Number	Version Date
Section:	2	Interpretation	L.N. 9 of 2010	31/03/2010

In this Ordinance, unless the context otherwise requires-

"calamity" (災難) means an occurrence by which life or property is endangered; (Added 1 of 1961 s. 2)

"civil service provident fund scheme" (公務員公積金計劃) means the Civil Service Provident Fund Scheme referred to in the government regulations; (Added 6 of 2009 s. 3)

"Director" (處長) means the Director of Fire Services; (Replaced 42 of 1961 s. 2)

"fire hazard" (火警危險) means-

(a)-(b) (Repealed 4 of 1985 s. 2)

(c) any removal from any building of any fire service installation or equipment which was provided in such building in accordance with plans certified by the Director for the purposes of section 16 of the Buildings Ordinance (Cap 123);

(d) the presence in any building of any fire service installation or equipment which from lack of proper maintenance or for any other reason is not in efficient working order; (Amended 56 of 1969 s. 2)

(e) inadequate means of egress from any premises in a building to street level outside the building or using such means of egress for a purpose which gives rise to any circumstance described in paragraph (f); (Added 56 of 1969 s. 2. Amended 29 of 1975 s. 2)

(f) any other matter or circumstance which materially increases the likelihood of fire or other calamity or the danger to life or property that would result from the outbreak of fire or the occurrence of any other calamity, or which would materially hamper the Fire Services Department in the discharge of its duties in the event of fire or other calamity; (Added 1 of 1964 s. 3)

"fire service installation or equipment" (消防裝置或設備) means any installation or equipment manufactured, used or designed to be used for the purposes of-

(a) extinguishing, attacking, preventing or limiting a fire;

(b) giving warning of a fire;

(c) providing access to any premises or place for the purpose of extinguishing, attacking, preventing or limiting a fire; (Added 45 of 1971 s. 3)

(d) facilitating the evacuation from any premises in case of fire; (Added 7 of 2003 s. 3)

(e) providing a stand-by power supply to an installation or equipment the purposes of which are mentioned in paragraphs (a) to (d) in the event of the loss of normal power supply; (Added 7 of 2003 s. 3)

"government regulations" (政府規例) means the administrative rules known as the Government Regulations and any

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Revisions made in *red* are amendments proposed by the Government's draft Committee Stage Amendments.

- other administrative rules or instruments regulating the public service; (Replaced 76 of 1999 s. 3)
- "member" (成員) means a person holding any rank in the Fire Services Department set out in the Sixth Schedule; (Replaced 29 of 1975 s. 2)
- "member of other ranks" (員佐級成員) means a member holding a rank set out in Part III of the Sixth Schedule; (Added 29 of 1975 s. 2)
- "occupier" (佔用人) means in the case of domestic buildings a person resident therein and in the case of other buildings means a person carrying on an occupation full-time in such building; (Added 29 of 1975 s. 2)
- "owner" (擁有人)-
- (a) in respect of any premises, has the meaning assigned to it by section 2 of the Buildings Ordinance (Cap 123); and
 - (b) in respect of any fire service installation or equipment, includes the occupier or the owner of the premises in or on which the fire service installation or equipment is installed or kept; (Replaced 45 of 1971 s. 3)
- "premises" (處所) includes any place, but excludes any vessel; (Added 1 of 1964 s. 3. Amended 55 of 1981 s. 2)
- "Public Service (Administration) Order" (《公務人員(管理)命令》) means-
- (a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
 - (b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
 - (c) any other regulation made or any direction given under that Order, as amended from time to time; (Added 76 of 1999 s. 3)
- "registered fire engineer" (註冊消防工程師) means a person who is registered as a registered fire engineer under the regulations made under this Ordinance;
- "registered fire engineer (fire service installation)" (註冊消防工程師(消防裝置)) means a person who is registered as a registered fire engineer for the class of fire service installation under the regulations made under this Ordinance;
- "registered fire engineer (risk assessment)" (註冊消防工程師(風險評估)) means a person who is registered as a registered fire engineer for the class of risk assessment under the regulations made under this Ordinance;
- "registered fire engineer (ventilating system)" (註冊消防工程師(通風系統)) means a person who is registered as a registered fire engineer for the class of ventilating system under the regulations made under this Ordinance;
- "retirement benefits" (退休福利), in relation to a person, means-
- (a) the pension, gratuity or other allowance of that person as provided for under the Pensions Ordinance (Cap 89);
 - (b) the pension benefits of that person as provided for under the Pension Benefits Ordinance (Cap 99); or
 - (c) the part of that person's beneficial interests in the civil service provident fund scheme that is attributable to sums derived from the voluntary contributions made by the Government, as employer, in respect of that person under section 11(4) of the Mandatory Provident Fund Schemes Ordinance (Cap 485), together with the income, profits or losses arising from any investment of those sums and of such income or profits; (Added 6 of 2009 s. 3)
- "senior officer" (高級人員) means a member holding a rank set out in Part I of the Sixth Schedule; (Replaced 29 of 1975 s. 2)
- "subordinate officer" (部屬人員) means a member holding a rank set out in Part II of the Sixth Schedule; (Replaced 29 of 1975 s. 2)
- "tenant" (租客) includes sub-tenant; (Added 54 of 1986 s. 2)
- "vessel" (船隻) includes-
- (a) any ship (not being a ship of war or a ship having the status of a ship of war), junk, boat, dynamically supported craft, seaplane or any other description of vessel used in navigation; and (Amended 41 of 1992 s. 2)
 - (b) any other description of vessel not used in navigation or not constructed or adapted for use in navigation. (Added 55 of 1981 s. 2.)

