

LEGISLATIVE COUNCIL BRIEF

Fire Safety (Buildings) Ordinance (Cap. 572)

FIRE SAFETY (BUILDINGS) (AMENDMENT) BILL 2024

INTRODUCTION

A At the meeting of the Executive Council on 2 July 2024, the Council **ADVISED** and the Chief Executive **ORDERED** that the Fire Safety (Buildings) (Amendment) Bill 2024 (“the Amendment Bill”) at **Annex A** should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

2. The Government is committed to improving fire safety in old buildings. The Fire Safety (Buildings) Ordinance (Cap. 572) (“Ordinance”) came into operation in 2007 to require the upgrading of fire safety standards of pre-1987 composite and domestic buildings¹ to meet modern fire protection requirements. The Fire Services Department (“FSD”) and the Buildings Department (“BD”), as the enforcement authorities (“EAs”)², will conduct joint inspections of the target buildings, and in light of the actual conditions of the buildings, issue Fire Safety Directions (“Directions”) to require the owners and/or occupiers of target buildings to upgrade the fire service installation or equipment and fire safety construction of such buildings to the required standards. While the Ordinance aims to enhance the fire safety standards of target buildings, this does not mean that these buildings are subject to imminent fire risks. In fact, these buildings were constructed in accordance with applicable construction and fire safety standards prevailing at the time when they were constructed.

3. There are about 14 000 target buildings regulated under the Ordinance. Since the commencement of the Ordinance, the two EAs have inspected and issued Directions in respect of over 10 400 target buildings (as of end-March 2024). Excluding nearly 1 000 target buildings with all issued Directions fully complied with or discharged³ (i.e. no further follow-up action is required for those buildings), around 5 800 target buildings are having positive

¹ Pre-1987 composite and domestic buildings refer to those constructed on or before 1 March 1987, or with the plans of the building works first submitted to the Building Authority for approval on or before that day (to be referred to as “target buildings”).

² Under the Ordinance, the EA on fire safety measures in relation to planning, design and construction of buildings is the Director of Buildings; while the EA in relation to fire service installation or equipment is the Director of Fire Services.

³ Directions that are discharged include those related to demolished buildings, etc.

progress in the process of complying with the requirements of the Ordinance⁴ and some other 1 200 target buildings are having initial progress, with the Government proactively providing the necessary support driving the compliance of the Ordinance (for example, with the FSD's innovative ideas, new facilitation measures have been introduced in July 2023 obviating the need to install fire service water tank, the different schemes put forward by the Government for providing financial assistance to building owners for complying with the relevant statutory requirements, etc., to be elaborated at **Annex B**). For cases lacking progress without reasonable excuse (around 2 000 target buildings), the EAs, upon the issuance of warning letters or the expiry of the Directions respectively, would instigate prosecutions⁵ against relevant building owners starting from the second quarter of this year.⁶

4. The Government has all along maintained that it is the responsibility of owners to timely repair and properly maintain private buildings, including carrying out the required fire safety improvement works for enhancing the fire safety standards according to the Ordinance. As such, the Government has been proactively providing various kinds of support assisting owners of old buildings (including support on financial aspect, coordination among owners as well as technical aspect, with details at **Annex B**) to carry out fire safety improvement works. That being the case, a few hundred of them, in particular those of “three-nil” buildings⁷, may still face difficulties in complying with the requirements of the Ordinance due to the lack of coordination capability, etc. We see the need to introduce measures to assist those with genuine difficulties for meeting the statutory requirements, and at the same time, drive other owners of target buildings to comply with the Ordinance, with a view to bringing the fire safety standards of target buildings to modern standards in a holistic manner for better protection of life and property.

THE LEGISLATIVE AMENDMENT PROPOSAL

5. The policy intent of our legislative amendment proposal thus includes –

- (a) with reference to the BD's experience in the work of building safety and the similar mechanism under the Buildings Ordinance (Cap. 123) (“BO”), empowering the EAs to carry out fire safety improvement works for owners of target buildings who have failed to comply with the Directions/FSCOs (to be referred to as “defaulted works”)⁸, and to recover the costs of defaulted works and surcharge from such owners upon completion of the works, with a view to assisting those with genuine difficulties in enhancing the fire safety standards of old buildings; and

⁴ Around 4 400 target buildings have applied for financial assistance under the Fire Safety Improvement Works Subsidy Scheme (with details at **Annex B**) for taking forward the necessary improvement works, and around 1 400 target buildings have engaged relevant consultants and/or contractors for commencing the works.

⁵ A Direction will specify a reasonable period of time within which the owner and/or occupier must comply with the Direction. The EAs may apply to a magistrate for a Fire Safety Compliance Order (“FSCO”) directing an owner or occupier to comply with the requirements in a Direction, if the latter fails to do so without reasonable excuse.

⁶ Relevant owner and/or occupier, who fails to comply with a Direction/FSCO without reasonable excuse, is guilty of an offence and is liable to a fine. The EAs can take enforcement action accordingly. In fact, since the Ordinance has come into force, there are around 3 600 cases being successfully prosecuted.

⁷ “Three-nil” buildings refer to buildings which neither have owners' corporations or any form of residents' organisations, nor engage property management companies.

⁸ At present, the Ordinance does not empower the EAs to carry out fire safety improvement works for target buildings.

- (b) introducing different measures with a view to driving owners' compliance with the requirements of the Ordinance on their own initiative.

6. We will also take the opportunity to introduce related amendments to the Fire Safety (Commercial Premises) Ordinance (Cap. 502) ("FS(CP)O"). The ensuing paragraphs outline the key features of our proposal.

THE PROPOSAL

(A) Proposals relating to the defaulted works mechanism

Empowering the EAs to carry out defaulted works and setting of threshold

7. Under our proposal, the EAs will be empowered to carry out defaulted works for owners of target buildings who have failed to comply with the Directions/FSCOs. Having regard to considerations including our policy intent of assisting those with genuine difficulties, the effective use of public funds and government resources, the trade's capacity and willingness to undertake the works⁹, as well as not compromising the principle that owners are obligated to timely repair and properly maintain their private buildings, and noting that the owners of a few hundred of target buildings are facing difficulties in complying with the Ordinance due to the lack of coordination capability, there is a need to set a threshold in selecting buildings suitable for defaulted works, so that owners with genuine needs are able to obtain support from the Government. When doing so, the EAs will take into consideration a basket of factors, including whether there are missing/untraceable owners making it impossible to form owners' corporations ("OCs") or the building owners face inherent obstacles when coordinating fire safety improvement works, whether the EAs have exhausted their powers under the Ordinance to cause the owners to comply with the Directions/FSCOs but they still fail to comply with the requirements of the Ordinance despite multiple enforcement actions, etc.

