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Paper for the House Committee

**Report of the Bills Committee on
Fire Services (Amendment) Bill 2015**

Purpose

This paper reports on the deliberations of the Bills Committee on Fire Services (Amendment) Bill 2015 ("the Bills Committee").

Background

2. At present, a person who intends to run certain types of premises has to obtain a certificate or letter issued by the Director of Fire Services ("DFS"), 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, a permit, a certificate of compliance or a certificate of registration by the regulatory authorities concerned.¹ DFS is currently the only party vested with the statutory authority to issue fire safety certification for buildings or premises. The Fire Services Ordinance (Cap. 95) ("the principal Ordinance") 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.

3. Before issuing the certificate or letter, the Fire Services Department ("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 licence applicant, stipulating the fire safety works required (e.g. provision

¹ Those premises requiring a licence or permit to operate include general restaurants, factory canteens, funeral parlours, cinemas, theatres, karaoke establishments, hotels, guesthouses, places of public entertainment, etc. A club-house requires a certificate of compliance to operate, whereas schools needs a certificate of registration.

of fire service installations and equipment and ventilating systems). The licence applicant will then engage a registered fire service installation contractor, other contractors or workers to carry out the required works. Upon notification by the licence 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 licence applicant, with which the licence applicant can submit to the relevant regulatory authority for obtaining the relevant licence.

4. The Efficiency Unit conducted a Departmental Business Study for FSD in 2004 with a view to enhancing FSD's business-friendliness. The Efficiency Unit recommended FSD to reduce its involvement in day-to-day inspection and certification by devolving the responsibility of fire safety certification to the industry. FSD conducted two rounds of trade consultations in 2007 and 2011 respectively to gauge the views from the stakeholders on the proposal to implement a scheme so that qualified persons in the private market might also provide the fire safety risk assessment and certification services. To better assess the business impact of the proposed scheme on various stakeholders, a Business Impact Assessment ("BIA") study was conducted from mid-2012 to mid-2013. According to the Administration, the majority of the stakeholders expressed support for the introduction of the proposed scheme.

The Bill

5. According to the Legislative Council Brief on the Bill (File Ref.: SBCR 1/2361/14) issued by the Security Bureau on 2 December 2015, the Administration proposes to introduce a Registered Fire Engineer ("RFE") Scheme to leverage related professional engineers and qualified persons in the market for the provision of fire safety risk assessment and certification services. Under the proposed RFE Scheme, RFEs will be categorized into three classes to carry out the tasks in 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 three classes according to their own areas of expertise and scope of services, i.e. Registered Fire Engineer (Risk Assessment) ("RFE(RA)") who will conduct fire risk assessments and formulate fire safety requirements; Registered Fire Engineer (Fire Service Installation) ("RFE(FSI)") who will conduct compliance inspections on the fire safety requirements (except those relating to ventilating systems) and issue fire safety certificate upon confirmation of compliance; and Registered Fire Engineer (Ventilating System) ("RFE(VentS)") who will conduct compliance inspections on the fire safety requirements relating to ventilating system(s) and issue fire safety certificates upon confirmation of compliance.

6. The Administration introduced the Bill into the Legislative Council ("LegCo") on 16 December 2015. The Bill seeks to expand the scope of the principal Ordinance to provide for RFEs and a scheme for fire safety risk assessment and certification on compliance with fire safety requirements by RFEs for certain premises; empower the Chief Executive in Council ("the CE in Council") to make regulations for the RFE Scheme and for regulating RFEs; and make related, consequential and other minor amendments.

The Bills Committee

7. At the House Committee meeting on 18 December 2015, Members formed a Bills Committee to study the Bill in detail. The membership list of the Bills Committee is in **Appendix I**.

8. Under the chairmanship of Mr Tony TSE, the Bills Committee has held five meetings to study the Bill. The Bills Committee has also received oral representation from deputations at one of its meetings. A list of organizations and individual which/who have given views to the Bills Committee is in **Appendix II**.

