

LEGISLATIVE COUNCIL BRIEF

FIRE SAFETY (BUILDINGS) BILL

INTRODUCTION

At the meeting of the Executive Council on 21 November 2000, the Council ADVISED and the Chief Executive ORDERED that the Fire Safety (Buildings) Bill (“the Bill”), at **Annex A**, should be introduced into the Legislative Council, to upgrade the statutory fire safety standards in certain composite and domestic buildings.

Annex A

BACKGROUND AND ARGUMENT

General Background

2. The Administration is committed to improving fire safety in old buildings by introducing legislation to mandate the minimum standards required of building owners. We introduced the Fire Safety (Commercial Premises) Ordinance and its Amendment Ordinance in 1997 and 1998 respectively to require the upgrading of fire safety measures in prescribed commercial premises (i.e. banks, supermarkets, off-course betting centres, jewellery or goldsmith shops, department stores and shopping arcades) and specified (i.e. pre-1987) commercial buildings to modern standards.

3. Our next priority is composite and domestic buildings. This follows upon the findings of a territory-wide buildings survey conducted by the Fire Services Department (FSD) in early 1998. The survey found that, while the fire safety provisions of many old private buildings were not up to current standards, the fire safety condition in composite (commercial/domestic) buildings, among the different types of private buildings, was the most unsatisfactory. Only 11% of these buildings were found satisfactory. The result was generally in line with a sample survey by the Buildings Department (BD), which found that 80% of the composite buildings had serious deficiencies in exit routes. As a general indication, the

fire safety construction and fire service installations (FSIs) in old buildings, i.e. the pre-1987 buildings, do not meet present day standards.

Annex B

4. Following a public consultation exercise on a package of measures to improve fire safety in private buildings conducted in 1998, Members were informed on 7 October 1998 of the Administration's plan to formulate detailed legislative proposals along the lines of those contained in the consultation document and having regard to the views collected. A copy of the Legislative Council Brief is at **Annex B**. This led to the passage of the Building Management (Amendment) Bill 2000 into law in August 2000 as a first step. Separately, the Bill was drafted for the purpose of upgrading fire safety standards of old buildings.

The Proposal

5. Given the very unsatisfactory fire safety condition in composite buildings and in view of the high fire load and heavy traffic of people in the non-domestic (primarily commercial) parts of composite buildings, we propose new legislation to upgrade the minimum fire safety standards of pre-1987 composite buildings in the first instance, followed by pre-1987 domestic buildings. We propose to tackle composite and domestic buildings under one Bill, albeit in different phases.

The Need for New Legislation

6. The principal legislation providing for fire safety standards in buildings are the Buildings Ordinance and the Fire Services Ordinance. Owners and occupiers are required to maintain buildings' fire safety construction and FSIs in accordance with the standards prescribed in the building plans approved by the authorities before the construction of the buildings. The Director of Buildings and the Director of Fire Services are empowered to take the necessary actions, including prosecution, against those who fail to upkeep the fire safety measures. For example, the Director of Fire Services may issue a Fire Hazard Abatement Notice against any unauthorised removal of FSIs specified in the building plans. The Director of Buildings may require owners and occupiers to remove unauthorised building works and reinstate the fire safety construction.

7. Over time, however, fire safety standards have advanced to higher standards for the better protection of the public. But the above Ordinances could only impose the improved standards upon new buildings

when the relevant building plans are submitted for approval. For old private buildings, new legislation and enabling powers are required to impose improved or additional fire safety measures which were not originally included in the approved building plans. It was on this premise that the Fire Safety (Commercial Premises) Ordinance was enacted in 1997 to improve fire safety standards in old commercial buildings and premises.

Phases and Scope of Implementation

8. As a priority, the Administration will undertake a ten-year programme comprising two phases to require owners or occupiers of composite buildings to upgrade FSIs and the fire safety construction in their buildings. In the first six years, we would deal with about 5,000 pre-1973 private buildings. The installation of sprinkler systems was not made a mandatory requirement for these buildings. In the remaining four years, we would cover some 4,000 private buildings built between 1973 and 1987. In 1987, the Code of Practice on Minimum Fire Service Installations and Equipment was substantially revised, and buildings designed to the standards laid down in this 1987 Code of Practice would have been fitted with modern FSIs that are very close to, if not the same as, current standards.

9. Upon completion of the improvement programme for composite buildings, we may deal with about 3,000 pre-1987 domestic buildings (above three storeys), with priority given to the pre-1973 buildings and making reference to similar fire safety requirements for the domestic parts of composite buildings.

10. The new legislation will also apply to buildings sold by the Housing Authority under the Home Ownership Scheme or the Tenants Purchase Scheme (TPS). As agreed with the Housing Department, the legislation and upgraded fire safety standards will also apply to public rental housing (PRH) blocks.

Minimum Requirements to Raise Fire Safety Standards

11. The new fire safety standards for the non-domestic or commercial parts of composite buildings are modelled on those stipulated under the Fire Safety (Commercial Premises) Ordinance. These include the installation of sprinkler systems to contain the spread of fire, and improvements to fire safety construction in buildings, such as protection of exit routes and fireman's access, and prevention of spread of fire between compartments of different

uses or adjoining buildings. However, in order to minimize the financial impact on the owners, we have excluded from the Bill certain requirements originally proposed in the 1998 consultation document, such as fire resisting separation between the commercial and domestic portions, which is a unique feature of composite buildings. The proposed fire safety measures for non-domestic parts are at **Annex C**.

Annex C

12. For the domestic parts of composite buildings and for domestic buildings generally, taking into account the lower fire load and fire risks normally associated with residential purposes, we require the provision of only the most essential items such as fire hydrant/hose reel systems to offer the occupants or fire-fighters a ready means of tackling an outbreak of fire. We have therefore reduced the scope of fire safety measures as compared to those proposed in the 1998 consultation document. For example, we do not insist on the provision of smoke lobbies. Furthermore, only those doors nearest to the staircase would be required to meet the current standards of fire doors. The proposed fire safety measures for domestic parts/buildings are at **Annex D**.

Annex D

Enforcement Mechanism

13. In line with the arrangements under the Fire Safety (Commercial Premises) Ordinance, the enforcement authorities (i.e. FSD and BD) will be empowered to issue directions to require owners or occupiers of composite buildings and domestic buildings to improve the fire safety measures of their buildings to the required standards. A direction will specify a reasonable period of time within which the direction must be complied with. The authorities may apply to a magistrate court for a compliance order directing an owner or occupier to comply with the requirements in a direction, if the latter fails to do so without a reasonable excuse. If an owner or occupier fails to comply with a direction or a compliance order, the authorities may apply to the District Court for a prohibition order prohibiting the occupation of the relevant building or part of the building. Failure to comply with the requirements specified in a direction or compliance order shall be an offence punishable by a fine, whilst failure to comply with a prohibition order shall be punishable by a fine and by imprisonment.

14. We have reviewed the enforcement mechanism currently adopted under the Fire Safety (Commercial Premises) Ordinance and are satisfied that the same mechanism, if applied to the Bill, would provide an effective legal framework to facilitate the upgrading of fire safety standards in old composite and domestic buildings. The departments will continue to undertake a flexible

and pragmatic approach in handling cases where owners encounter practical difficulties in complying with the fire safety standards. To ensure fair and impartial consideration of any alternative fire safety measures which may be proposed by the owners themselves, we propose the setting up of independent advisory bodies whom the Director of Fire Services and the Director of Buildings may consult. Membership of such bodies would include professionals from the building industry, representatives of institutions and academics.

15. Under the original proposal promulgated in the context of the 1998 public consultation, a prohibition order would be applicable to the non-domestic parts of a composite building only, but not to the domestic parts thereof or to domestic buildings. Such a proposal was modelled upon existing arrangements under the Fire Safety (Commercial Premises) Ordinance. However, the Department of Justice has advised that the differential treatment is not based on reasonable and objective criteria and is inconsistent with the guarantee of equality before and equal protection of the law under Article 22 of the Hong Kong Bill of Rights Ordinance. Therefore, prohibition orders are now also proposed for the domestic parts of composite buildings and domestic buildings. Notwithstanding the availability of this power, the enforcement authorities will exercise prudent discretion before applying to the court for a prohibition order, and the court would be unlikely to issue such an order unless it had been proved to be reasonable and necessary in the circumstances.

Use of Market Forces

16. To optimise the use of market forces to help achieve the objective of improving fire safety in old private buildings, the enforcement authorities will be empowered to register in the Land Registry a compliance order or a prohibition order issued by the court against a building or such parts of it to which the order relates. Such registration would make the fact of potential liability known to any prospective property buyers who may be interested to do a land search. It would thus help to provide an incentive for a building owner to comply with the outstanding court order so as to maintain the value of his property.

Financial Assistance

17. To help alleviate possible cash flow problems that some building owners may encounter, we would extend the scope of the existing Fire Safety Improvement Loan Scheme (FSILS), so that eligible owners affected by the

Bill could have recourse to a non-means-tested loan. To enable comprehensive financial assistance to building owners, the Secretary for Planning and Lands is spearheading a proposal to merge the FSILS and the Building Safety Improvement Loan Scheme (BSILS) to form a single loan scheme under broader terms of reference. Among others, owners affected by the Bill will be covered. The revised loan scheme, with details being worked out, will be subject to the approval of the Finance Committee of the Legislative Council.

Implementation

18. Upon enactment of the Bill, the enforcement authorities will arrange intensive publicity on the new fire safety requirements and the phased implementation programme. The Bill will come into effect on a date to be appointed by the Secretary for Security, and the enforcement authorities will start their inspection programmes targeting at the pre-1973 composite buildings in the first instance.

THE BILL

19. The main provisions of the Bill are -

- (a) **Clause 3** provides for some key definitions e.g. composite building, domestic building, fire service installations or equipment, occupier, owner, etc.
- (b) **Clause 5** empowers the relevant enforcement authority to serve on the owner or occupier a fire safety direction, creates an offence for failure to comply with such a direction, and provides for the establishment of advisory bodies.
- (c) **Clauses 6** empowers a magistrate who convicts a person of failure to comply with a fire safety direction to make a fire safety compliance order and creates an offence for failure to comply with such an order.
- (d) **Clauses 7 and 8** empower the District Court to make an order prohibiting occupation of a building or part where a fire safety direction or fire safety compliance order is not being complied with.

- (e) **Clause 9** creates an offence for occupying a building contrary to a prohibition order.
- (f) **Clause 10** provides for the posting of a prohibition order.
- (g) **Clause 11** empowers the police to remove persons from a building.
- (h) **Clauses 12 and 13** deal with the issue of certificate of compliance and the revocation of prohibition order.
- (i) **Clause 14** provides for the registration of fire safety compliance order, prohibition order and the compliance or revocation of such orders in the Land Registry.
- (j) **Clause 15** empowers the enforcement authority to authorize a public officer to exercise the functions of the Ordinance.
- (k) **Clauses 16 and 17** empower authorized officers to enter a building and request information.
- (l) **Clauses 18 and 19** deal with offences.
- (m) **Clauses 20 and 21** provide that the government and authorized officers are not liable for certain matters.
- (n) **Clause 22** prohibits the disclosure of information without lawful authority.
- (o) **Clause 23** deals with serving of documents.
- (p) **Clause 24** empowers the Chief Executive in Council to make regulations.
- (q) **Clause 25** provides for the amendment of codes of practices referred to in the Schedules.

PUBLIC CONSULTATION

20. The Secretary for Security and the Secretary for Home Affairs jointly conducted public consultation on the proposals to improve fire safety in private buildings in June to August 1998. The public was supportive of the objective to improve fire safety in private buildings. The Bill aims to take forward the long-term measures for upgrading the fire safety standards of composite buildings and domestic buildings as generally noted and supported by the community. We briefed the Legislative Council Panel on Security on the main proposals on 2 November 2000.

BASIC LAW IMPLICATIONS

21. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law that carry no human rights implications.

HUMAN RIGHTS IMPLICATIONS

22. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

23. The Bill does not contain any express binding effect provision.

FINANCIAL AND STAFFING IMPLICATIONS

24. We have provided 16 posts for FSD and 12 posts for BD to strengthen the inspection of composite buildings in 1999 - 2000. To implement the above proposals, FSD and BD will require additional provisions of \$26.3 million and \$15.3 million respectively in a full year to enhance their inspection and compliance work. In addition, we will also provide two posts at a cost of \$1.9 million and provision of \$0.7 million in a full year for BD to support the merging of the FSILS and the BSILS. We have earmarked sufficient resources for implementing these proposals.

