

**For information**  
**19 May 2020**

**Legislative Council**  
**Subcommittee on Issues Relating to Policy on Industrial Buildings**  
**Fire Safety of and Enforcement Actions in Industrial Buildings**

**Purpose**

This paper briefs the Subcommittee on fire safety-related enforcement actions taken by relevant departments in industrial buildings (IBs), and the Government's work in enhancing the fire safety of old IBs.

**Background**

2. At present, the fire safety construction (viz. means of escape, fire resisting construction, and means of access for firefighting and rescue) of IBs is regulated by the Buildings Ordinance (Cap.123) (BO) and all IBs shall meet the building and fire safety standards prevailing at the time of their construction. The fire service installations and equipment (FSI) in an IB shall also comply with those requirements applicable at the time when the building was constructed. The owners or occupiers of buildings shall ensure that such FSI are in effective working order at all times. The Fire Services Department (FSD) and the Buildings Department (BD) would also conduct inspections periodically. Where irregularities are identified during the inspections, the departments will take corresponding enforcement and/or referral actions.

**Non-industrial Uses in IBs**

3. Commercial activities that may attract a large number of visitors (such as operating learning centres, places of entertainment/recreation, shops, restaurants, and religious gathering places, etc.) in IBs are very dangerous activities from the fire safety point of view, which are against the principle of safeguarding safety –

- (i) Industrial activities in IBs carry much higher risks of fire and other accidents than those of commercial and other activities;

- (ii) Industrial activities or production processes often involve the use of dangerous goods, and there may be dangerous goods stores and a large quantity of dangerous goods are kept in IBs, thus further increasing the fire risk. For example, leakage of chemicals may happen during loading and unloading of dangerous goods in IBs, which will pose hazards to visitors; and
- (iii) If commercial activities that may attract a large number of visitors take place in IBs, those visitors in general may not understand the potential risks involved in IBs and may not know how to evacuate (especially children, the elderly or persons with disabilities). Such visitors will face severe threats in case of fire or other accidents in IBs.

4. Having considered the above various aspects, we consider that non-industrial uses (such as commercial use) in IBs would be against the principle of safeguarding safety. Nevertheless, FSD notes the society's demand for premises to be used for commercial or arts, cultural, recreational and sports activities. It has been adopting a pragmatic approach in giving advice on applications for setting up non-industrial related premises in IBs, so as to strike a balance between such demand and fire safety.

5. In general, FSD accepts non-industrial uses in an IB under the following circumstances, with the principle of safeguarding safety as far as possible:

- (i) Wholesale conversion into commercial use  
FSD accepts the wholesale conversion of an IB into commercial or other non-industrial uses (such as hotels, arts, cultural, recreational and sports activities, etc.), which can ensure a consistent risk level of fire and accident among all uses of premises within the building.
- (ii) Commercial use in the lower floors of an IB with buffer floor  
If there is a buffer floor (such as a car-parking floor, an electrical and mechanical plant floor, an empty floor, or "telecommunications exchange centre" or "computer/data processing centre" which are the extended permitted uses announced in 2019) in an IB, the lower floors can be completely separated from the upper floors with possible industrial use, in which case FSD will accept the change of the lowest three

floors to non-industrial uses (including shops and services, restaurants, or arts and cultural facilities).

- (iii) Use as shops on the ground floor of an IB without buffer floor  
For those commercial premises on the ground floor of an IB, where means of escape are completely separated from the industrial portion and will not attract large number of public members to stay for a long period of time (such as local provisions store/convenience store, bank, electrical shop for selling electrical accessories, etc.), FSD accepts such commercial premises on ground floor in an IB. Nonetheless, there could be a limit to the floor area for commercial use having regard to whether sprinkler system is provided in the IB or not.

### **Law Enforcement in respect of Fire Safety in IBs**

6. FSD has set up an Industrial Building Enforcement Team which is responsible for the inspections and following up on fire safety-related irregularities in IBs (including the handling of inspections and enforcement actions taken against mini-storages). Besides, FSD has created additional posts for the preparatory work for the legislative exercise to upgrade the fire safety of old IBs (see paragraphs 15 to 19 below for progress of relevant legislative work), and the handling of complaints about the fire safety of various types of buildings, etc.