Deliberations of the Bills Committee

Business impact of the proposed RFE Scheme

9. Clause 3 of the Bill seeks to amend the long title of the principal Ordinance to expand its scope for the purposes of providing for the proposed RFE Scheme and the registration of RFEs. According to the Administration, as a prudent start, the proposed RFE Scheme will first be implemented in the licensing process for the premises ("prescribed premises") to be listed out in a new regulation to be made by the CE in Council after the passage of the Bill. The types of prescribed premises intended to be covered under the proposed RFE Scheme are set out in **Appendix III**. Members in general support the proposed RFE Scheme, as it will offer an additional option for licence applicants of the prescribed premises by leveraging qualified persons in the market for the provision of the fire safety risk assessment and certification services. They have sought details about the service choices available to the licence applicants upon the introduction of the Scheme.

10. The Administration has advised that under the proposed RFE Scheme, licence applicants of the prescribed premises can opt to continue to use the existing risk assessment and certification services provided by FSD, or engage the services of RFEs at different stages of the licensing process. For the latter, a licence applicant may choose to hire the services of RFE(RA) for risk assessment

and formulation of fire safety requirements and then engage RFE(FSI) or RFE(VentS) as appropriate, for compliance inspections on the fire safety requirements upon the completion of installation works of fire service installations and equipment and/or ventilating system. Another option for the licence applicant is to hire the services of RFE(RA) for risk assessment and formulation of fire safety requirements, and then use FSD's services to conduct compliance inspections on the fire safety requirements upon completion of the installation works. Alternatively, the licence applicant may use FSD's services for risk assessment and formulation of fire safety requirements, and then engage RFE(FSI) or RFE(VentS) for compliance inspections on the fire safety requirements upon completion of the works.

11. Some members have raised concern about the level of charges to be levied by RFEs, which hinges on the supply of and demand for the services. Mr WONG Ting-kwong and Ms Cyd HO are of the view that if engaging RFEs for the fire safety risk assessment and certification services required for the licensing process will result in a higher cost as compared to using FSD's services, many of the licence applicants of the prescribed premises will prefer to continue using FSD's services due to cost consideration.

12. The Administration has advised that according to the BIA study, it was estimated that a respective pool of around 150 and 1 500 registered professional engineers ("RPEs") of relevant disciplines under the Engineers Registration Ordinance (Cap. 409) could meet the qualification requirements for RFE(RA) and RFE(FSI) and/or RFE(VentS). Depending on the type and size of the premises concerned, the estimated fees to be charged by an RFE would range from about \$30,000 to \$200,000. As regards the service fees to be charged by FSD, given that FSD will in certain cases only need to endorse the fire safety requirements formulated by an RFE(RA) (instead of providing the services direct) upon the launch of the RFE Scheme, the existing service fee charged by FSD in this regard may need to be reviewed. The review, however, has to take into account the fact that the existing fee level of FSD is below the full cost recovery level. Dr Kenneth CHAN has suggested that the list of RFEs and statistics on their fees and charges should be made public to facilitate the decision of licence applicants of the prescribed premises in selecting RFEs.

13. Some members including Ms Cyd HO and Mr YIU Si-wing consider that merely shortening the time required for fire risk assessment and certification as required of in the licensing process will not help much to shorten the time required by licence applicants of the prescribed premises in obtaining the relevant licence, permit or certificate for operating the business in the premises. They have sought elaboration on how the proposed RFE Scheme can help expedite the whole licensing process of the prescribed premises.

14. The Administration has explained that at present, the fire safety risk assessment and certification process has accounted for a substantial proportion of time in the whole licensing process of the prescribed premises. 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 upon receipt of the referral of a licence application from the licensing authority, and around 14 days to conduct compliance inspection and certification after the licence applicant concerned notifies FSD of the completion of the relevant fire services works. RFEs are expected to be able to provide the above services with greater flexibility and complete the services within a shorter turnaround time. This will create an incentive for the licence applicants of the prescribed premises, particularly those who can afford the likely higher fees to be charged by RFEs, to switch from using FSD's services. According to the BIA study, hotel operators would likely opt to engage RFEs to provide the above services. At the request of members, the Security Bureau, which is in charge of the Bill, has undertaken to relay the concern of members over the long processing time required for licence applications to the relevant Government departments for consideration.

15. Mr WU Chi-wai has enquired about the performance benchmark to be adopted by the Administration in assessing whether the fire safety risk assessment and certification services provided by RFEs can be completed in a shorter period of time when comparing to the time currently required of by FSD in the provision of these services. The Administration has advised that FSD will maintain its existing level of services to the licence applicants of the prescribed premises. In the long run after the running of the proposed RFE Scheme, it is considered that there may be room for FSD for redeployment of resources to enhance FSD's level of services.

