

# **立法會**

## ***Legislative Council***

LC Paper No. CB(2)1810/18-19

(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 Monday, 6 May 2019, at 10:45 am**  
**in Conference Room 3 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  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon Jeremy TAM Man-ho

**Members absent** : Hon James TO Kun-sun  
Hon WU Chi-wai, MH

**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  
Acting Deputy Chief Fire Officer (Fire Safety)  
Fire Services Department

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

Mr Andy WONG Kin-yip  
Acting 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

Ms Kiwi NG  
Legislative Assistant (2) 1

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

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

2. The Bills Committee requested the Administration to provide the following information:

- (a) rationale behind clause 54 regarding the proposed power of the Secretary for Security ("S for S") to make regulations, and the possible types of regulation that S for S might make "for the better carrying into effect of the provisions and purposes of the Bill"; and

- (b) policy intent and rationale behind clauses 42, 58 and 59 in relation to the offence of disclosure of information obtained while performing a function under the Bill without lawful authority and exceptions to the offence, together with the scenarios and circumstances under which these clauses would be applicable.

## **II. Any other business**

3. The Chairman said that pending the Administration's provision of written response to the issues in paragraph 2 above, the Bills Committee had completed the clause-by-clause examination of the Bill. Members agreed that the Administration's response would be circulated for consideration. A further meeting with the Administration would be scheduled, if necessary, after the Administration's provision of its response to outstanding issues.

*(Post-meeting note: No comments were received from members regarding the Administration's response, which was circulated to members vide LC Paper No. CB(2)1628/18-19 on 10 June 2019. Members were informed vide LC Paper No. CB(2)1666/18-19 on 19 June 2019 that the Bills Committee had completed scrutiny of the Bill.)*

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

Council Business Division 2  
Legislative Council Secretariat  
16 July 2019

**Proceedings of meeting of the  
Bills Committee on Fire Safety (Industrial Buildings) Bill  
held on Monday, 6 May 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>
000504 - 000552	Chairman	Opening remarks	
000553 - 002136	Chairman Admin	<p>Administration's response to issues raised at the meeting on 2 April 2019 (LC Paper No. CB(2)1349/18-19(02)).</p> <p>The Chairman asked whether the date of service of a copy of the prohibition order ("PO") under the proposed new clause 22(2A)(b) should be the last of those dates if a copy of PO was served on the owner and occupier on different dates.</p> <p>The Administration said that under clause 22 of the Bill, it was proposed that the date on which a PO came into force might be, if the owner or occupier did not appeal against the order, on the 29<sup>th</sup> day after the date of service on the owner and occupier, or the District Court might order the PO to come into force on the date on which it was served on the owner and occupier concerned, or on a date within 28 days after the date of service. The proposed new clause 22(2A)(b) sought to better clarify as to what would be the date of service of a copy of PO when it was served on both the owner and occupier.</p>	
002137 - 002307	Chairman Admin	Examination of clauses 38 and 39 of the Bill.	
002308 - 002706	Admin Chairman	<p>Examination of clauses 40 and 41 of the Bill.</p> <p>In response to the Chairman's enquiry about circumstances where information could not be readily obtained by inspecting a public record under clause 40(b), the Administration cited the need to obtain information relating to the occupiers or tenants of a building or a part of a building on the spot during inspection.</p>	
002707 - 003435	Chairman Admin	Examination of clauses 42 to 47 of the Bill.	

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003436 - 010008	Admin Chairman ALA1	<p>Examination of clauses 48 to 51 of the Bill.</p> <p>The Chairman asked whether, in actual operation, a document under the Bill would be given or served by more than one means. ALA1 asked whether different means of service would be used concurrently.</p> <p>The Administration said that in the implementation of the Fire Safety (Buildings) Ordinance (Cap. 572) ("FS(B)O"), a document would normally be sent by registered post. If the document failed to reach the target recipient by registered post, another means of service would be used, e.g. delivery in person at the registered address of the target recipient or at the address of the building concerned. For service of statutory orders/notices under the Buildings Ordinance (Cap. 123) by the Buildings Department ("BD"), it would be done by way of registered post and posting at a conspicuous place inside the building or part concurrently.</p> <p>To ensure successful service of documents for the purposes of the Bill, a document might be served concurrently by both registered post and posting at a conspicuous place inside the building or part.</p> <p>ALA1 referred to clauses 22 and 50 and asked about the validity period of a PO and the date of giving or service of documents for the purposes of the Bill in the event that a copy of a PO was given or served by more than one means and such service was not effected on the same date. The Administration advised that if a copy of a PO was to be given or served by more than one means, it would be effected on the same date as far as practicable.</p> <p>ALA1 sought clarification as to firstly, whether the presumption that, where a copy of a PO was given or served by two means concurrently, the earlier date on which service was effected would be deemed as the date of service was provided anywhere specifically under the Bill. If such was not provided expressly, whether the giving or serving of a document by more than one means would create uncertainty where there was dispute as to the date of service of a copy of the PO in connection with the issue of the validity period of a PO. In addition, the Chairman enquired about the validity period of a PO if it was given or served by more than one means but was not effected on the same date.</p>	