Prioritising defaulted works

8. We will establish a clear, objective and transparent mechanism to facilitate the EAs in deciding the priority of target buildings meeting the threshold for defaulted works. For doing so, we propose to expand the terms of reference¹⁰ of the two existing Advisory Committees set up under the Ordinance, to the effect that they can give advice to the EAs on the prioritisation criteria for target buildings eligible for defaulted works. Possible criteria may include building age and the number of storeys, whether they are "three-nil" or single-staircase buildings, the ownership status¹¹, the number of prosecutions against the owners concerned, and other fire hazards, etc. The EAs will, after considering the Advisory Committees' advice on the prioritisation criteria, devise a marking scheme to determine the priority of eligible buildings for defaulted works, decide on the number of defaulted works to be carried out each year and the timeframe having regard to factors such as the trade's capacity to undertake the works, etc.

⁹ Another reason for the Government to factor in market capacity is to avoid a situation where there is a surge of demand for works and hence driving up the cost of the fire safety improvement works required by the Ordinance.

¹⁰ Currently, the two EAs have each set up a statutory Advisory Committee under the Ordinance for giving advice to the EAs on matters such as the suitability of fire safety measures for the target buildings, technical issues regarding fire safety improvement works, and other fire safety measures put forth by the owners.

¹¹ Lower priority will be accorded to buildings under single ownership, because coordination among owners will not be an issue and those owners should have better financial capability.

Deciding on the works proposals

9. Undertaking fire safety improvement works normally involves various feasible proposals and works arrangements, and the resultant scale of the works, associated costs and the impacts on building owners may vary. Since the coordination capability among owners tends to be weaker for buildings which need the Government's defaulted works, it is rather difficult for the owners to reach consensus in the first place, not to mention if it involves more than one works proposal. Currently, the two statutory Advisory Committees comprise representatives from the FSD and the BD, professionals in the related fields, members of the academia and members of the public with relevant expertise. They are capable of tendering professional and objective technical advice on works proposals for the more controversial cases from technology, costs and fire safety standards perspectives. For this reason, we propose to further expand the terms of reference of these two committees to the effect that they can provide technical advice to the EAs on defaulted works proposals for the more controversial cases. After considering the committees' advice and other related factors (for example, whether the design is conducive to firefighting and rescue operations, whether individual owners' title will be involved, costs of works, etc.), the EAs will decide on the final proposal for the defaulted works.¹²

The EAs to recover the costs of defaulted works and surcharge

10. Upon completion of defaulted works, the EAs will need to recover the costs of works and surcharge from the owners. We will draw reference from the BD's mechanism under the BO for recovery of the costs and surcharge (i.e. the costs of defaulted works, supervision charges, a surcharge of not more than 20%¹³ of the costs of defaulted works) and the actions taken by the BD¹⁴ for the recovery of the costs of defaulted works, and amend the Ordinance as appropriate. Regarding the surcharge, we will also draw reference from the BD's existing mechanism to reduce the amount where the owner has proved genuine practical difficulties in complying the Directions or FSCOs (for example, being obstructed to access the common parts of a building by uncooperative persons, unsuccessful attempt in organizing the required works, etc.) or waive the amount for special cases (for example, the owner is old, infirm, with disability and has genuine practical difficulties in complying with the Directions or FSCOs).

¹² The EAs will draw reference from the BD's experiences and in accordance with the Government's established tendering system, which is clear, open and fair, arrange for the tendering of defaulted works. Regarding the carrying out of the works, there are relevant provisions in the BO empowering the Building Authority, with prior notice, to apply to the court for making a Closure Order for the purpose of carrying out defaulted works so as not to pose danger, if any, to occupants or to the public. We will introduce similar provisions to the Ordinance accordingly.

¹³ To prevent tax payers and the entire society from bearing the expenses incurred from enforcement, and to prevent owners from over-relying on the Government to carry out defaulted works for them, it is necessary to impose the surcharge.

¹⁴ If the owner has not promptly settled the bill on the cost of defaulted works and surcharge after completion of works, the BD will register the certificate of arrears served on the owner in the Land Registry, which will constitute a legal charge against the title of the property, allowing the BD to recover the outstanding costs and surcharge of the defaulted works from the owner in case the property is sold. Legal actions will also be taken as appropriate.

Preventing obstruction to the EAs in carrying out defaulted works

11. At present, there are provisions in the BO which specify that any person who obstructs the Building Authority or its authorised officers in the exercise of their powers under the BO in carrying out defaulted works would be guilty of an offence and liable on conviction to a fine and to imprisonment¹⁵. This mechanism seeks to deter any person from obstructing the EAs or their authorised officers in carrying out the defaulted works. We propose to introduce similar provisions into the Ordinance specifically catering for defaulted works mechanism, and to provide for offences¹⁶ for obstructing the EAs in performing their functions relating to the carrying out of the works.

(B) Proposals to drive owners to comply with the requirements of the Ordinance on their own initiative

Registration of Directions in the Land Registry (“LR”)

12. Currently, to optimise the use of market forces to help achieve the objective of enhancing fire safety in old target buildings, the Ordinance empowers the EAs to register in the LR the FSCOs against a building or such parts of it to which the orders relate. However, the Ordinance does not empower the EAs to register Directions in the LR. We propose that similar requirement be stipulated in the Ordinance, such that the EAs are empowered to register Directions issued against the involved buildings or their relevant parts in the LR. When the Directions have been complied with/withdrawn, etc., the EAs will register the relevant instrument in the LR, which is in line with the existing arrangement under the Ordinance after FSCOs cease to be in force. This proposal facilitates prospective buyers of target buildings or target building units to be aware of the existence of outstanding legal liabilities. It would also help provide an incentive for owners to comply with the outstanding Directions so as to maintain the value of the property.

