

1. Provisions for re-entry into premises while a closure order is in force

	<u>Ordinance</u>	<u>Section</u>
(a)	Buildings Ordinance (Cap. 123)	S. 27
(b)	Places of Public Entertainment Ordinance (Cap. 172)	S. 11

2. Provisions for time limit for prosecution of offences

	<u>Ordinance</u>	<u>Section</u>
(a)	Gas Safety Ordinance (Cap. 51)	S. 33
(b)	Building Ordinance (Cap. 123)	S. 40
(c)	Bedspace Apartments Ordinance (Cap. 447)	S. 34

Chapter:	123	Title:	BUILDINGS ORDINANCE	Gazette Number:	
Section:	27	Heading:	Closure Order	Version Date:	30/06/1997

- (1) Upon the application of-
 - (a) the Building Authority, where he is of the opinion that-
 - (i) any building is dangerous or liable to become dangerous; or
 - (ii) any building should be closed in order to enable any works, which he is empowered to carry out or cause to be carried out under this Part, to be carried out without danger to the occupiers or to the public; or (Replaced 59 of 1983 s. 3)
 - (b) the owner-
 - (i) where a notice has been served upon him by the Building Authority requiring closure of a building under section 26; or
 - (ii) where the Building Authority has supplied a certificate to him showing that a building should be closed in order to enable building works to be carried out without danger to the occupiers or to the public,

the District Court shall on being satisfied that notice has been given in accordance with the provisions of subsection (2) make a Closure Order: (Amended 35 of 1969 Schedule)

Provided that nothing in paragraph (b)(ii) shall entitle an owner to carry out any building works which would result in a contravention of Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap 7).

- (2) (a) Not less than 7 days' notice of intention to apply for a Closure Order shall be given by the person making such application by posting a copy of such notice upon a conspicuous part of the building to be affected, and upon being so posted such notice shall be deemed to be notice to all persons of such intention: (Amended 40 of 1965 s. 5)

Provided that in the case of an emergency such notice shall be given as is practicable.

- (b) The notice shall reproduce in clear and legible form subsections (8), (10) and (11) in both the English and Chinese languages. (Amended 23 of 1969 s. 6)
- (3) (Repealed 23 of 1969 s. 6)
- (4) A Closure Order made under this section shall-
 - (a) specify the building to be closed; and
 - (b) order the closure thereof under the direction of a police officer. (Amended 23 of 1969 s. 6)
- (5) (a) Save with the permission in writing of the Building Authority, no person, other than a public officer in the course of his duty, shall enter or be in a building at any time while a Closure Order is in force in respect of that building.
 - (b) Where he thinks fit, the Building Authority may, subject to such conditions as he thinks fit, by notice in writing permit any person to enter and be in a building while a Closure Order is in force in respect of that building.
 - (c) Any permission granted under paragraph (b) may be cancelled by the Building Authority at any time and for any reason. (Replaced 40 of 1965 s. 5)
- (6) Where a Closure Order is in force in respect of a building-
 - (a) any police officer of or above the rank of inspector, with such assistance as may be necessary, may remove therefrom any person who is in the building in contravention of subsection (5)(a); and
 - (b) the Building Authority may seal, or cause to be sealed, all or any of the entrances to or exits from the building. (Added 40 of 1965 s. 5)
- (7) The Building Authority may recover from the owner of the building the cost of any works that he carries out, or causes to be carried out, under subsection (6)(b). (Added 40 of 1965 s. 5)
- (8) A Closure Order shall remain in force in respect of a building until-
 - (a) the Building Authority has caused a notice, to be known as a notice of expiry of the Closure Order to be posted upon a conspicuous part of the building to which the Closure Order relates and, subject to subsection (11), has served a copy of the notice of expiry on the owner of the building; or

- (b) the building to which the Closure Order relates is completely demolished or otherwise ceases to exist,

as the case may be. (Replaced 55 of 1996 s. 5)

(9) Every notice of expiry of a Closure Order shall specify-

- (a) the building to which it relates; and
- (b) the date upon which the Closure Order expires. (Replaced 23 of 1969 s. 6)

(10) Where an owner has received a copy of a notice of expiry of a Closure Order under subsection (8)(a), such owner shall- (Amended 55 of 1996 s. 5)