25. Some \$640 million may be required to upgrade fire safety in PRH blocks and \$120 million for TPS estates. The projected expenditure will be absorbed by the Housing Authority fully.

ECONOMIC IMPLICATIONS

26. The proposed legislation would improve fire safety in buildings and enable economic benefits in terms of saving human lives and reduction in fire damages. Given the fire safety requirements proposed, the upgrading works for composite buildings in 10 years would cost about \$1.8 billion per annum. This is about 1.4% of the annual total output of the construction and building industry and will unlikely exert significant pressure on the capacity of that industry, or the economy in general. Some owners, in particular those of old premises, may have financial difficulties in complying with the upgraded fire safety standards. However, the financial assistance scheme should be able to alleviate their hardship.

LEGISLATIVE TIMETABLE

27. The legislative timetable will be -

Publication in the Gazette	2 February 2001
First Reading and Commencement of Second Reading debate	14 February 2001
Resumption of Second Reading debate, Committee Stage and Third Reading	to be notified

PUBLICITY

28. A press release will be issued on 31 January 2001. Briefings for the 18 District Fire Safety Committees and the media will be arranged. A spokesman will be available to handle enquiries.

ENQUIRIES

29. Enquiries concerning the Bill may be directed to Mr David WONG, Principal Assistant Secretary of the Security Bureau at 2810 3435.

**Security Bureau
January 2001**

LEGISLATIVE COUNCIL BRIEF

FIRE SAFETY (BUILDINGS) BILL : ANNEXES

- Annex A - Fire Safety (Buildings) Bill
- Annex B - Legislative Council Brief – Measures to Improve Fire Safety in Private Buildings (7 October 1998)
- Annex C - Proposed Requirement of Fire Safety Measures in Non-domestic Parts of Composite Buildings
- Annex D - Proposed Requirement of Fire Safety Measures in Domestic Parts of Composite Buildings and Domestic Buildings

Proposed Requirement of Fire Safety Measures in Non-domestic Parts of Composite Buildings

The fire safety requirements for the non-domestic parts of composite buildings will be modelled on those stipulated in the Fire Safety (Commercial Premises) Ordinance, which shall include the following-

Fire Service Installations and Equipment

Provision or improvement of-

- an automatic sprinkler system
- a fire hydrant and hose reel system
- a manual fire alarm system
- emergency lighting within the common areas
- an automatic cut-off device for the mechanical ventilating system
- other fire service installations or equipment in accordance with the requirements specified in the Code of Practice for Minimum Fire Service Installations and Equipment 1994.

Fire Safety Construction

In relation to means of escape-

- improvement of staircases in terms of width and number
- protection of exit routes and staircases with separating walls of fire resisting construction i.e. replacing all windows along the common exit corridors and staircases with fixed lights (non-openable windows), blocking all openings and perforations by fire resisting construction, and providing new smoke lobbies to staircases and fire resisting enclosure to electrical installation within the staircases
- improvement of exit arrangements in terms of exits from rooms, storeys and ground storeys, access to staircases, direct distance or travel distance
- provision of fire doors of the current fire safety standard

In relation to means of access for fire fighting and rescue-

- the improvement of at least one of the existing lifts or installation of a new lift up to the standard for fireman's lifts

In relation to fire resisting construction-

- improvement of fire resistance of external walls and protection of openings therein
- provision of fire resisting separation between different parts in a building

- provision of smoke vents to basements

**Proposed Requirement of Fire Safety Measures
in Domestic Parts of Composite Buildings
and Domestic Buildings**

For the domestic parts of composite buildings and domestic buildings with relatively lower fire load and flow of people, the most essential fire safety improvement measures will be required. These are-

Fire Service Installations and Equipment

Provision or improvement of-

- a fire hydrant and hose reel system
- a manual fire alarm system
- emergency lighting within common areas

Fire Safety Construction

In relation to means of escape-

- protection of staircases with separating walls of adequate fire resisting construction i.e. replacing all windows along the staircases with fixed lights (non-openable windows), blocking all openings and perforations by fire resisting construction and providing fire resisting enclosure to electrical installation within the staircases
- improvement of exit arrangements in terms of staircase exits at the level of discharge to street
- replacement of doors nearest to the first step of the staircase on each floor with doors of the current fire safety standard

FIRE SAFETY (BUILDINGS) BILL

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A BILL

To

Provide for fire safety improvements to be made to certain composite buildings and domestic buildings and to provide for related matters.

Enacted by the Legislative Council.

PART I

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Fire Safety (Buildings) Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Purpose of Ordinance

The purpose of this Ordinance is to provide better protection from the risk of fire for occupants and users of, and visitors to, certain kinds of composite buildings and domestic buildings.

3. Interpretation

(1) In this Ordinance, unless the context otherwise requires -

"authorized officer" (獲授權人員) means a public officer authorized

under section 15 or a person taken to be an authorized officer because of that section;

"composite building" (綜合用途建築物) means a building that is constructed, or intended to be used, partly for domestic purposes and partly for non-domestic purposes -

- (a) the plans of the building works of which were first submitted to the Building Authority for his approval under regulation 29 of the Building (Administration) Regulations (Cap. 123 sub. leg.) on or before 1 March 1987; or
- (b) which was constructed on or before 1 March 1987 where no plans of the building works of the building were submitted to the Building Authority for his approval under regulation 29 of the Building (Administration) Regulations (Cap. 123 sub. leg.) on or before that date,

but excludes a building where the part intended for non-domestic purposes consists wholly of a factory or industrial undertaking, godown, warehouse or place of bulk storage;

"domestic building" (住用建築物) means a building that is constructed, or intended to be used, for domestic purposes, with more than 3 storeys used principally for such purposes -

- (a) the plans of the building works of which were first submitted to the Building Authority for his approval under regulation 29 of the Building (Administration) Regulations (Cap. 123 sub. leg.)

on or before 1 March 1987; or

- (b) which was constructed on or before 1 March 1987 where no plans of the building works of the building were submitted to the Building Authority for his approval under regulation 29 of the Building (Administration) Regulations (Cap. 123 sub. leg.) on or before that date,

and includes ancillary club house, carpark and recreation facilities that are provided for the exclusive use of residents of the building and persons invited to use them by such residents;

"domestic purposes" (住用用途), in respect of a composite building or domestic building, means use for human habitation, but does not include a building or part of a building that is used for a hotel, guesthouse, home for the elderly, child care centre or nursery;

"enforcement authority" (執行當局) -

- (a) in relation to the planning, design and construction of a composite building or domestic building, means the Director of Buildings; and
- (b) in relation to any fire service installation or equipment, means the Director of Fire Services;

"fire safety compliance order" (符合消防安全令) means a fire safety compliance order made under section 6;

"fire safety direction" (消防安全指示) means a fire safety direction given under section 5;

"fire service installation or equipment" (消防裝置或設備) means any installation or equipment manufactured, used or designed to be used for the purpose of -

- (a) extinguishing, attacking, preventing or limiting a fire;
- (b) giving warning of a fire; or
- (c) providing access to any premises or place for the purpose of extinguishing, attacking, preventing or limiting a fire;

"function" (職能) includes a power and a duty;

"mechanical ventilating system" (機械通風系統) includes an air conditioning system;

"non-domestic purposes" (非住用用途), in respect of a composite building, means use for a purpose other than domestic purposes;

"occupier" (佔用人) means the person who is occupying a building or part of a building (whether as owner or under any form of lease or licence);

"owner" (擁有人) has the same meaning as in the Buildings Ordinance (Cap. 123);

"prohibition order" (禁止令) means an order made under section 7.

(2) For the purposes of this Ordinance, where a building or part of a building is unoccupied, the owner shall be deemed to be the occupier and the enforcement authority may exercise any of his powers in relation to an occupier by exercising them with respect

to the owner, and the owner shall continue to be liable in respect of any exercise of such powers under this subsection notwithstanding that the building or part of a building in respect of which the powers were exercised are subsequently occupied.

(3) For the avoidance of doubt, "non-domestic purposes" includes use as a hotel, guesthouse, home for the elderly, child care centre or nursery.

4. Application of Ordinance

This Ordinance applies to composite buildings and domestic buildings but does not apply to such a building if it was constructed in accordance with the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).

PART II

COMPLIANCE WITH FIRE SAFETY MEASURES

5. Owner or occupier may be directed to comply with fire safety measures

(1) Where one person owns all of it, the relevant enforcement authority may serve on the owner of a composite building or domestic building a fire safety direction directing him to comply with -

- (a) in the case of a composite building -
 - (i) with respect to the part that is intended for non-domestic purposes, all or any of the requirements in Schedule 1;

- (ii) with respect to the part that is intended for domestic purposes, all or any of the requirements in Schedule 2;
- (b) in the case of a domestic building, all or any of the requirements in Schedule 2,

or such other measures in place of any of the requirements in Schedule 1 or 2, as the case may be, as the relevant enforcement authority considers appropriate, if he is of the opinion that it would not be reasonable for the owner to comply with such requirements, having regard to the structural integrity of the building and the technology available to comply with such requirements.

(2) Where more than one person owns it and each owner has an exclusive right to occupy a specified part of it, the relevant enforcement authority may serve on the owner of a composite building or domestic building, in respect of the relevant part he exclusively occupies or in respect of the part he does not exclusively occupy, a fire safety direction directing him to comply with -

- (a) in the case of part of a composite building -
 - (i) with respect to a part that is intended for non-domestic purposes, all or any of the requirements in Schedule 1;
 - (ii) with respect to a part that is intended for domestic purposes, all or any of the requirements in Schedule 2;
- (b) in the case of part of a domestic building, all or

any of the requirements in Schedule 2,

or such other measures in place of any of the requirements in Schedule 1 or 2, as the case may be, as the relevant enforcement authority considers appropriate, if he is of the opinion that it would not be reasonable for the owner to comply with such requirements, having regard to the structural integrity of the building and the technology available to comply with such requirements. For the purpose of integration of fire service installations and equipment between the parts of the building exclusively occupied by different owners, a fire safety direction in respect of such installations and equipment may include directions to the owner to provide the relevant connections or other forms of integration.

(3) The relevant enforcement authority may serve on the occupier of a composite building, in respect of a part intended for non-domestic purposes, a fire safety direction directing him to comply with all or any of the requirements in Schedule 3.

(4) A fire safety direction must be in writing and must specify the period within which it is to be complied with. That period must be a reasonable one that allows an owner or occupier of the building or part of a building sufficient time to comply with the requirements of the direction.

(5) The relevant enforcement authority may, by similar notice, from time to time amend or withdraw a direction.

(6) A fire safety direction remains in force until -

(a) it is complied with to the satisfaction of the relevant enforcement authority;

- (b) it is withdrawn by that authority; or
- (c) it is replaced by a fire safety compliance order.

(7) A fire safety direction may be given by both enforcement authorities acting jointly. Such a direction may be amended or withdrawn only by both enforcement authorities acting jointly.

(8) An owner or occupier who, without reasonable excuse, fails to comply with a fire safety direction is guilty of an offence and is liable on conviction to a fine at level 4 and to a further fine of \$2,500 for each day or part of a day during which the failure continues after the expiry of the period specified in the direction.

(9) The reference in subsection (8) to reasonable excuse includes, but is not limited to, the excuse that, at the time when the fire safety direction was not complied with, it was not reasonable to expect the owner or occupier of the building or part of a building to comply with the direction -

- (a) because of the risk of prejudicially affecting the structural integrity of the building or part of a building where it is located; or
- (b) because the technology required to comply with the direction is not reasonably available.

(10) For the purposes of assisting the relevant enforcement authority in 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 in a particular case, having regard to the structural integrity of the building and the technology available to comply with such requirements, the

relevant enforcement authority may establish a committee consisting of such persons with relevant expertise as he considers appropriate to give advice on such matters.

6. Magistrate may make fire safety compliance orders

(1) A magistrate who finds an owner or occupier of a composite building or an owner of a domestic building guilty of an offence against section 5(8) may, on the application of the relevant enforcement authority, make a fire safety compliance order directing the owner or occupier to comply with all or any of the requirements specified in the fire safety direction to which the offence related.

(2) A fire safety compliance order must specify the period within which it is to be complied with. That period must be a reasonable one that allows the owner or occupier concerned sufficient time to comply with the requirements of the order.

