



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
本函檔號 OUR REF : LS/B/8/15-16
電話 TELEPHONE: 3919 3508

傳真 FAX : 2877 5029
電郵 E-MAIL: vkfcheng@legco.gov.hk

By Fax (2868 9159)

23 March 2016

Mr CHAN Yuen Tak, Alex
Prin AS for Security (B)
Security Bureau
9/F, East Wing
Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Mr CHAN,

Fire Services (Amendment) Bill 2015

We refer to your letter of 26 February 2016 and the concerns raised by members and deputations at the meeting of 29 February 2016 on the proposed scheme for the regulation of registered fire engineers (RFEs) under the captioned Bill by way of subsidiary legislation subject to negative vetting by the Legislative Council.

You have explained in your letter of 26 February 2016 that it is inappropriate to set out each and every detail of the matters in the Fire Services Ordinance (Cap. 95) given the wide coverage and variety of matters provided under Cap. 95. However, it appears that except for the enabling provisions as proposed in clause 5 to empower the Chief Executive in Council to make regulations, and the proposed addition of relevant definitions in clause 4, it is noted that neither the principles nor the details relating to the RFE scheme are set out in the Bill.

It is noted that under existing law, some of the regulatory regimes in relation to professionals are governed by primary legislation which is enacted to deal with the registration of the professionals and the related matters, e.g. the Veterinary Surgeons Registration Ordinance (Cap. 529) and the Architects Registration Ordinance (Cap. 408). There are also cases where the principles and some details relating to the regulation of professionals under certain regulatory regimes have been set out in primary legislation (whilst matters of procedural and operational nature are covered by subsidiary legislation). Reference can be made to the Lifts and Escalators Ordinance (Cap. 618) (relating to the regulation of registered lift contractors, registered lift engineers,

etc.), the Buildings Ordinance (Cap. 123) (relating to the regulation of registered structural engineers, registered minor works contractors, etc.) and the Electricity Ordinance (Cap. 406) (relating to the regulation of registered electrical contractors and registered electrical workers).

Given the concerns of some of the members and deputations on the regulations relating to the proposed RFE scheme (in particular the qualifications for registration as RFEs), please consider whether the regulation of the matters pertinent to the RFE scheme (at least some basic principles) should be provided for in the primary legislation of Cap. 95 with reference to the regulatory regimes under various ordinances as mentioned above. Alternatively, please consider providing for these matters in the subsidiary legislation subject to positive vetting (instead of negative vetting), and providing a set of draft regulations for members' consideration at this stage to facilitate the scrutiny of the Bill.

We should appreciate your reply in both English and Chinese by **8 April 2016**.

Yours sincerely,

(Vanessa CHENG)
Assistant Legal Adviser

c.c. DoJ (Attn.: Ms Rayne CHAI (SALD (Atg)) (By Fax: 3918 4613)
Legal Adviser
Senior Assistant Legal Adviser 1
Clerk to the Bills Committee