

立法會
Legislative Council

LC Paper No. CB(2)893/16-17
(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/16

Bills Committee on Fire Services (Amendment) Bill 2016

**Minutes of the first meeting
held on Tuesday, 20 December 2016, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Frankie YICK Chi-ming, JP
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, JP
Dr Hon Elizabeth QUAT, JP
Hon Alvin YEUNG
Hon Jimmy NG Wing-ka, JP
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Dr Hon YIU Chung-yim

Member absent : Hon Tommy CHEUNG Yu-yan, GBS, JP

Public Officers attending : Mr Vic YAU Cheuk-hang
Deputy Secretary for Security 2
Security Bureau

Mr Alex CHAN Yuen-tak
Principal Assistant Secretary for Security B
Security Bureau

Miss Venus TSOI Yuen-san
Assistant Secretary for Security B2
Security Bureau

Mr Terrance TSANG Wing-hung
Acting Assistant Director (Fire Safety)
Fire Services Department

Mr CHENG Sui-on
Senior Divisional Officer (Support)
Fire Services Department

Ms Rayne CHAI Chih-hui
Acting Senior Assistant Law Draftsman (I) 2
Department of Justice

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Ms Janet SHUM
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Election of Chairman

Ir Dr LO Wai-kwok was elected Chairman of the Bills Committee.

2. Members agreed that election of a Deputy Chairman was not necessary.

II. Meeting with the Administration

[File Ref.: SBCR 1/2361/14, LC Paper Nos. LS13/16-17, CB(2)1817/15-16, CB(2)457/16-17(02) to (04), CB(2)464/16-17(01), and CB(3)137/16-17]

Action

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Clause-by-clause examination of the Bill

4. The Bills Committee completed clause-by-clause examination of the Chinese text of the Fire Services (Amendment) Bill 2016 ("the 2016 Bill").

Admin

5. The Bills Committee requested the Administration to consider:
 - (a) amending regulations 6, 7, 8 and 9 of the Fire Service (Installations and Equipment) Regulations (Cap. 95B) ("the Regulations") to the effect that the requirements concerned would cover not only the fire service installations or equipment installed/to be installed in the premises, but also those installed/to be installed at locations which are not within the premises but which are installed/to be installed for the premises in light of the proposed addition of the term "or for" (which was omitted from the Fire Services (Amendment) Bill 2015) in the proposed new regulation 7(3) and (4) of the Regulations to clarify that some parts of an fire service installation or equipment for the premises might not necessarily be installed inside the premises;
 - (b) revising the drafting of the proposed new regulation 7(4) of the Regulations to provide greater flexibility for the Director of Fire Services ("the Director") or a person authorized by the Director in inspecting and testing the fire service installation or equipment installed in, or for, any premises, the purpose of which might include but not limited to checking its safety and the efficiency of its working order; and
 - (c) amending the existing regulation 10(1) of the Regulations by substituting the wordings "fire service equipment" with "fire service installation or equipment" which was a defined term under section 2 of the Fire Services Ordinance (Cap. 95).

Invitation of public views

6. Members agreed to invite written submissions on the 2016 Bill from those deputations which had previously given views to the Bills Committee on the Fire Services (Amendment) Bill 2015.

Action

III. Any other business

7. The Chairman said that another meeting with the Administration to consider its written response to the issues raised at the meeting and the written submission received, if any, would be scheduled for Friday, 13 January 2017, at 8:45 am.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the above meeting has been rescheduled for Tuesday, 24 January 2017, at 10:45 am.)