(3) A fire safety compliance order replaces the relevant fire safety direction.

(4) A magistrate may, on the application of the relevant enforcement authority or the applicable owner or occupier, revoke or vary a fire safety compliance order made in respect of that owner or occupier.

(5) The applicable owner or occupier is entitled to be heard on the hearing of an application made by an enforcement authority under this section.

(6) A fire safety compliance order ceases to have effect

when revoked under subsection (4) or when the relevant enforcement authority has, by written notice, informed the magistrate's clerk that the order has been complied with. That authority is required to serve a copy of the notice on the applicable owner or occupier.

(7) An application under this section may be made by both enforcement authorities acting jointly.

(8) An owner or occupier who fails to comply with a fire safety compliance order is guilty of an offence and is liable on conviction to a fine at level 5 and to a further fine of \$5,000 for each day or part of a day during which the failure continues after the expiry of the period specified in the order.

7. District Court may make orders prohibiting occupation of a building or part of a building

(1) An enforcement authority may apply to the District Court for an order under this section on the ground that a requirement of a fire safety direction or a fire safety compliance order is not being, or has not been, complied with.

(2) An application under this section may be made at any time after the period for complying with the relevant fire safety direction or the relevant fire safety compliance order has expired and not before.

(3) An application under this section may be made by both enforcement authorities acting jointly.

(4) An enforcement authority must give at least 7 days' notice to the applicable owner or occupier before making an

application under this section.

(5) The procedure for hearing and determining an application under this section is to be in accordance with rules of court made under the District Court Ordinance (Cap. 336).

(6) On the hearing of an application under this section, the District Court may make an order prohibiting the occupation of the relevant building or part of a building, but only if it is satisfied that -

- (a) the owner or occupier has failed to comply with a requirement specified in a fire safety direction or a fire safety compliance order;
- (b) it is reasonable to expect the owner or occupier to comply with the requirement;
- (c) the time allowed for complying with the requirement is reasonable;
- (d) it is reasonable and necessary in the circumstances to make the order; and
- (e) there could be substantial fire risks if the relevant building or part of a building is occupied.

8. Effect of prohibition order

(1) While a prohibition order is in force -

- (a) (i) save with the permission in writing of the relevant enforcement authority, no person, other than an authorized officer in the course of his duty, shall occupy the relevant building or part of a

building;

- (ii) where he thinks fit, the relevant enforcement authority may, subject to such conditions as he thinks fit, by notice in writing permit any person to occupy the relevant building or part of a building for the purpose of implementing measures necessary for the discharge or revocation of the prohibition order; or
- (iii) any permission granted under subparagraph (ii) may be cancelled by the relevant enforcement authority at any time and for any reason; and

(b) the applicable owner and, if the owner is not the occupier, the occupier must take all practicable steps to ensure that any of the requirements in paragraph (a) is complied with.

(2) A prohibition order takes effect -

- (a) 28 days after the date on which it is served on the owner or occupier; or
- (b) if that owner or occupier appeals against the order, when the appeal is finally rejected or is withdrawn.

(3) Despite subsection (2), the District Court may, if of the opinion that in the particular circumstances it is appropriate to do so, direct a prohibition order to come into force from the date on which the order is served on the owner or occupier or from a later date that is before the end of the 28-day period referred

to in subsection (2)(a).

(4) A prohibition order remains in force until it is discharged under section 12(5), is revoked under section 13 or the building or part of a building ceases to exist, whichever first occurs.

(5) In subsection (2)(b), a reference to an appeal includes a reference to an appeal from a decision determining the appeal.

9. Offence in relation to the contravention of prohibition order

A person who, without reasonable excuse, contravenes section 8(1) is guilty of an offence and is liable on conviction to a fine of \$250,000 and to imprisonment for 3 years and to a further fine of \$25,000 for each day or part of a day during which the contravention continues.

10. Copy of prohibition order to be posted at entrances to affected building or part of a building

(1) As soon as practicable after a prohibition order is made, the relevant enforcement authority must, in addition to serving a copy of the order on the owner or occupier, post a copy of it in a conspicuous place -

- (a) inside the building or part of a building; or
- (b) at or in the immediate vicinity of each entrance to the building or part of a building,

to which the order relates.

(2) Failure to comply with subsection (1) does not

invalidate the effect of such an order.

(3) While a prohibition order is in force, any person who, without lawful authority, removes, defaces or otherwise interferes with a copy of the order posted in accordance with subsection (1) is guilty of an offence and is liable on conviction to a fine at level 2.

(4) As soon as practicable after a prohibition order has ceased to have effect, the relevant enforcement authority must, as far as practicable, remove from the premises all copies of the order posted in accordance with subsection (1).

11. Power to remove persons from building, etc.

A police officer of or above the rank of inspector -

- (a) may remove from the building or part of a building in respect of which a prohibition order is in force any person who is apparently contravening or about to contravene section 8(1); and
- (b) may prevent any such person from re-entering the building or part of a building while the order remains in force.

12. Owner or occupier of building may request certificate of compliance

(1) At any time while a prohibition order is in force in respect of a building or part of a building, the owner or occupier thereof may, by notice in writing served on the relevant enforcement authority, request that authority to issue a

certificate that the requirements of the fire safety direction or fire safety compliance order, as the case may be, that gave rise to the making of the order have been complied with.

(2) As soon as practicable after receiving a request under subsection (1), the relevant enforcement authority must, if it is satisfied that the requirements of the fire safety direction or fire safety compliance order, as the case may be, have been complied with, issue to the owner or occupier a certificate of compliance. If that authority is not so satisfied, it must reject the request.

(3) The relevant enforcement authority may also issue a certificate of compliance to an owner or occupier in respect of a building or part of a building for which a prohibition order is in force without a request under subsection (1) if at any time it is satisfied that the requirements of the fire safety direction or fire safety compliance order, as the case may be, that gave rise to the making of the order have been complied with.

(4) As soon as practicable after issuing a certificate of compliance, the relevant enforcement authority must make an application to the District Court for the discharge of the relevant order. The application must be accompanied by a copy of the certificate of compliance.

(5) On considering an application made under subsection (4), the District Court must discharge the relevant order unless it is of the opinion that there are special grounds for not doing so.

(6) As soon as practicable after rejecting a request made under subsection (1), the relevant enforcement authority must, by

written notice, inform the owner or occupier of the building or part of a building concerned of the rejection and the reasons for it.

13. Right to apply to District Court for revocation of prohibition order

- (1) If the relevant enforcement authority -
 - (a) rejects the request of the relevant owner or occupier for the issue of a certificate of compliance under section 12; or
 - (b) fails to issue such a certificate within 28 days after the request was made,

that owner or occupier may apply to the District Court for the revocation of the prohibition order relating to the building or part of a building.

(2) An applicant must give notice in writing of the application to the relevant enforcement authority within 7 days after making the application.

(3) On the hearing of an application for the revocation of a prohibition order, the District Court must revoke the order if satisfied that the requirements of the relevant fire safety direction or fire safety compliance order, as the case may be, have been complied with. Otherwise it must refuse the application.

14. Registration of notice of fire safety compliance order, etc. in the Land Registry

- (1) The relevant enforcement authority may cause to be

registered by memorial a fire safety compliance order or variance thereof or a prohibition order against the land register of the relevant property in the Land Registry, and shall cause to be registered a revocation of such an order or a certificate of compliance.

(2) Where a corporation has been registered with the Land Registrar under section 8 of the Building Management Ordinance (Cap. 344) and an order referred to in subsection (1) has been made against the corporation, such order shall, for the purposes of registration under this section, be deemed to have been made against each of the owners of the building individually.

PART III

ENFORCEMENT

15. Authorized officers

(1) An enforcement authority may, in writing, authorize a public officer to exercise or perform such of the functions conferred or imposed on authorized officers by this Ordinance as are specified in the authorization.

(2) The Director of Fire Services and the Director of Buildings and all police officers are taken to be authorized officers for the purposes of this Ordinance.

(3) When exercising or performing a function conferred or imposed by this Ordinance, an authorized officer -

- (a) may be assisted by such persons as the officer reasonably requires in order to exercise or perform

the function; and

- (b) must, if required to do so, produce for inspection the officer's identity card and, except in the case of the persons referred to in subsection (2), the authorization issued to the officer under subsection (1).

16. Power to enter a building, etc. and other powers of authorized officers

(1) An authorized officer may enter and inspect a building or part of a building without warrant if the officer reasonably believes that -

- (a) it is or may be a composite building or domestic building or a part thereof; or
- (b) an offence against this Ordinance is being or has been committed therein.

(2) An authorized officer may also enter and inspect a building or part of a building without warrant in order to ascertain whether or not a fire safety direction or fire safety compliance order, as the case may be, made in respect of it has been complied with.

(3) If, on the application of an enforcement authority, it is proved to the satisfaction of a magistrate on sworn information -

- (a) that admission to a building or part of a building has been refused, or that refusal of admission is reasonably expected, or that it is unoccupied or

that the case is one of urgency; and

- (b) that there is a good reason for an authorized officer to enter it,

the magistrate may issue a warrant authorizing an authorized officer to enter the building or part of a building with such force as may be necessary.

(4) On leaving an unoccupied building or part of a building entered in accordance with this section, an authorized officer must ensure that it is as effectively secured against trespassers as the officer found it at the time of entry.

(5) A warrant issued under this section continues in force for 1 month from the date of its issue or until the purpose for which entry is required has been fulfilled, whichever first occurs.

17. Authorized officer may request information about ownership or occupation of building

(1) An authorized officer may ask a person to provide information that may identify an owner or occupier of a composite building or a domestic building or part of such a building, but only if -

- (a) the officer reasonably believes that the person has the information; and
- (b) the information is not readily available by an inspection of a public record.

(2) A person who, without reasonable excuse -

- (a) refuses to answer a question put to the person under subsection (1); or

- (b) provides an answer that the person knows or ought reasonably to know is false or misleading,

is guilty of an offence and is liable on conviction to a fine at level 4.

18. Offence to obstruct certain persons exercising or performing functions under this Ordinance

Any person who, without reasonable excuse, resists, obstructs or delays a person who is exercising or performing, or attempting to exercise or perform, a function conferred or imposed by this Ordinance is guilty of an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

19. Offences by persons concerned in management of body corporate

(1) If -

- (a) a person convicted of an offence under this Ordinance is a body corporate; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a director of, or other person concerned in the management of, the body,

the director or other person so concerned also commits the offence.

(2) If -

- (a) a person convicted of an offence under this Ordinance is a member of a partnership; and

- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any other person concerned in the management of the partnership,

the person so concerned also commits the offence.

PART IV

MISCELLANEOUS

20. Government not liable for certain matters

(1) A person to whom this section applies does not incur liability for damages only because of a failure to exercise or perform a function conferred or imposed by this Ordinance.

(2) This section applies to the Government, the enforcement authorities and all authorized officers.

21. Authorized officers not personally liable for certain acts and omissions

(1) An authorized officer is not personally liable for any act done or omitted to be done by the officer while exercising or performing a function conferred or imposed by this Ordinance if the officer did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this Ordinance.

(2) Subsection (1) does not affect any liability that the Government may have because an authorized officer has done or

omitted to do an act to which that subsection applies.

22. Offence to disclose information obtained officially

(1) A person who, without lawful authority, discloses to another person information obtained while exercising or performing a function conferred or imposed on the person by this Ordinance is guilty of an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) A person has lawful authority to disclose information if the person discloses the information -

- (a) in order to exercise or perform a function conferred or imposed by this Ordinance;
- (b) in connection with proceedings brought under this Ordinance;
- (c) in accordance with an order of the District Court; or
- (d) with the consent of all persons who are entitled to have the information kept confidential.

(3) For the purposes of subsection (2), information that a person is entitled to have kept confidential includes, but is not limited to, information that concerns the trade, business or profession of the person or another person with whom the person has business dealings.

23. How documents are to be served for purposes of this Ordinance

A document to be given or served under this Ordinance may be

given or served -

- (a) in the case of a person who is not a body corporate -
 - (i) by delivering it to the person personally; or
 - (ii) by sending it by registered post in a letter addressed to the person at the person's usual place of residence or business or, if the person's address is unknown, addressed to the person's last known place of residence or business; or
- (b) in the case of a person that is a body corporate -
 - (i) by delivering it to any place in Hong Kong at which the body carries on business and giving it to a person apparently concerned in the management of, or apparently employed by, the body; or
 - (ii) by sending it to the body by registered post in a letter addressed to the body at its registered office in Hong Kong or at any place in Hong Kong at which the body carries on business.

