

梁美芬

立法會議員

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香港特別行政區立法會
保安事務委員會主席
葉國謙議員, GBS, JP

葉主席：

建議討論修訂《消防安全(建築物)條例》(第572章)條例議員法案

本人現正草擬一項議員法案，修訂《消防安全(建築物)條例》(第572章)，賦予消防處酌情決定權，可因應安全及緊急考慮，對舊式綜合及住宅樓宇進行消防設備改善工程，事後向業權人或佔用人徵收工程費用。

本人已將法案草擬本交予律政署，等待法律草擬專員發出證明書。現按議員提交法案的慣常程序，諮詢相關事務委員會對上述議員法案的意見。

謹請 閣下在下次會議討論有關事宜。如有任何垂詢，歡迎與本人(2537 3518)聯絡。此致。

附件：法案中文、英文草擬本

順祝
鈞安

梁美芬 議員

梁美芬謹上
二零一五年十一月十八日

本條例草案

旨在

修訂《消防安全(建築物)條例》，以援助未能符合該條例規定的舊建築物的擁有人以安裝消防安全設施，透過在安全及危機應變的前提下給予消防處酌情決定權以安裝消防安全設施；協助住客改善消防安全系統及其後索回費用以及就相應及相關事宜訂定條文。

由立法會制定。

第 1 部

導言

1. 簡稱及生效日期

- (1) 本條例可引稱為《2015 年消防安全(建築物)(修訂)條例》。
- (2) 本條例自保安局局長以憲報公告指定的日期起實施。

第 2 部

修訂《消防安全(建築物)條例》

2. 修訂《消防安全(建築物)條例》

《消防安全(建築物)條例》(第 572 章)現予修訂，修訂方式列於第 3 及 4 條。

3. 修訂第 5 條(可指示擁有人或佔用人遵從消防安全措施)

- (1) 第 5(1)條，在“其他措施”之後 —
加入
“，包括該擁有人所作的替代方案，”。
- (2) 第 5(2)條，在“其他措施”之後 —
加入
“，包括該擁有人所作的替代方案，”。
- (3) 在第 5(3)條之後 —
加入
“(3A) 如未能遵從根據第(3)款所送達的消防安全指示，亦未符合第(9)款所提述的任何合理辯解，則執行當局可在不予額外通知情況下，進行或安排進行 —
 - (a) 檢查任何附表 2 與消防裝置及設備的提供以及消防安全建造；及
 - (b) 任何由住用的建築物擁有人提議的安裝工程，執行當局認為安全有必要、或對擁有人在住用建築物作居住用途所需的裝置，該當局可指示該擁有人採取該當局認為是適當的其他措施，以符合附表 2 全部或任何規定。

《2015 年消防安全(建築物)(修訂)條例草案》

第 2 部
第 3 條

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(3B) 當政府履行第(3A)款消防安全指示時，因而追討因檢查及安裝工程所需的成本，可向第(3)款獲通知的佔用人以債務形式追討如已送達消防安全指示。”。

(4) 第 5(4)條，在“該限期”之後 —

加入

“由執行當局認為合適以賦予 1 年或以下臨時寬限期，並考慮第(9)款所提述的任何合理辯解，”。

(5) 第 5(5)條 —

廢除句號

代以

“，或賦予臨時寬限期。”。

(6) 第 5(6)(b)條 —

廢除

“或”。

(7) 第 5(6)(c)條 —

廢除句號

代以

“；或”。

(8) 在第 5(6)(c)條之後 —

加入

“(d) 該當局賦予臨時寬限期。”。

(9) 第 5(7)條 —

廢除

“修訂或撤回按這方式發出的指示”

代以

“按這方式發出的指示的修訂、撤回或賦予臨時寬限期”。

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第 2 部
第 4 條

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4. 修訂附表 2(綜合用途建築物擁有人就擬用作住用用途部分及住用建築物擁有人須遵從的消防安全措施)