8. There being no other business, the meeting ended at 12:27 pm.

Council Business Division 2
Legislative Council Secretariat
24 February 2017

**Proceedings of the first meeting of
the Bills Committee on Fire Services (Amendment) Bill 2016
held on Tuesday, 20 December 2016, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Election of Chairman</i>			
000127 - 000235	Mr James TO Dr Elizabeth QUAT Mr Frankie YICK Ir Dr LO Wai-kwok	Election of Chairman	
<i>Agenda item II: Meeting with the Administration</i>			
000236 - 001107	Chairman Admin	Briefing by the Administration on the Fire Services (Amendment) Bill 2016 ("the 2016 Bill") by PowerPoint presentation (LC Paper No. CB(2) 471/16-17 (01)).	
001108 - 001713	Chairman Dr Elizabeth QUAT Admin	<p>Dr Elizabeth QUAT's advice that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong supported the 2016 Bill which was introduced after the lapse of the Fire Services (Amendment) Bill 2015 ("the 2015 Bill") upon the prorogation of the Fifth Legislative Council ("LegCo") on 16 July 2016.</p> <p>Dr Elizabeth QUAT's enquiries about the expected number of persons eligible for registration as registered fire engineers ("RFEs") under the proposed RFE Scheme in the short, medium and longer terms; the expected number of licence applicants of the prescribed premises that would opt to use the fire safety risk assessment and certification services of RFEs; and the expected turnaround time to be shortened in engaging these services of RFEs.</p> <p>The Administration's advice that:</p> <p>(a) according to an earlier study, it was estimated that a pool of around 150 and 1 500 professionals could meet the qualification requirements for RFE (Risk Assessment) ("RFE(RA)") and RFE (Fire Services Installation) ("RFE(FSI)") and/or RFE (Ventilating System) ("RFE(VentS)") respectively;</p> <p>(b) at present, the Fire Services Department ("FSD") processed around 3 500 licence applications each year. There was no assessment as to how many licence applicants would opt to use the services of RFEs upon the implementation of the proposed RFE Scheme which would be up to the market force to determine; and</p> <p>(c) taking the licensing process of food premises as an example, it currently took around 17 days for FSD to conduct fire safety risk assessment and formulate fire safety requirements upon the receipt of referral of a licence</p>	

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		<p>application from the licensing authority, and around 14 days to conduct compliance inspection and certification after the licence applicant concerned notified FSD of the completion of the relevant fire services works. It was estimated that upon the implementation of the proposed RFE Scheme, RFE(RA) and RFE(FSI)/RFE(VentS) might be able to complete the risk assessment services in about five days and the certification services in about three days.</p>	
001714 - 002248	Chairman Mr CHAN Chun-ying Admin	<p>Mr CHAN Chun-ying's concern about whether the findings of the consultations with the trade conducted in 2007 and 2011 and the BIA study conducted from mid-2012 to mid-2013 were still applicable today, in particular as to whether there were any updates to the estimated supply of RFEs in the market which was conducive to the successful implementation of the proposed RFE Scheme.</p> <p>The Administration's response that:</p> <p>(a) it had maintained on-going communication with various stakeholders on the proposed RFE Scheme. Before introducing the 2016 Bill into LegCo, it had consulted the Hong Kong Institution of Engineers and the Hong Kong Institute of Surveyors which had indicated their support for the proposed RFE Scheme and the 2016 Bill; and</p> <p>(b) based on the past estimation and taking into account the fact that there were currently around 130 staff processing licence applications in FSD, it was considered that there should be a sufficient supply of potential candidates in the market to meet the service demand arising from the implementation of the proposed RFE Scheme. In addition, it was expected that the roll-out of the proposed RFE Scheme would attract more persons to develop a professional career in the fire engineering field.</p>	
002249 - 002950	Chairman Dr YIU Chung-yim Admin	<p>Dr YIU Chung-yim called on the Administration to further consult the surveying profession, as he understood that two bodies of the surveying profession and some individual surveyors had concerns on the 2016 Bill.</p> <p>Noting that persons eligible for registration as RFEs would not be limited to registered professional engineers ("RPEs"), Dr YIU Chung-yim's enquiries about whether "registered fire engineer" was an appropriate name for these qualified persons and whether a grandfathering clause would be provided for to enable existing practitioners with relevant experience to be registered as RFEs.</p> <p>The Administration's response that:</p> <p>(a) as explained to the Bills Committee on the 2015 Bill, persons eligible to apply to be registered as RFEs could be RPEs of relevant disciplines; persons with undergraduate degrees relevant to the duties of RFE(RA), RFE(FSI) or RFE(VentS) or practitioners with sufficient experience,</p>	

