

29 May 2002

Hon IP Kwok-him, JP
Chairman of Bills Committee on
Fire Safety (Buildings) Bill
Room 523G, West Wing
Central Government Offices
Hong Kong

Dear Chairman,

Fire Safety (Buildings) Bill

I am most grateful to Members for their diligent and painstaking efforts in scrutinising the Bill since its introduction into the Legislative Council in February 2001 and am glad to know that the Bills Committee process is near completion. Before I seek to resume the Second Reading Debate, there is one outstanding issue regarding the commencement arrangement, on which I would like to appeal to Members for support.

I fully appreciate the views of Members that the Bill, when passed, should only come into operation at a suitable juncture, with the agreement and support of the Legislative Council. In particular, I note Members' view that the new legislation should not come into operation before the Building Management Ordinance, Cap 344 had been amended to empower owners' corporations to borrow from the Building Safety Loan Fund to cover the shares of the costs that should be borne by any missing or irresponsible owners.

I agree with Members' views. Indeed, it is our clear intention to take into account all circumstances relevant to the implementation of the Bill before we propose a commencement date for it. One of the important factors that we will take into account is the way owners' corporations might deal with cases involving missing or irresponsible owners. Thus, I have no intention of bringing the new legislation into

operation before the relevant amendment has been made to the Building Management Ordinance.

In terms of procedure, we will, when time is ripe and circumstances permit, prepare a paper for the Security Panel of the Legislative Council setting out our views and proposal for bringing the Fire Safety (Buildings) Bill into force. This would enable the Administration to benefit from the advice of Members and, if necessary, revise our proposal. Subject to such consultation, I may then, by notice in the Gazette, appoint a commencement date for the new Ordinance.

The commencement notice is a piece of subsidiary legislation and therefore subject to the negative vetting procedure. 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 and to exchange views with the Administration. Taking into account Members' views, we may consider if an amendment to the commencement notice is called for. In case Members find it necessary, they themselves may also by resolution amend the commencement notice or repeal it. To ensure that the whole process is not precluded from taking its full course, I hereby undertake not to appoint a commencement date that would fall within the maximum vetting period of 49 (i.e. 28 + 21) days (or such longer time as calculated in accordance with section 34 of the Interpretation And General Clauses Ordinance, Cap.1).

I shall reiterate the assurance set out above during the resumption of the Second Reading Debate.

I understand that a proposal has been made to amend the commencement clause of the Bill so as to render the coming into operation of the Bill subject to a positive vetting procedure. With due respect to Members, I do not see this as necessary or appropriate. The commencement clause as currently drafted follows a well established arrangement for bringing legislation into operation, which strikes a proper balance between efficiency and adequate scrutiny by the Legislative Council. On this particular Bill, given the policy and legal safeguards that are already in place and the assurance that I have given to ensure that Members' views on the commencement date will be respected and will prevail, there is no question of the Administration bringing the Bill into operation without the support of the Legislative Council. An amendment to the commencement clause would add little, if any, practical value to the

safeguards already in place; Members' purposes can be achieved without any amendment.

With the above, I urge Members to consider not to move the proposed amendment and support the commencement clause as currently drafted.

Yours sincerely,

(Mrs Regina IP)
Secretary for Security