24. Chief Executive in Council may make regulations

The Chief Executive in Council may make regulations -

- (a) prescribing anything required or permitted to be

prescribed by regulations under this Ordinance; and

- (b) generally providing for the better carrying into effect of the provisions and purposes of this Ordinance.

25. Effect of substituted or amended codes of practice

(1) If a code of practice specified in a Schedule to this Ordinance is substituted or amended, the substituted code or the code as amended applies for the purposes of this Ordinance only when -

- (a) the Legislative Council has passed a resolution declaring that the substituted code or the code as amended is to apply for those purposes;
- (b) the reference to the code in the Schedule is amended in accordance with subsection (2); and
- (c) that amendment has taken effect.

(2) If the Legislative Council has passed a resolution declaring that a substituted code or a code as amended is to apply for the purposes of this Ordinance, the Secretary for Security may, by order published in the Gazette, amend the relevant Schedule by substituting the reference to the substituted or amended code for the reference to the code then specified in that Schedule.

(3) Such an amendment takes effect on the date on which the order is published in the Gazette or on such later date as may be specified in the order.

SCHEDULE 1

[ss. 5(1), (2) &
(10) & 25]

**FIRE SAFETY MEASURES TO BE COMPLIED WITH
BY OWNERS OF COMPOSITE BUILDINGS IN
RESPECT OF PARTS INTENDED FOR
NON-DOMESTIC PURPOSES**

**1. Provision of fire service installations
and equipment**

In relation to the provision of fire service installations and equipment, requirements with which an owner of a composite building, in respect of a part intended for non-domestic purposes, can be directed to comply under section 5(1) and (2) of this Ordinance are the following -

- (a) a requirement to provide or improve an automatic sprinkler system, with or without a direct link to the Fire Services Department, to control the spread of fire and sound an alarm;
- (b) a requirement to provide or improve a fire hydrant and hose reel system as a source of water supply for fire fighting;
- (c) a requirement to provide or improve a manual fire alarm system to alert occupants of the building in the event of fire;
- (d) a requirement to provide or improve emergency lighting within the common areas so as to facilitate the evacuation of occupants of the building in the event of a power failure;
- (e) a requirement to provide or improve an automatic

cut-off device for the mechanical ventilating system to limit the spread of smoke through the ventilating system, where one is provided, but only if the system forms an integral part of the part of the building intended for non-domestic purposes and also serves other separately occupied areas or parts intended for non-domestic purposes; and

- (f) a requirement to provide or improve other fire service installations and equipment in accordance with the requirements specified in the Code of Practice for Minimum Fire Service Installations and Equipment 1994, as published by the Director of Fire Services and printed by the Government Printer.

The detailed specifications and requirements of the installations and equipment under paragraphs (a) to (e) are set out in the Code of Practice for Minimum Fire Service Installations and Equipment 1994, as published by the Director of Fire Services and printed by the Government Printer.

2. Fire Safety Construction

In relation to fire safety construction, requirements with which an owner of a composite building, in respect of a part intended for non-domestic purposes, can be directed to comply under section 5(1) and (2) of this Ordinance are the following -

- (a) in relation to means of escape -
 - (i) the improvement of staircases in terms of their width and number;

- (ii) the protection of exit routes and staircases with separating walls of fire resisting construction;
 - (iii) the improvement of exit arrangements in terms of exits from rooms, storeys and ground storeys, access to staircases, direct distance or travel distance;
 - (iv) the provision of fire doors;
- (b) in relation to means of access for fire fighting and rescue -
- (i) the improvement of at least one of the existing lifts; or
 - (ii) the installation of a new lift, up to the standard for fireman's lifts;
- (c) in relation to fire resisting construction -
- (i) the improvement of fire resistance of external walls and the protection of openings therein to inhibit the spread of fire to adjoining buildings;
 - (ii) the provision of fire resisting separation between different parts in a building;
 - (iii) the provision of smoke vents to basements.

The detailed requirements on the design, construction or installation in relation to construction requirements in paragraphs (a) to (c) are set out in the following codes of practice published by the Director of Buildings and printed by the

Government Printer -

- (i) the Code of Practice for the Provision of Means of Escape in Case of Fire 1996;
- (ii) the Code of Practice for Fire Resisting Construction 1996; and
- (iii) the Code of Practice for Means of Access for Firefighting and Rescue 1995.

SCHEDULE 2

[ss. 5(1), (2) &
(10) & 25]

FIRE SAFETY MEASURES TO BE COMPLIED WITH BY OWNERS OF COMPOSITE BUILDINGS IN RESPECT OF PARTS INTENDED FOR DOMESTIC PURPOSES AND BY OWNERS OF DOMESTIC BUILDINGS

1. Provision of fire service installations and equipment

In relation to the provision of fire service installations and equipment, requirements with which an owner of a composite building, in respect of a part intended for domestic purposes, and an owner of a domestic building can be directed to comply under section 5(1) and (2) of this Ordinance are the following -

- (a) a requirement to provide or improve a fire hydrant and hosereel system as a source of water supply for fire fighting;
- (b) a requirement to provide or improve a manual fire alarm system to alert occupants of the building in the event of fire; and
- (c) a requirement to provide or improve emergency

lighting within the common areas so as to facilitate the evacuation of occupants of the building in the event of a power failure.

The detailed specifications and requirements of the installations and equipment under paragraphs (a) to (c) are set out in the Code of Practice for Minimum Fire Service Installations and Equipment 1994, as published by the Director of Fire Services and printed by the Government Printer.

2. Fire Safety Construction

In relation to fire safety construction, requirements with which an owner of a composite building, in respect of a part intended for domestic purposes, and an owner of a domestic building can be directed to comply under section 5(1) and (2) of this Ordinance are the following -

- (a) the protection of staircases with separating walls of fire resisting construction;
- (b) the improvement of exit arrangements in terms of exit from the parts used for domestic purposes to the street;
- (c) the provision of fire doors.

The detailed requirements on the design, construction or installation in relation to construction requirements in paragraphs (a) to (c) are set out in the following codes of practice published by the Director of Buildings and printed by the Government Printer -

- (i) the Code of Practice for the Provision of Means of

Escape in Case of Fire 1996;

- (ii) the Code of Practice for Fire Resisting Construction 1996; and
- (iii) the Code of Practice for Means of Access for Firefighting and Rescue 1995.

SCHEDULE 3

[ss. 5(3) & 25]

FIRE SAFETY MEASURES TO BE COMPLIED WITH
BY OCCUPIERS OF COMPOSITE BUILDINGS
IN RESPECT OF PARTS INTENDED FOR
NON-DOMESTIC PURPOSES

**1. Provision of fire service installations
and equipment**

In relation to the provision of fire service installations and equipment, requirements with which an occupier of a composite building, in respect of a part intended for non-domestic purposes can be directed to comply under section 5(3) of this Ordinance are the following -

- (a) a requirement to provide or improve emergency lighting within the area he occupies so as to facilitate the evacuation of the area in the event of a power failure;
- (b) a requirement to provide or improve an automatic cut-off device for the mechanical ventilating system to limit the spread of smoke through the ventilating system, but only if the system does not serve other separately occupied areas of the part of the building intended for non-domestic purposes

and the system -

- (i) has a capacity to process air at a rate exceeding 1 cubic metre per second; or
- (ii) serves more than one fire compartment located within such part.

2. Definition

In this Schedule -

"fire compartment" (防火間), in relation to a building, means a part of the building that is physically separated from adjoining parts by walls, and by a floor and ceiling, that meets the standard of fire resistance prescribed by the Code of Practice for Fire Resisting Construction 1996, as published by the Director of Buildings and printed by the Government Printer.

Explanatory Memorandum

The purpose of this Bill is to provide authority for the Director of Buildings and the Director of Fire Services to require the owner of a composite building or a domestic building built in 1987 or earlier, or a part thereof, to provide or improve the fire safety measures in the building.

2. The Bill -

- (a) empowers the relevant enforcement authority to serve on the owner of such a building or, in the case of the non-domestic part of a composite

building, the occupier, with a fire safety direction and creates an offence for failure to comply with such a direction (clause 5);

- (b) empowers a magistrate who convicts a person of failure to comply with a fire safety direction to make a fire safety compliance order and creates an offence for failure to comply with such an order (clause 6);
- (c) empowers the District Court to make an order prohibiting occupation of a building or part of a building where a fire safety direction or fire safety compliance order is not being complied with and there could be substantial fire risks if the building or part of a building continues to be occupied (clauses 7 and 8);
- (d) creates an offence for occupying a building contrary to a prohibition order (clause 9);
- (e) provides for the posting of a prohibition order at the building or part of a building (clause 10);
- (f) provides for the removal of persons from a building or part of a building where there is a prohibition order in effect (clause 11);
- (g) empowers an owner or occupier to request a certificate of compliance from the relevant enforcement authority (clause 12);
- (h) empowers the owner or occupier to apply to the District Court for the revocation of the

prohibition order (clause 13);

- (i) empowers the relevant enforcement authority to register notice of a fire safety compliance order or prohibition order against the title of the relevant property (clause 14);
- (j) provides for public officers to be authorized to exercise or perform functions of authorized officers under the Ordinance (clause 15);
- (k) empowers authorized officers to enter and inspect buildings (clause 16);
- (l) empowers authorized officers to require persons to provide information relating to owners and occupiers (clause 17);
- (m) creates an offence for obstructing an authorized officer in the exercise or performance of his functions (clause 18);
- (n) provides for vicarious liability of officers of a corporation and members of a partnership (clause 19);
- (o) confers legal immunity on the Government and public officers where a public officer does not exercise or perform a function conferred or imposed on him by the Ordinance (clause 20);
- (p) confers personal legal immunity on public officers acting in good faith (clause 21);
- (q) creates an offence for unlawfully disclosing information while exercising or performing a

- function conferred or imposed by the Ordinance (clause 22);
- (r) provides for procedure for serving documents (clause 23);
 - (s) confers power for Chief Executive in Council to make regulations (clause 24);
 - (t) creates a procedure for amending a code of practice listed in the Schedules (clause 25); and
 - (u) provide the fire safety requirements that can be included in a fire safety direction issued under section 5 (Schedules 1, 2 and 3).

File Ref:SBCR 3/2361/98 Pt.8

LEGISLATIVE COUNCIL BRIEF

MEASURES TO IMPROVE FIRE SAFETY IN PRIVATE BUILDINGS

INTRODUCTION

At the meeting of the Executive Council on 29 September 1998, the Executive Council was informed of the results of public consultation on proposals to improve fire safety in private buildings.

BACKGROUND

- 2 Members were last informed in June 1998 that a public consultation exercise would be launched on the package of proposals to improve fire safety in private buildings as set out in the consultation paper at Annex A.

Annex A

PUBLIC CONSULTATION ON THE PROPOSALS

- 3 A two-month public consultation exercise was launched from June to August 1998. We have consulted the Legislative Council (LegCo) and the LegCo Panel on Security, 18 Provisional District Boards or their committees, over 50 professional bodies, interest groups, political parties and district organisations. Furthermore, we received a total of 75 written submissions. A summary of the comments collected is at Annex B.

Annex B

VIEWS ON THE PROPOSALS AND THE ADMINISTRATION'S RESPONSE

- 4 The community is supportive of our objective to improve fire safety and building management in private buildings. There is also general consensus that there is a close correlation between good building management and fire safety, and that bureaux and departments should make a concerted effort under an integrated programme comprising the following aspects -

- compulsory building management for problematic buildings - the Home Affairs Bureau (HAB) and the Home Affairs Department (HAD);
- upgrading of fire safety standards in private buildings - the Security Bureau (SB), the Fire Services Department (FSD) and the Buildings Department (BD);
- removal of unauthorised building works affecting fire safety - the Planning, Environment and Lands Bureau (PELB) and the BD; and
- monitoring of maintenance of communal electrical installations in buildings - the Economic Services Bureau (ESB) and the Electrical and Mechanical Services Department (EMSD).

We will take this into account and, together with relevant bureaux and departments, co-ordinate a programme for full implementation of the proposals to improve fire safety in private buildings.

5 Public views regarding each of our proposals in the consultation document, and our responses to those views, are set out in paragraphs 6 to 29 below.

