

Bills Committee on Fire Services (Amendment) Bill 2016

**Government's Response to Issues Arising from
the Meeting on 20 December 2016**

Purpose

This paper sets out the Government's response to the issues arising from the meeting of the Bills Committee on the Fire Services (Amendment) Bill 2016 (the Bill) on 20 December 2016.

**Expression of “or for” in the proposed regulations 7(3) and 7(4) of
Fire Service (Installations and Equipment) Regulations (Cap. 95B)
(*Item (a) on the list of follow-up actions arising from the meeting on
20 December 2016*)**

2. Clause 7(3) of the Bill seeks to add regulations 7(3) and 7(4) to Cap. 95B to respectively enable a registered fire engineer (fire service installation) (“RFE(FSI)”) to inspect and test any fire service installation or equipment (“FSI”) installed in, or for, any prescribed premises, and the Director of Fire Services (“the Director”) or his authorised representatives to inspect and test any FSI installed in, or for, any premises.

3. The expression “or for” is needed for the proposed regulation 7(3) to more precisely describe the duty of an RFE(FSI). An RFE(FSI) has the duty to inspect and test FSI installed for the operation of prescribed premises, such as a restaurant or a cinema. Such “prescribed premises” have defined boundaries, and parts of an FSI may arguably be installed “outside” the boundaries, e.g. the fire service tank of an automatic sprinkler system for a restaurant may be installed on the roof of the building where the restaurant is located, but not within the restaurant proper. The addition of “or for” to the proposed regulation 7(3) would remove any ambiguity as to what may be inspected or tested by the RFE(FSI).

4. The same expression (“or for”) is also needed for the proposed regulation 7(4) for clarity sake. Although the regulation enables the Director or his authorised representatives to inspect and test FSI in or for “any premises”, we are mindful of the possible argument that parts of an FSI installed for some premises might itself be located on roadside or

open ground which might be argued as not coming within the definition of “premises”. The addition of the expression “or for” would prevent any such arguments, leaving no doubt as to the powers of the Director or his authorised representatives to inspect and test any FSI.

5. There was a suggestion that there is a need to similarly amend regulations 6, 7, 8 and 9 of Cap. 95B where “any FSI ...installed in any premises” appears. We have carefully reviewed this suggestion. These regulations have to do with the responsibilities of registered fire service installation contractors (RFSICs) and owners of FSI. In this connection, the Fire Services Department (“FSD”) is conducting a holistic review of the existing legislation that regulates RFSIC, including the Fire Service (Installation Contractors) Regulations (Cap. 95A) and Cap. 95B. The review will cover the responsibilities of RFSICs and owners of FSI, and the outcome may entail amendments to Cap. 95A and Cap. 95B. We therefore propose, for prudence and completeness sake, that we consider the amendments suggested above, which would carry implications for the RFSIC trade and FSI owners, in the context of that review and the related trade consultation, and if they are confirmed to be necessary, we should take them forward together with other legislative amendments identified as necessary in the review.

The Director’s power in the proposed regulation 7(4) of Cap. 95B
(Item (b) on the list of follow-up actions arising from the meeting on 20 December 2016)

6. The proposed regulation 7(4) of Cap. 95B serves to empower the Director or his authorised representatives to inspect and test any FSI for checking its safety and the efficiency of its working order. Questions were raised at the last meeting as to whether the provision would not provide sufficient flexibility for the Director and his authorised representatives in performing the inspection and testing duties. We thank the Bills Committee for this comment. When this provision was drafted, the intention was to provide the Director and his authorised representatives with the power to inspect and test FSI, but a power not more than is necessary; and the purpose of the inspection and testing of a FSI by the Director and his authorised representatives is primarily for “the checking of its safety and the efficiency of its working order”, hence the formulation.

7. This notwithstanding, we note Members’ concern about flexibility of the Director’s power. We are also mindful of the

possibility that the presence of “for checking its safety and the efficiency of its working order” in regulation 7(4) but not regulation 7(3) may raise questions as to whether there is any difference in the scope and purpose of the inspection and testing performed by the Director and RFE(FSI) (where there should be none). One way to address these concerns and remove uncertainties is to delete “for checking its safety and the efficiency of its working order” from regulation 7(4). On this we welcome the Bills Committee’s views.

Expression of “fire service equipment” in regulation 10(1) of Cap. 95B

(Item (c) on the list of follow-up actions arising from the meeting on 20 December 2016)

8. The existing regulation 10(1) of Cap. 95B reads “[t]he Director may, by notice in the Gazette, prescribe a Code of Practice which shall govern the inspection and testing of **fire service equipment**”. We agree that “fire service equipment” should be amended to read “**fire service installation or equipment**”, to align it with the standardised references to the same object in Cap. 95B and to clear any possible ambiguity. This is also consistent with our approach in amending regulations 6 and 8 of Cap. 95B (please refer to paragraph 4 of the Annex to our reply of 19 December 2016 to the Assistant Legal Adviser (LC Paper No. CB(2)464/16-17(01))). Subject to Bills Committee’s comments, we will introduce a simple Committee Stage Amendment to that effect.

**Security Bureau
Fire Services Department
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