

立法會
Legislative Council

LC Paper No. CB(2)1056/18-19

(These minutes have been seen
by the Administration)

Ref : CB2/BC/1/18

Bills Committee on Fire Safety (Industrial Buildings) Bill

Minutes of meeting
held on Wednesday, 13 February 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Tony TSE Wai-chuen, BBS (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon WU Chi-wai, MH
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Jeremy TAM Man-ho

Member absent : Hon James TO Kun-sun

Public Officers attending : Item I

Mrs Apollonia LIU LEE Ho-kei, JP
Deputy Secretary for Security 2

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

Miss Venus TSOI Yuen-san
Assistant Secretary for Security B2

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

Mr LEE Koon-yau
Senior Divisional Officer (Support)
Fire Services Department

Mr Ken NG Kin-shing
Assistant Director / Mandatory Building Inspection
Buildings Department

Mr Joseph YU Kwok-hung
Chief Building Surveyor / Fire Safety
Buildings Department

Miss Elaine NG Pui-kei
Senior Government Counsel
Department of Justice

**Attendance
by invitation**

: Item I

Liberal Party

Mr Dan CHAN
Member

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr Edward YU
Convener of Building Management Group

Individual

Mr CHUNG Chi-fung

Business and Professionals Alliance for Hong Kong

Mr TAM Chun-yu
Community Officer

**Clerk in
attendance**

: Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Ms Gloria TSANG
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Meeting with deputations and the Administration

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

2. The Bills Committee received oral representations from four deputations/individual attending the meeting. They generally supported the legislative proposal to improve fire safety of target industrial buildings ("IBs"). The major views and concerns expressed by these deputations/individual are summarized as follows:

- (a) given the potential difficulties arising from spatial or technical constraints in conducting fire safety improvement works in target IBs, and those from coordinating such works amongst owners of IBs under multiple ownership, the Administration should, having regard to the operational experience of implementing the Fire Safety (Buildings) Ordinance (Cap. 572) ("FS(B)O"), adopt a flexible and pragmatic approach to accept alternative proposals, provided that fire safety was not compromised. The Administration was also requested to explain the meaning of "taking other appropriate measures" in clauses 7 and 12 of the Fire Safety (Industrial Buildings) Bill ("the Bill") and to provide a list of alternative proposals to facilitate owners or occupiers to carry out the relevant fire safety improvement works;
- (b) consideration should be given to introducing subsidy and a one-stop-platform to provide financial assistance and technical advice to owners or occupiers of target IBs as appropriate;

- (c) the Administration should clarify the liability of members of owners' corporations ("OCs") and employees of property management companies in relation to offences under clause 46 of the Bill, as well as the prosecution time limit for such offences; and
- (d) the passage of the Bill should not bring about any change to the fire safety requirements for mini-storages in IBs.

3. In response to the views and concerns of the attending deputations/individual, the Administration made the following remarks:

- (a) the Buildings Department ("BD") and the Fire Services Department ("FSD") would assign designated case officers to follow up on individual cases of target IBs and provide technical advice and assistance to owners and occupiers for compliance with the fire safety directions under the Bill. The departments would handle each case using a flexible and pragmatic approach. The departments would also allow reasonable time for compliance. Moreover, the departments would, after the passage of the Bill, publish relevant information regarding the new law on their respective departmental websites;
- (b) as a majority of the target IBs either had OCs formed or were under a single ownership, it was envisaged that the owners would face relatively less difficulty in coordinating the improvement works. For target IBs under multiple ownership without OCs, BD and FSD would refer those IBs to the Home Affairs Department for assisting the owners to set up OCs;
- (c) owners of target IBs might apply for the Building Safety Loan Scheme administered by BD for financial assistance to carry out fire safety improvement works required under the Bill. The Scheme offered loans up to a maximum of \$1 million per unit of accommodation to individual owners of private buildings for carrying out maintenance and repair works to improve the safety of their buildings, which was considered sufficient financial assistance to IB owners as the estimated cost of fire safety improvement works was around \$200,000 to \$300,000 per unit on average;