URGENT SOLUTIONS

(A) Building Management

6 The HAD's services on building management are generally recognised by the public, although some have suggested that better support should be provided to building owners. The Department will continue to improve and expand its services and assist building owners to solve building management problems as far as resources allow. Activities at the district level will continue to be organised to promote good building management and fire safety. With the co-operation of the Radio Television Hong Kong and the HAD, a series of television magazine programmes to promote building management is being broadcast.

7 We have produced 50,000 copies of a new Fire Safety Checklist which are being distributed among building management bodies, property management and security companies, and building owners and residents to facilitate self-inspection of their buildings. We will follow up with the building management bodies and occupants to ensure that the Checklist is

properly used and conduct a review of the self-inspection proposal in six months' time. For buildings without any management bodies, the HAD will continue to encourage the formation of owners' corporations (OC) or mutual aid committees such that the management of their buildings can be improved.

(B) Removal of Fire Hazards

8 The community generally agrees that there is an urgent need to remove the identified fire hazards in private buildings and have urged the departments to step up inspections and enforcement actions. Some have also asked for better co-ordination of work by the departments. Indeed, at the district level, District Officers are convening district co-ordination meetings to co-ordinate the departments' inspection work under their different enforcement programmes as far as practicable.

9 We are considering to produce a pamphlet which should provide detailed information on the different statutory safety requirements to be fulfilled by building owners, the Building Safety Inspection Scheme, guidelines on the safety checks, available sources of financial assistance (e.g. the Fire Safety Improvement Loan Scheme (FSILS) and the Building Safety Improvement Loan Scheme (BSILS)), and avenues for obtaining advice (the Building Management Resource Centre, enquiry hotlines etc.).

10 FSD has been following up on the fire hazards identified in the territory-wide building survey. Up to 31 August 1998, over 2,700 Fire Hazard Abatement Notices (FHANs) have been issued requiring responsible persons to remove identified fire hazards. Failure to do so will result in prosecution actions. The compliance of FHANs has been satisfactory. So far, only 7 cases required prosecution actions. The other cases are either being followed-up by owners or the deadlines of the FHANs have not yet expired.

11 There are general suggestions that the BD should speed up the demolition of unauthorised rooftop structures (URS) and other unauthorised building works (UBW). We proposed in the consultation paper to demolish the targeted URS in two phases - covering 1,300 single staircase buildings within four years and the other 3,300 single staircase buildings afterwards. This programme would require about 1,000 rooftop families to be rehoused each year. Having regard to the impact on the large number of rooftop occupants affected and the availability of rehousing resources of the Housing Authority, it is not possible to condense the two-phased demolition programme further. We will, however, review the position after the first phase of the programme in 2002. UBW falling outside the URS demolition programme will continue to be dealt with in accordance with the BD's policy.

Specifically, the BD will take immediate enforcement action against those posing an obvious hazard to life or property and significant new UBW. In addition, illegal alterations to means of escape in prescribed commercial premises and specified commercial buildings will be rectified under the Fire Safety (Commercial Premises) Ordinance (FS(CP)O).

(C) Promoting a Fire Safety Culture

12 The community has expressed strong support to our objective to promote a fire safety culture in the community. Some suggest that a large-scale fire safety campaign should be launched every year and that the Fire Safety Ambassadors (FSA) Scheme of the FSD should be expanded.

13 The Fire Safety Publicity Campaign 1998/99 has received good response from the public. We plan to organise another large-scale campaign in 1999/2000 to further enhance public awareness of fire safety as well as cultivate and sustain a fire safety culture in the community. We will formulate a publicity strategy drawing experience from the ongoing promotional activities.

14 The FSD has accelerated the FSA training programme, members of which will increase from 1,503 to 4,000 by the end of this year. Plans are in hand to further expand the Scheme in 1999. The Department, with the assistance of the HAD at the district level, proposes to recruit caretakers as FSA.

15 Some members of the public have requested the HAB to speed up the establishment of District Fire Safety Committees (DFSC) and Building Management Resource Centres (BMRC). Nine DFSCs have been set up in the densely populated districts. The HAD will establish three more Committees towards the end of this year and, by the end of 1999, cover all 18 districts.

16 The first BMRC was opened in Kowloon in June 1998. In view of the high demand for its services, the HAD is planning for a second BMRC, in co-operation with the Land Development Corporation, on Hong Kong Island. Another BMRC is proposed in Tsuen Wan to serve the New Territories.

FURTHER PROPOSALS TO IMPROVE FIRE SAFETY

(A) Building Management

(I) Compulsory/mandatory management of buildings

17 The public generally supports the conceptual proposal of mandatory/compulsory management of problematic buildings identified by the FSD and the BD. Some have commented that the costs involved might not be affordable by building owners. Some have suggested that the performance of property management companies should be regulated.

18 Owners are responsible for the management and maintenance of their private properties and hence should bear the related costs themselves. We will devise a list of property management companies for the information of building owners. We will also work closely with the Department of Justice (D of J) on the proposed amendments to the Building Management Ordinance to take forward the compulsory/mandatory management proposal.

(II) Condominium title

19 Public views on the proposed "condominium title" are divided. Most are against the compulsory formation of OCs in all buildings on the ground of possible violation of human rights or other reasons. While some support the automatic formation of OC in new buildings, others consider that the OC so formed may not function properly if the owners are not willing to take up the job. Some have suggested that an OC should only be formed after a new building is occupied by a certain percentage of owners.

20 The HAB does not propose to introduce compulsory formation of OC in all existing buildings, but will continue to encourage building owners to form OC and to participate in the management of their buildings.

21 The conceptual proposal of 'condominium title' is intended to apply to new buildings only. An OC is automatically formed when a new building is completed and occupied by the owners. All owners of the building will become members of the OC and be involved in the management and maintenance of the building. The legal and practical details of the proposal will be examined further in conjunction with the D of J and the relevant departments.

(B) Upgrading Fire Safety Standards of Private Buildings

22 The public generally recognises the need to improve fire safety in old private buildings. Some have commented that the proposed timetable (to deal with 9,000 composite buildings in ten years by phases, before the 3,000 pre-1987 residential buildings) is slow, and that the Government should deal with residential buildings in parallel with composite buildings. Some also suggested that we should deal with buildings with identified fire safety

problems urgently, irrespective of their types or years of completion.

23 The territory-wide building survey conducted by the FSD earlier this year revealed that the fire safety condition in composite buildings was the most unsatisfactory. In view of the large flow of people and high fire risks particularly in the commercial portion of such buildings, we propose to upgrade fire safety in composite buildings as a matter of priority. In view of the impact of the upgrading works on building owners and Government resources, we have proposed a phased programme, with priority accorded to pre-1973 composite buildings. As explained in paragraph 10, the FSD will also take immediate action to address the identified fire hazards in private buildings, including composite and residential buildings.

24 Some members of the public are worried that due to structural constraints some old buildings may not be able to meet the proposed modern fire safety standards. For these particular cases, they agree that due regard should be given to possible integration with the urban renewal programme. The Planning Department (Plan D) is currently conducting the Urban Renewal Strategy Study which will identify priority redevelopment projects to be undertaken in the urban area. In the priority project selection process, the Plan D will take into account those old buildings identified in the FSD survey as requiring major fire safety improvement works.

25 We will work out with the D of J a proposed legislative framework for upgrading fire safety in composite buildings. Reference will be made to the established arrangements under the FS(CP)O. We aim to introduce the new legislation in the 1999/2000 legislative session.

Categorisation scheme

26 There is general support for the proposal to make known the fire safety condition of problematic private buildings in particular. Nevertheless, there are also concerns that the categorisation scheme would affect the transaction of such properties in the market. Some have therefore urged the Government to consider the legal implications carefully.

27 Under the proposed categorisation scheme, failure of a particular private building to complete the required upgrading works would be registered with the Land Registry. We consider that it would provide a useful incentive to encourage flat owners to comply with the fire safety requirements which should also help enhance the value of their properties. Nevertheless, we will consult the D of J on the legal implications of the categorisation scheme in the context of the proposed legislation.

Financial Assistance to Owners

28 The general public is concerned about the costs of complying with the statutory requirements to upgrade the fire safety standards of their buildings. Some have suggested that financial assistance with more preferential terms, such as grants or interest-free loans, should be provided.

29 The surveys conducted by the departments have highlighted the need to improve fire safety particularly in old buildings. Our package of proposals aims at bringing about an overall improvement to the management and fire safety of private buildings, which should be the owners' primary responsibility. With better fire safety protection, building owners' personal safety or that of their tenants will be enhanced, and the value of their buildings should appreciate and the useful life of the buildings extended. However, we remain of the view that it is not justified to subsidise private building owners by using public revenue, say by providing interest-free loans or grants. If necessary, we will consider flexible means of financial assistance for building owners, similar to the arrangements under the FSILS and the BSILS.

NEXT STEPS

30 We will formulate detailed proposals to improve fire safety and building management, along the lines of those contained in the consultation paper, and having regard to the public views collected during the consultation exercise. We will keep Members informed when the proposed legislation has been worked out.

FINANCIAL AND STAFFING IMPLICATIONS

31 The resource implications of implementing the proposed improvement measures will be determined after the details of our proposals have been worked out. Additional resources required will be sought in the normal manner.

PUBLICITY

32 A press release will be issued. We will inform the Central Steering Committee on Fire Safety of the results of the public consultation

exercise at its next meeting in October 1998.

OTHERS

33 For enquiries, please contact Mrs Sarah Kwok, Principal Assistant Secretary for Security at 2810 3435.

Security Bureau
7 October 1998

Annex A

Annex A

**Public Consultation
on Proposals to Improve
Fire Safety
in Private Buildings**

June 1998

Printed by the Printing Department 7012701—400L—6/98

(Printed on paper made from woodpulp derived from renewable forests)

Security Bureau and Home Affairs Bureau

**CONSULTATION PAPER ON PROPOSALS
TO IMPROVE FIRE SAFETY
IN PRIVATE BUILDINGS**

EXECUTIVE SUMMARY

SURVEY FINDINGS

According to Fire Services Department (FSD)'s territory-wide building survey, only 28% of private buildings had their fire service installations (FSIs) and fire safety management rated as satisfactory. The presence of building management bodies, in the form of an owners' corporation (OC) or a property management company, helps enable better management of fire safety measures. Amongst all types of private buildings, the fire safety condition in composite (commercial/residential) buildings is the most unsatisfactory. Only 11% of these buildings were found satisfactory. This finding is in line with the sample survey by the Buildings Department (BD), where 80% of the composite buildings surveyed were found with serious deficiencies in exit routes.

2 The Electrical and Mechanical Services Department (EMSD)'s sample survey reveals that only 21% of the buildings surveyed were found to have their communal electrical installations in satisfactory condition, and 20% would require major rectification.

URGENT SOLUTIONS

(A) Building Management

3 We propose to organise owners and residents to carry out routine inspection of their own buildings to identify defects in the fire safety provisions. A standard list of inspection items in layman terms would be provided to owners and residents to facilitate the self-inspection of their buildings.

(B) Removal of Fire Hazards

(I) Fire Hazards which are easily rectifiable

4 Departments will step up enforcement actions to ensure early removal of fire hazards identified during their surveys. Building owners and residents should be able to remove most of these hazards, such as by clearing means of escape and keeping smoke doors closed.

(II) Reinstatement of building fire safety measures and structures

5 Departments will require responsible owners and residents to restore and reinstate the building fire safety measures and structures to workable and satisfactory condition, and to the standards specified in their approved building plans. Enforcement actions will be taken under the Fire Services Ordinance, the Buildings Ordinance and the Electricity Ordinance as necessary.

(III) Demolition of unauthorised rooftop structures

6 As rooftops of single staircase buildings are part of the required means of escape, BD proposes to demolish the unauthorised rooftop structures posing a fire hazard in two phases, with priority action taken against 1 300 buildings in four years under phase one, and 3 300 buildings under phase two.

(IV) Communal electrical installations in buildings

7 EMSD proposes to take immediate enforcement actions on about 11 400 buildings referred by FSD during the survey, and then carry out inspections and take enforcement actions on other buildings by phases, focusing on the older buildings in the first instance.

(C) Promoting a Fire Safety Culture

8 We will continue to work closely with building management bodies to tackle building fire safety problems and promote a fire safety culture in the community through different programmes and activities.

FURTHER PROPOSALS TO IMPROVE FIRE SAFETY

(A) Building Management

(I) Compulsory/mandatory management of buildings

9 We would consider amending the Building Management Ordinance to provide for specific building management standards, sanctions and a certification scheme. Home Affairs

Bureau is also pursuing the concept of mandatory management of buildings.

