

C079-e

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" (非住用用途) 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 hose reel 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).