- (d) upon the enacted ordinance coming into force, FSD and BD would inspect each target IB to ascertain the condition of the IB concerned before issuing fire safety direction(s) to the owners and/or occupiers. Additional manpower resources for the departments might be sought according to the established mechanism if necessary;
- (e) the proposed offences under the Bill were similar to those in the Fire Safety (Commercial Premises) Ordinance (Cap. 502) and FS(B)O. For IBs with OC, the OC, which was a legal entity, would be held liable for non-compliance with the statutory fire safety requirements. For IBs without OC, the owners would be held responsible for conducting the fire safety improvement works. On prosecution, FSD and BD would take into account all relevant factors, including the efforts taken by the owners and/or occupiers concerned, when considering whether prosecution against non-compliance with fire safety directions should be instigated;
- (f) the current fire safety requirements for mini-storages had been drawn up having regard to the design, construction and operation of mini-storages, the firefighting and rescue operational experience of FSD, as well as international and local standards. By and large, the fire safety requirements currently imposed on mini-storages would not be in conflict with the proposed fire safety requirements under the Bill. For example, the requirement to allow sufficient headroom clearance in mini-storages, which is a measure for facilitating firefighting and ventilation, could enable the installation of an automatic sprinkler system at the ceiling of these premises as required under the Bill; and
- (g) the fire safety requirements applicable to an IB were stipulated in the codes of practice in force at the time of the submission of the relevant building plans. The codes of practice would be updated from time to time to keep pace with the modern-day standards.

4. In response to the views and concerns raised in the written submissions to the Bills Committee, the Administration advised that with regard to The Hong Kong Institution of Engineers' suggestion that the Administration should take the initiative in carrying out fire safety

improvement works at target IBs and recover the costs of such improvement works from the owners or occupiers concerned, the Administration considered the proposal not viable as there could be various feasible proposals and works arrangements for the fire safety improvement works. If the departments were to forcibly carry out the works, it could lead to unnecessary disputes or even litigation. As regards the submission from the Federation of Hong Kong Industries, the Administration made the following points:

- (a) in view of the potential structural and technical constraints in some of the target IBs, the Administration would offer technical assistance and would liaise with the owners or occupiers concerned about the feasibility of adopting alternative proposals;
- (b) FSD and BD had conducted a technical feasibility study, in which three old IBs of different ages and scales were selected for on-site inspection. The studies revealed that it was generally feasible for the target IBs to carry out the necessary fire safety improvement works. Nevertheless, due to physical constraints posed by existing building structure and actual circumstances, it was found to be difficult to provide firefighting and rescue stairways, refuge floors or staircase interchanges at the target IBs. As such, the Bill did not require such works to be carried out; and
- (c) the Administration would launch publicity activities to raise the public and stakeholders' awareness of the key features of the Bill upon its passage.

5. The Administration was requested to provide a consolidated written response to the issues raised by attending deputations/individual and those raised in the written submissions.

II. Any other business

6. Members agreed that the next meeting would be held on 18 March 2019 at 8:30 am to continue discussion with the Administration.

7. There being no other business, the meeting ended at 4:23 pm.

Council Business Division 2
Legislative Council Secretariat
21 March 2019

**Proceedings of meeting of the
Bills Committee on Fire Safety (Industrial Buildings) Bill
held on Wednesday, 13 February 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000659 - 001354	Chairman Mr SHIU Ka-fai	Opening remarks	
001355 - 001648	Chairman Mr Dan CHAN, Liberal Party	Presentation of views	
001649 - 002009	Chairman Mr Edward YU, Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
002010 - 002109	Chairman Mr CHUNG Chi-fung	Presentation of views	
002110 - 002444	Chairman Mr TAM Chun-yu, Business and Professionals Alliance for Hong Kong	Presentation of views	
002445 - 004237	Chairman Admin	Administration's response to the views and concerns of the attending deputations/individual.	
004238 - 005350	Chairman Admin	Administration's response to the written submissions from the Federation of Hong Kong Industries (LC Paper No. CB(2)770/18-19(01)) and The Hong Kong Institution of Engineers (LC Paper No. CB(2)770/18-19(02)).	
005351 - 005738	Chairman Mr WU Chi-wai Admin	Mr WU Chi-wai's enquiry and the Administration's response regarding the provision of fire service installations and equipment ("FSIs") in target industrial buildings ("IBs"). The Administrative advised that, as a fire service water tank was a necessary component for providing water supply for the fire hydrant and hose reel system ("FH/HR"), and the majority of the target IBs had FH/HR installed, such IBs should have been equipped with fire service water tanks. The Administration hence considered it technically feasible and cost effective to require the target IBs to install the automatic sprinkler systems.	