Regulation of the implementation details of the proposed RFE Scheme

16. Clause 4 of the Bill seeks to amend section 2 of the principal Ordinance to include new definitions of RFE, RFE(RA), RFE(FSI) and RFE(VentS). The proposed amendments to section 25 of the principal Ordinance under clause 5 seek to empower the CE in Council to make regulations, among others, for the registration, de-registration and duties of RFEs; the establishment, powers and procedures of a registration committee; the establishment of an interview board panel, a disciplinary board panel and an appeal board panel, as well as the appointment, powers and procedures of interview boards, disciplinary boards and appeal boards in relation to RFEs; the acts or omissions that constitute a disciplinary offence on the part of an RFE; and the grounds on which appeals may be lodged in relation to the registration of persons as RFEs as well as in relation to

RFEs. Members are concerned that except for the proposed addition of the relevant definitions and the enabling provisions as respectively provided for in these two clauses, neither the principles nor any details relating to the proposed RFE Scheme are to be set out in the principal Ordinance.

17. The Legal Adviser to the Bills Committee has pointed out that under the 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, such as 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 principal legislation (whilst matters of procedural and operational nature are covered by subsidiary legislation). 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 Electrical Ordinance (Cap. 406) (relating to the regulation of registered electrical contractors and registered electrical workers) are cases in point. The Administration has been requested to consider whether the regulation of the matters pertinent to the RFE Scheme (at least some basic principles) should be provided for in the principal Ordinance with reference to the regulatory regimes under the foregoing ordinances.

18. The Administration has advised that given the wide coverage and variety of matters provided under the principal Ordinance, it is inappropriate to set out each and every detail of the matters in the principal Ordinance. Delegation of legislative power by way of subsidiary legislation is a well-established and long-standing practice. For instance, while the principle of the registration and regulation of fire service installation contractors is provided in the principal Ordinance, the implementation details (including the qualifications for registering as a registered fire service installation contractor and the disciplinary board matters in relation to registered fire service installation contractors) are set out in the Fire Service (Installation Contractors) Regulations (Cap. 95A) pursuant to the powers under section 25(f) and (g) of the principal Ordinance. To maintain consistency of style in the organization of the principal Ordinance and its subsidiary legislation, the Administration considers it appropriate to set out matters of details or of technical, procedural or operational nature of the proposed RFE Scheme and regulation of RFEs in a new regulation to be made by the CE in Council under the principal Ordinance.

19. Members note that under the Bill, the new regulation is proposed to be subject to the negative vetting procedure under section 34 of the Interpretation

and General Clauses Ordinance (Cap. 1). Given the tight timeframe under the negative vetting procedure,² a majority of members are of the strong view that the new regulation should instead be subject to the positive vetting procedure under section 35 of the Interpretation and General Clauses Ordinance such that Members will have sufficient time to examine the details of the proposed RFE Scheme and the regulation of RFEs. Alternatively, to the very least, critical information on the regulatory framework of the proposed RFE Scheme should be provided in parallel with the Bill for reference of the Bills Committee.

20. The Administration has explained that the proposal that the new regulation is to be subject to the negative vetting procedure has taken into account that this would facilitate amendments more efficiently in the future, whilst Members could offer comments or propose amendments during the scrutiny period. The same rule-making procedure is adopted for other similar subsidiary legislation made under the principal Ordinance, including the Fire Service (Installation Contractors) Regulations. This notwithstanding, in the light of some members' suggestion, the Administration has subsequently advised that with the exception of the fees for registration (including retention and restoration) and de-registration of RFEs, it has no objection to the other details of the proposed RFE Scheme being specified by a new regulation which is subject to the positive vetting procedure. It will propose a Committee stage amendment to amend the proposed new section 25(1)(ga) of, and add new sections 25(1)(gab) and 25(4) to the principal Ordinance to achieve this effect.

21. Members note that the Buildings Department Local Building Surveyors Association, the Hong Kong Institute of Surveyors and the Hong Kong Institution of Engineers have indicated that they welcome the proposed amendments.