7. Besides, personnel of various units under the three Operational Fire Commands, as well as the Fire Safety Command and the Licensing and Certification Command of FSD inspect different types of buildings (including IBs) under their respective scopes of work, and take enforcement actions related to, among others, FSI, means of escape, ventilating systems, storage of dangerous goods and fire safety of licensed premises in these buildings.

8. If any suspected unauthorised building works or changes of land use are identified during inspections by FSD personnel, they will be referred to relevant departments for follow up actions. Moreover, if any contravention of the Fire Services Ordinance (Cap. 95) or the Dangerous Goods Ordinance (Cap. 295), or their subsidiary legislation (such as obstruction to means of escape or locking of exits, damaged FSI, over-storage of dangerous goods, etc.) are identified during inspections, FSD personnel will take enforcement actions including prosecution and issuing of Fire Hazard Abatement Notices (FHANs) in accordance with the relevant legislation.

## **Enforcement Actions in Mini-storages**

9. FSD, BD and other related departments have along been taking enforcement actions under the existing law against irregularities identified in mini-storages in the territory. As at end April 2020, FSD has issued FHANs to 900 mini-storages, requiring the operators to abate the fire hazards within specified periods. Meanwhile, BD has issued statutory orders (the orders) under the BO to 898 mini-storages, requiring the owners of the premises to comply with the orders within specified periods.

10. Some mini-storage operators may have difficulties in complying with FHANs or the orders (for example, arranging the move-out of existing clients or rearranging the layout of storage cubicles, etc.) and may require comparatively more time to complete the improvement works. As such, FSD and BD would review the situation and progress of each individual case for considering whether extension of time for FHAN and/or the order should be granted, in order to facilitate the mini-storage operators and owners to finish the corresponding improvement works. For those mini-storage operators and owners who fail to comply with FHANs and/or the orders without reasonable excuse, FSD and BD may prosecute them. In respect of cases where FHANs have not been fully complied with, so far FSD has instituted prosecutions against 214 mini-storage operators, amongst which 27 cases were convicted. Meanwhile, BD has instituted prosecutions against two mini-storage owners for non-compliance with the orders. The owner of one case has been convicted whereas the legal proceeding of another case is still in progress.

11. Furthermore, FSD has all along maintained close communication with the trade and has adopted a flexible and pragmatic approach in handling alternative proposals submitted by the trade, including the use of fire resisting materials to cover the whole storage cluster or forming compartmentation as fire separation. So far there are 90 mini-storages which have completed the relevant improvement works according to the alternative proposals accepted by FSD.

12. By end April 2020, 168 and 395 mini-storages fully complied with all FHANs and orders respectively, of which 72 mini-storages also complied with the requirements of both FSD and BD. Besides, 82 newly established mini-storages which fully conformed to FSD's requirements are in operation, amongst which there were 55 mini-storages meeting BD's requirements as well, showing that the safety requirements imposed on mini-storages are practical and feasible.

13. For detailed figures relating to the enforcement actions taken by FSD in IBs during the period from 2016 to 2019 (including FHANs issued to mini-storage operators), please refer to **Annex**.

### **Fire Safety of Factory Canteen**

14. Pursuant to the Food Business Regulation (Cap. 132X), any person who intends to operate any food business in a factory building which involves the sale or supply of meals or unbottled non-alcoholic drinks (other than Chinese herb tea) for consumption on the premises by persons employed in any factory of that factory building, must obtain a factory canteen licence issued by the Food and Environmental Hygiene Department (FEHD). According to the extant licensing mechanism, FSD will, upon the receipt of the concerned licence application referred by FEHD, conduct fire safety risk assessment for the premises. Subject to its siting, layout plan, fuel use / mode of cooking and the results of on-site fire risk assessment, FSD will formulate a set of detailed fire safety requirements (FSRs) and issue to the applicant for compliance. Amongst the FSRs, it requires the applicant to install or provide the corresponding FSI in the premises such as sprinkler system, portable fire extinguishers, exit signs, emergency lighting system, etc. Upon the applicant achieving compliance with the FSRs in full, FSD will carry out compliance inspection to the premises concerned and issue the Fire Services Certificate after ascertaining that the FSRs have been complied with.