To require new property owners to notify the EA concerned of the transfer of interests in property

13. With a view to prompting a new property owner to fulfil the obligations stipulated by the Ordinance in respect of the relevant property, we propose to amend the Ordinance to the effect that, if there are outstanding Directions or FSCOs in respect of the relevant property, the new property owner must notify the EA concerned in writing of the transfer of interests in property within 3 months after the completion of the property transaction. This proposal aims to cause new property owners to be given a clear notice of their legal obligations (including the outstanding Directions/FSCOs). A new property owner who fails to notify the EA concerned in writing of the transfer of interests in property within 3 months after completion of the property transaction would be guilty of an offence and liable on conviction to a fine at Level 3 (i.e. a maximum fine of \$10,000).

¹⁵ A fine at Level 3 (the maximum fine is \$10,000) and to imprisonment for 6 months.

¹⁶ At a fine at Level 4 (the maximum fine is \$25,000) and to imprisonment for 6 months following the existing penalty level in section 18 of the Ordinance, which caters for, in general situations, obstruction caused to a person who is performing a function conferred by the Ordinance.

Increasing the penalties for non-compliance with Directions or FSCOs

14. The Government has all along maintained that it is the responsibility of owners to timely repair and properly maintain private buildings, including carrying out the required fire safety improvement works, to enhance the fire safety standards according to Directions or FSCOs. Under the Ordinance, an owner and/or occupier, without reasonable excuse, fails to comply with a Direction, is guilty of an offence and liable on conviction to a fine at Level 4 (i.e. a maximum fine of \$25,000) and to a further daily fine of \$2,500; and one who fails to comply with an FSCO is guilty of an offence and liable on conviction to a fine at Level 5 (i.e. \$50,000 as maximum) and a further daily fine of \$5,000. There are views in society that the deterrent effect of penalty should be kept abreast of the times for raising the compliance rate of the Ordinance. With reference to the penalties for offences of similar nature or gravity¹⁷, we propose to raise the penalty levels for non-compliance with Directions and FSCOs to \$100,000 and \$200,000 as maximum respectively, and a further daily fine of \$10,000 and \$20,000 respectively, to maintain a necessary deterrent effect.¹⁸

Preventing obstruction to OCs in complying with the requirements of the Ordinance

15. Based on the EAs' experience, some target buildings fail to fulfil the obligations of the Ordinance partly because there exist some uncooperative owners. At present, there are provisions in the BO which specify that any person obstructing the OCs in the carrying out of functions for complying with the relevant statutory requirements would be guilty of an offence and liable on conviction to fines¹⁹. This mechanism seeks to deter any person from

¹⁷ For the penalty for non-compliance with Directions, reference has been made to that for non-compliance with the Fire Hazard Abatement Notice issued under the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95F), i.e. a fine at Level 6 (\$100,000 as maximum) and a further fine of \$10,000 for each day during which the offence continues.

As for the penalty for non-compliance with FSCOs, reference has been made to that for non-compliance with the Fire Hazard Order issued under Cap. 95F, i.e. a fine of \$ 200,000 and a further fine of \$20,000 for each day during which the offence continues.

¹⁸ Currently, there is no prosecution deadline set out in the Ordinance. A prosecution deadline is stipulated in the Fire Safety (Industrial Buildings) Ordinance (Cap. 636) ("FS(IB)O") (a piece of legislation sharing similar legislative intent and nature with that of the Ordinance, which requires owners and/or occupiers of pre-1987 industrial buildings to enhance the fire safety standards of their buildings to the modern level), which enables the EAs to initiate prosecution within 12 months beginning on the date on which the offence is discovered by, or comes to the notice of, the EA. This goes beyond the normal six-month limit under section 26 of the Magistrates Ordinance (Cap. 227), the policy intent of which is that this allows sufficient time for the EAs to collect evidence and instigate prosecutions for the types of offences covered by the FS(IB)O. Also, a longer period for initiation of prosecution than six months is not uncommon in other legislation. We propose making corresponding amendments to the Ordinance. Besides, since the FS(IB)O also includes provisions on the EA's power to give or serve a certificate and to certify true copy of documents as admissible evidence in proceedings, we propose making corresponding amendments to the Ordinance.

¹⁹ Penalty levels for offences of any person causing obstruction to the OCs for complying with the BO are summarised below –

Offence	Penalty
Obstruct a person employed or engaged by an OC in the carrying out of works that is required for the purpose of complying with a statutory order or notice	A fine at Level 3 (\$10,000 as maximum) and imprisonment for 6 months.
Refuse to allow a person employed or engaged by an OC access to or the use of the premises concerned, which is reasonably necessary for the carrying out of works for the purpose of complying with a statutory order or notice	
Refuse to contribute to the costs of the inspection, investigation, works or other action that is required for the purpose of complying with a statutory order or notice	A fine at Level 4 (\$25,000 as maximum).

obstructing the OCs in fulfilling statutory obligations. We propose to introduce similar mechanism and provide for offences of similar penalty levels into the Ordinance as a deterrent to prevent any person from obstructing an OC in carrying out fire safety improvement works, or from refusing to contribute to the costs associated with the works required for compliance with the Directions or FSCOs.

(C) Other enhancement proposals

Providing additional means of serving documents

16. Under the extant Ordinance, the means of the EAs to serve documents (such as Directions) on owners and/or occupiers are limited to personal delivery or registered post to the relevant address concerned. With reference to the multiple means of serving documents stipulated under the Fire Safety (Industrial Buildings) Ordinance (Cap. 636) (“FS(IB)O”)²⁰ which is of similar nature and legislative intent as those of the Ordinance, we propose that the Ordinance be amended by providing the EAs with additional means of serving documents, including facsimile transmission, electronic mail, and posting them prominently inside the premises concerned. This proposal seeks to provide owners or occupiers with more convenient channels to receive the relevant documents.

Publishing information of Directions, etc. on the EAs’ websites, etc.

17. To allow members of the public to obtain relevant information of Directions and FSCOs, etc., under the FS(IB)O, EAs are empowered to upload onto their departmental websites, or in another way, publish information about a Direction or FSCO, etc. (i.e. the serial number, date of issue and compliance status of the Direction and FSCO, and the address of the building or part to which the Direction/FSCO relates)²¹. We propose that similar provision be incorporated into the Ordinance so that EAs can publish those information onto departmental websites, etc. This will enhance the awareness of members of the public, including the prospective buyers/tenants of the target building units, of the outstanding legal liabilities of any of the target buildings, thereby driving owners to comply with the requirements of the Ordinance.