Qualification and experience requirements for registration as RFEs

22. Members consider that the qualifications and experience requirements for registration as RFEs have to be rigorous to ensure fire safety and public safety. The Administration has informed the Bills Committee of its preliminary proposal that a person applying to become an RFE has to be an RPE of relevant disciplines under the Engineers Registration Ordinance, or possess relevant fire engineering qualification and experience as considered appropriate by DFS. A qualified

² Under section 34 of the Interpretation and General Clauses Ordinance, LegCo may amend a piece of subsidiary legislation by a resolution passed at a LegCo meeting held not later than 28 days after the day on which it was so laid. This 28-day scrutiny period may be extended by resolution of LegCo before the expiry of the scrutiny period to the first sitting of LegCo held not earlier than the 21st day after the 28-day period. Where the scrutiny period ends on a date after the last meeting of the session but before the second meeting of the next session, separate extension arrangements are provided for in the Ordinance.

person may register as an RFE for any one or all of the three classes of RFE(RA), RFE(FSI) and RFE(VentS). The qualification and experience requirements will be provided for in the new regulation to be made under the principal Ordinance as appropriate.

23. Ir Dr LO Wai-kwok is of the view that the establishment of the Fire Discipline under the Hong Kong Institution of Engineers and the acceptance of the relevant Corporate membership of the Institution for registration with the Engineers Registration Board as RPE in the Fire Discipline in the last decade will help to underpin the implementation of the proposed RFE Scheme. Some deputations have submitted the views to the Bills Committee that authorized persons (i.e. persons listed, in the capacity of architects, engineers or surveyors, in the authorized persons' register maintained in accordance with the Buildings Ordinance) who provide building safety services and certification in respect of the application for various licences, as well as registered professional surveyors in the building surveying division under the Surveyors Registration Ordinance (Cap. 417) who possess appropriate knowledge and experience should also be professionally competent to register as RFEs.

24. The Administration has explained that in general, in the present process of handling an application for a licence of the prescribed premises (except for a provisional restaurant licence and a provisional places of public entertainment licence (cinemas/theatres)³), only FSD officers are to offer advice and certification for the licensing authorities with respect to fire safety risk assessment as well as the compliance of the relevant fire safety requirements. Members have urged the Administration to further consult the relevant professional bodies and stakeholders on the qualifications and experience requirements of RFEs. As a related matter, some members including Mr James TO and Mr IP Kwok-him share the concern of some deputations that since professionals possessing different qualifications may be qualified to register as RFEs, a more neutral name such as "registered fire certifier" should be adopted to provide clarity to members of the public. It is noted that "authorized person" and "registered inspector", who may be an architect, an engineer or a surveyor, are currently adopted under the Buildings Ordinance. Ir Dr LO Wai-kwok, however, considers "registered fire engineer" an appropriate name given the nature of the duties involved.

³ Under the two regimes, as far as fire safety requirements are concerned, the licensing authorities may make reference to documents in relation to the fire safety requirements submitted by an authorized person, a registered fire service installations contractor and the licence applicant for issuing provisional licences. Nonetheless, FSD will inspect the premises of the applicant within seven days after receipt of referral from the licensing authority for verifying compliance with the relevant fire safety requirements.

25. Having considered the views of members, the relevant professional bodies and stakeholders, the Administration has proposed that the following three types of persons may apply to be registered as RFEs:

- (a) persons registered as RPEs of disciplines relevant to fire safety risk assessment, and compliance checks of fire service installations and ventilating systems under the Engineers Registration Ordinance. They shall possess at least one year of relevant working experience;
- (b) persons with undergraduate degrees relevant to the duties of the three classes above (such as degrees in fire engineering, structural engineering, civil engineering, building services engineering, building surveying or other academic qualifications recognized by the Registration Committee upon examination). They need to have completed courses relating to the class of RFE they apply to register (i.e. courses such as fire science, fire protection systems, fire safety legislation) during the course of their degree programmes, or have separately completed the relevant top-up courses. They shall possess a longer period of working experience than in (a) above, say, six years or above; or
- (c) practitioners with sufficient experience (for instance those with at least 15 years of relevant working experience). They are also required to have completed the relevant top-up courses.

The Administration has further advised that as RFEs are proposed to be categorized into three classes, the requirements on qualifications and experience of RFEs will vary according to the duties of each class, and it is consulting the relevant professional bodies and stakeholders on the above proposal with a view to formulating detailed requirements. A registration committee consisting of professionals and representatives from the academia will be established under the new regulation to provide professional advice to DFS on matters including whether to accept qualified persons who have relevant experience and/or completed the relevant fire engineering courses to register as an RFE of the relevant classes. An interview board panel and interview boards will be formed to conduct professional interviews in respect of the applications for registration and recommend to DFS if the applications should be approved.

