

立法會
Legislative Council

LC Paper No. LS83/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 3 March 2000**

**Legal Service Division Report on
Entertainment Special Effects Bill**

Object of the Bill

To establish the Entertainment Special Effects Licensing Authority to regulate the supply, use, conveyance and storage of special effects materials for producing special effects in films, television and theatrical performance.

LegCo Brief Reference

2. ITBB(CR) 8/1/13(00) Pt. 18 issued by the Information Technology and Broadcasting Bureau dated 9 February 2000.

Date of First Reading

3. 23 February 2000.

Comments

4. The Bill proposes to set up the Entertainment Special Effects Licensing Authority. The Authority will be the Commissioner for Television and Entertainment Licensing, who will be responsible for the following -

- (a) licensing of special effects operators;
- (b) issuing permits for the discharge of special effects materials;
- (c) registration of pyrotechnic special effects materials;

- (d) regulating the supply, use, conveyance and storage of pyrotechnic special effects materials;
- (e) approval and issue of codes of practice; and
- (f) surveillance by means of inspections and checks to ensure compliance with the regulatory requirements.

5. Criminal offences are prescribed in this Bill. For example, any person who uses any special effects material without a special effects operator licence (Clause 5) or discharges any special effects materials without a discharge permit (Clause 10) will commit an offence. He is liable on a first conviction to a fine at level 6 and to imprisonment for 6 months; and on a subsequent conviction, to a fine of \$200,000 and to imprisonment for 12 months.

6. Clauses 33 - 46 of the Bill provide for the establishment of an Appeal Board to consider appeals against the decisions of the Authority and stipulate the appeal procedures. A person who is qualified for appointment as a District Judge shall be appointed as Chairman of the appeal board.

7. If enacted, this Bill shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice published in the Gazette.

Public Consultation

8. According to paragraph 25 of the LegCo brief, the Administration has consulted the Film Services Advisory Committee and the film and entertainment industry on the proposed regulatory regime. They are on the whole supportive of the proposal. Nonetheless, the Hong Kong Academy For Performing Arts has sent in a submission to the LegCo Secretariat dated 22 February 2000 stating that there should be separate regulations for producing special effects in live theatre. Further, the membership of the Appeal Board Panel and the composition of Appeal Board as prescribed in Schedules 1 and 2 to the Bill should be amended. A copy of the submission is at Annex.

Consultation with the LegCo Panel

9. The Administration submitted a paper on the proposed regulatory regime to the Information Technology and Broadcasting Panel on 8 November 1999. Members raised several concerns such as the assessment of the professional competence of applicants for a special effects operator licence. (Please refer to the minutes of the meeting (Ref. No. CB(1)517/99-00)). On 14 February 2000, the Administration gave a briefing on the Bill to the Panel. Members raised other

concerns including the level of fees to be charged under this regime and the time to be taken for approving an application of a licence or a permit.

Conclusion

10. During the 2 Panel meetings on the discussion of this Bill, Members had expressed several concerns. The LegCo Secretariat has received submission from a delegation requesting a review of this Bill. It is recommended that a Bills Committee be set up to scrutinize the Bill in detail. Meanwhile, the Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill.

Encl.

Prepared by

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28 February 2000

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March 8, 2000

Legco Secretariat
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Chater Road, Hong Kong

Dear Sir/Ms.,

Re: Entertainment Special Effects Bill

I refer to the captioned bill which was gazetted on February 11, 2000. The following matters may be of interest to legislators considering the Bill at committee stage, and I request that this letter be forwarded to the relevant Honourable Members, please.

The main thrust of the bill is to regularize the use of pyrotechnics in the entertainment industry, with particular focus on film production. The consolidation of the various types of storage, transport and discharge licences and permits under one Authority is a welcome improvement over the previous licensing procedures which involved considerable duplication of effort in applying to various Government departments for up to 6 different types of permit.

However, pyrotechnics are not only used in film and television production, but are also used in live theatre for which, according to international best practice, there should be separate regulations, codes of conduct and a different class of operators' licence prescribing access to a narrower range of SFX materials. Honorable Members will appreciate that there is a considerable difference in techniques, materials and safety considerations between detonating an explosion on a deserted hillside, and discharging pyrotechnics on an indoor stage within metres of a close-seated audience.

While the Bill seems to be worded generally enough to provide the Authority scope to create various classes of licences and regulations to cover a variety of circumstances, the bias of the Bill towards the film industry to the exclusion of others is clear in the Schedules which set out the composition and membership of the Appeals Board Panel.

Schedule 1 to the Bill prescribes that, apart from the necessary engineering expertise, the Appeals Board Panel shall comprise:

- “(b) not more than 6 licensed special effects operators or persons who are experienced in the use of special effects materials; and
- (c) not more than 3 persons who are executive producers in film or television production, and
- (d) not more than 3 persons nominated by the Hong Kong Film Directors' Guild.”

There is no specific requirement that the licensed operators should include some who are experienced in the use of pyrotechnics in live theatre, and the absence of representation from theatrical producers and venue managers will produce a panel that is less than adequately equipped to consider appeals arising in the context of theatrical performances.

I respectfully request that Schedules 1 and 2 be amended, please, to include appropriate representation from the theatre industry. The following alternative definitions are proposed for Honourable Members' consideration (amendments underlined):

SCHEDULE 1

(b) not more than 6 licensed special effects operators or persons who are experienced in the use of special effects materials, of whom not more than 2 shall be nominated by the Hong Kong Association of Theatre Technicians and Scenographers; and

(c) not more than 2 persons who are executive producers in film or television production, and

(d) not more than 2 persons who are executive producers in stage production, and

(e) not more than 2 persons nominated by the Hong Kong Film Directors' Guild, and

(f) not more than 2 persons nominated by the Hong Kong Arts Administrators' Association.

SCHEDULE 2

An Appeal Board shall consist of –

(a) the Chairman; and

(b) 4 persons who are members of the panel, of whom -

(i) one shall be a licensed special effects operator or a person experienced in the use of special effects materials in the discipline under appeal; and

(ii) 2 shall be from amongst the nominees of The Hong Kong Institution of Engineers; and

(iii) one shall be an executive producer in film or stage or television production, or from amongst the nominees of the Hong Kong Film Directors' Guild, or from amongst the nominees of the Hong Kong Arts Administrators' Association as appropriate and relevant to the discipline under appeal.

Yours sincerely

Philip Soden
ASSOCIATE DIRECTOR (OPERATIONS)

cc. Secretary for Information Technology and Broadcasting
Commissioner for Television and Entertainment Licensing
Principle Assistant Secretary (Culture), Home Affairs Bureau
Deputy Director (Culture), Leisure and Cultural Services Department
Chairman, Hong Kong Arts Administrators' Association
Chairman, Hong Kong Association of Theatre Technicians and Scenographers