Financial assistance to subsidise owners in need for the costs of defaulted works

18. Under the defaulted works mechanism, the EAs will recover the costs from the owners upon completion of works. Considering that some owners may encounter financial difficulties, we will allow owners of eligible target buildings to apply for the Fire Safety Improvement Works Subsidy Scheme (“FSWS”)²² (see details at **Annex B**), so that they can use the subsidy to partially cover the costs of the defaulted works.²³ Besides, given that some

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²⁰ Please refer to footnote 18 for information about the FS(IB)O.

²¹ In formulating the provision on publication of information under the FS(IB)O, the Government considered in detail the issue of personal data privacy. The types of information that can be published are not related directly or indirectly to a living individual and from the information it is not practicable for the identity of the individual to be directly or indirectly ascertained. Therefore, such information does not constitute “personal data” as defined by the Personal Data (Privacy) Ordinance (Cap. 486) and such publication will not breach the Personal Data (Privacy) Ordinance.

²² For buildings with an OC, the OC would be the applicant who submits an application to the Urban Renewal Authority (“URA”). For buildings without an OC, all owners collectively would be the applicant who submits an application to the URA.

²³ The eligibility criteria and use of the subsidy will follow the existing arrangements under the FSWS.

buildings' owners cannot set up OCs or submit applications by all owners collectively as applicant because of special circumstances (for example, some owners are missing/untraceable, etc.), we will also allow owners of such buildings to apply for the FSWS, even without an OC, for using the subsidy to partially cover the costs of the defaulted works. Owners benefiting from this scheme can receive a subsidy up to 60% of the costs of works and other fees related to the works, or the subsidy ceiling for the corresponding category of buildings²⁴. However, the subsidy cannot be used to pay the surcharge for the defaulted works²⁵. We will review the need for injection to the FSWS in due course and, if necessary, seek necessary resources with justifications according to the established mechanism.

(D) Related amendments to the FS(CP)O

19. Apart from the Ordinance and the FS(IB)O, there is one more piece of legislation sharing similar legislative intent and nature, namely the FS(CP)O. The FS(CP)O aims at bringing fire safety standards of prescribed commercial premises (i.e. banks, supermarkets, off-course betting centres, jewellery or goldsmith shops, department stores and shopping arcades) and pre-1987 commercial buildings to modern standards. As elaborated above, with reference to the FS(IB)O, we will amend the Ordinance to the effect that (a) additional means of serving documents would be provided; (b) information of Directions, etc. can be published on the EAs' websites, etc.; and (c) a prosecution deadline would be set allowing sufficient time for the EAs to collect evidence and instigate prosecution for the types of offences covered by the FS(CP)O and the EA's would have the power to certify documents as admissible evidence in proceedings. Having regard to the similar nature of the three pieces of legislation, and taking into account the respective merits of the proposed amendments, we propose making corresponding amendments to the FS(CP)O.

THE AMENDMENT BILL

20. The key provisions of the Amendment Bill are as follows –

Part 1 sets out the short title and provides for commencement.

Part 2 amends the Ordinance, with key amendments as follows –

- (a) **Clause 5** amends section 5 to increase the penalty level for failing to comply with a Direction; repeal subsections (10), (11), (12) and (13), which provide for the establishment and functions of the advisory committees, because the matter is to be provided for under a new Division 7 of Part 2 of the Ordinance added by clause 13; and to make miscellaneous amendments;
- (b) **Clause 7** amends section 6 to increase the penalty level for failing to comply with an FSCO;
- (c) **Clause 10** adds a new Division 4 to Part 2, which contains provisions relating to the registration of certain instruments in the LR;

²⁴ The subsidy ceiling will vary for buildings with different number of storeys, in line with the existing arrangements.

²⁵ This is because the surcharge for the works arises from owners' failure to comply with the requirements of the Ordinance.

- (d) **Clause 11** amends section 14 to repeal subsection (3), which concerns the registration of FSCOs, etc. in relation to OCs, because the matter is to be provided for under a new section 14A added by clause 12;
- (e) **Clause 12** adds a new section 14A to the new Division 4 of Part 2 to provide for the registration of certain instruments in relation to OCs;
- (f) **Clause 13** adds new Divisions 5, 6 and 7 to Part 2, which, respectively, imposes a duty on new owners of buildings (or parts of buildings) to notify the EAs of the transfer of interests in the buildings (or parts of the buildings) in respect of which a Direction or FSCO is in force; provides that the EAs may publish information about Directions, FSCOs, etc. on their departmental websites or in another way; and provides for the establishment and membership of advisory committees, the functions of the committees; and saving matters.
- (g) **Clause 16** adds a new section 18A to provide for certain offences for the obstruction of OCs in carrying out fire safety improvement works for ensuring that Directions or FSCOs are complied with, and relating to the refusal to contribute to the costs of carrying out those works by the OCs;
- (h) **Clause 17** repeals section 19, which concerns offences committed by persons concerned in the management of bodies corporate, because the matter is to be provided for under a new section 22A added by clause 23;
- (i) **Clause 18** adds a new Division 2 to Part 3, which contains provisions about the powers relating to the carrying out of fire safety improvement works by the EAs. That Division contains 4 new Subdivisions, which, respectively –
 - (i) empowers the EAs to authorize persons to perform functions under the new Division 2;
 - (ii) empowers the authorized officers, etc. to enter premises or land to carry out fire safety improvement works for buildings (or parts of buildings); and provides for offences for the obstruction of the authorized officers, etc. in performing functions under the new Division 2, etc.;
 - (iii) provides for the meaning of closure order, the application by the EAs and the District Court's making of closure orders, etc.; and
 - (iv) provides for the recovery of costs, etc. for fire safety improvement works carried out by the EAs, enables those authorities to register the certificates in the LR, and provides for certain ways of service of writs of summons for recovering the costs and surcharge, etc.
- (j) **Clause 23** adds a new Division 3 to Part 4, which provides for the vicarious liability of officers of a body corporate and partners of a partnership when the body corporate or partnership commits an offence under the Ordinance; and sets out the deadline for prosecuting offences under the Ordinance, replacing the time limit under section 26 of the Magistrates Ordinance (Cap. 227).
- (k) **Clause 25** provides for the service of documents;

- (l) **Clause 27** adds a new Division 5 to Part 4, which provides for the admissibility of certain certificates in proceedings as evidence of giving or service of documents; empowers the EAs and public officers to certify certain documents; and provides for the admissibility as evidence of certain certified true copies in proceedings.