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Revisions made in *red* are amendments proposed by the Government's draft Committee Stage Amendments.

Chapter:	95	FIRE SERVICES ORDINANCE	Gazette Number	Version Date
Section:	25	Power to make regulations	L.N. 194 of 2003	01/01/2004

- 11) (1) The Chief Executive in Council may by regulation provide for- (Amended 76 of 1999 s. 3; 7 of 2003 s. 11)
- (a) discipline and punishment of subordinate officers and members of other ranks; (Amended 29 of 1975 s. 17)
 - (b) the control, administration and investment of the Fire Services Department Welfare Fund; (Amended 42 of 1961 s. 2; 58 of 1999 s. 2)
 - (c) description of uniforms and equipment to be provided;
 - (d) such other matters as may be necessary or expedient for rendering the Fire Services Department efficient in the discharge of its duties; (Amended 42 of 1961 s. 2)
 - (e) the making and issue of reports and certificates regarding-
 - (i) fires or other calamities attended by the Fire Services Department; (Amended 42 of 1961 s. 2)
 - (ii) premises, vessels or other property damaged by fire;
 - (iii) matters relating to fire risks or fire precautions in or connected with any premises, vessel or other property,
 - and fees to be charged in relation thereto; (Added 1 of 1961 s. 8)
 - (f) the registration and de-registration of fire service installation contractors and fees to be charged in relation thereto; (Added 45 of 1971 s. 4. Amended 34 of 1986 s. 2)
 - (g) the appointment, powers and procedure of a disciplinary board in relation to fire service installation contractors; (Added 45 of 1971 s. 4)
 - ~~(ga) the registration and de-registration of registered fire engineers and fees to be charged in relation to the registration and de-registration;~~
 - ~~(gab) fees to be charged in relation to the registration and de-registration of registered fire engineers;~~
 - ~~(gb) the establishment, powers and procedure of a registration committee in relation to the registration of registered fire engineers;~~
 - ~~(gc) the establishment of an interview board panel, and the appointment, powers and procedure of interview boards, in relation to the registration of registered fire engineers;~~
 - ~~(gd) the duties of registered fire engineers in relation to fire safety risk assessment, and certification on compliance with fire safety requirements, for premises prescribed by regulations made under this section;~~
 - ~~(ge) the acts or omissions that constitute a disciplinary offence on the part of a registered fire engineer;~~
 - ~~(gf) the establishment of a disciplinary board panel, and the appointment, powers and procedure of disciplinary boards, in relation to registered fire engineers;~~
 - ~~(gg) the grounds on which appeals may be lodged in relation to—~~
 - ~~(i) the registration of registered fire engineers; or~~
 - ~~(ii) registered fire engineers;~~
 - ~~(gh) the establishment of an appeal board panel, and the appointment, powers and procedure of appeal boards, in relation to appeals mentioned in paragraph (gg);~~
 - ~~(gi) the issue of codes of practice concerning fire safety of any premises, and giving guidance in relation to the professional conduct, and the administration, of registered fire engineers;~~
 - (h) the control of the sale, supply, installation, repair, maintenance and inspection of fire service installations or equipment; (Added 45 of 1971 s. 4)
 - (ha) fees or charges payable in respect of carrying into effect the provisions of the Ordinance (other than provisions relating to the discharge of any duty imposed by law on the Fire Services Department), whether similar or not to any matter mentioned in this section; (Added 34 of 1986 s. 2. Amended L.N. 63 of 1992)
 - (hb) the making of an order by a court or magistrate-
 - (i) that requires a person to abate a fire hazard or prevent it from recurring;
 - (ii) that closes any premises in relation to which a person has been convicted of an offence under this Ordinance;
 - (iii) that rescinds or suspends an order under subparagraph (ii);