(II) Condominium title

10 We would consider automatic formation of OCs, having regard to relevant overseas legislation, and the feasibility of applying this modality in new buildings.

(B) Upgrading Fire Safety Standards of Private Buildings

11 We will consider a phased programme to upgrade the FSIs and building fire safety construction of private buildings, according to the need for improvement as revealed by the findings of our surveys.

(I) Composite (commercial/residential) buildings

12 We propose a ten-year programme to improve the fire safety standards of composite buildings by phases, dealing with about 5 000 pre-1973 composite buildings in Phase I (six years) and about 4 000 1973 - 1987 composite buildings in Phase II (four years). We will consider legislative means to bring fire safety in these buildings to modern standards, by making reference to the framework under the Fire Safety (Commercial Premises) Ordinance.

13 We would also consider a categorization scheme in the new legislation to distinguish those buildings which have failed to upgrade their fire safety to the stipulated standards. We would consider registering a note on the fire safety condition in the land title/title deed of each categorized building in the Land Registry.

(II) Residential buildings

14 After the completion of the improvement programme for composite buildings, we propose to deal with about 3,000 pre-1987 residential (above 3 storeys) buildings by phases, with priority given to pre-1973 buildings.

(III) Industrial buildings

15 Fire safety of workplaces inside industrial buildings is already covered by existing legislation. We propose to deal with about 650 pre-1973 industrial buildings first before the programme may be extended to about 1 000 1973-1987 industrial buildings, following the priority programmes for composite and residential (above 3 storeys) buildings.

COSTS AND BENEFITS

16 The surveys have highlighted the need for owners to improve fire safety particularly in old buildings. Owners themselves are primarily responsible for managing and upgrading their buildings and will benefit directly from higher fire safety standards. The cost for upgrading will depend on the type of building, the difference between the existing and the proposed standard of FSIs, and the extent of deficiencies in building fire safety structure. Estimated upgrading costs are set out in the consultation paper.

17 In view of the cost implications on building owners, we would consider providing financial assistance similar to the framework of the Fire Safety Improvement Loan Scheme and the Building Safety Improvement Loan Scheme.

CONSULTATION AND COMMENTS

18 Consultation starts on 25 June 1998 and will last for two months until 24 August 1998. Please send your comments on the proposals set out in this paper:

- by mail to B Division, Security Bureau, 6/F, Central Government Offices, Lower Albert Road, Hong Kong;
- by fax to B Division, Security Bureau on 2179 5408; or
- by electronic mail on *sbseoesu@hkstar.com*
(home page address: *http://www.info.gov.hk*)

Security Bureau/Home Affairs Bureau
June 1998

CONSULTATION PAPER ON PROPOSALS TO IMPROVE FIRE SAFETY IN PRIVATE BUILDINGS

INTRODUCTION

Fire has a devastating effect on lives and properties. The damage caused by a fire can be catastrophic if fire safety precautions are not properly observed. In the tragic fire in Garley Building in November 1996, 41 people died and some 80 were injured. The fire in Mei Foo Sun Chuen in April 1997 killed 9 people and injured another 37. In 1997, there were 11,908 cases of fire in Hong Kong, causing 47 fatalities and 605 injuries.

2 Fires in pre-1987 buildings without the protection of modern fire safety measures can be disastrous. There are approximately 1 400 commercial, 9 000 composite (commercial/residential), 3 000 residential (above 3 storeys) and 1 700 industrial buildings in the territory with their building plans submitted to the Building Authority before 1987. The flow of people is significant in commercial and industrial blocks during office hours, whilst the population density is high in residential buildings particularly at night time. Fire service installations (FSIs) and building fire safety construction in most of these buildings are not up to present day standards.

3 We have been taking progressive steps to improve fire safety in private buildings and promote a fire safety culture in the community. The Fire Safety (Commercial Premises) Ordinance (FS(CP)O), which came into operation in May 1997, requires prescribed commercial premises (including banks, off-course betting centres, jewellery and goldsmith shops, supermarkets,

department stores and shopping arcades) to upgrade their fire safety measures to modern standards.

4 The Fire Safety (Commercial Premises) (Amendment) Ordinance 1998 was brought into operation on 1 June 1998 to extend the coverage of the FS(CP)O to pre-1987 commercial buildings to improve their fire safety. A Fire Safety Improvement Loan Scheme (FSILS) was also introduced on 1 June 1998 to provide financial assistance to owners who have received statutory directions under the FS(CP)O to upgrade the fire safety standards of their commercial premises or buildings.

5 A large-scale Fire Safety Campaign, with special emphasis on the importance of proper building management to fire safety, was launched on 21 June 1998. A series of educational and publicity activities will be organised throughout the year to arouse and sustain fire safety awareness of the public.

6 To formulate our strategy to improve fire safety in private buildings, the Fire Services Department (FSD) conducted a territory-wide building survey in February and March 1998 to assess the fire safety conditions in different types of private buildings. The Buildings Department (BD) has been conducting sample surveys since February 1998, covering some 40 pre-1987 composite (commercial/residential) buildings and some 1 200 pre-1987 non-commercial buildings. The Electrical and Mechanical Services Department (EMSD) also carried out two sample surveys during February to April 1998, covering altogether 160 buildings, to inspect the condition of communal fixed electrical installations in these buildings.

SURVEY FINDINGS

Fire Services Department

7 FSD inspected a total of 27 148 private buildings, of which only 7 499 (28%) were rated satisfactory in terms of their FSIs and building fire safety management. FSD also completed a sample survey of some 25 000 low rise (not more than 3 storeys) domestic houses. The fire safety measures in 6 236 houses covered in the sample survey are of an acceptable standard.

8 Two major areas of deficiency were identified according to FSD's survey findings -

(a) Fire safety management in buildings

Maintenance of FSIs and general fire safety management in private buildings are not satisfactory, as revealed by the large number of cases with defective or obstructed means of escape, defective or poorly maintained FSIs, unsatisfactory electrical wiring in common parts, and unauthorised building alterations and rooftop structures. Only 28% of the surveyed buildings were rated as satisfactory. Nevertheless, most of the identified fire hazards should be easily rectifiable, but would require regular and intensive daily upkeeping.

The presence of building management bodies, in the form of an owners' corporation (OC) or a property management company, would help to improve fire safety management in

buildings. Out of 14 808 private buildings with building management bodies, only 3 050 (21%) had reported cases of fire hazards.

(b) Composite (commercial/residential) buildings

The survey indicates that amongst all types of buildings, the fire safety condition in composite buildings is the most unsatisfactory. Of the 14 977 composite buildings surveyed, only 11% were found satisfactory. Despite the large flow of people and high population density particularly in the commercial portions of such buildings, most of these commercial parts are not installed with sprinkler systems.

9 The fire safety problems are relatively less serious in industrial and residential buildings. Of the 2 305 industrial buildings surveyed, 47% were rated satisfactory in terms of their FSIs and building fire safety management. As regards the 5 298 residential buildings surveyed, 62% were rated satisfactory. Notwithstanding these findings, the FSIs and fire safety measures of the pre-1987 buildings in particular do not meet present day standards. There is a need to consider upgrading their fire safety standards to provide better fire protection.

Buildings Department

10 Based on the preliminary findings from its sample surveys, BD has identified the following common problems in pre-1987 non-commercial private buildings:

- (a) exit routes and staircases as a means of escape are rendered ineffective by unauthorised alterations

and/or obstructions, exposed electrical wiring and other installations, and unauthorised or unacceptable doors/gates obstructing access at ground level or access to the main roofs;

- (b) fireman's lifts as a means of access for fire fighting and rescue are rendered ineffective by the lack of protective lobbies for them; and
- (c) lobbies as fire resisting construction are rendered ineffective by defective lobby doors, removal of lobby doors or removal of lobbies.

The private buildings surveyed by BD were identified to contain a high percentage of deficiencies in means of escape, fireman's access and prevention of spread of fire to adjoining buildings. Similar to the findings of FSD's survey, the overall fire safety condition in composite buildings is considered least satisfactory, with 80% of buildings found with serious deficiencies in exit routes, 19% with deficiencies in fireman's access, and 50% with deficiencies in prevention of spread of fire to adjoining buildings.

Electrical and Mechanical Services Department

11 Of the 160 buildings which EMSD had surveyed, only 21% were found to have their communal electrical installations in satisfactory condition, 59% and 20% of these buildings would require minor and major rectification respectively.

12 The above surveys reveal the unsatisfactory condition of fire safety of private buildings in Hong Kong. Properly maintained fire safety measures in buildings are of vital importance to control the spread of fire, increase the chance of

escape of occupants and minimise the damage in case of fire. Most of the identified fire hazards are easily rectifiable but people often ignore them for the sake of convenience. However, even the simplest fire safety precautions, such as keeping the smoke doors closed all the time, can have a crucial effect in case of fire, as revealed from the Coroner's findings in the Mei Foo Sun Chuen fire -

'I [the Coroner] cannot emphasise too strongly that the tragedy which overcome the eight victims ... was avoidable simply and easily. Had the smoke doors operated as they were intended to, I have no doubt that the possibility that none of those eight victims would have lost their lives would have been turned into an almost certain fact.'

(Extract from the Report of the Coroner's Death Inquest into the Mei Foo Sun Chuen fire on 8 April 1997)

URGENT SOLUTIONS

(A) Building Management

13 There is a close and direct relationship between proper building management and building fire safety. Building management bodies, such as OCs or Mutual Aid Committees (MACs), can play a key role in co-ordinating building owners to properly maintain their fire safety measures, and to carry out improvement works, in particular works in common areas of buildings involving multi-ownership. We have been implementing a proactive programme to improve building management. The Home Affairs Department (HAD), through its liaison network in the districts, has been actively encouraging, advising and assisting owners to form OCs under the Building

Management Ordinance (BMO) to manage their buildings. Liaison Officers of the District Offices reach out to building owners and the OCs regularly to explain the importance of good building management. To backup these efforts, HAD has recently opened the first Building Management Resource Centre in Kowloon to provide comprehensive services for the public on building management matters. HAD is actively planning for the setting up of new Centres on Hong Kong Island and in the New Territories. The Department also organises regular seminars, training courses, fire drills, etc. in the districts to promote building management and fire safety.

14 We will also remind building management bodies and owners of their responsibility to protect occupiers and users of their buildings from fire threats. We propose to organise owners and residents to carry out routine inspection of their own buildings to identify defects in the fire safety provisions, and to follow up with the OCs or government departments as necessary. BD, FSD, EMSD and Labour Department are drawing up a standard list of inspection items in simple layman terms to facilitate the self-inspection scheme by building owners or residents. Regular inspections can also be organised by the building management bodies. HAD will arrange for the inspection list to be widely distributed to owners and residents to facilitate self-inspection of their buildings, even where no organised building management body is formed. Follow-up action will include persuading owners and tenants to form OCs or other resident bodies to take more effective joint action on better building management.

(B) Removal of Fire Hazards

15 Departments will step up enforcement actions to ensure early removal of fire hazards identified during the surveys. Our action plan to remove fire hazards comprises the following -

(I) Fire hazards which are easily rectifiable

16 Fire hazards identified in FSD's survey are being followed up by relevant departments. FSD, BD, EMSD and HAD are making a concerted effort to require responsible building owners and residents to rectify the fire hazards.

17 Building owners and residents should be able to remove most of these hazards themselves, such as by clearing means of escape and keeping smoke doors closed, without much difficulty or incurring much expenses.

(II) Reinstatement of building fire safety measures and structures

18 Common examples of defective building fire safety measures and structures include unworkable FSIs and removal of smoke doors. The enforcement departments will require responsible owners and residents to restore and reinstate the building fire safety measures and structures to workable and satisfactory condition, and to the standards specified in their approved building plans.

19 If the responsible owners fail to carry out necessary works to abate fire hazards, under the Fire Services Ordinance, the Director of Fire Services (DFS) may prosecute them, and where circumstances require, may effect physical abatement on behalf of the owners and then recover the costs from them.

Likewise, if the owners fail to carry out the necessary works to rectify the building fire safety structures, the Director of Buildings (DB) may cause the works to be carried out on behalf of the owners and then recover the costs from them, as provided under the Buildings Ordinance. If necessary, we will invoke such statutory powers to deal with buildings with serious fire safety problems.