Part 3 makes related amendments to the FS(CP)O, with key amendments as follows –

- (m) **Clause 32** adds a new section 13A to the FS(CP)O, which provides that the EAs may publish information about Directions, etc. on their departmental websites or in another way;
- (n) **Clause 35** adds a new section 21A to the FS(CP)O, which sets out the deadline for prosecuting offences under the FS(CP)O; and
- (o) **Clause 37** adds new sections 22A and 22B to the FS(CP)O, so as to provide for the service of the documents. This clause also adds new sections 22C, 22D and 22E to the FS(CP)O to provide for the admissibility of certain certificates in proceedings as evidence of giving or service of documents; to empower the EAs and public officers authorized under the FS(CP)O to certify certain documents; and to provide for the admissibility as evidence of certain certified true copies in proceedings.

 C 21. The existing provisions to be amended are at **Annex C**.

OTHER OPTIONS

22. The proposal²⁶ cannot be implemented without legislative amendments to the Ordinance and the FS(CP)O.

LEGISLATIVE TIMETABLE

23. The legislative timetable will be as follows –

Publication in the Gazette 5 July 2024

First Reading and commencement of Second Reading debate 10 July 2024

Resumption of Second Reading debate, committee stage and Third Reading to be notified

IMPLICATIONS OF THE PROPOSAL

24. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The economic, financial, civil service and sustainability implications are at **Annex D**. It has no family, gender, environmental and productivity implications. The Amendment Bill will not affect the current binding effect of the Ordinance.

²⁶ Except for the part on provision of financial assistance to subsidise eligible owners for the cost of defaulted works through the FSWS, for which we will follow up with the URA in due course.

PUBLIC CONSULTATION

25. We conducted a ten-week public consultation exercise from 5 July 2022 to 13 September 2022. A total of 35 written submissions were received. As part of the consultation exercise, we briefed the LegCo Panel on Security on 5 July 2022 on the Government's proposal, and received its general support. We also conducted briefings through different modes and channels, including an online briefing jointly organised by the Security Bureau, the FSD and the BD, which was attended by some 230 participants²⁷. The views we received during the consultation period were generally in support of the Government's proposal. Some showed concerns on the possibility of abuse that capable owners tend to rely on EAs in honouring their own obligation to conduct improvement works, and hence there is the need to set a threshold for defaulted works. Others suggested that the Government should provide support on various fronts to owners of old buildings in fulfilling their legal obligations. Subsequently on 5 December 2023, we briefed the LegCo Panel on Security the outcome of the public consultation exercise, our legislative amendment proposal as well as the defaulted works mechanism, and received its support.

PUBLICITY

26. We will issue a press release. We will also make available a spokesperson to answer media enquiries.

ENQUIRIES

27. For enquiries on this brief, please contact Miss Rebecca Cheung, Principal Assistant Secretary for Security (B) at 2810 3435.

Security Bureau
3 July 2024

²⁷ Participants included members of the LegCo and the District Fire Safety Committees, representatives of relevant professional bodies (such as the Institution of Fire Engineers (Hong Kong Branch), the Building Services Operation and Maintenance Executives Society, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors, the Hong Kong Institution of Engineers, the Association of Registered Fire Service Installation Contractors of Hong Kong Limited, and etc.), representatives of the property management and the insurance sectors, etc.

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A BILL

To

Amend the Fire Safety (Buildings) Ordinance to empower the enforcement authorities to carry out fire safety improvement works for owners of certain composite buildings and domestic buildings who fail to comply with fire safety directions or fire safety compliance orders; to provide for the recovery of the costs for carrying out those works and related surcharges; to provide for the registration of the directions; to increase the penalty level for failing to comply with the directions or orders; to expand the functions of the advisory committees that advise those authorities on matters relating to fire safety improvements; to provide for certain offences for the obstruction of or otherwise in connection with those works; and to make related and miscellaneous amendments to the Ordinance and related legislation.

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 2024.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Fire Safety (Buildings) Ordinance (Cap. 572)

3. Section 3 amended (interpretation)

- (1) Section 3(1), definition of *fire safety compliance order*—

Repeal

“section 6”

Substitute

“section 6(1) (including such an order varied under section 6(4))”.

- (2) Section 3(1), definition of *fire safety direction*—

Repeal

“section 5”

Substitute

“section 5(1), (2) or (3) (including such a direction amended under section 5(5))”.

- (3) Section 3(1)—

Add in alphabetical order

“certificate of compliance” (符合安全證明書) means an instrument issued under section 12(2) or (3);

closure order (封閉令), in relation to an enforcement authority, means an order made under section 19N on an application made by the authority;

common parts (公用部分) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);

fire safety improvement works (消防安全改善工程), in relation to a building (or part of a building)—

- (a) means any works carried out for ensuring that a fire safety direction or fire safety compliance order is complied with in respect of the building (or part of the building); and
- (b) includes any inspection, investigation or other works, or the provision of any service, that is required for the carrying out of any works mentioned in paragraph (a);

owners' corporation (業主立案法團) means a corporation registered under section 8 of the Building Management Ordinance (Cap. 344);”.

4. Part 2, Division 1 heading added

Before section 5—

Add

“Division 1—Fire Safety Directions”.

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

- (1) Section 5(2)—

Repeal

“installations and” (wherever appearing)

Substitute

“installation or”.

- (2) Section 5(2), Chinese text—

Repeal

“該等裝置及”

Substitute

“該裝置或”.

- (3) After section 5(6)—

Add

“(6A) If a fire safety direction served under subsection (1) or (2) is complied with as mentioned in subsection (6)(a), the relevant enforcement authority must issue to the owner an instrument certifying the compliance.