26. As regards the name of "registered fire engineer", the Administration has explained that the persons to be registered will be empowered to conduct fire safety risk assessment, formulate fire safety requirements, and/or provide inspection and certification services for fire service installations and equipment and/or ventilating systems in prescribed premises. Those who perform such work

will have to possess sufficient professional knowledge and practical experience in such areas under the scope of "fire engineering" as fire protection systems, fire safety management, fire science, and human behaviour during fire, etc. to be able to discharge the duties effectively. The Administration therefore considers "registered fire engineer" an appropriate name for these qualified persons.

27. Members note that there are 124 staff (including 80 disciplined staff and 44 civilian staff) as at 31 March 2016 for processing licence applications in FSD. These staff members are mainly deployed at the two Regional Offices and the Ventilation Division under the Licensing and Certification Command of FSD, as well as seconded to other licensing authorities. Some members have expressed concern that the implementation of the proposed RFE Scheme will lead to a brain drain of staff of FSD to the private sector. The Administration has stressed that staff of FSD currently involved in processing licence applications will still be required to meet the relevant professional qualification and working experience requirements in order to register as RFEs. It cannot, however, estimate the number of members of FSD staff who could meet the proposed qualifications for registration as RFEs.

28. The Buildings Department Local Building Surveyors Association, the Hong Kong Institute of Surveyors, the Hong Kong Institution of Engineers and the Royal Institution of Chartered Surveyors have subsequently provided their views on the further details of the types of persons who may apply to be registered as RFEs, and the composition of the registration committee and interview board. The Administration has assured the Bills Committee that before the relevant new regulation is introduced into LegCo, it will continue to engage the relevant professional bodies in formulating the detailed qualifications and experience requirements of RFEs, as well as other details of the proposed RFE Scheme.

29. On the name of "registered fire engineer", the Hong Kong Institute of Surveyors has submitted its view to the Administration that it is of a neutral stance to the name "registered fire engineer" as it only reflects the position or job title of a wide spectrum of professionals who undertake fire safety related assignments. The Buildings Department Local Building Surveyors' Association has, however, remained of the view that a more neutral name should be adopted. After consideration of the views of the relevant stakeholders, members, including those who once had concern over the name, have decided not to pursue the issue further.

Assurance of quality of work of RFEs

30. Members are of the view that a comprehensive quality control mechanism should be put in place to ensure the consistency of the fire risk assessment and certification standard across RFEs. Noting that a disciplinary mechanism will be established under the new regulation for inquiring into and dealing with cases where an RFE is suspected to have failed to discharge his or her duties properly, Mr James TO has questioned whether an RFE who has committed misconduct in the provision of the fire risk assessment and certification services would be subject to civil or criminal sanctions in addition to disciplinary actions.

31. The Administration has advised that FSD will issue codes of practice and/or guidelines to RFEs in order to provide practical guidance on fire safety risk assessment as well as inspection and certification of fire service installations and equipment and ventilating systems. RFEs are required to strictly comply with the codes and guidelines. In addition, FSD will hold regular briefings for RFEs to ensure their service standards. At the initial implementation stage, the fire safety requirements formulated by an RFE(RA) will need to be endorsed by FSD. FSD will also select premises on a random basis to conduct audit inspections within seven working days upon the issue of a fire safety certificate by an RFE(FSI) or an RFE(VentS).

32. The Administration has further advised that its preliminary proposal is that an RFE may be regarded as having committed a disciplinary offence if he or she has committed misconduct or neglect in any professional aspect; has deviated from the requirements issued by FSD or an RFE(RA) in certifying compliance of the fire safety requirements of any prescribed premises; has failed to discharge the duties or abide by the requirements under the new regulation; has obtained registration or renewal of registration under the new regulation by fraud or misrepresentation; or has committed an offence under the new regulation. A disciplinary mechanism will be established for inquiring into and dealing with cases where an RFE is suspected to have failed to discharge his or her duties. Apart from disciplinary offences, the new regulation will stipulate that an RFE will be subject to criminal liability if he or she fails to notify DFS, without reasonable excuse, within a specified period after a change in his or her professional qualification that affects his or her fulfilling the requirements for registration; carries out a duty that is not within the scope of duties of the class for which the RFE concerned is registered; or issues a fire safety certificate that is false or misleading. Separately, any person who is affected by the misconduct of an RFE may bring legal action against the RFE concerned and claim civil liability. The Administration has undertaken to consult the trade on the detailed proposals before finalizing the above in the new regulation.

