

Fire Safety (Buildings) Bill

Administration's Response to issues raised by Members at the Bills Committee meeting on 28.5.2001

Sharing of costs for improving fire safety measures

The sharing of cost for fire safety improvement measures are generally governed under the terms of the deed of mutual covenant ("DMC") of each individual building or in proportion to the owners' shares in the buildings. As far as the common parts of a building are concerned, the use and obligations to repair and maintain thereon are usually regulated under the DMC. The general position is described as follows.

2. If a fire safety direction is served on a building owner in respect of the relevant part he exclusively occupies directing him to comply with fire safety requirements with respect to that part, the building owner will have to bear the cost incurred in the upgrading works. Some possible examples are set out as follows –

- installation of an automatic sprinkler system inside a non-domestic unit
- provision of emergency lighting inside a non-domestic unit

3. If separate fire safety directions are served on a number of building owners in respect of the relevant part each of them does not exclusively occupy directing them to comply with the same fire safety requirements with respect to that part, these building owners will be jointly responsible and have to share the cost incurred in the upgrading works among themselves according to the terms of the relevant DMC or in accordance with the respective shares of the owners of the building. Some possible examples are set out as follows –

- installation of a fire hydrant and hose reel system in the common part
- provision of emergency lighting within the common areas
- protection of staircases in the common part

4. If a fire safety direction is served on an occupier of a composite building, in respect of a part intended for non-domestic purposes, directing him to comply with fire safety requirements, the occupier will have to bear the cost incurred in the upgrading works. Some possible examples are set out as follows –

- provision of emergency lighting within the area he occupies
- provision of an automatic cut-off device for the mechanical 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

5. As to members' concern about "unfair" terms in the DMCs, we note that DMC is a private contract stipulating the property rights and obligations of the parties concerned and is binding on all of the owners of a building. The Government is not a party to DMCs and is not in a position to determine whether the terms and conditions of such private contracts are fair or unfair. In many cases, it is a matter of conflicting interests among owners themselves or between owners and the developer. The issues involved are complex and are a subject of discussion at the LegCo Subcommittee on Review of the Building Management Ordinance (Cap. 344) ("BMO") established under the Panel on Home Affairs.

Exemptions in respect of buildings with lower fire risks

6. From a fire protection point of view, we cannot categorically say that the risk inherent in one kind of buildings is lower than another. Many factors including the intended use, type of occupancy, means of escape provisions, provision and maintenance of fire services installations, building height, size and construction, etc have to be taken into account in assessing the level of fire risk. The fire risk of a particular building can only be determined on its individual merits. But in general, pre-1987 composite and domestic buildings covered by the Bill do not have fire safety measures that can meet modern day standards and therefore carry higher fire risks.

7. The feasibility and the extent of possible exemptions from the requirements of the Bill can therefore be only considered on individual merits of each case. As enunciated in paragraph 1(f) and 2(g) of the

“Administration’s Response (1st part) to issues raised by Members at the Bills Committee meeting on 14.3.2001”, the “Administration’s Response (2nd part) to issues raised by Members at the Bills Committee meeting on 14.3.2001”, and the “Administration’s Response to the joint submission of Mr IP Kwok-him, Mr YEUNG Wai-foon and Mr WONG Chit-man”, the enforcement authorities will undertake a pragmatic and flexible approach in considering possible exemptions, taking account of the experience gained in the implementation of the Fire Safety (Commercial Premises) Ordinance in the past three years.

8. As a further illustration, regarding the domestic parts of old composite buildings and domestic buildings of not more than 6 storeys high, the provision of fire hydrant may be waived (as firemen can lay flexible fire fighting hoses along the staircases within a very short period of time after arrival), and the provision of portable fire extinguishers may be accepted as an alternative measure if space is not available in the common areas for the installation of a standard or even reduced sized hose reel system. Subject to such relaxation in respect of the domestic parts of a building, the requirement of hose reel systems in the non-domestic parts with total floor area not exceeding 230 m² may also be waived, obviating the need to provide a water tank altogether.

Enforcement difficulties and complementary measures

9. We appreciate that there will be enforcement difficulties and have addressed the concerns in paragraph 2 of the “Administration’s Response (1st part) to issues raised by Members at the Bills Committee meeting on 14.3.2001” and the “Administration’s Response to the joint submission of Mr IP Kwok-him, Mr YEUNG Wai-foon and Mr WONG Chit-man”.