20 For communal electrical installations with approved loading exceeding 100 amperes, owners are required, under the Electricity Ordinance, to have the installations inspected, tested and certified by registered electrical contractors at least once every five years. EMSD will prosecute those owners who fail to carry out such periodic tests.

21 The more serious cases involving, for example, multiple defective fire safety measures would be considered for inclusion as 'target buildings' for follow up actions through the Building Management Co-ordination Teams of HAD.

(III) Demolition of unauthorised rooftop structures

22 Among the 9 000 buildings where suspected unauthorised rooftop structures (URs) were found in the survey, 4 600 are single staircase buildings. As their rooftops are part of the required means of escape, URs posing a fire hazard should be removed as a matter of priority. BD proposes to demolish such URs in these single staircase buildings by two phases -

Phase I (1998-2002)	to deal with URs (together with other building infractions) in 1 300 single staircase buildings over 4 years. Rooftops of these buildings
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are found to be fully covered with URSs; and

Phase II
(after 2002) to deal with URSs in the remaining 3 300 single staircase buildings.

(IV) Communal electrical installations in buildings

23 EMSD proposes to take immediate enforcement actions on about 11 400 buildings referred by FSD during the survey, including -

- (a) issuing warning letters to and considering prosecution action against those buildings with approved loading exceeding 100 amperes but have not carried out the periodic inspection, testing and certification of the communal electrical installations as required under the Electricity Ordinance; and
- (b) conducting inspections and serving improvement notices on any irregularities found in the communal electrical installations in buildings with approved loading not exceeding 100 amperes and as such are not required under the Electricity Ordinance to conduct periodic testing and inspection.

24 Following the priority action programme on these 11 400 buildings, EMSD proposes to carry out inspections and take enforcement actions on other buildings in the following order of priority, focusing on the older buildings in the first instance -

- (a) pre-1969 buildings;

(b) 1969-1985 buildings;

(c) 1985-1992 buildings; and

(d) post-1992 buildings.

25 The cost of repairing/replacing the communal electrical installations depends on the size of the buildings, and the condition of and deficiencies in such installations. The estimated cost per building, based on the sample survey of 160 buildings carried out by EMSD, is set out at the Appendix. The cost of each unit depends on the number of co-owners of the buildings.

(C) Promoting a Fire Safety Culture

26 One of the findings of our surveys is that the fire safety awareness of the building owners and residents is low. We will continue to work closely with building management bodies to tackle building fire safety problems and promote a fire safety culture in the community. Our action programme includes the following -

- (a) A Central Steering Committee on Fire Safety has been established to co-ordinate the efforts of various departments to promote fire safety. Six District Fire Safety Committees (DFSCs) have been set up so far to co-ordinate and organise activities at the district level. A series of concerted inter-departmental building clearance operations to remove fire hazards is being organised. Our aim is to establish DFSCs in all the 18 districts eventually.

- (b) FSD has set up a Community Relations Division to strengthen the cooperation between the Government and the community in the fight against fire. The Division will, in liaison with other departments, step up public education on fire safety, organise fire safety seminars and encourage the public to participate in fire drills.
- (c) To educate the younger generation and enhance their fire safety knowledge, FSD has launched a Fire Safety Ambassador (FSA) Scheme. FSAs come from different strata of the community and are trained to help report fire hazards to FSD and disseminate fire safety message. There are about 700 FSAs at present. The Scheme will be further expanded to widen its coverage.
- (d) We are mounting a large-scale Fire Safety Campaign in 1998/99 with the aim of enhancing public awareness of the importance of building management and fire safety. The year-long campaign will emphasise on the responsibility on the part of owners to take care of their property and to maintain FSIs. It will mobilise the whole community to join forces to prevent fire together. The public will also be advised on fire safety measures and what to do in case of fire through different channels and media.

FURTHER PROPOSALS TO IMPROVE FIRE SAFETY

(A) Building Management

(I) Compulsory/mandatory management of buildings

27 Section 18 of the BMO stipulates, inter alia, that the OC shall maintain the common parts of a building in a state of good and serviceable repair and clean condition, and shall carry out such work as may be ordered in respect of the common parts by any public officer in exercise of the powers conferred by any Ordinance. To enhance the effectiveness of this Section, the Home Affairs Bureau (HAB) will consider amending this Section to provide for -

- (a) specific management and maintenance standards;
- (b) sanctions against non-compliance; and
- (c) a certification scheme whereby owners of old buildings are required to produce a certificate from Authorised Persons certifying that their buildings are free from fire hazards.

28 As a complementary measure, HAB is pursuing the concept of compulsory or mandatory management. One possible way is for DFS and DB to identify problematic buildings and make recommendations to the Secretary for Home Affairs (SHA) who, after consideration, will order the owners of such buildings to -

- (a) effect the building management measures as stipulated; and

- (b) if necessary, employ a building manager with adequate and relevant experience.

There would be clear sanctions stipulated in the law against non-performance of (a). Regarding (b), if the owners decline to employ a proper building manager, SHA may appoint one for them and recover the costs and fees from the owners.

(II) Condominium title

29 HAB has examined the laws of Australia, Singapore and Canada. The formation of OCs is a statutory requirement in these countries. An OC is formed automatically when the owners register their respective titles with the authority. In addition, Singapore has an Act to deal with the situation where a building is not managed and maintained satisfactorily, by appointing a management agent on the owners' behalf. We consider that the automatic formation of OCs warrants consideration, and welcome views from the general public and relevant parties on the feasibility of applying this modality in new buildings.

(B) Upgrading Fire Safety Standards of Private Buildings

30 According to our survey findings, the fire safety provisions of a large number of pre-1987 private buildings are not up to current standards. To effectively protect the safety of owners and occupiers working or living in these buildings, building owners are recommended to upgrade the fire safety measures of their buildings to modern standards.

31 We will consider a phased programme to upgrade the FSIs and building fire safety construction of private buildings, according to the need for improvement as revealed by the findings of our surveys. Members of the public are requested to comment on a proposed programme set out in the ensuing paragraphs.

(I) Composite (commercial/residential) buildings

32 As the fire safety condition in composite buildings is the most unsatisfactory, and in view of the large flow of people and high population density in the commercial portions of such buildings, we propose to deal with composite buildings as a matter of priority, and require these buildings to upgrade their FSIs and building fire safety construction by phases.

33 The proposed fire safety requirements for the commercial portions of composite buildings may be modelled on the FS(CP)O. These may include the installation of sprinkler systems which are important in controlling the spread of fire, and improvements to building fire safety construction such as protection of exit routes and fireman's access, and prevention of spread of fire between compartments of different uses/adjoining buildings. Nevertheless, the residential portions of composite buildings, because of the relatively lower fire load and flow of people, should not require the same fire safety standards as those of the commercial portions. We propose certain essential fire safety improvement measures including the installation of fire hydrant/hose reel systems (if these were not already provided) which should offer the occupants a ready means of tackling an outbreak of fire, and the provision of smoke lobbies and smoke doors which are for the protection of exit routes. Specific details and the estimated costs of some typical upgrading requirements for composite buildings are set out at the Appendix.

34 We propose a 10-year programme to improve the fire safety standards of composite buildings as follows -

Phase I to deal with about 5 000 pre-1973 composite buildings over six years; and

Phase II to deal with the remaining 4 000 1973-1987 composite buildings over four years.

We propose to deal with the older composite buildings with their building plans first submitted to the Building Authority before 1973 as a matter of priority because the installation of sprinkler systems was not a mandatory requirement at the time when these buildings were constructed. The 1973-1987 composite buildings could be covered at a later stage. The Code of Practice on Minimum Fire Service Installations and Equipment was substantially revised in 1987. Buildings designed to the standards laid down in this 1987 Code of Practice would have fitted with modern FSIs with standards that are very close to, if not the same as, current standards.

35 Due regard will be given to the urban renewal programme particularly for old buildings which may require substantial structural alterations or building works to meet the required standard of fire safety.

36 We will consider legislative means to bring fire safety in pre-1987 private buildings to modern standards, by making reference to the framework under the FS(CP)O. Under the Ordinance, the authorities, i.e. DB and DFS may issue directions to require owners or occupiers to improve the fire safety measures of their buildings to the stipulated standards. A direction will specify a reasonable period of time within which

the owners or occupiers must comply with the directions. The authorities may apply to a magistrate for a compliance order, directing an owner or occupier to comply with the requirements in a direction, if he fails to do so without a reasonable excuse. If an owner or occupier fails to comply with a direction or a compliance order, the authorities may apply to the District Court for a Use Restriction/Prohibition Order to prohibit the use/occupation of the commercial premises/building. Failure to comply with the requirements shall be an offence and shall be punishable by a fine, whilst failure to comply with a Use Restriction/Prohibition Order shall also be punishable by imprisonment. We would consider adopting a similar legislative approach to bring about fire safety improvements particularly in the commercial portions of composite buildings. However, a Use Restriction/Prohibition Order may not be applicable to the residential portions of composite buildings and residential buildings. To enable the users to have a proper understanding of the fire safety condition of private buildings, consideration may be given to include in the new legislation a categorization scheme to distinguish those buildings which have failed to upgrade or improve their fire safety to the stipulated standards. We would consider making the list available for public inspection. We would also consider registering a note on the fire safety condition in the land title/title deed of each categorized building in the Land Registry. A building will be removed from the categorization list when its fire safety measures have been upgraded or improved to the required standards.

(II) Residential buildings

37 Notwithstanding the comparatively more satisfactory maintenance of FSIs and building fire safety measures, and our immediate measures to improve building management and remove URSs in residential buildings, there is the need for

bringing the basic fire safety measures of these buildings to modern standards. These requirements would be similar to those proposed for the residential portions of composite buildings. Details of the proposed upgrading requirements and the average costs are set out at the Appendix.

38 After the completion of the proposed 10-year fire safety improvement programme for composite buildings, we may deal with about 3 000 pre-1987 residential buildings (above 3 storeys) by phases, with priority given to pre-1973 buildings. Subject to the community's views on the legislative approach and the categorization scheme proposed for composite buildings, we may consider similar arrangements for residential buildings.

(III) Industrial buildings

39 In general, the need to address fire safety issues in industrial buildings is less urgent compared to the case of composite buildings. Nearly half of the industrial buildings surveyed by FSD were rated satisfactory in terms of FSIs and building fire safety management. Furthermore, fire safety aspects of workplaces in industrial buildings and work processes which have potential fire hazards are already controlled by the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance. Therefore, the fire safety improvement programme for industrial buildings may come after the priority programmes for composite and residential buildings.

40 We propose to require industrial buildings to install sprinkler systems and automatic fire detection systems connected to FSD for areas not covered by sprinklers, and provide protection to exit routes and fire fighting and rescue

stairways. Detailed proposals and the estimated average costs of some typical upgrading requirements are set out at the Appendix.

41 Our proposal is to deal with about 650 pre-1973 industrial buildings first before the programme may be extended to about 1 000 1973-1987 industrial buildings. We propose to introduce legislative amendments to require owners and employers in industrial buildings to upgrade the fire safety measures of their premises to protect the safety of people working in these buildings.

COSTS AND BENEFITS

42 The surveys conducted by relevant departments on the general fire safety conditions of private buildings have highlighted the need for owners to improve fire safety particularly in old buildings. Our package of proposals aims at bringing about an overall improvement to the management of private buildings, and upgrading their fire safety measures to modern standards. Owners themselves are primarily responsible for managing and upgrading their buildings and will benefit directly from higher fire safety standards. Such improvement measures are in the ultimate interest of the building owners because, with better fire safety protection, their personal safety or that of their tenants would be enhanced, and the value of their buildings would appreciate and their life cycles would be extended. The damage caused by some of the past tragic fires could have been minimised or even avoided if the building fire safety measures were upgraded. To provide an illustration, reference may be made to the following extract of the Final Report of the Inquiry into the Garley Building Fire -

'A lot of the FSIs required for new buildings would have been very useful in reducing the loss incurred by this fire had they been installed. Were there automatic sprinklers in the lift lobby of 2F, for example, the fire would have been extinguished or controlled.'

43 The cost for upgrading fire safety standards will depend on the type of building, the difference between the existing and the proposed standards of FSIs, and the extent of deficiencies in building fire safety structure. The cost for each unit depends on the number of co-owners of the building, which varies widely between buildings.