(6B) If a fire safety direction served under subsection (1) or (2) is withdrawn as mentioned in subsection (6)(b), the relevant enforcement authority must issue to the owner an instrument notifying the withdrawal.”.

- (4) Section 5(8)—

Repeal

“level 4”

Substitute

“level 6”.

- (5) Section 5(8)—

Repeal

“\$2,500”

Substitute

“\$10,000”.

- (6) Section 5—

Repeal subsections (10), (11), (12) and (13).**6. Part 2, Division 2 heading added**

Before section 6—

Add**“Division 2—Fire Safety Compliance Orders”.****7. Section 6 amended (magistrate may make fire safety compliance orders)**

- (1) Section 6(8)—

Repeal

“at level 5”

Substitute

“of \$200,000”.

- (2) Section 6(8)—

Repeal

“\$5,000”

Substitute

“\$20,000”.

8. Part 2, Division 3 heading added

Before section 7—

Add**“Division 3—Prohibition Orders”.****9. Section 12 amended (owner or occupier of building may request certificate of compliance)**

Section 12(2) and (3)—

Repeal

“a certificate of compliance”

Substitute

“an instrument certifying the compliance”.

10. Part 2, Division 4 heading and section 13A added

After section 13—

Add

**“Division 4—Registration of Certain Instruments in
Land Registry**

13A. Registration of fire safety direction

- (1) The relevant enforcement authority may cause to be registered by memorial a fire safety direction that has been served on an owner of a building (or part of a building) against the land register of the building (or part of the building) in the Land Registry.
- (2) If a fire safety direction is registered under subsection (1) against the land register of a building (or part of a building), and subsequently the direction ceases to be in force by virtue of section 5(6), the relevant enforcement authority must—
 - (a) if the direction ceases to be in force by virtue of section 5(6)(a)—cause to be registered by memorial the relevant instrument issued under section 5(6A) against that land register in the Land Registry as soon as practicable, and in any event not later than 2 months after the date of the instrument;
 - (b) if the direction ceases to be in force by virtue of section 5(6)(b)—cause to be registered by memorial the relevant instrument issued under section 5(6B) against that land register in the Land Registry as soon as practicable, and in any event not later than 2 months after the date of the instrument; or
 - (c) if the direction ceases to be in force by virtue of section 5(6)(c)—cause to be registered by memorial

the fire safety compliance order concerned against that land register in the Land Registry as soon as practicable, and in any event not later than 2 months after the date of the order.”.

11. Section 14 amended (registration of fire safety compliance order, etc. in the Land Registry)

- (1) Section 14, heading—

Repeal

“, etc. in the Land Registry”

Substitute

“and prohibition order”.

- (2) Section 14(1)—

Repeal

“or variance thereof or a prohibition order against the land register of the relevant property”

Substitute

“, or a prohibition order, that has been made in respect of a building (or part of a building) against the land register of the building (or part of the building)”.

- (3) Section 14(2)(a)—

Repeal

“or variance thereof”.

- (4) Section 14(2)(b)(i)—

Repeal

“under section 12(3)”.

- (5) Section 14(2)—

Repeal

“property”

Substitute

“building (or part of the building)”.

(6) Section 14—

Repeal subsection (3).

12. Section 14A added

Part 2, Division 4, after section 14—

Add

“14A. Registration in relation to owners’ corporation

- (1) This section applies for the purposes of registration under sections 13A and 14 only.
- (2) If a fire safety direction is served in respect of a building (or part of a building) on its owners’ corporation, the direction is to be treated as having been served on each owner of the building (or part of the building) individually.
- (3) If a fire safety compliance order is made in respect of a building (or part of a building) against its owners’ corporation, the order is to be treated as having been made against each owner of the building (or part of the building) individually.
- (4) If an instrument mentioned in section 5(6A) or (6B) is issued to an owners’ corporation of a building (or part of a building), the instrument is to be treated as having been issued to each owner of the building (or part of the building) individually.
- (5) If a certificate of compliance is issued to an owners’ corporation of a building (or part of a building), the certificate is to be treated as having been issued to each

owner of the building (or part of the building) individually.”.

13. Part 2, Divisions 5, 6 and 7 added

At the end of Part 2—

Add

“Division 5—Duty to Notify Transfer of Interests

14B. Duty of new owners to notify enforcement authorities of transfer of interests

(1) If—

- (a) a fire safety direction or fire safety compliance order is in force in respect of a building (or part of a building); and
- (b) there is a transfer of interests in the building (or part of the building) from a person to another person (*new owner*),

the new owner must notify in writing the relevant enforcement authority of the transfer within 3 months after the date on which the transfer is completed.

- (2) A person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 3.

Division 6—Publishing Information

14C. Publishing information

In order to provide appropriate information to the public, an enforcement authority may upload onto its departmental website, or in another way publish, information about a fire safety direction, fire safety compliance order, prohibition order

or closure order in respect of a building (or part of a building), including—

- (a) the serial number of the direction or order;
- (b) the address of the building (or part of the building);
- (c) the date of the direction or order; and
- (d) the compliance status of the direction or order.

Division 7—Advisory Committee

14D. Establishment and membership

- (1) An enforcement authority must establish a committee for performing the functions under section 14E.
- (2) The committee is to consist of members with relevant expertise whom the authority considers appropriate.

14E. Functions

- (1) An advisory committee of an enforcement authority is to advise the authority on matters relating to fire safety improvements, including—
 - (a) for assisting the authority in forming an opinion under section 5(1) or (2)—
 - (i) whether, in a particular case, it is appropriate for an owner to take any other measures as mentioned in that section; and
 - (ii) if so—what the measures are;
 - (b) factors for the authority to consider in determining how buildings are to be prioritized in respect of the exercise of a power under Division 2 of Part 3 by the authority; and

- (c) technical matters concerning a proposal for carrying out fire safety improvement works for a building (or part of a building).
- (2) However, the committee may only advise the authority on a matter that the authority refers to the committee.
- (3) An advisory committee may, before advising on any matter under subsection (1)(a) or (c), by written notice invite representations from an owner of a building (or part of a building) to whom the matter relates.
- (4) If advice on a matter has been given to an enforcement authority by its advisory committee under subsection (1), the authority must consider the advice before performing any function concerning the matter.
- (5) In this section—
advisory committee (諮詢委員會), in relation to an enforcement authority, means a committee established by the authority under section 14D(1).

