

Clause 3- definition of "domestic purposes" (住用用途)

1. The term "domestic"(住用) is adopted in the Fire Safety (Commercial Premises) Ordinance (Cap 502), while the term "domestic purposes"(住用用途) is adopted in the Buildings Ordinance (Cap 123). We remain of the view that it is preferable to adopt a consistent Chinese term in the Bill.

Clause 7

2. Government's assistance in the provision of alternative housing to those being rendered homeless is a remedy to alleviate the hardship that may be caused by a prohibition order. The availability of such a remedy is relevant in assessing whether the means employed is proportional to the aim sought to be realised (cf explanation in the Administration's letter of 19 April 2001). In determining under clause 7(6)(d) whether it is reasonable and necessary in the circumstances to make the order, the court would take into account the availability of alternative housing in view of the property right guarantee under Articles 6 and 105 of the Basic Law. We consider that the current drafting is in order.

3. Separately, the situation in the Bill is different from that envisaged in the Landlord and Tenant (Consolidation) Ordinance in which the issue is renewal of an existing tenancy agreement. Public safety is at issue in the present Bill, as opposed to competing private interests between the landlord and the tenant in the latter legislation.

Clause 8(1)(a)(iii)

4. While the existing wording of clause 8(1)(a)(iii) may appear to be arbitrary, it is noted that permission is given at the discretion of the enforcement authority for the purpose of implementing measures necessary for the discharge or revocation of the prohibition order (cf clause 8(1)(a)(ii)). The building concerned is considered as unsafe as indicated by the making of a prohibition order. Against this background, the authority may require the power to take prompt action to stop persons previously given permission from entering the building concerned in case of contingency that may result in danger in life. We believe that the current drafting has provided flexibility to the enforcement authority while giving sufficient safeguard against any abuse of power.

Clause 5(10)

5. To impose a duty on the enforcement authority under clause 5(10) to set up an advisory committee may imply that the authority is then under a duty to consult the committee in each and every case. This is not our policy intent. In a great many cases, we believe enforcement of the fire safety directions is straightforward without necessary reference to the committee. The purpose of the committee is to assist the enforcement authority in difficult cases, to help determine what alternative remedial measures would be appropriate. As it is the Administration's firm intention to set up the committee, we believe that it is adequate to only stipulate the necessary empowering provision in clause 5(10).

Schedule

6. A copy of each of the four Codes of Practice cited in the Bill is enclosed for members' reference. If members require, officers of the Fire Services Department and the Buildings Department will be happy to brief members on the contents at the next Bills Committee meeting. The following is a brief note –

(a) *Code of Practice For Minimum Fire Service Installations And Equipment 1994*

The publication of this Code of Practice by the Director of Fire Services is provided for in section 16 (1)(b)(ii) of the Buildings Ordinance (Cap. 123). This Code prescribes the minimum fire service installations and equipment, with specifications and technical data, necessary for a building having regard its intended purpose. It mainly consists of the following parts –

- Part I - General
- Part II - Table and Definitions of System/ Installations/ Equipment
- Part III - Classification of Premises and Definitions
- Part IV - Requirements for Premises
- Part V - Specification and Testing

(b) *Code of Practice for the Provision of Means of Escape in Case of Fire 1996*

Requirements for means of escape for buildings are laid down in section 41(1) of the Building (Planning) Regulations. This Code of Practice provides guidance on compliance with these requirements. It mainly consists of the following parts –

- Part I - General Provisions
- Part II - General Provisions of Means of Escape
- Part III - Provision of Means of Escape in Places of Public Entertainment

(c) *Code of Practice for Fire Resisting Construction 1996*

Requirements for fire resisting construction for buildings are laid down in Part XV of the Building (Construction) Regulations. This Code of Practice provides guidance on compliance with these requirements. It mainly consists of the following parts –

- Part I - General Provisions
- Part II - Specific Requirements

(d) *Code of Practice for Means of Access for Firefighting and Rescue 1995*

Requirements for means of access to buildings are laid down in regulations 41A, 41B and 41C of the Building (Planning) Regulations. This Code of Practice provides guidance on compliance with these requirements. It mainly consists of the following parts -

- Part I - General Provisions
- Part II - Provision of access staircase, fireman's lifts and firefighting and rescue stairways
- Part III - Access staircase

Part IV - Fireman's lift

Part V - Firefighting and rescue stairway