33. The Legal Adviser to the Bills Committee has advised that according to section 25(3) of the principal Ordinance, a regulation made under that section (including the new regulation to provide for the implementation details of the proposed RFE Scheme to be made upon the passage of the Bill) may provide that any contravention of the provisions of the regulation shall be an offence; and any person who contravenes the regulation shall be liable on conviction to a fine not exceeding \$300,000 and to imprisonment for a period not exceeding one year, and in the case of a continuing offence, to a daily penalty not exceeding \$30,000.

34. Members have enquired about the liability of an RFE engaged by a licensing consultant in case of the latter's failure to discharge properly the duties in the licensing process. The Administration has advised that any disputes between an RFE and a licensing consultant should be subject to the private contractual arrangements between the two parties concerned.

Implementation of the proposed RFE Scheme

35. Members have enquired about the timetable for introducing the proposed RFE Scheme. The Administration has advised that subject to the passage of the Bill, it will work towards introducing a new regulation under the principal Ordinance to provide for the implementation details of the proposed RFE Scheme as early as practicable. The timing for introducing the new regulation for scrutiny by LegCo would depend on the time required for consulting the professional bodies and the relevant stakeholders on details of the regulatory framework. The proposed RFE Scheme will be rolled out after the passage of the new regulation. The plan of FSD is to conduct a review to assess the effectiveness of the Scheme after its running for about two years, and consider whether and to what extent the scope of duties of RFEs should be expanded.

36. Mr WONG Ting-kwong, Ms Cyd HO, Mr WU Chi-wai and Ms CHIANG Lai-wan have expressed concern over the implementation of the Fire Safety (Buildings) Ordinance (Cap. 572), under which fire safety of composite and domestic buildings which were constructed by 1 March 1987, or with their plans of the building works first submitted for approval on or before that day, should be enhanced to better meet the current requirements. They have pointed out that owners of some old domestic buildings may not be able to fully comply with the requirements set out in the Fire Safety Directions issued to them under the Fire Safety (Buildings) Ordinance due to structural or spatial constraints of their buildings. In addition, those buildings without owners' corporations, residents' organizations or property management companies (or commonly known as "three-nil buildings") have difficulties in co-ordinating fire safety improvement works. These members consider that if the proposed RFE Scheme is to be

extended to cover fire safety works in domestic buildings, a mechanism should be put in place to ensure that the works of RFEs which involve alteration or additional works involving the building structure will meet the relevant requirements of the Buildings Department.

37. The Administration has advised that at present, FSD, having regard to the circumstances of individual buildings and/or information provided by the authorized persons in relation to the execution of the Fire Safety Directions, and without compromising basic fire safety, adopts a flexible and pragmatic approach when handling individual cases and considers accepting the alternatives put forward by the owners as appropriate. For those old buildings of three storeys or less, a pilot scheme has been rolled out to allow the owners in selected old buildings to install improvised hose reel systems with direct water supply from the government town mains on the ground floor of the buildings. The Administration has further advised that subject to the outcome of the said review, consideration would be given to the possibility of extending the proposed RFE Scheme to other areas, such as certification of alteration and addition works of fire service installation and equipment in buildings and certification of fire safety upgrading works of buildings.

Consequential amendments

38. The Legal Adviser to the Bills Committee has enquired with the Administration as to whether related and consequential amendments should be made to other Ordinances governing some of the prescribed premises to which the proposed RFE Scheme would apply (including the Karaoke Establishment (Licensing) Regulation (Cap. 573A), the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613A), the Places of Public Entertainment Ordinance (Cap. 172), the Public Health and Municipal Services Ordinance (Cap. 132), the Ventilation of Scheduled Premises Regulation (Cap. 132CE), the Building (Ventilating Systems) Regulations (Cap. 123J)) to enable the licensing authorities or the licence applicants of the prescribed premises to accept the fire safety requirements issued by the relevant class of RFEs or to enable RFEs to conduct the compliance inspection in view of the implementation of the proposed RFE Scheme. Members have also urged the Administration to ensure that all necessary related and consequential amendments should have been made to other relevant ordinances (apart from those provided under Part 4 of the Bill) for the proper implementation of the proposed RFE Scheme.