10. Regarding complementary measures, the Planning and Lands Bureau promulgated in April 2001 a Comprehensive Strategy for Building Safety and Timely Maintenance. A number of initiatives also concerns improvement to fire safety and are particularly relevant to assist FSD/BD in the implementation of the Bill. These are explained in paragraph 8 of the “Administration’s Response (1st part) to issues raised by Members at the Bills Committee meeting on 14.3.2001”. Implementation of the Strategy is underway. For example, the \$700-million Comprehensive Building Safety Improvement Loan Scheme will start operation in July 2001 and it would benefit owners affected by the Bill.

11. In fact, the Bill is one of the initiatives in the package of proposals to improve fire safety in private buildings covered in the 1998 public consultation exercise. The Home Affairs Bureau (“HAB”), FSD, BD, the Home Affairs Department (“HAD”) and the Electrical & Mechanical Services Department (“EMSD”) have been implementing the other initiatives progressively. Details are set out in the following paragraphs.

ESD

12. FSD has been taking vigorous enforcement actions in the abatement of fire hazards. A total of 150,598 and 160,926 inspections were carried out, resulting in the issue of 16,061 and 8,001 Fire Hazard Abatement Notices (FHANs), in 1999 and 2000 respectively.

13. Starting from 2000-01, additional resources have been allocated to FSD for stepping up fire inspection and enforcement in private buildings (with particular attention paid to old composite buildings), prior to the coming into effect of the Bill. Up to 31.5.2001, FSD has inspected 7,720 pre-1987 old composite and domestic buildings and issued a total of 34,559 fire safety advisory letters and 85,477 pamphlets and stickers to building owners or occupiers. During these building fire safety inspections, the inspecting officers closed 7,146 wedged-open fire doors and issued a total of 4,336 FHANs in relation to other irregularities identified.

14. To promote a fire safety culture, FSD has been given a publicity budget of a total of \$11.5 million and been actively involved in the following activities since 1998 -

- (a) Attending meetings of the 18 District Fire Safety Committees.
- (b) Holding fire safety seminars.
- (c) Conducting fire drills.
- (d) Recruiting Fire Safety Ambassadors/Trainers.
- (e) Holding fire prevention exhibitions.
- (f) Launching large-scale annual fire safety campaigns.
- (g) Holding other major fire prevention publicity events.

Please see **Appendix** for the annual figures of the above events.

15. FSD will continue to take fire hazard abatement actions in buildings and promote a fire safety culture in the community. Fire hazard abatement actions taken by FSD have long been proven to be

an effective tool in the removal of fire hazards. The successful recruitment of more than 17,000 voluntary Fire Safety Ambassadors and Trainers from all walks of life demonstrates encouraging public response to our education and publicity efforts.

BD

16. Since 1998, more than 2,300 composite buildings have been identified to have unsatisfactory fire safety conditions. After initial inspection by BD, advisory letters will be issued to the owners followed by orders issued under the Buildings Ordinance if owners do not respond to the advisory letters. Up to the end of May 2001, of the 455 buildings inspected, works have been completed in 195 buildings to reinstate the fire safety structures to the originally approved condition, and only 16 cases requires prosecutions.

17. To remove the serious fire risk, BD cleared illegal rooftop structures (IRS) on 95 and 220 single-staircase buildings in 1999 and 2000 respectively. As pledged in the latest Comprehensive Strategy for Building Safety and Timely Maintenance, BD will, subject to the provision of resources, clear all 12,000 IRS on the 4,500 single-staircase buildings within seven years. The Housing Department will rehouse the affected occupants according to their eligibility and in step with BD's clearances. BD will also collaborate more closely with the power companies, the Rating and Valuation Department and the Water Supplies Department to identify new IRS for prompt removal.

EMSD

18. To ensure electrical safety, EMSD conducts regular inspections to monitor the conditions of communal electrical installations in buildings. For buildings identified with defects in the communal electrical installations, EMSD will issue warning letters and may initiate appropriate legal action under the Electricity Ordinance. Since June 1998, there have been 517 prosecutions.

19. EMSD has also completed preliminary inspections of the 11,400 buildings referred by FSD in their territory wide building survey. No imminent danger on the communal electrical installations of these buildings was found but 1,108 buildings would require substantial improvement to the communal electrical installations. EMSD has initiated prosecution in 647 cases and would closely monitor the progress of improvement work of the remaining cases. For

those buildings in which the owners experience difficulties in organising the improvement work, EMSD has referred the cases to HAD to offer necessary assistance.

HAB and HAD

20. In August 1998, HAD published a Fire Safety Checklist to facilitate building owners/occupants to carry out routine self-inspections on fire safety provisions of their own buildings and to rectify minor irregularities identified. The Checklist is well received by the public. By end 2000, more than 380,000 copies have been distributed to members of the public through District Offices, the Building Management Resource Centres, visits by HAD staff to OCs, etc.