14F. Saving provisions

- (1) A committee established by an enforcement authority under the former section 5(10) is for all purposes to be treated as a committee established by the authority under section 14D(1).
- (2) A person who was, immediately before the commencement date, a member of a committee established by an enforcement authority under the former section 5(10) is for all purposes to be treated as a member of a committee established by the authority under section 14D(1) on the same terms and conditions as applied to the person immediately before the commencement date.
- (3) In this section—

commencement date (生效日期) means the date on which the Fire Safety (Buildings) (Amendment) Ordinance 2024 (of 2024) comes into operation;

former section 5(10) (原有第 5(10)條) means section 5(10) as in force immediately before the commencement date.”.

14. Part 3, Division 1 heading added

Before section 15—

Add

“Division 1—General”.

15. Section 16 amended (power to enter a building, etc. and other powers of authorized officers)

(1) Section 16, heading—

Repeal

everything after “enter”

Substitute

“and inspect building”.

(2) Section 16(4)—

Repeal

“it is proved to the satisfaction of a magistrate on sworn information”

Substitute

“a magistrate is satisfied by information on oath”.

16. Section 18A added

After section 18—

Add

“18A. Offence for obstructing owners’ corporations in complying with fire safety directions or fire safety compliance order etc.

- (1) A person who has been notified by an owners’ corporation of a building (or part of a building) that a fire safety direction has been served on, or a fire safety compliance order has been made against, the corporation under this Ordinance in respect of any common parts of the building must not—
 - (a) obstruct a person employed or engaged by the corporation in carrying out any fire safety improvement works for ensuring that the direction or order is complied with; or
 - (b) refuse to allow a person employed or engaged by the corporation access to, or to use, any part of the building that is reasonably necessary for carrying out any fire safety improvement works for ensuring that the direction or order is complied with.
- (2) A person who has been notified by an owners’ corporation of a building (or part of a building) that a fire safety direction has been served on, or a fire safety compliance order has been made against, the corporation under this Ordinance in respect of any common parts of the building must not refuse to contribute to the costs of the fire safety improvement works carried out for ensuring that the direction or order is complied with.
- (3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction—
 - (a) for a contravention of subsection (1)—to a fine at level 3 and to imprisonment for 6 months; or

- (b) for a contravention of subsection (2)—to a fine at level 4.”.

17. Section 19 repealed (offences by persons concerned in management of body corporate)

Section 19—

Repeal the section.

18. Part 3, Division 2 added

At the end of Part 3—

Add

“Division 2—Powers relating to Carrying Out of Fire Safety Improvement Works by Enforcement Authorities etc.

Subdivision 1—Preliminary

19A. Interpretation of Division 2 of Part 3

In this Division—

auxiliary person (輔助人士) means a person authorized under section 19C;

specified person (指明人士) means—

- (a) an authorized officer; or
- (b) an auxiliary person.

19B. Division 1 of Part 3 not limited

This Division does not limit Division 1.

19C. Authorization of auxiliary persons

An enforcement authority may in writing authorize any person who is not an authorized officer to perform a function under this Division if the authority knows or reasonably believes that a fire safety direction, or fire safety compliance order, that is in force in respect of a building (or part of a building) is not complied with.

Subdivision 2—Power to Enter Premises etc.

19D. Authorized officers' power to enter premises or land for carrying out fire safety improvement works

- (1) An authorized officer may exercise a power specified in subsection (3) in respect of any premises or land if—
 - (a) the officer knows or reasonably believes that a fire safety direction, or fire safety compliance order, that is in force in respect of a building (or part of a building) is not complied with; and
 - (b) the owner or occupier of, or a person who appears to have control or management of, the premises or land permits the officer to so exercise the power.
- (2) However, the condition specified in subsection (1)(b) need not be met for the officer to exercise the power if—
 - (a) a warrant is obtained under section 19G(1) for exercising the power; or
 - (b) the officer reasonably considers that the urgency of the circumstances would render it impracticable to obtain the warrant before exercising the power.
- (3) For the purposes of subsection (1), an authorized officer may, at any reasonable time—
 - (a) enter any premises or land; or

- (b) if necessary, break into any premises or land in the presence of a police officer,
to carry out for the building (or part of the building) concerned any fire safety improvement works that the officer considers necessary.

19E. Auxiliary persons' power to enter premises or land for carrying out fire safety improvement works as directed by authorized officers

- (1) Without limiting section 19D, an authorized officer may direct an auxiliary person to exercise a power specified in subsection (4) in respect of any premises or land.
- (2) An auxiliary person may exercise a power in respect of any premises or land as directed under subsection (1) if the owner or occupier of, or a person who appears to have control or management of, the premises or land permits the auxiliary person to so exercise the power.
- (3) However, the condition specified in subsection (2) need not be met for the auxiliary person to exercise the power if a warrant is obtained under section 19G(1) for exercising the power.
- (4) For the purposes of subsection (1), an auxiliary person may, at any reasonable time, enter any premises or land to carry out for the building (or part of the building) concerned any fire safety improvement works that the authorized officer considers necessary.

19F. Specified persons may exercise powers with assistance

A specified person may exercise a power specified in section 19D(3) or 19E(4) (whichever is applicable) with the assistance of any other person whose assistance the specified person considers necessary for exercising the power.

19G. Magistrate may issue warrant

- (1) On application by an enforcement authority, a magistrate may issue a warrant for the purposes of section 19D(2)(a) or 19E(3) if the magistrate is satisfied by information on oath that—
 - (a) there are reasonable grounds for suspecting that a fire safety direction, or fire safety compliance order, that is in force in respect of a building (or part of a building) is not complied with;
 - (b) either or both of the following conditions are met—
 - (i) entry onto the premises or land by a specified person—
 - (A) was refused; or
 - (B) could not be gained despite visits made to the premises or land on at least 2 different days;
 - (ii) the carrying out of any fire safety improvement works for the building (or part of the building) by a specified person was refused or was otherwise not successful; and
 - (c) a notice of intention to apply for a warrant has been served on each owner or occupier of the premises or land.
- (2) The warrant must specify—
 - (a) the premises or land to be entered;
 - (b) the purpose of the entry;
 - (c) the name and capacity of the person authorized to enter the premises or land; and
 - (d) the date of issue of the warrant.