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		<p>provided that they had the relevant and sufficient academic and professional training and working experience. The detailed qualification and experience required of these three types of persons would be provided for in the new regulation to be made by the Chief Executive in Council under the Fire Services Ordinance (Cap. 95) ("the principal Ordinance") after the passage of the 2016 Bill ("the new regulation"); and</p> <p>(b) "registered fire engineer" was an appropriate title to reflect the knowledge and experience required of this group of qualified personnel which covered areas of fire protection systems, fire science, human behavior in fire, etc. The trade consulted had no objection in this regard.</p> <p>The Chairman referred members to the position of the Bills Committee on the 2015 Bill on the naming of RFE as set out in paragraph 29 of the report of the Bills Committee (LC Paper No. CB(2)1817/15-16).</p>	
002951 - 003709	Chairman Mr Alvin YEUNG Admin	<p>Mr Alvin YEUNG's enquiries on the long-term establishment of staff in FSD responsible for processing licence applications after the implementation of the proposed RFE Scheme; the composition of the registration committee; and the disciplinary actions against RFEs for negligence in professional aspect.</p> <p>The Administration's response that:</p> <p>(a) FSD would maintain its existing services after the roll-out of the proposed RFE Scheme, so as to provide flexibility for those licence applicants who preferred to continue using FSD's services. Separately, fire safety requirements formulated by RFE(RA) had to be endorsed by FSD before they were issued to the licence applicants concerned. FSD would also select premises on a random basis to conduct audit inspections of at least 70% of those cases whereby the certification was completed by an RFE(FSI) or RFE(VentS); and</p> <p>(b) details of the composition of the registration committee and the regulatory mechanism for RFEs would be provided for in the new regulation. The initial thoughts were that the registration committee would comprise, among others, persons from the relevant professional and academic fields. A disciplinary mechanism would be set up to inquire into and deal with cases in which an RFE was suspected to have failed to discharge the duties properly. Apart from disciplinary offences, RFEs would be subject to criminal liability if, among other things, an RFE had issued a fire safety certificate that was false or misleading.</p>	
003710 - 003926	Chairman Admin	Commencement of clause-by-clause examination of the Bill	
003927 - 004129	Chairman Admin	<u>Examination of the long title and clauses 1 to 4</u>	

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004130 - 005042	Chairman Admin Mr CHAN Chun-ying	<p><u>Examination of clause 5</u></p> <p>Mr CHAN Chun-ying's suggestion that the verb "制定" should be added before the respective phrases "該小組的權力及程序", "面試委員會的權力及程序", "紀律審裁委員會的權力及程序" and "上訴委員會的權力及程序" in the Chinese text of the proposed new subsections (gc), (gd), (gg) and (gi) of section 25(1) of the principal Ordinance.</p> <p>The Administration's explanation that the above phrases should be read in conjunction with the introductory sentence "行政長官會同行政會議可藉規例就以下事項訂立條文" of the Chinese text of section 25(1) of the principal Ordinance.</p> <p>Members noted that the proposed new section 25(4) of the principal Ordinance had provided that regulations made under the proposed new subsections of section 25(1) of the principal Ordinance, except those concerning fees to be charged in relation to the registration and de-registration of RFEs, would be subject to the positive vetting procedures under section 35 of the Interpretation and General Clauses Ordinance (Cap. 1).</p>	
005043 - 005838	Chairman Mr CHAN Han-pan Admin	<p>Mr CHAN Han-pan's enquiry as to the mechanisms to be put in place under the proposed RFE Scheme to prevent malpractices and conflict of interest, in particular bid-rigging acts in the tendering process which were not uncommon in building repair and maintenance works.</p> <p>The Administration's advice that the implementation details of the proposed RFE Scheme would be provided for in the new regulation. Regulatory control measures intended to be put in place included, among others, that:</p> <p>(a) the fire safety requirements formulated by RFE(RA) had to be endorsed by FSD before they were issued to the licence applicants concerned in order to ensure that consistent fire safety standards would be maintained. To assess and ensure the quality of certification work of the RFEs concerned, FSD would also select premises on a random basis to conduct audit inspections of at least 70% of those cases whereby the certification was completed by RFE(FSI) or RFE(VentS); and</p> <p>(b) FSD had sought advice from the Corruption Prevention Department of the Independent Commission Against Corruption ("ICAC") for suitable control measures to prevent malpractices and conflict of interest. Preventive measures recommended by ICAC included, among others, the prohibition of an RFE from certifying works carried out by a registered fire service installation contractor or a registered specialist contractor (ventilating works category) if the RFE concerned was the proprietor, shareholder, director, partner or an employee of that contractor, and positive declaration of no conflict of interest by RFE on each certification occasion. The recommended measures</p>	

