

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1633/18-19

(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 Tuesday, 2 April 2019, at 10:45 am**  
**in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Tony TSE Wai-chuen, BBS (Chairman)  
Hon James TO Kun-sun  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon WU Chi-wai, MH  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon Jeremy TAM Man-ho

**Member absent** : Ir Dr Hon LO Wai-kwok, SBS, MH, JP

**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 (Headquarters)  
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

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Miss Joyce CHAN  
Assistant Legal Adviser 1

Ms Gloria TSANG  
Senior Council Secretary (2) 7

Miss Lulu YEUNG  
Clerical Assistant (2) 1

---

## **I. Meeting with the Administration**

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

2. The Bills Committee requested the Administration to:

- (a) provide the number of mini-storages located in the targeted industrial buildings proposed to be regulated under the Bill;
- (b) review the drafting of clauses 24(1)(b) and 24(2) of the Bill;

- (c) clarify whether the fine proposed under clause 24(4) was a fixed penalty; and
- (d) provide a comparison regarding the power of an authorized officer to enter and inspect a building or a part of a building without warrant proposed under clause 36 of the Bill and similar existing powers exercised by officers of the Fire Services Department and the Buildings Department respectively in other enforcement actions.

## **II. Any other business**

- 3. Members agreed that the next meeting would be held on 6 May 2019 at 10:45 am to continue discussion with the Administration.
- 4. There being no other business, the meeting ended at 12:43 pm.