- (a) cause copies thereof to be served upon all former occupiers of the building who have notified him of their addresses; and
- (b) within 14 days of the date of such notice, serve upon the Building Authority a certificate in such form as the Building Authority may specify, setting out-
 - (i) the names and addresses of such former occupiers of the building as have notified him of their addresses; and
 - (ii) the date upon which each of such former occupiers was served with a copy of the notice of expiry of the Closure Order. (Replaced 23 of 1969 s. 6)

(11) Notwithstanding the provisions of subsection (8)(a) as to service of a copy of a notice of expiry of a Closure Order upon the owner, where- (Amended 55 of 1996 s. 5)

- (a) the owner cannot be found or ascertained, or is absent from the Colony, or is under a disability; or
- (b) the notice of expiry of the Closure Order is served on the completion of works by the Building Authority in accordance with his powers in that behalf under section 26,

then the Building Authority shall cause copies of the notice of expiry of the Closure Order to be-

- (i) served upon all former occupiers of the building of whose addresses he is aware; and
- (ii) advertised in at least 1 English language newspaper and 1 Chinese language newspaper published in Hong Kong. (Added 23 of 1969 s. 6)

Chapter:	172	Title:	PLACES OF PUBLIC ENTERTAINMENT ORDINANCE	Gazette Number:	
Section:	11	Heading:	Power to close places of public entertainment used in contravention of provisions of this Ordinance	Version Date:	30/06/1997

(1) Where a magistrate is satisfied, on application by the licensing authority or any public officer authorized by it in this behalf, that a place of public entertainment is kept or used without a licence granted under this Ordinance, or kept or used in contravention of any of the provisions of this Ordinance or any regulations made under section 7, he shall, subject to subsection (5), make an order in Form 1 in Schedule 2 (in this section referred to as a "Prohibition Order") prohibiting the keeping or use of the place of public entertainment for all purposes, or for any purposes specified in the Prohibition Order, with effect from the 8th day after copies of the order have been served under subsection (6).

(2) Any order made under the provisions of subsection (1) shall remain in force until, on application by the licensing authority or any public officer authorized by it in this behalf or by any person having an interest in such place of public entertainment, a magistrate is satisfied that a licence in respect of such place of public entertainment has been granted, or the provisions of this Ordinance or any regulations made under section 7 have been complied with, as the case may be, or that such place of public entertainment will be used in future for some other purpose.

(3) Any person who contravenes any order of a magistrate made under the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and imprisonment for 12 months, and to a further fine of \$2000 for every day during which the offence has continued.

(4) Where a magistrate is satisfied, on application by the licensing authority or any public officer authorized by it in this behalf, that a Prohibition Order in respect of a place of public entertainment has been served under subsection (6) but has not been continuously complied with from the 8th day after it was served, he shall, without prejudice to any penalty which may be imposed under this section, but subject to subsection (5), make an order in Form 2 in Schedule 2 (in this section referred to as a "Closure Order").

(5) A magistrate shall not make a Prohibition Order or a Closure Order unless satisfied-

- (a) that at least 14 days' notice of intention to apply for the order has been served under subsection (6);
- (b) that such notice stated the time and place set for the hearing of the application and advised that any person having reasonable cause to be heard upon the application might request to be so heard; and
- (c) that every person having reasonable cause to be heard upon the application and requesting to be so has had an opportunity to be heard.

(6) Notice of intention to apply for a Prohibition Order or a Closure Order in respect of any place of public entertainment, and a copy of every such order when made, shall be in both English and Chinese and shall be served by affixing it to a conspicuous part of that place of public entertainment.

(7) A Closure Order made in respect of any place of public entertainment shall come into force on the 8th day after it has been served under subsection (6) and shall remain in force for as long as the Prohibition Order made in respect of that place of public entertainment remains in force.

(8) Upon the coming into force of a Closure Order in respect of any place of public entertainment, the licensing authority or any public officer authorized by it in this behalf shall lock or seal, or cause to be locked or sealed, all or any of the entrances to or exits from the place of public entertainment and may disconnect or cause to be disconnected all gas, water and electricity supplies thereto.

(9) While a Closure Order is in force in respect of any place of public entertainment-

- (a) no person, except with the written permission of the licensing authority or any public officer authorized by it in this behalf, shall enter or remain in that place of public entertainment;
- (b) a person carrying written authority from the licensing authority or any public officer

authorized by it in this behalf may remove from the place of public entertainment any person who fails to comply with paragraph (a), and in doing so may, with such assistance from police officers as may be necessary, use such force as is reasonably necessary.