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		of ICAC would be set out in the codes of practice or guidance notes issued by FSD for RFEs.	
005839 - 010433	Chairman Dr YIU Chung-yim Admin	<p>Dr YIU Chung-yim's enquiry about the absence of a complaint mechanism for the lodging of complaints against the services provided by RFEs; the mechanism to monitor the performance of the interview boards, disciplinary boards and appeal boards in relation to RFEs; and the reason why the composition of the above boards was not provided for in the 2016 Bill as similar matters were set out in other principal legislation such as Property Management Services Ordinance (Cap. 626).</p> <p>The Administration's reiteration that the implementation details of the proposed RFE Scheme, including the composition of the various panels and boards, would be provided for in the new regulation. The Administration would continue to engage the relevant professions before finalizing the new regulation.</p>	
010434 - 011152	Chairman Mr CHAN Han-pan Admin Mr CHAN Chun-ying	<p>Mr CHAN Han-pan's reiteration that mechanisms had to be put in place under the proposed RFE Scheme to prevent bid-rigging acts in the tendering process; and his expression of support for the proposed RFE Scheme.</p> <p>Mr CHAN Chun-ying's remark that since the proposed RFE Scheme was aimed at offering an additional option for the licence applicants, licence applicants could still choose FSD's services after the roll-out of the Scheme if they so wish.</p>	
011153 - 012046	Chairman Admin ALA5	<p><u>Examination of clauses 6 to 8</u></p> <p>The Administration's undertaking to provide a written response to the following suggestions of the Legal Adviser to the Bills Committee:</p> <p>(a) to amend regulations 6, 7, 8 and 9 of the Fire Service (Installations and Equipment) Regulations (Cap. 95B) ("the Regulations") to the effect that the requirements concerned would cover not only the fire service installations or equipment installed/to be installed in the premises, but also those installed/to be installed at locations which were not within the premises but which were installed/to be installed for the premises in light of the proposed addition of the term "or for" (which was omitted from the 2015 Bill) in the proposed new regulation 7(3) and (4) of the Regulations to clarify that some parts of an fire service installation or equipment for the premises might not necessarily be installed inside the premises; and</p> <p>(b) to amend the existing regulation 10(1) of the Regulations by substituting the wordings "fire service equipment" with "fire service installation or equipment" which was a defined term under section 2 of the principal Ordinance.</p>	Admin
012047 - 012619	Chairman Dr YIU Chung-yim Admin	The Chairman and Dr YIU Chung-yim's view that the wording of the proposed new regulation 7(4) of the Regulations should be revised to provide greater flexibility for the Director of Fire	

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		<p>Services ("DFS") or a person authorized by DFS in inspecting and testing the fire service installation or equipment installed in, or for, any premises, the purpose of which might include but not limited to checking its safety and the efficiency of its working order.</p> <p>The Administration agreed to provide a written response in this regard.</p>	Admin
012620 - 013723	Chairman Admin	<u>Examination of clauses 9 to 20</u>	
013724 - 014116	Chairman Mr WONG Ting-kwong Admin Dr YIU Chung-yim	Members agreed to invite written submissions on the 2016 Bill from those deputations which had previously given views to the Bills Committee on the 2015 Bill.	
<i>Agenda item III: Any other business</i>			
014117 - 014310	Chairman Mr Alvin YEUNG	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
 24 February 2017