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- (iv) that prohibits any premises to be used for a particular purpose;
- (v) that requires a person to remove any article or thing that obstructs or may obstruct, or locks or may lock the means of escape in any premises;
- (vi) that terminates the tenancy of any premises; (Added 7 of 2003 s. 11)
- (hc) the procedure and other matters relating to an order under paragraph (hb); (Added 7 of 2003 s. 11)
- (hd) the prevention of obstruction to and locking of the means of escape in any premises; (Added 7 of 2003 s. 11)
- (he) the regulation of the conveyance on land of a container that contains a part of a motor vehicle that has fuel in its fuel tank or is otherwise stained with fuel; (Added 7 of 2003 s. 11)
- (hf) the regulation of the stowage of a part of a motor vehicle that has fuel in its fuel tank or is otherwise stained with fuel, in a container that is or is to be conveyed on land; (Added 7 of 2003 s. 11)
- (hg) the powers of any prescribed public officer to stop, board and search a vehicle or enter and search a container and seize, remove and detain articles or things carried in, on or by the vehicle or contained in the container that is related to an offence under this Ordinance; (Added 7 of 2003 s. 11)
- (hh) the prohibition of possession or control of a prescribed substance in or on any prescribed premises for the purpose of a business of supplying the substance for transferring to the fuel tank of a motor vehicle; (Added 7 of 2003 s. 11)
- (hi) the power of the Director to obtain, or to authorize a member in writing to obtain, personal particulars from any person under the prescribed circumstances; (Added 7 of 2003 s. 11)
- (hj) the liability of the owner, tenant, occupier or person in charge of any premises who knowingly permits or suffers an offence under this Ordinance to be committed in or on the premises; (Added 7 of 2003 s. 11)
- (hk) the liability of a person who lets, or agrees to let, whether as principal or agent of another person, any premises with the knowledge that an offence under this Ordinance is to be committed in or on the premises; (Added 7 of 2003 s. 11)
- (hl) the prescribing of anything required to be prescribed under this Ordinance; (Added 7 of 2003 s. 11)
- (i) generally, for the carrying into effect of the provisions of the Ordinance in relation to any matter, whether similar or not to those in this section mentioned, as to which it may be convenient to make regulations.

(2) A regulation made under this section may provide that the Director may not authorize members of certain ranks to exercise a power or discharge a duty that the Director by any enactment is entitled to exercise or required to discharge. (Added 7 of 2003 s. 11)

(3) A regulation made under this section may provide that-

- (a) any contravention of the provisions of the regulation shall be an offence; and
- (b) any person who contravenes the regulation shall be liable on conviction to a fine not exceeding \$300000 and to imprisonment for a period not exceeding 1 year, and in the case of a continuing offence, to a daily penalty not exceeding \$30000. (Added 7 of 2003 s. 11)

(4) A regulation made under subsection (1)(ga), (gb), (gc), (gd), (ge), (gf), (gg), (gh) or (gi) is subject to the approval of the Legislative Council.

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