

《消防安全(建築物)條例草案》

政府就議員在二零零二年五月十五日條例草案委員會會議上
所提事項的回應

(a) 在條例草案訂明，條例草案的生效日期會由立法會決議通過

我們充分明白，議員認為條例草案獲通過後，應待時機成熟和所需準備工作辦妥後，才於適當的時間正式生效。議員並特別指出，在指定生效日期前，政府應先修訂《建築物管理條例》(第 344 章)，賦權業主立案法團向樓宇安全貸款基金貸款，以墊付應由失蹤或不負責任的擁有人承擔的費用。

2. 我們同意議員的意見。政府會考慮涉及條例草案的實施的一切有關情況，從而建議一個適當的生效日期。我們特地確認，我們並無計劃在完成《建築物管理條例》所需的修訂前，提出要把使條例草案付諸實行。

3. 就程序而言，我們承諾會在考慮所有有關情況並決定生效日期後，擬備一份文件，臚列我們的意見和建議，供立法會保安事務委員會考慮。此舉讓政府可聽取議員的意見，並在需要時修訂建議。視乎諮詢結果，保安局局長可藉憲報公告條例草案的生效日期。

4. 生效日期公告是附屬法例的一種，因此須得到立法會同意。雖然之前當局已諮詢保安事務委員會，但如議員認為仍有需要，立法會也可成立小組委員會，研究條例草案的生效日期公告。《延展審議期限(立法會)條例》在二零零二年五月獲通過後，附屬法例的審議期限已延展，可長達至 49 日(或 49 日後的首次會議)。因此，議員有充足時間考慮生效日期和與政府進行商討。在考慮議員的意見後，政府會研究是否需要修訂生效日期公告。如議員認為有需要，也可自行藉決議通過修訂生效日期公告，以指定另一個生效日期。

5. 總括而言，現有條例草案的生效條文，是根據立法會以往多年審議和通過的條例草案沿用的生效條文而訂定的。現在已有充足的法律和政策保障，確保生效日期以立法會的意見為依歸。最重要的是，我們一直致力與立法會緊密合作，並會在徹底徵詢議員意見後才決定生效日期。在恢復二讀辯論時，保安局局長會樂意回應議員對條例草案

生效日期的關注，並會重申上述保證。就此，我們認為無需修訂第 1(2)條。

- (b) 在條例草案清楚訂明第 5(10)條所指的委員會為常務委員會，並會獲賦權考慮執行當局轉介的問題個案，以及審議受影響的擁有人／佔用人的書面和口頭申述。另考慮是否需要在條例草案訂明委員會的成員組合。
- (c) 刪除條例草案第 17 條所載的“或該等建築物的某部分”。
- (d) 修訂條例草案第 13(3)條，讓法院可在其認為適當的情況下撤銷禁止令。
- (e) 在條例草案訂明，獲授權人員如擬進入建築物的私人住宅單位，必須事先給予 24 小時書面通知。
- (f) 就業主立案法團而言，考慮刪除條例草案第 19(1)(b)條所載的“或是可歸因於該法人團體的董事或關涉管理該法人團體的其他人本身的疏忽的”。

6. 我們同意按照議員的以上的建議，修訂條例草案。委員會審議階段修正案的最新草擬修訂表載於附件。(該表亦包括就條例草案及原表的部份條文，在草擬上的輕微改善修訂。)鑑於根據第 5 條成立的委員會屬諮詢性質，我們認為不宜在條例草案制定其成員組合。

保安局

二零零一年五月

DRAFT

FIRE SAFETY (BUILDING) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
5(1) and (2)	By deleting “技術和工藝” and substituting “科技” .
5(4)	By deleting “or part of a building” .
5(9)	(a) By deleting “of the building or part of a building” where it first appears. (b) In paragraph (a), by deleting “該建築物或該” and substituting “有關的建築物或建築物的” . (c) In paragraph (b), by deleting “技術和工藝” and substituting “科技” .
5(10)	(a) By deleting “may establish a committee” and substituting “shall establish a committee (referred to in this section as “advisory committee”)” . By deleting “技術和工藝” and substituting “科技” .

5

By adding –

“(11) The advisory committee shall only give advice in respect of a case referred to it by the relevant enforcement authority.

(12) Before giving advice on any case under subsection (11), the advisory committee may receive representations from an owner of a building to whom the case is related.

(13) Where advice has been given by the advisory committee under subsection (11), the relevant enforcement authority shall take into consideration such advice before determining under subsection (1) or (2) what, if any, measures in place of any of the requirements in Schedule 1 or 2, as the case may be, would be appropriate.” .

6(1)

By deleting “或某綜合用途建築物的某部分” .

7

By adding -

“(4A) As soon as practicable after a notice is given under subsection (4), the relevant enforcement authority must post a copy of such notice upon a conspicuous place of the relevant building or part of a building.” .

8(1)(b) By deleting every thing after “that” and substituting “the relevant building or part of a building is effectively secured against entry by any person other than an authorized officer or a person having a permission under paragraph (a)(ii).” .

9 (a) By renumbering the clause as clause 9(1).

(b) In subclause (1), by adding “(a) (i)” after “8(1)” .

(c) By adding -

“(2) A person who, without reasonable excuse, contravenes section 8(1)(b) is guilty of an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.” .

12(1) By deleting “thereof” and substituting “concerned” .

12(6) By deleting “of the building or part of a building” .

13(3) By deleting everything after “Court” and substituting “may make any order as it thinks fit.” .

14 In the heading, by deleting "notice of" .

16 By adding -

"(2A) An authorized officer must not enter under subsection (1) or (2) any part of a building -

(a) intended for domestic purpose;
and

(b) in respect of which the occupier of that part of the building has an exclusive right of use and enjoyment,

Unless no less than 24 hours' notice in writing of an intended entry by such officer has been given to that occupier." .

17(1) By deleting "or part of such a building" .

19(1) (a) By adding "other than a corporation registered under section 8 of the Building Management Ordinance (Cap. 344) " after "corporate" .

19 By adding –

" (1A) If a corporation registered under section 8 of the Building Management Ordinance

(Cap. 344) is convicted of an offence under this Ordinance, and it is proved that the offence was committed with the consent or connivance of a person concerned in the management of the corporation, that person also commits the offence.” .

Schedule 1, By adding “, up to the standard for fireman’s lifts” after
Section 2(b) (i) “lifts” .