39. The Administration has assured the Bills Committee that it has scrutinized other relevant ordinances (governing the prescribed premises to which the proposed RFE Scheme would apply) and considered that no related or

consequential amendments to other ordinances (apart from those provided under Part 4 of the Bill) are required for the implementation of the Scheme.

Committee Stage amendments

40. The CSAs to be moved by the Administration as mentioned in paragraph 20 above is in **Appendix IV**.

41. The Bills Committee will not propose any CSAs to the Bill.

Follow-up action by the Administration

42. The Administration has undertaken to consult the relevant professional bodies and the stakeholders on the detailed proposals on the implementation of the proposed RFE Scheme and regulation of RFEs, including, among others, the qualifications and experience requirements for registration as RFEs, the disciplinary offences on the part of an RFE and RFE's criminal liability for misconduct, to be set out in the new regulation made under the principal Ordinance after the passage of the Bill (paragraphs 28 and 32 above refer).

Resumption of Second Reading debate on the Bill

43. The Bills Committee raises no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 29 June 2016, subject to the moving of the CSAs by the Administration.

Advice sought

44. Members are invited to note the deliberations of the Bills Committee and the date for the resumption of the Second Reading on the Bill.

Bills Committee on Fire Services (Amendment) Bill 2015

Membership list

Chairman Hon Tony TSE Wai-chuen, BBS

Members Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon IP Kwok-him, GBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Dr Hon Kenneth CHAN Ka-lok
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP

(Total : 11 members)

Clerk Ms Maisie LAM

Legal Adviser Ms Vanessa CHENG

Date 5 February 2016

Bills Committee on Fire Services (Amendment) Bill 2015

A. Organizations and individual which have/who has made oral representation to the Bills Committee

1. Buildings Department Local Building Surveyors' Association
2. Hong Kong Catering Industry Association
3. Institution of Dining Art
4. Passive Fire Protection Research Centre
5. The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions
6. The Hong Kong Institute of Surveyors
7. The Hong Kong Institution of Engineers - Fire Discipline
8. The Hong Kong Institution of Engineers (Fire Division)
9. The Institution of Fire Engineers (Hong Kong Branch)
10. Mr Robin Sinclair HOWES

B. Organizations which have provided written submissions to the Bills Committee only

1. Royal Institution of Chartered Surveyors
2. The Association of Registered Fire Service Installation Contractors of Hong Kong Limited

Bills Committee on Fire Services (Amendment) Bill 2015

Types of prescribed premises
intended to be covered under the proposed RFE Scheme

- public dance hall and dancing school established under the Miscellaneous Licences Regulation (Cap. 114A)
- general restaurant, light refreshment restaurant, factory canteen, bakery, food factory, composite food shop established under the Food Business Regulation (Cap. 132X)
- billiard centre, bowling centre and public skating rink established under the Places of Amusement Regulation (Cap. 132BA)
- cinema, theatre and place of public entertainment (other than a cinema or theatre) established under the Places of Public Entertainment Regulations (Cap. 172A)
- school established under the Education Ordinance (Cap. 279)
- premises for conducting registered courses or exempted courses established under the Non-local Higher and Professional Education (Regulation) Rules (Cap. 493B)
- premises for the sale and consumption of intoxicating liquor established under the Dutiable Commodities (Liquor) Regulations (Cap. 109B)
- funeral parlour established under the Funeral Parlours Regulation (Cap. 132AD)
- child care centre established under the Child Care Services Ordinance (Cap. 243)
- massage establishment established under the Massage Establishments Ordinance (Cap. 266)
- hotel and guesthouse established under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349)
- club-house established under the Clubs (Safety of Premises) Ordinance (Cap. 376)

- amusement game centre established under the Amusement Game Centres Ordinance (Cap. 435)
- bedspace apartment established under the Bedspace Apartments Ordinance (Cap. 447)
- residential care home established under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)
- drug dependence treatment centre established under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566)
- karaoke establishment (other than that in a restaurant, hotel, guesthouse or club), karaoke establishment (in a hotel, guesthouse or club) and karaoke establishment (in a restaurant) established under the Karaoke Establishments Ordinance (Cap. 573)
- residential care home established under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)

Fire Services (Amendment) Bill 2015

Committee Stage

Amendments to be moved by the Secretary for Security

<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.”.