附表 2 —

廢除

“[第 5(1)、(2)]”

代以

“[第 5(1)、(2)、(3A)]”。

(2015 年消防安全(建築物)(修訂)條例草案)

摘要說明

第 1 段

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摘要說明

本條例草案的主要目的，是修訂《消防安全(建築物)條例》(第 572 章)(《條例》)，以在《條例》加入新的第 5(3A)及(3B)條，以及就相應及相關事宜訂定條文。

第 1 部—導言

2. 草案第 1 條列出簡稱，並就生效日期訂定條文。

第 2 部—修訂《條例》

3. 草案第 3(4)至(9)條修訂《條例》第 5(4)、(5)、(6)及(7)條，規定擁有人或佔用人遵從消防安全措施，以賦權有關的執行當局(如認為適合)為期 1 年或以下的臨時寬限期，以在任何合理的情況下，考慮個別特定情況(視乎其於《條例》第 5(9)條的合理辯解)，容許個別住用建築物的擁有人或佔用人足夠時間以符合相關消防安全指示。
4. 草案第 3(1)及(2)條修訂《條例》第 5(1)及(2)條，如有關的執行當局認為擁有人提出的替代方案不能遵從條件，以涵蓋綜合用途建築物或住用建築物的擁有人所制定的替代方案，以代替《條例》附表 1 或 2 的任何條件(如當局認為適合)，所有修訂皆是為住用建築物的擁有人提供更大彈性，以在沒有違反《條例》第 5(2)(b)條立法目的前提下遵從有關的執行當局認為合適的消防安全指示。
5. 草案第 3(3)條加入新的第 5(3A)條，以容許住用建築物的擁有人提議當局認為有需要或合適的替代安裝工程，執行當局將於根據《條例》第 5(3)條送達的消防安全指示並未遵從(未有合理辯解)的情況下，依據《條例》第 5(9)條執行。
6. 草案第 3(3)條加入新的第 5(3B)條，以容許執行當局索回其進行或安排進行的檢查及安裝工程的費用，若消防安全指示已根據《條例》第 5(3)條送達佔用人，該費用將視作佔用人虧欠政府的債項。

(2015 年消防安全(建築物)(修訂)條例草案)

摘要說明

第 7 段

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7. 新加入的第 5(3A)及(3B)條，以有意解決某些住用建築物的擁有人技術及財政困難以符合有關的執行當局關於消防安全指示的技術要求及費用。在遵從現行法例的前提下，在《建築物條例》(第 123 章)中提及的方法，索回因政府而欠下的檢查及安裝費用。
8. 草案第 4 條就《條例》附表 2 作出一項相應修訂。

A BILL

To

Amend the Fire Safety (Buildings) Ordinance in order to help the owners of the old buildings who fail to meet the requirements under the Ordinance to equip the fire safety utilities by granting discretion to the Fire Services Department on the ground of safety and hazardous emergency to assist the residents to improve the fire safety system and to claim back the costs afterwards and to provide for consequential and related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Fire Safety (Buildings) (Amendment) Ordinance 2015.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

Part 2

Amendments to Fire Safety (Buildings) Ordinance

2. Fire Safety (Buildings) Ordinance amended

The Fire Safety (Buildings) Ordinance (Cap. 572) is amended as set out in sections 3 and 4.

3. Section 5 amended (owner or occupier may be directed to comply with fire safety measures)

- (1) Section 5(1), after "Schedule 1 or 2"—

Add

"including alternative proposals made by the owner".

- (2) Section 5(2), after "Schedule 1 or 2"—

Add

"including alternative proposals made by the owner".

- (3) After section 5(3)—

Add

"(3A) If a fire safety direction served under subsection (3) is not complied with and is without any of the reasonable excuses referred to in subsection (9), the enforcement authority may, without further notification, carry out or cause to be carried out—

- (a) any inspection in respect of the provision of fire service installations and equipment and fire safety construction in Schedule 2; and
- (b) any installation works proposed by owners of domestic buildings that the enforcement authority considers necessary or expedient to render the parts

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Part 2
Clause 3

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intended for domestic purposes safe, having regard to the structural integrity of the building and the technology available to comply with all or any of the requirements in Schedule 2.