- (10) Any person who, without lawful authority or excuse-
- (a) enters or remains in any place of public entertainment in contravention of subsection (9)(a) shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and imprisonment for 12 months, and to a further fine of \$2000 for every day during which the offence has continued;
 - (b) breaks or interferes with any lock or seal placed on any place of public entertainment under subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and imprisonment for 6 months; or
 - (c) removes or defaces a document affixed to any place of public entertainment for the purposes of this section shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and imprisonment for 6 months.

(11) The licensing authority or any public officer authorized by it in this behalf may recover as a civil debt from the occupier of the place of public entertainment the cost of any work carried out under subsection (8).

(Added 83 of 1997 s. 4)

Chapter:	51	Title:	GAS SAFETY ORDINANCE	Gazette Number:	
Section:	33	Heading:	Limitation of time for proceedings in respect of offences	Version Date:	30/06/1997

Proceedings for the prosecution of an offence against this Ordinance shall be instituted within-

- (a) 6 months from the discovery of such offence by the Authority; or
- (b) 6 years after the commission of such offence, whichever is the earlier.

(Enacted 1990)

Chapter:	123	Title:	BUILDINGS ORDINANCE Gazette	L.N. 172 of
			Number:	1998
Section:	40	Heading:	Offences	Version Date: 01/04/1998

PART IV

OFFENCES

(1) Any person who contravenes section 14(1) or 21(1) shall be guilty of an offence and shall be liable on conviction-

- (a) to a fine of \$100000 and to imprisonment for 2 years; and
- (b) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Replaced 24 of 1979 s. 3)

(1A) Any person who contravenes section 22(2)(a), 24B(14) or 27(5)(a) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3. Amended 91 of 1990 s. 6)

(1B) Any person who-

- (a) contravenes section 30(1) or 31(1); or
- (b) without reasonable excuse, fails to comply with an order served on him under section 19(2), 20(2), 22(3), 23, 24(1), 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4), 28(2)(a) or (3) or (5), 29(2)(a), 30(3) or 31(2)(a), (Amended 77 of 1992 s. 4; 55 of 1996 s. 9)

shall be guilty of an offence and shall be liable on conviction-

- (i) to a fine of \$50000 and to imprisonment for 1 year; and
- (ii) in the case of an offence consisting of a failure to comply with an order served on him under section 23, 24(1), 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(3) or (5) to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 24 of 1979 s. 3. Amended 72 of 1980 s. 15; 77 of 1992 s. 4; 55 of 1996 s. 9)

(1C) Any person who-

- (a) without reasonable excuse, fails to comply with an order served on him under section 32(2); or
- (b) contravenes section 24B(8) or 32(3), (Amended 91 of 1990 s. 6)

shall be guilty of an offence and shall be liable on conviction to a fine of \$2000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3)

(1D) Any owner who-

- (a) fails to serve upon all former occupiers who have notified him of their addresses, the copies required to be served under section 27(10)(a); or
- (b) fails to serve upon the Building Authority the certificate required to be served under section 27(10)(b),

shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 6 months. (Added 45 of 1985 s. 2)

(1E) Any person who contravenes section 24B(6) shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 1 year and to a further fine of \$5000 for each day during which the offence continues. (Added 91 of 1990 s. 6)

6)

(2) Any person who-

- (a) fails to give any notice required to be given under section 25(1);
- (b) contravenes any condition of a permit granted by the Building Authority under section 42; or
- (c) obstructs the Building Authority, any officer authorized by him, any other public officer, a

committee of review appointed under section 50 or any member of such committee of review, in the exercise of his or its powers under this Ordinance,

shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine of \$10000 and to imprisonment for 6 months. (Replaced 24 of 1979 s. 3)

(2A) Any person for whom any building works or street works are being carried out and any authorized person, registered structural engineer, registered general building contractor or registered specialist contractor directly concerned with any such works who- (Amended 43 of 1993 s. 10; 54 of 1996 s. 22)

- (a) permits or authorizes to be incorporated in or used in the carrying out of any such works any materials which-
 - (i) are defective or do not comply with the provisions of this Ordinance;
 - (ii) have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
- (b) diverges or deviates in any material way from any work shown in a plan approved by the Building Authority under this Ordinance; or
- (c) knowingly misrepresents a material fact in any plan, certificate, form or notice given to the Building Authority under this Ordinance, (Replaced 24 of 1979 s. 3)

shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Amended 24 of 1979 s. 3)