### **Upgrading of Fire Safety of Old IBs**

15. The fires at certain old IBs in recent years have heightened public concern over their fire risks. While the existing old IBs meet the building and fire safety standards prevailing at the time of their construction, their standards fall short of those prescribed in the prevailing codes of practice published by FSD and BD. For instance, IBs constructed before 1987 may not be equipped with automatic sprinkler systems.

16. In view of the above, the Government has proposed to introduce a new piece of legislation to mandate owners and occupiers of IBs constructed before 1987 to upgrade the requirements of FSI and fire safety construction of their buildings. The objective of the Fire Safety (Industrial Buildings) Bill (the Bill) is to bring the fire safety of old IBs up to present-day standards for better protection of life and property of the public.

17. According to the Bill, the Director of Fire Services and the Director of Buildings will be designated as the Enforcement Authorities (EAs). The Bill will empower them (and officers acting under their authority) to inspect the target IBs and issue Fire Safety Directions (Directions) to respectively require the owners or occupiers (or both) to upgrade FSI and fire safety construction of such buildings to the required standards. The owners or occupiers must comply with the requirements within the time limit as stipulated in the Directions<sup>1</sup>.

18. If an owner or occupier fails to comply with a Direction without a reasonable excuse, EAs may initiate prosecution. EAs may also apply to the Magistrate Court for a Fire Safety Compliance Order (FSCO), directing the owner or occupier to comply with the requirements in the Direction. Failure to comply with FSCO will be an offence. If an owner or occupier fails to comply with the Direction or FSCO and there are substantial fire risks if the building or part of the building is occupied, the District Court may, on application by EA, make a Prohibition Order against the occupation of the building or any part of it. Failure to comply with a Prohibition Order is an offence.

19. The Government has introduced the Bill into the Legislative Council (LegCo) for first reading and second reading on 12 December 2018. The relevant Bills Committee held five meetings and has completed scrutiny of the Bill. If the Bill is passed by LegCo, FSD and BD can commence relevant inspections and enforcement work as soon as practicable.

## **Views Sought**

20. Members are invited to note the abovementioned fire safety-related enforcement actions in IBs, and the latest progress of the Government's work in enhancing fire safety of old IBs.

**Security Bureau**  
**Fire Services Department**  
**Buildings Department**  
**Food and Environmental Hygiene Department**  
**May 2020**

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<sup>1</sup> Depending on the actual circumstances, the requirements may include installation of automatic sprinkler systems; provision of sufficient directional and exit signs; provision of secondary source of electrical power supply; provision of fire hydrant and hose reel systems; provision of adequate means of escape; and provision of fire resisting construction to inhibit the spread of fire and ensuring the structural integrity of the buildings.

**Annex**

**Fire Services Department's enforcement action  
in industrial buildings (IBs) from 2016 to 2019**

<b>Figures relating to the enforcement actions taken in IBs</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of inspections in IBs	10 806	17 695 <sup>Note</sup>	12 844	13 084
Number of Fire Hazard Abatement Notices (FHANs) issued against contravention of the Fire Services (Fire Hazard Abatement) Regulation	2 812	8 084 <sup>Note</sup>	2 722	2 007
Number of prosecutions against contravention of the Fire Services (Fire Hazard Abatement) Regulation	83	66	126	60
Number of prosecutions against contravention of the Fire Service (Installations and Equipment) Regulations	5	9	0	7
Number of prosecutions against contravention of the Dangerous Goods Ordinance	23	15	22	17
<b>Total number of prosecutions</b>	<b>111</b>	<b>90</b>	<b>148</b>	<b>84</b>

*Note: Both the number of inspections of industrial buildings and the number of FHANs issued by FSD in 2017 were comparatively higher. It was because FSD inspected around 800 mini-storages across the territory from the second half of 2016 to the end of 2017 and identified nearly 2 800 fire hazards. FSD issued FHANs to the operators of such mini-storages, requiring that the fire hazards be abated within specified periods.*