- (3B) The costs of the inspection and installation works that the enforcement authority has carried out or has caused to be carried out under subsection (3A) are recoverable as a debt due to the Government from the occupier on whom the notice is served if the fire safety direction is served under subsection (3)."
- (4) Section 5(4), after "reasonable one"—
Add
 ", which could be of 1 year temporary suspension as the enforcement authority thinks fit, whichever is less, subject to any reasonable excuses referred to in subsection (9)."
- (5) Section 5(5)—
Repeal
 "or withdraw"
Substitute
 ", withdraw or temporarily suspend".
- (6) Section 5(6)(b)—
Repeal
 "or".
- (7) Section 5(6)(c)—
Repeal the full stop
Substitute
 "; or".
- (8) After section 5(6)(c)—

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Part 2
Clause 4

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Add

"(d) it is temporarily suspended by that authority."

(9) Section 5(7)—

Repeal

"or withdrawn"

Substitute

", withdrawn or temporarily suspended".

4. Schedule 2 amended (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)

Schedule 2—

Repeal

"[ss. 5(1), (2)]"

Substitute

"[ss. 5(1), (2), (3A)]".

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Explanatory Memorandum

Paragraph 1

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Explanatory Memorandum

The main object of this Bill is to amend the Fire Safety (Buildings) Ordinance (Cap. 572) (*Ordinance*) to introduce a new section 5(3A) and (3B) to the Ordinance and to provide for consequential and related matters.

Part 1—Preliminary

2. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Ordinance

3. Clause 3(4) to (9) amends section 5(4), (5), (6) and (7) of the Ordinance, being provisions on the owner's or occupier's compliance with fire safety measures to empower the relevant enforcement authority with the power of temporary suspension which could be up to 1 year as it thinks fit, with the intent to, in all reasonable circumstances, by taking into account of the particular situation, allow the owner or occupier of a domestic buildings sufficient time to comply with the requirements of the fire safety direction, subject to the reasonable excuses in section 5(9) of the Ordinance.
4. Clause 3(1) and (2) amends section 5(1) and (2) of the Ordinance to include the alternative proposals made by the owner of a composite building or domestic building in place of any of the requirements in Schedule 1 or 2 to the Ordinance as the relevant enforcement authority considers appropriate, if it is of the opinion that it would not be reasonable for the owner to comply with such requirements. The amendments are made with the intent that the owner's alternative proposals may provide more flexibility to certain owners of domestic buildings in complying with the fire safety direction as the relevant enforcement authority thinks fit, without violating the legislative intent as in section 5(2)(b) of the Ordinance.

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Explanatory Memorandum

Paragraph 5

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5. Clause 3(3) adds a new section 5(3A) to allow the owners of domestic buildings to propose alternative installation works the enforcement authority considers necessary or expedient, which are to be carried out by the enforcement authority in the event that a fire safety direction served under section 5(3) of the Ordinance is not complied with without reasonable excuses referred to in section 5(9) of the Ordinance.
6. Clause 3(3) adds a new section 5(3B) to allow the costs of the inspection and installation works that the enforcement authority has carried out or has caused to be carried out to be recoverable as a debt due to the Government from the occupier on whom the notice is served if the fire safety direction is served under section 5(3) of the Ordinance.
7. The new section 5(3A) and (3B) is added with the intent to address the technical and financial difficulties of certain owners of domestic buildings in meeting with the technical requirements and costs in complying with the fire safety direction served by the relevant enforcement authority. Being consistent to the existing law, the method for costs of inspection and installation works to be recoverable as debt due to the Government has also been provided in the Buildings Ordinance (Cap. 123).
8. Clause 4 makes a consequential amendment to Schedule 2 to the Ordinance.