

立法會
Legislative Council

LC Paper No. LS21/15-16

**Paper for the House Committee Meeting
on 18 December 2015**

**Legal Service Division Report on
Fire Services (Amendment) Bill 2015**

I. SUMMARY

- 1. The Bill** The Bill seeks to amend the Fire Services Ordinance (Cap. 95) to -
- (a) expand the scope of Cap. 95 to provide for registered fire engineers (RFEs) and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises (RFE scheme);
 - (b) empower the Chief Executive in Council to make regulations for the RFE scheme and the regulation of RFEs; and
 - (c) make related, consequential and other minor amendments.
- 2. Public Consultation** The Fire Services Department conducted trade consultations in 2007 and 2011 respectively to gauge the views from the stakeholders on the proposed RFE scheme. Further, a Business Impact Assessment study was conducted from mid-2012 to mid-2013 to assess the business impact of the proposed scheme on various stakeholders. In general, the majority of the stakeholders expressed support for the introduction of the RFE scheme, though there was a concern that the businesses of ventilation contractors could be affected by the proposed scheme.
- 3. Consultation with LegCo Panel** The Panel on Security was consulted on 3 November 2015. Members raised no objection to the proposals.
- 4. Conclusion** Since the Bill seeks to provide for a statutory framework for the new scheme for fire safety risk assessment and certification by RFEs, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 16 December 2015. Members may refer to the Legislative Council (LegCo) Brief (File Ref.: SBCR 1/2361/14) issued by the Security Bureau on 2 December 2015 for further details.

Object of the Bill

2. The Bill seeks to amend the Fire Services Ordinance (Cap. 95) to -
 - (a) expand the scope of Cap. 95 to provide for registered fire engineers (RFEs) and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises (RFE scheme);
 - (b) empower the Chief Executive in Council (CE in C) to make regulations for the RFE scheme and the regulation of RFEs; and
 - (c) make related, consequential and other minor amendments.

Background

3. At present, a person who intends to run certain types of premises (prescribed premises) is required to comply with fire safety requirements imposed by and/or obtain a certificate issued by the Director of Fire Services (DFS) certifying that the prescribed premises have complied with all relevant fire safety requirements before the applicant can be issued a licence by the regulatory authorities. Cap. 95 and its subsidiary legislation do not provide for persons other than DFS to perform fire safety risk assessment and certification required for the licensing process. The Bill seeks to introduce the RFE scheme so that qualified persons in the private market may also provide such risk assessment and certification services.

Provisions of the Bill

4. The major proposed amendments are summarized below.

Expanding the scope of Cap. 95

5. Clause 3 of the Bill seeks to amend the long title of Cap. 95 to expand the scope of Cap. 95 for the purposes of providing for RFEs and the RFE scheme.

Amendments to Cap. 95

6. Clause 5 of the Bill seeks to amend section 25 of Cap. 95 to empower CE in C to make regulations to provide for the implementation of the proposed RFE scheme. The matters to be provided in the regulations include -

- (a) the registration and de-registration of RFEs and fees to be charged in relation to the registration and de-registration;
- (b) the duties of RFEs in relation to fire safety risk assessment, and certification on compliance with fire safety requirements for premises prescribed by regulations (prescribed premises);
- (c) 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 RFEs; and
- (d) the regulation of the conduct of RFEs including the provision of disciplinary offences and the establishment of disciplinary boards.

The above regulations would be subsidiary legislation subject to amendment by the Legislative Council under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

Amendments to the Fire Service (Installations and Equipment) Regulations (Cap. 95B)

7. Under regulation 7 of the Fire Service (Installations and Equipment) Regulations (Cap. 95B), no person other than a registered fire service installation contractor shall maintain, inspect or repair any fire service installation or equipment which is installed in any premises. Clause 7 of the Bill seeks to amend regulation 7 of Cap. 95B to empower -

- (a) RFEs to inspect and test any fire service installation or equipment installed in prescribed premises; and
- (b) DFS or a person authorized by him to inspect and test any fire service installation or equipment installed in any premises for checking its safety and the efficiency of its working order.

Related and consequential amendments

8. Clauses 9 to 20 of the Bill contain related and consequential amendments to a number of legislation governing some of the prescribed premises to which the proposed RFE scheme would apply. These legislation includes the Food Business Regulation (Cap. 132X), the Places of Amusement Regulation (Cap. 132BA) and the Places of Public Entertainment Regulations (Cap. 172A). These amendments, if passed, would allow the relevant regulatory authorities to accept 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.

Commencement

9. The Bill, if passed, would come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

Public Consultation

10. According to paragraph 18 of the LegCo Brief, the Fire Services Department conducted trade consultations in 2007 and 2011 respectively to gauge the views from the stakeholders on the RFE scheme. Further, a Business Impact Assessment (BIA) study was conducted from mid-2012 to mid-2013 to assess the business impact of the proposed RFE scheme on various stakeholders. In general, the majority of the stakeholders expressed support for the introduction of the RFE scheme. The BIA study also found that there should be a sufficient supply of potential RFE candidates in the market. However, the Hong Kong Registered Ventilation Contractor Association raised the concern that the businesses of ventilation contractors could be affected by the proposed scheme.

Consultation with LegCo Panel

11. The Clerk to the Panel on Security has advised that the Panel was briefed on 3 November 2015 on the legislative proposals. Members raised no objection to the proposals, but raised concerns on various issues, including the fire safety risk assessment and certification arrangements after the introduction of the proposed scheme, level of fees to be charged by RFEs, regulatory mechanisms for RFEs and their qualifications and registration.

Conclusion

12. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to provide for a statutory framework for the new scheme for fire safety risk assessment and certification by RFEs, Members may wish to form a Bills Committee to study the Bill in detail.

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