Council Business Division 2  
Legislative Council Secretariat  
10 June 2019

**Proceedings of meeting of the  
Bills Committee on Fire Safety (Industrial Buildings) Bill  
held on Tuesday, 2 April 2019, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000528 - 000657	Chairman	Opening remarks	
000658 - 001922	Chairman Admin	<p>Administration's response to issues raised at the meeting on 18 March 2019 (LC Paper No. CB(2)1129/18-19(02)).</p> <p>The Chairman asked about the respective duties of the two advisory committees set up by the Fire Services Department ("FSD") and the Buildings Department ("BD") under clause 12 of the Bill.</p> <p>The Administration advised that issues related to the requirements of the provision of fire service installations or equipment as set out in paragraph 1 of Schedule 1 to the Bill would be under the purview of FSD's advisory committee, while those related to the requirements of fire safety construction as listed out in paragraph 2 of Schedule 1 would be under the purview of BD's advisory committee. The Administration added that both advisory committees comprised an officer from the other department to facilitate the discussion of cases and coordination between FSD and BD.</p>	
001923 - 003759	Chairman Mr Jeremy TAM Mr James TO Admin	<p>Administration's response to the submission from Self Storage Association Asia (LC Paper No. CB(2)1140/18-19(01)).</p> <p>Administration's response to the concern raised by Mr Jeremy TAM and Mr James TO regarding FSD's requirements for mini-storages to maintain a distance of not less than 1 metre between the top of storage cubicles and the ceiling ("the 1-metre headroom clearance").</p> <p>The Administration added that over 110 mini-storages had fully complied with the relevant fire safety requirements imposed by FSD, demonstrating that the requirements were feasible and practicable.</p> <p>Mr TAM suggested that the Administration should elaborate how the 1-metre headroom clearance was</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>measured in the relevant guidelines for mini-storage operators. The Administration assured members that it would continue to communicate with mini-storage operators to assist them in complying with the fire hazard abatement notices.</p> <p>Mr TO requested the Administration to provide the number of mini-storages located in the targeted industrial buildings ("IBs) to be regulated under the Bill.</p>	<b>Admin</b>
003800 - 003930	Chairman Admin	Examination of clause 23 of the Bill.	
003931 - 011036	Chairman Admin Mr Jeremy TAM ALA1	<p>Examination of clause 24 of the Bill.</p> <p><u>Clause 24(1)(b)</u></p> <p>As the making of prohibition order ("PO") for a part of a building would affect other units of the targeted IBs, Mr Jeremy TAM considered that the copy of PO should be served on both the owner and occupier, instead of serving either on the owner or occupier concerned under clause 24(1)(b).</p> <p>The Chairman considered that an IB owner should also be notified if a copy of PO was served on the IB occupier concerned.</p> <p>As opposed to clause 24(1)(b), ALA1 pointed out that under clause 19(4), both the owner and occupier of the building or part must take all practicable measures to ensure the building or part was effectively secured against entry when a PO was in force. The Administration was asked to clarify whether there was any inconsistency between clause 19(4) and clause 24(1)(b) of the Bill.</p> <p>The Administration responded that:</p> <p>(a) Schedules 1 and 2 to the Bill set out the requirements to be complied with by owners and occupiers respectively. A fire safety direction ("FSDn") would be issued to, or a fire safety compliance order ("FSCO") be made against, an owner or an occupier with the requirements as per Schedules 1 or 2 respectively. As the making of a PO would be stemmed from non-compliance with an FSDn or an FSCO,</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>whether a PO would be served to the owner or occupier under clause 24(1)(b) would depend on whether the relevant FSDn or FSCO was issued to the owner or occupier; and</p> <p>(b) the arrangement stipulated in clause 24(1)(a) that a copy of PO should be posted at a conspicuous place of the building or part would enable the parties concerned (on top of the owner or occupier concerned) to be notified of the PO made by the District Court.</p> <p>Mr TAM expressed concern that an IB owner might be unaware of a PO despite it had been posted at a conspicuous place inside the IB concerned. The Administration should consider reviewing the arrangement.</p> <p>Referring to the Administration's response (LC Paper No. CB(2)770/18-19(05)) to ALA1's letter (LC Paper No. CB(2)583/18-19(01)) regarding whether specific references to clauses 48 and 49, which prescribed the proposed methods of service of documents, should be made in clause 24(1)(b) to reflect the intended legal effect, ALA1 requested the Administration to further explain whether clause 24(1)(b) was intended to be read together with clauses 48 and 49.</p> <p>The Administration responded that:</p> <p>(a) clauses 48 and 49 were the general provisions for the service of all types of documents served or given by enforcement authorities ("EAs"), such as clause 5(1) and clause 9 of the Bill; and</p> <p>(b) as a copy of PO under clause 24(1)(b) was a document to be served by EAs, the means of service of documents provided under clauses 48 and 49 were applicable, which included posting at a conspicuous place inside the building or part (see clause 48(d) and clause 49(1)(d) and (2)(d)). The reference to "in another way" in clause 24(1)(b), when read together with clause 24(1)(a), meant a way to serve a copy of PO other than those stipulated under clause 24(1)(a) as well as clause 48(d) and clause 49(1)(d) and (2)(d).</p> <p>The Chairman and Mr Jeremy TAM expressed concern as to whether the phrase "in another way</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>serve a copy of the order" in clause 24(1)(b) could clearly reflect the intended effect. ALA1 asked whether consideration would be given to reviewing the drafting.</p> <p><u>Clause 24(2)</u></p> <p>The Chairman expressed concern as to whether the effect of the clause was that EAs did not need to comply with clause 24(1) since failure to comply would not affect the validity of PO.</p> <p>The Administration stressed that EAs must comply with clause 24(1) to serve the PO made by the District Court. However, clause 24(2) intended to provide that, if EAs were unable to comply with clause 24(1) immediately after a PO was made, the validity of PO would not be affected.</p> <p>The Administration agreed to review the drafting of clause 24(1)(b) and clause 24(2).</p> <p><u>Clause 24(4)</u></p> <p>Mr Jeremy TAM enquired whether the fine level proposed under clause 24(4) was a fixed or maximum penalty. The Administration responded that the proposed fine level was the maximum penalty that the court could impose, and added that similar provisions also existed in the Fire Safety (Buildings) Ordinance (Cap. 572) ("FS(B)O") and the Fire Safety (Commercial Premises) Ordinance (Cap. 502).</p>	<b>Admin</b>
011037 - 011355	Chairman Admin	Examination of clauses 25 to 28 of the Bill.	
011356 - 011945	Chairman Admin Mr Jeremy TAM	<p>Examination of clauses 29 and 30 of the Bill.</p> <p>In response to Mr Jeremy TAM's enquiry regarding the registration of an FSCO and PO in the Land Registry, the Administration advised that the registration was initiated by EAs. Under clause 30(3), EAs were required to cause an instrument to be registered as soon as practicable within one month beginning on the date of the instrument. The Administration further advised that reference had been made to similar ordinances, such as FS(B)O, in setting the time limit of the registration.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
011946 - 012133	Chairman Admin	Examination of clauses 31 and 32 of the Bill.	
012134 - 012441	Chairman Admin Mr Jeremy TAM	Examination of clauses 33 to 35 of the Bill.  In response to Mr Jeremy TAM's enquiry regarding the appointment arrangement and number of authorized officers, the Administration advised that EAs would appoint a public officer in writing to be an authorized officer for the purposes of the Bill. Drawing from the experience of implementing FS(B)O, officers in the rank of Station Officer or above in FSD would likely be appointed as authorized officers for the purposes of the Bill to facilitate FSD's operational deployment and administrative arrangements.	
012442 - 012548	Chairman Admin	The Administration supplemented that pursuant to section 101F of the Criminal Procedure Ordinance (Cap. 221), the proposed fine level in clause 24(4) of the Bill was a maximum penalty. The Chairman requested the Administration to provide the advice in writing.	<b>Admin</b>
012549 - 020113	Chairman Admin ALA1 Mr Jeremy TAM	Examination of clauses 36 and 37 of the Bill.  Referring to the Administration's response (LC Paper No. CB(2)770/18-19(05)) to ALA1's letter (LC Paper No. CB(2) 583/18-19(01)) that a prior notice in writing would be given to the IB owner or occupier for initial inspection, ALA1 further asked about:  (a) under what circumstances an authorized officer might enter and inspect a building or a part of the building without warrant under clause 36 and without prior notice in writing being issued to the owner or occupier concerned;  (b) whether an authorized officer would exercise the power under clause 36 to enter an IB or its part which was being used for illegal domestic purposes, and if so, whether the exercise of such power would infringe upon the occupier's rights; and  (c) whether written notice would be given to the IB owner or occupier before each and every inspection pursuant to clause 36.	



Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>Mr Jeremy TAM expressed concern that an authorized officer might enter a building or part of a building without warrant under clause 36 and queried the need for such power. He also sought information on the Administration's exercise of similar power when enforcing other laws, for example, inspection of unauthorized buildings works ("UBWs") by BD.</p> <p>ALA1's advice regarding the meaning of "authorized officers" in the Bill.</p> <p>The Administration stressed that in practice, prior notice in writing for initial inspection of IBs would be given to owners or occupiers concerned to facilitate the inspection work. Given that there were some 1 100 targeted IBs with tens of thousands of units under the Bill, it would be operationally more effective to provide for such power under clause 36 so that an authorized officer could enter and inspect the building or part, in particular the common areas, during reasonable hours without warrant in order to perform a function under the Bill. Clause 36 should be read together with clause 37, under which a magistrate might, on application by EAs, issue a warrant for a building or a part of a building under special circumstances in clause 37(1)(b). The Administration added that similar provisions also existed in FS(B)O. Under the Fire Services Ordinance (Cap. 95) and the Dangerous Goods Ordinance (Cap. 295), authorized officers were also empowered to enter a building without warrant in certain circumstances. However, during the inspection of UBWs where the owner or occupier concerned did not permit entry into the building or part, BD officers were required to obtain a warrant from the magistrate under the Buildings Ordinance (Cap. 123) to enter and inspect a building or part, except in the case of emergency.</p> <p>The Administration stressed that authorized officers would not exercise the power under clause 36 to perform enforcement actions against illegal domestic premises. Any illegal domestic premises identified during inspection would be referred to relevant divisions under BD for follow-up.</p> <p>Mr TAM requested the Administration to provide a comparison regarding the power of an authorized officer to enter and inspect a building or a part of a</p>	<p><b>Admin</b></p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
		building without warrant proposed under clause 36 and similar existing powers exercised by officers of FSD and BD respectively in other enforcement actions.	
020114 - 020217	Chairman	Date of next meeting.	

Council Business Division 2  
Legislative Council Secretariat  
10 June 2019