21. There is a close and direct relationship between proper building management and building fire safety. Building management bodies, such as OCs, can play a key role in coordinating building owners to maintain and improve their fire safety measures. HAB and HAD have adopted a three-pronged approach to strengthen the support for OCs – (a) providing a conducive legal framework for OC formation and functioning; (b) providing more professional and advice for OCs and ensuring that the services are easily accessible; and (c) providing training for members of OCs.

22. On the legal framework, the Building Management Ordinance (“BMO”) was substantially amended in June 2000 by the Building Management (Amendment) Ordinance (“BMAO”) which contains provisions to further facilitate the formation of OCs by lowering the percentages of undivided shares required for formation from 50%, 30% and 20% respectively under the relevant sections to 30%, 20% and 10% respectively. BMAO also provides for mandatory building management in respect of a building with serious management and maintenance problems which caused danger or risk of danger to its owners and occupants. In such cases, the Secretary for Home Affairs (“SHA”) may order the management committee to appoint a building management agent to manage the building pursuant to section 40B of BMO. Alternatively, if there is no management committee, the Lands Tribunal may, upon the application of SHA, order an owners’ meeting to be convened for the purpose of appointment of a management committee or a building management agent in accordance with section 40C of BMO. Undoubtedly, the powers under these two sections will only be invoked under very exceptional circumstances. HAD together with the relevant

departments always work with the owners and advise them to comply with the statutory safety requirements. The owners should take steps to improve their buildings, thus obviating the need for invoking the above-mentioned sections.

23. HAD has established an inter-departmental Steering Committee to monitor and evaluate the implementation of the BMAO and to make recommendations as appropriate to further improve the BMO. In addition, a Subcommittee has been set up under the Panel on Home Affairs of the Legislative Council recently to review the BMO. The Government is working closely with the Subcommittee.

24. Starting 2001-2002, HAD has secured extra resources (equivalent to \$43.9M full-year provision) for employing additional staff to provide more comprehensive and professional service to owners and OCs. At the Headquarters level, a new dedicated Building Management Division, headed by an Assistant Director and comprising legal, surveying and building management experts, has already been set up in June 2001 to provide better support for the 18 District Offices in handling building management matters. At the district level, a professional District Building Management Liaison Team will be set up in each of the 18 districts to provide out-reaching support service to owners and OCs, assist owners to form OCs, sit in OCs' meetings and help owners to solve building management problems. They will also assist the enforcement departments to implement building maintenance and fire safety improvements in buildings. Where disputes arise between owners or between owners and OCs, the Liaison Teams will assist in mediation.

25. To help owners and OCs access building management information and services as and when they feel necessary, three Building Management Resource Centres (BMRCs) have been set up in Yaumatei, Central and Tsuen Wan. In addition to providing general information and advice on building management, the BMRCs offer free professional consultation on various aspects of building management, such as in legal, accounting, surveying, engineering and managerial areas.

26. Given that the owners themselves have the responsibility for managing and maintaining their own private properties, it would be imperative to provide training for members of OCs. To this end, HAD organises various educational activities for the office bearers with a view to strengthening their knowledge of building management. In 2000, 280

activities including seminars, training courses, talks, visits, exhibitions and fire drills were organized. HAD plans to organise over 340 similar activities in 2001.

27. In overall terms, we are satisfied that the above complementary measures have made significant progress and will be forged ahead continuously. It is now appropriate to maintain the momentum in improving fire safety by introducing the Fire Safety (Buildings) Bill.

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FSD's measures to promote a fire safety culture

Event	Year	1998	1999	2000	2001 (up to 25.5.2001)	Total
The 18 DFSCs regular meetings attended		✓	✓	✓	✓	-
No. of fire safety seminars conducted		1353	2427	2771	847	7398
No. of fire drills conducted		1138	1654	2441	241	5474
No. of Fire Safety Ambassadors/Trainers recruited		4335	5688	5593	1979	17595
No. of fire prevention exhibitions held		72	142	141	23	378
Launching ceremony of annual fire safety campaign		29.11.1998	5.12.1999	12.11.2000	Scheduled for 25.11.2001	-
Other major fire prevention publicity events held		-	-	21.1.2000 ¹ 26.3.2000 ² 28.5.2000 ³	-	-

¹ TVB (Enjoy Yourself Tonight 同心防火新紀元) Variety Show

² First Aid and Fire Prevention Carnival in Shatin Fire Station

³ Millennium Fire Safety Promotion Campaign