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		Referring to the written submission from the Federation of Hong Kong Industries (LC Paper No. CB(2)770/18-19(01)), Mr WU Chi-wai asked whether fire service water tank made of fiberglass would be acceptable for the purpose of the Bill. The Administration said that target IBs should provide or improve FSIs , including fire service water tanks, in accordance with the fire safety directions ("FSDns") issued by the Enforcement Authorities ("EAs"). In line with the enforcement of the Fire Safety (Buildings) Ordinance (Cap. 572) ("FS(B)O"), fire service water tanks made of fiberglass would generally be acceptable provided that other relevant requirements were met.	
005739 - 010717	Chairman Mr Jeremy TAM Admin	<p>While expressing support for the legislative proposal to improve fire safety of old IBs, Mr Jeremy TAM was concerned about the communication between the Buildings Department ("BD") and the Fire Services Department ("FSD") in implementing the enacted ordinance.</p> <p>In response, the Administration assured members that BD and FSD would maintain close co-operation and communication in respect of enforcement of the Bill upon its enactment. The Administration stressed that if target IBs were subject to structural, spatial and technical constraints, the designated case officers assigned by the EAs would adopt a flexible and pragmatic approach in handling the cases.</p>	
010718 - 011430	Chairman Admin	Administration's response to issues raised at the meeting on 14 January 2019 (LC Paper No. CB(2)770/18-19(04)).	
011431 - 011628	Chairman Admin	<p>Commencement of clause-by-clause examination of the Bill.</p> <p>Examination of the long title and clause 1 of the Bill.</p>	
011629 - 012340	Admin Chairman ALA1	<p>Examination of clause 2 of the Bill.</p> <p>In response to the Chairman's enquiry, the Administration advised that a person occupying an IB or part of it illegally would not fall within the meaning of "occupier" under the Bill.</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
012341 - 013247	Chairman Admin Mr Jeremy TAM	<p>Examination of clause 3 of the Bill.</p> <p>In response to the Chairman's enquiry regarding the classification of "industrial building" in clause 3(2), the Administration said that BD would normally classify a building as an "industrial building" according to the information on the occupation permit.</p> <p>In response to Mr Jeremy TAM's concern over the applicability of the Bill to partially converted IBs, the Administration advised that under clause 3(2)(a) of the Bill, a building was an target IB under the Bill if all or part of the building was constructed for use as a factory, industrial undertaking, godown, warehouse, place of bulk storage, or similar industrial premises. In other words, the Bill would be applicable to an IB even if part of it had been converted for carrying out non-industrial activities. When the lower floors of an IB were converted to non-industrial use, the fire safety of such floors should have been improved to the standard prevailing at the time of the conversion. Therefore, if the fire safety standard of such lower floors had met the modern-day requirements, no further improvement works would be required under the Bill.</p>	
013248 - 014936	Chairman Admin Mr Jeremy TAM	<p>Examination of clause 4 of the Bill.</p> <p>Mr Jeremy TAM asked, in the scenario where the owner of an unoccupied IB provided inaccurate information by saying that the IB was occupied illegally or it had been leased to an occupier who was uncooperative such that the owner was unable to carry out fire safety improvement works, whether the owner concerned could evade the liability under clause 4.</p> <p>The Administration advised that EAs would issue FSDns to owners and occupiers of IBs only. The owners and occupiers concerned were required to comply with the requirements within the specified time limit. The EAs' operational experience in enforcing the Fire Safety (Commercial Premises) Ordinance (Cap. 502) and FS(B)O also revealed that illegal occupation of a building or part of a building was not common.</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		The Administration further advised that under clause 37 of the Bill, on application by an EA, a magistrate might issue a warrant to authorize an authorized officer to, among others, enter an IB or part, if the building or part was unoccupied, the owners or occupiers could not be contacted or admission to the building or part had been refused.	
014937 - 015611	Chairman Admin	<p>Examination of clause 5 of the Bill.</p> <p>In response to the Chairman's concern regarding the assistance provided to individual owners of an IB under multiple ownership, the Administration said that FSD and BD would assign designated case officers to follow up on cases of individual IBs and provide technical advice and assistance to owners and occupiers for compliance with the fire safety requirements under the Bill. In addition, FSD and BD would refer those target IBs without owners' corporations ("OCs") to the Home Affairs Department for assistance in forming OCs. The Administration stressed that a majority of the target IBs was either under single ownership or had formed OCs, which would facilitate coordination amongst owners in carrying out the fire safety improvement works.</p>	
015612 - 015747	Chairman Mr Jeremy TAM	Date of next meetings.	