

Fire Safety (Buildings) Bill

Administration's response to issues raised by the Bills Committee at its meeting on 15.5.02

***(a) To specify in the Bill that the commencement date of the Bill
would be made by resolution of the Legislative Council***

We fully appreciate the views of Members that the Bill, after its passage, should only come into operation at a suitable juncture when the time is ripe and necessary preparations have been made. Notably, before appointing a commencement date, the Administration should first revise the Building Management Ordinance, Cap 344 to empower owners' corporations to borrow from the Building Safety Loan Fund to cover the shares of the costs that should be borne by the missing or irresponsible owners.

2. We agree with Members' views. The Administration would take into account all circumstances relevant to the implementation of the Bill in order to propose a suitable commencement date. In particular, we confirm that we have no plans to bring the Bill into effect before necessary amendment has been made to the Building Management Ordinance.

3. In terms of procedures, we undertake that, after considering all the relevant circumstances and coming to a view on the commencement date, we will prepare a paper for the Legislative Council Security Panel setting out our views and proposal. This will enable the Administration to benefit from the advice of Members and, as necessary, revise our proposal. Subject to such consultation, the Secretary for Security may then, by notice in Gazette, appoint a day for the Bill to come into operation.

4. The commencement notice is subsidiary legislation and therefore subject to the approval of the Legislative Council. If, despite our prior consultation with the Security Panel, Members still consider it necessary, a sub-committee may be set up to examine the commencement notice. Following the passage of the Extension of Vetting Period (Legislative Council) Ordinance 2002 in last May, the vetting period of a piece of subsidiary legislation has been extended to as long as 49 days (or

to the first Council sitting after 49 days). There is therefore ample time for Members to carefully consider the commencement date and exchange views with the Administration. Taking into account Members' views, the Administration may consider if any amendment to the commencement notice is necessary. In case Members find it necessary, they themselves may also by resolution amend the commencement notice to appoint another commencement date.

5. All in all, the commencement clause in the current Bill follows a long line of commencement clauses in past bills scrutinised and passed by the Legislative Council. Sufficient legal and policy safeguards are in place to ensure that Members' views on the commencement date will prevail. Most importantly, we always seek to work in partnership with the Legislative Council and will thoroughly consult Members in determining the commencement date. In the resumption of the 2nd Reading Debate, the Secretary for Security is prepared to recall Members' concern about the timing for implementation of the Bill and to reiterate the assurance set out above. In this light, we do not consider it necessary to revise clause 1(2).

- (b) *To specify clearly in the Bill that the committee referred to in clause 5(10) would be a standing committee which would be empowered to consider problematic cases referred to it by the enforcement authorities and consider written and oral representations from owners/occupiers affected. To consider also if it is necessary to specify the composition of the committee in the Bill*
- (c) *To delete the words "or part of such a building" referred to in clause 17 of the Bill*
- (d) *To amend clause 13(3) of the Bill to the effect that the court could revoke the prohibition order as it consider fit*
- (e) *To specify in the Bill that authorised officers had to give 24 hours' prior notice in writing if the premises they sought to enter were private domestic units of a building*
- (f) *Insofar as owners' corporations are concerned, to consider deleting the words ", or was attributable to any neglect on the part of," from clause 19(1)(b) of the Bill*

6. We agree to amend the Bill as proposed by Members above. An updated list of draft CSA is attached. (The list also includes minor drafting improvements to various provisions of the Bill and the original list.) In the light of the advisory nature of the committee to be established under clause 5, we consider it not appropriate to prescribe the membership in the Bill.

Security Bureau
May 2001

DRAFT

FIRE SAFETY (BUILDING) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

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

5

By adding –

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

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

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

6(1)

By deleting “或某綜合用途建築物的某部分” .

7

By adding -

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

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

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

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

(c) By adding -

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

12(1) By deleting "thereof" and substituting "concerned" .

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

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

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

16 By adding -

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

(a) intended for domestic purpose;
and

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

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

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

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

19 By adding –

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

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

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