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		The Administration responded that the earlier date on which service was effected would be regarded as the date on which a copy of PO was given or served. Furthermore, clause 51 sought to provide that where there was a certificate of giving or service of a document, it was presumed that the document to which the certificate related was duly given or served, unless there was evidence to the contrary.	
010009 - 010158	Chairman Admin	Examination of clauses 52 and 53 of the Bill.	
010159 - 011420	Chairman Admin ALA1	<p>Examination of clauses 54 and 55 of the Bill.</p> <p>Referring to the Administration's response (LC Paper No. CB(2)770/18-19(05)) to issues raised in her letter (LC Paper No. CB(2)583/18-19(01)) regarding the power of the Secretary for Security ("S for S") to make regulations, ALA1 further asked:</p> <p>(a) given the proposed provision appeared to give a wide power to S for S, whether clause 54 could be amended to specify the types of regulation which S for S might make, for the sake of clarity and certainty; and</p> <p>(b) whether reference had been drawn to any existing legislation in respect of the drafting of clause 54.</p> <p>The Chairman expressed concern about the scope of regulations to be made by S for S under clause 54 and whether such regulations would be subject to the scrutiny of the Legislative Council ("LegCo").</p> <p>The Administration advised that in drafting the Bill, reference had been made to both the Fire Safety (Commercial Premises) Ordinance (Cap. 502) ("FS(CP)O") and FS(B)O. As the Bill had already comprehensively set out the legal framework to require owners and occupiers of target industrial buildings ("IBs") to upgrade the fire safety standards of such buildings, and that clause 55 sought to provide for the amendment to Schedule 1 and 2 to the Bill, which was subject to the approval of LegCo, it was thus expected that S for S would rarely have to exercise his power under clause 54 to make regulations. The Administration stressed that such regulations, if ever made, would be introduced into LegCo for negative vetting.</p>	

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		The Administration was requested to provide the rationale behind clause 54 regarding the proposed power of S for S, and the possible regulations that S for S might make "for the better carrying into effect of the provisions and purposes of the Bill".	<b>Admin</b>
011421 - 011921	Chairman Admin ALA1	<p>Examination of clauses 56 and 57 of the Bill.</p> <p>ALA1 sought clarification regarding the rationale for including the amendment to section 4 of FS(CP)O in the Bill, which appeared to be a substantive amendment, instead of a textual amendment, to FS(CP)O. The Administration explained that the proposed amendment under clause 57 sought to clarify the existing policy intent of the application of FS(CP)O by rectifying a textual error in section 4(1)(a) of FS(CP)O.</p>	
011922 - 013506	Admin Chairman ALA1	<p>Examination of clauses 58 and 59 of the Bill.</p> <p>The Chairman expressed concern about the wide scope of power relating to disclosure of information resulting from the proposed amendments to FS(CP)O and FS(B)O under clauses 58 and 59. He asked whether information could only be disclosed by public officers.</p> <p>ALA1 pointed out that the effect of clauses 58 and 59 appeared to be that the scope of the exceptions to the offence under FS(CP)O and FS(B)O would be expanded. As Part 5 of the Bill (clauses 56 to 59) provided for minor amendments to other fire safety legislation, she asked about the policy intent behind clauses 58 and 59 and the rationale for including these amendments, which appeared to be substantive ones, in the Bill.</p> <p>The Administration advised that having regard to the experience in the implementation of FS(CP)O and FS(B)O, it was considered that the existing scope of the applicable exceptions to the offence under the two Ordinances was rather stringent. If the existing scope was to be applied under the Bill, it could compromise the enforcement efficiency or even the fire safety of the premises concerned, as it did not allow for information exchange within and amongst departments even for legitimate purposes. For example, when officers of the Fire Services Department or BD performed a function (such as processing a licensing application for a dangerous</p>	

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		<p>goods store, carrying out the mandatory building inspection, etc.) in IBs to be regulated under the Bill, they might need to obtain information relating to fire safety requirements applicable to IBs concerned under the Bill. Hence, to enable a smooth implementation of the Bill and necessary exchange of information amongst departments as well as within and between enforcement authorities, the Administration proposed an amended scope of circumstances where authorized officers might disclose information obtained officially under clause 42. To align the relevant provisions in FS(CP)O and FS(B)O with clause 42 in the Bill for better enforcement efficiency, the Administration considered it appropriate to include clauses 58 and 59 in the Bill.</p> <p>The Administration further advised that as stipulated in the long title, the Bill sought to, among others, amend specified exceptions to the offences of disclosing information obtained officially under FS(CP)O and FS(B)O.</p> <p>Regarding the Chairman's concern about the scope of circumstances where such information could be disclosed, the Administration stressed that information could only be disclosed in relation to performing a function, or for enabling or facilitating any thing or work to be done by any person, under the law of Hong Kong.</p> <p>The Administration was requested to provide a written response on the policy intent and rationale behind clauses 42(2)(c), 58(1) and 59(1) regarding the offence of disclosing information obtained while performing a function under the Bill without lawful authority and exceptions to the offence, together with the scenarios and circumstances under which these clauses would be applicable.</p>	<b>Admin</b>
013507 - 013955	Chairman Admin	Examination of Schedule 1, Schedule 2 and Explanatory Memorandum of the Bill	
013956 - 014649	Chairman Admin	Closing remarks	