44 BD and FSD have conducted a sample survey to estimate the costs for improving the fire safety standards of private buildings. The costs for upgrading a **composite building**, which is our proposed first priority, are set out below -

		<u>Average Cost per Building</u> (HK\$)	<u>Average Cost per Unit</u> (HK\$)
commercial portions (assuming 8 commercial units)	(a) FSIs	390,900	48,900
	(b) building fire safety construction	380,600	47,600
residential portions (assuming 84 residential units in a 16-storey building)	(a) FSIs	485,800	5,800
	(b) building fire safety construction	2,031,800	24,200

45 The estimated upgrading costs for a **residential building** are as follows -

		<u>Average Cost Per Building</u> (HK\$)	<u>Average Cost per Unit</u> (HK\$)
residential building (assuming 64 units in a 15 storey building)	(a) FSIs	380,700	6,000
	(b) building fire safety construction	1,701,500	26,500

46 The estimated costs for repair/replacement of communal electrical installations, based on the sample survey by EMSD, should not exceed a few thousand dollars for each building owner. The amount would be further reduced for buildings with a larger number of co-owners sharing the cost.

47 To lessen the impact on the community, we have proposed a phased programme to upgrade the fire safety standards of private buildings as outlined in the paragraphs 34, 38 and 41 above. In general, priority will be accorded to older buildings with their building plans first submitted before 1973. In the light of operational experience and feedback of the community, we will review our phased programme and make suitable adjustments if necessary.

48 In view of the cost implications for building owners to upgrade the fire safety standards of their buildings, some owners may require financial assistance in fulfilling their obligation to upgrade or improve fire safety of their buildings. We would

consider providing financial assistance along the lines of the FSILS and the Building Safety Improvement Loan Scheme (BSILS).

49 Under the FSILS, non-means-tested loans are provided at best lending rate to owners of prescribed commercial premises and specified commercial buildings who have received statutory directions under the FS(CP)O to upgrade the fire safety standards of their premises or buildings.

50 Under the BSILS, non-means-tested loans are provided at a 'no-gain, no-loss' interest rate to owners of residential and composite (commercial/residential) buildings who need financial assistance to carry out inspections and maintenance works to their buildings under the Building Safety Inspection Scheme. The "no-gain, no-loss" interest rate is calculated on the basis of the time-weighted average return achieved by the entire Exchange Fund over a period of 18 months. Weighting is applied in order to smooth out fluctuations in the interest rate. The 'no-gain, no-loss' interest rate with effect from 1 April 1998 is 6.262% per annum as compared to the prevailing prime rate of 10% per annum.

51 Borrowers under the two schemes may repay the principal and the interest of the loan by instalments up to 36 months.

CONSULTATION

52 Consultation starts on 25 June 1998 and will last for two months until 24 August 1998. Based on our proposals and the views expressed during the consultation period, we will formulate our strategy to improve fire safety in private buildings.

COMMENTS

53 Please send your comments on the proposals set out in this paper:

- by mail to B Division, Security Bureau, 6/F, Central Government Offices, Lower Albert Road, Hong Kong;
- by fax to B Division, Security Bureau on 2179 5408; or
- by electronic mail on *sbseoesu@hkstar.com*
(home page address: *http://www.info.gov.hk*)

54 We would wish, either in discussion or in any subsequent report, whether privately or publicly, to be able to refer to and attribute comments submitted in response to the consultation paper. Any request to treat all or part of a response in confidence will be respected, but if no such request is made, it will be assumed that the response is not intended to be confidential.

Security Bureau/Home Affairs Bureau
June 1998

Appendix

(A) Estimated repair/replacement cost of communal electrical installations in buildings (Based on the sample survey carried out by EMSD on the condition of the communal electrical installations in 160 buildings)

Estimated Cost PER BUILDING	Percentage of Buildings
● easily rectifiable and does not involve any cost	15%
● below \$50,000	40%
● \$50,000-\$200,000	37%
● \$200,001-\$500,000	6%
● \$500,001-\$750,000	2%

These are multi-storey buildings consisting of many individual units. The contribution by individual owner is unlikely to exceed more than a few thousand dollars each.

The major defects/deficiencies found during the sample survey included defective cables and wirings, deteriorated electrical equipment, no earthing conductors, ineffective earth bonding, insufficient labelling, live parts not properly enclosed or insulated and obstruction found at entrance/exit of switch room.

(B) Estimated costs for typical fire safety upgrading requirements in commercial portions of composite buildings

<u>Fire Service Installations</u>	Cost (HK\$)
● sprinkler system	168,000/floor
● fire hydrant/hose reel system	25,000/floor
● emergency lighting system	2,500/50m ²

- manual fire alarm system 2,400/floor
- automatic cut-off device for ventilating system 8,000/floor

Building Fire Safety Construction

- replacement of fire door 9,200/door set
- provision of smoke lobby 21,200/lobby
- fire resisting separation between the commercial portion and the residential portion 18,000/occupancy unit
- fire resisting enclosure of electrical wiring/installations 3,600/floor
- fire resisting protection of special hazard room 20,800/room
- emergency lighting in staircases and exit routes 2,100/floor

(C) Estimated costs for typical upgrading requirements in residential portions of composite buildings/residential buildings

<u>Fire Service Installations</u>	Cost (HK\$)
● fire hydrant/hose reel system	25,000/floor
● manual fire alarm system	2,400/floor

Building Fire Safety Construction

- replacement of fire door 9,200/door set
- provision of smoke lobby 21,200/lobby
- fire resisting protection in common corridort 1,200/occupancy unit
- emergency lighting in staircases and exit routes 2,100/floor

- fire resisting enclosure of electrical wiring/installation 3,600/floor

(D) Estimated costs for typical upgrading requirements in industrial buildings

Cost (HK\$)

Fire Service Installations

- automatic fire detection system \$40,000/building
- sprinkler system 168,000/floor
- fire hydrant/hose reel system 25,000/floor
- emergency lighting system 2,500/50m²
- manual fire alarm system 2,400/floor
- automatic cut-off device for ventilating system 8,000/floor

Building Fire Safety Construction

- replacement of fire door 9,200/door set
- provision of smoke lobby 21,200/lobby
- fire resisting protection in common corridor 1,200/unit
- emergency lighting in staircases and exit routes 2,100/floor
- upgrading of firefighting and rescue stairway 9,700/occupancy unit
- fire resisting protection to special hazard room 20,800/room

**Summary of Comments Collected in the
Public Consultation on Proposals to Improve
Fire Safety in Private Buildings**

(A) Professional Bodies and Private Companies

We received a total of 29 written submissions from professional bodies coming from property management, fire safety, construction and engineering fields as well as some trade and interest groups and private companies. We also organised a seminar to brief over 50 professional bodies. They are generally supportive of our proposals. Their views can be summarized as follows -

- the HAB should regulate the quality of property management companies and consider maintaining a list of qualified property management personnel/companies. The Bureau should specify a set of building management and maintenance standards.
- the Government should carefully assess the legal and practical implications of the proposed mandatory building management and automatic formation of owners' corporations (OC) in new buildings.
- adequate backup support for owners should be provided by the HAD.
- the Government should carefully assess the resource as well as rehousing implications of the proposal to demolish unauthorised rooftop structures (URS).
- some old buildings might not be able to meet the modern fire safety standards due to structural constraints. The Government should take a pragmatic and flexible approach in implementing the legislation. Departments should synchronize their enforcement actions.
- due regard should be given to the urban renewal programme for old buildings which may require substantial structural alterations to meet the modern fire safety standards.
- our proposal to promote a fire safety culture in the community is supported.
- financial assistance should be provided to owners for the fire safety

improvement works.

- some comments on the technical specifications of the fire service installations, building fire safety construction as well as electrical safety installations.

(B) Political Groups

2 We briefed and received written submissions from the Democratic Party (DP) and the Hong Kong Association for Democracy and People's Livelihood (ADPL). We also received written submissions from the Democratic Alliance for Betterment of Hong Kong (DAB). Their views are summarized as follows -

- the BD's pace of removing URS and unauthorised building works is considered slow. A freezing survey for the affected URS occupants should be conducted.
- old buildings with higher fire hazards should be accorded with priority status in the urban renewal programme.
- upgrading of fire safety standard in existing buildings may be difficult and expensive.
- the HAD should deploy additional resources to enhance its services on building management; provide more support for building owners; and set up Building Management Resource Centres (BMRC) in each district.
- the quality of property management companies should be regulated.
- the DAB proposed a legislation on mandatory building safety inspection, with Government bearing the costs of inspections.
- the ADPL and the DAB had reservations on the feasibility of the conceptual proposal of mandatory/compulsory management of buildings as the owners might not have the expertise and resources to effect the requisite improvements. The DP considered that the proposals warrant further studies.
- appointment of fire safety officers; conducting fire drills; and organizing more seminars and training courses on fire safety and

building management were suggested as complimentary measures.

- resumption of private streets should be speeded up.

(C) Provisional District Boards, district committees, owners' corporations and similar organizations

3 We briefed all the 18 Provisional District Boards (PDBs) or their committees and several other district committees/organizations. We also received 17 written submissions from District Fire Safety Committees, Area Committees, OC, mutual aid committees, individual Provisional District Board members and a Provisional Urban Council member. They are generally receptive to our proposals. Their views can be summarised as follows

- departments should step up inspection and enforcement actions.
- the Government's determination to improve fire safety in private buildings is supported. Financial assistance, including loans and subsidy, should be provided.
- the programme of demolition of URS should be accelerated. Suitable rehousing should be provided for the affected occupants.
- there are inadequate support and assistance to owners on building management and fire safety. The concerned departments should be provided with more manpower and resources to help the owners to effect the improvements.
- more BMRC should be set up as soon as possible. Outreaching services should be provided.
- cultivating a fire safety culture is agreed. More promotional activities should be organised to educate the public. Expansion of the Fire Safety Ambassador Scheme is supported.
- co-ordination between different departments should be strengthened.
- there are concerns about the manpower supply in the private sector to meet the fire safety upgrading workloads when the proposals are implemented.

- views on the conceptual proposal of "condominium title" are divided. While some are against the mandatory formation of OC in all existing buildings, others are concerned about the lack of owners running the OC. Even if an OC is automatically formed in a new building, there is no guarantee that the building will be managed effectively and maintained properly. Further studies into the feasibility of the proposal should be considered before its implementation.
- noting that mandatory/compulsory management of buildings will only be applied to tackle the problematic buildings identified by the authorities, the proposal is generally supported.
- since the quality and performance of property management companies varies widely, some form of mechanism to regulate these companies should be considered.
- the Government should proactively assist the owners and residents of buildings to form OC in order to carry out the requisite fire safety improvement works.
- shifting the fire safety responsibilities to owners may discourage them from participating in the fire safety improvement and building management.
- the BD should speed up its enforcement actions on removing unauthorised building works.
- the EMSD should draw up a timetable to deal with the 14,000 buildings identified in the survey. Testing of the electrical installations within individual unit/flat should be considered.
- present procedure of drafting deeds of mutual covenant (DMC) and the unfair terms in many existing DMC should be critically examined.

(D) Individuals

4 We received a total of 26 written submissions from individuals from various sectors of the community. Whilst they are generally supportive of our proposals, they have raised the following specific comments -

- the Government should speed up the demolition of URS and prioritize

its actions according to the fire risks of the URS.

- a number of comments on the technicalities of fire service installations (e.g. fire alarms, fire extinguishers etc.) and building design (e.g. smoke doors, fire resisting construction etc.).
- comments on the details of the implementation of the building management initiatives. The Government should regulate the quality of property management personnel/companies.
- the Government should provide adequate backup support for building owners to improve the fire safety and building management of their properties.

(E) LegCo, Labour Advisory Board and Land and Building Advisory Committee

5 We briefed LegCo, LegCo Panel on Security, Labour Advisory Board and Land and Building Advisory Committee during the consultation period. They are generally supportive of our objective to improve fire safety and building management conditions of private buildings. Their views are summarized as follows -

- the Administration should implement a comprehensive proposal to improve fire safety of private buildings, and should ensure the adequacy of resources to take enforcement actions.
- effective building management was important to improving fire safety. Publicity should be stepped up to encourage the formation of OC.
- departments should carry out regular inspections of buildings to identify and rectify deficiencies in fire safety measures. Co-ordination between departments should also be improved.
- the Administration should consider bringing forward the programme for upgrading the fire safety standards of pre-1973 residential buildings.
- concerned about the adequacy of emergency vehicular accesses in old buildings.
- the Administration should make sure that the fire safety upgrading

proposals will not affect the property rights of individual owners.