(2AA) Any authorized person or registered structural engineer who contravenes section 4(3)(b), or any registered general building contractor or registered specialist contractor who contravenes section 9(3)(b), shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years: (Amended 54 of 1996 s. 22)

Provided that it shall be a defence in any prosecution for a contravention of any section referred to in this subsection for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge. (Added 24 of 1979 s. 3)

(2AB) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any building works or street works set out in items 1, 2, 3, 4, 5 and 6 of Column A in the table to section 17(1) who contravenes any condition imposed, or fails to comply with any requirement of an order in writing, under that section in respect of such building works or street works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 1 year. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22)

(2AC) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, excavation works or foundation works who contravenes any condition imposed under item 7 in the table to section 17(1) in respect of such works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22)

(2B) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, foundation works or other form of building works who- (Amended 54 of 1996 s. 22)

- (a) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner that it causes injury to any person or damage to any property; or
- (b) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property,

shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Replaced 24 of 1979 s. 3)

(2C) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24A, shall be guilty of an offence and shall be liable on conviction-

- (a) to a fine of \$250000 and to imprisonment for 3 years; and
- (b) to a fine of \$50000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 71 of 1972 s. 5. Amended 24 of 1979 s. 3)

(2D) Any person who knowingly misrepresents a material fact in any report submitted to the Building Authority under section 27C(2)(c) shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Added 55 of 1996 s. 9)

(3) Any person who unlawfully and maliciously removes, pulls down, demolishes or damages, or in any way whatsoever interferes with, any shoring erected for a building pursuant to section 18(1) or any groundwater drainage works carried out pursuant to section 28A shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 27 of 1964 s. 6. Amended 24 of 1979 s. 3. 41 of 1982 s. 10)

(3A) Any person who without reasonable excuse fails to comply with a requirement imposed under section 28A to maintain groundwater drainage works shall be guilty of an offence and shall be liable to a fine of \$50000 and imprisonment for 1 year and to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the requirement has continued. (Added 41 of 1982 s. 10)

(4) Any person who, after a copy of a warrant issued under section 18(6)(c) has been posted in accordance with section 18(6)(d), obstructs the entry to the building specified in such warrant of any police officer or other person authorized by such warrant to enter the same shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 40 of 1965 s. 7. Amended 24 of 1979 s. 3)

(4A) Any person who, after a copy of warrant issued under section 28C has been posted under subsection (2) of that section, obstructs the entry upon the land specified in the warrant by any police officer or other person authorized by the warrant to enter upon the land or obstructs the carrying out or maintenance of any groundwater drainage works by any person authorized by the warrant to carry out or maintain the works shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 41 of 1982 s. 10)

(5) Any person, being a person directly concerned in or with any building works or street works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor. (Replaced 44 of 1959 s. 20. Amended 43 of 1993 s. 10)

(6) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, or other officer concerned in the management of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence. (Replaced 6 of 1995 s. 5)

(6A) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any other partner of the partnership, that other partner is also guilty of the offence. (Added 6 of 1995 s. 5)

(7) Where anything is required to be done by the owner of a building, and by virtue of section 2 there is more than one owner of such building, it shall be a defence to any charge of failing to do that thing-

- (a) that such thing was done by another owner of the building; or
- (b) that any notice or order in respect of such thing required under this Ordinance to be served on the owner was served on another owner of the building and not on the person charged.

(7A) Where anything is required to be done by an owner of land or by a person referred to in section 27A(1), it shall be a defence to any charge of failing to do that thing that any notice or order in respect of such thing required under this Ordinance to be served on the owner or on such person was served on another owner of the land or on another such person and not on the person charged. (Added 72 of 1980 s. 15)

(8) Any prosecution under the provisions of this Ordinance may be commenced within 12 months of

the commission of the offence or within 12 months of the same being discovered by or coming to the notice of the Building Authority. (Added 44 of 1959 s. 20. Amended 68 of 1993 s. 19)

Chapter: 447	Title: BEDSPACE APARTMENTS	Gazette Number:
	ORDINANCE	
Section: 34	Heading: Time limit for prosecution of offences	Version Date: 30/06/1997

Any prosecution under the provisions of this Ordinance shall be commenced within 6 months of the commission of the offence or within 6 months of the same being discovered by or coming to the notice of the Authority.

(Enacted 1994)