19H. Duty to produce warrant for inspection

If a specified person exercises a power specified in section 19D(3) or 19E(4) (whichever is applicable) in reliance on a warrant issued under section 19G(1), the person must produce the warrant for inspection to the owner or occupier of, or a person who appears to have control or management of, the premises or land.

19I. When warrant ceases to be in force

A warrant issued under section 19G(1) remains in force until the purpose specified in the warrant under section 19G(2)(b) is fulfilled.

19J. Security to be maintained after entering unoccupied premises or land

On leaving any unoccupied premises or land in respect of which a specified person has exercised a power specified in section 19D(3) or 19E(4) (whichever is applicable), the person must leave the premises or land as effectively secured against trespassers as the premises or land was found at the time of the exercise of the power.

19K. Disposal of unused materials or wastes

If any fire safety improvement works have been carried out in reliance on section 19D or 19E, a specified person—

- (a) may dispose of any materials left unused in carrying out the works; and
- (b) may dispose of any wastes generated from the works.

19L. Offence for obstructing specified persons etc.

- (1) A person who, without reasonable excuse, resists, obstructs or delays—
 - (a) a specified person who is performing, or is attempting to perform, a function under this Subdivision; or
 - (b) any person who is assisting a specified person under section 19F,
 commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

Subdivision 3—Closure Orders**19M. Application for closure orders**

- (1) If an enforcement authority is of the opinion that, unless a closure order is in force in respect of a building (or part of a building), it would be impracticable for a specified person to perform a function under Subdivision 2 without danger to the occupiers of the building (or part of the building) or to the public, the authority may apply to the District Court for such an order.
- (2) If the enforcement authority intends to make the application, the authority must notify all persons who may be affected by the application by posting a notice of intention to make the application at a conspicuous place—
 - (a) inside the building (or part of the building); or
 - (b) at, or in the immediate vicinity of, each entrance to the building (or part of the building),
 at least 7 days before the date of the application.

- (3) The notice must, in relation to the closure order intended to be applied for, state the effect of sections 19S(1) and (2) and 19T(1)—
- (a) in clear and legible form; and
 - (b) in both English and Chinese.

19N. Making of closure orders

On an application under section 19M(1), the District Court may order that the building (or part of the building) specified in the application be, under the direction of a police officer, closed for the purposes of this Subdivision if it is satisfied that a notice of intention to make the application has been given in accordance with section 19M.

19O. Power to remove persons

- (1) If a closure order is in force in respect of a building (or part of a building), a police officer of or above the rank of inspector may remove from the building (or part of the building) any person who is present in the building (or part of the building).
- (2) The police officer may require any person to provide the officer with any assistance that is reasonably necessary for the officer to exercise the power.

19P. Power to seal entrances or exits of buildings

If a closure order made for an enforcement authority is in force in respect of a building (or part of a building), the authority may seal any or all of the entrances to, or exits from, the building (or part of the building).

19Q. Permission of entry etc. despite closure orders

- (1) Despite the fact that a closure order made for an enforcement authority is in force in respect of a building (or part of a building), the authority may in writing permit any person to enter or be present in the building (or part of the building).
- (2) A permission under subsection (1)—
 - (a) may be given subject to any conditions that the relevant enforcement authority considers appropriate; and
 - (b) may be cancelled by the authority as the authority considers appropriate.

19R. Offence relating to closure orders

- (1) A person commits an offence if the person, without reasonable excuse—
 - (a) enters or is present in a building (or part of a building) in respect of which a closure order is in force; or
 - (b) interferes with any lock, bar or other thing used for performing a function under section 19P or otherwise used for enforcing a closure order.
- (2) Subsection (1)(a) does not apply in relation to a person's entering or being present in a building (or part of a building)—
 - (a) for performing a function under Subdivision 2 as a specified person;
 - (b) for assisting a specified person under section 19F; or
 - (c) as permitted under section 19Q(1).

- (3) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

19S. When closure orders cease to be in force

- (1) Subject to subsection (2), a closure order remains in force in respect of a building (or part of a building) until the expiry date specified under subsection (3) for the order.
- (2) A closure order ceases to be in force in respect of a building (or part of a building) if the building (or part of the building) is completely demolished, or otherwise ceases to exist.
- (3) For the purposes of subsection (1), the relevant enforcement authority may issue a written notice specifying an expiry date for a closure order.
- (4) The relevant enforcement authority must, on or before the expiry date—
 - (a) post the notice at a conspicuous place—
 - (i) inside the building (or part of the building); or
 - (ii) at, or in the immediate vicinity of, each entrance to the building (or part of the building);
 - (b) serve a copy of the notice on each owner of the building (or part of the building); and
 - (c) publish information about the notice on the authority's departmental website or in the Gazette (or both on the website and in the Gazette).

Subdivision 4—Recovery of Costs etc. for Carrying Out of Fire Safety Improvement Works by Enforcement Authorities etc.

19T. Recovery of costs and surcharges

- (1) If a specified person has incurred costs in carrying out (including taking any preliminary steps to carry out) any fire safety improvement works in respect of a building (or part of a building) in reliance on section 19D or 19E (whichever is applicable), any or all of the costs specified in subsection (2) are recoverable as a civil debt due to the Government from—
 - (a) if the relevant fire safety direction is registered under section 13A(1), or the relevant fire safety compliance order is registered under section 14(1)—a person who is an owner of the building (or part of the building) on the date on which the works are completed; or
 - (b) in any other case—an owner of the building (or part of the building)—
 - (i) on whom the relevant fire safety direction is served; or
 - (ii) against whom the relevant fire safety compliance order is made.
- (2) For the purposes of subsection (1), the costs are—
 - (a) the costs of carrying out the fire safety improvement works concerned;
 - (b) the costs of the materials supplied by the specified person for carrying out the works;
 - (c) the costs incurred in respect of the works as supervision charges;

- (d) the costs of disposing of any materials left unused in carrying out, or any wastes generated from, the works under section 19K;
 - (e) the costs incurred by any abortive visits made in respect of the works;
 - (f) the costs of sealing any entrances to, or exits from, the building (or part of the building) under section 19P;
 - (g) any other costs incidental to the costs mentioned in any of paragraphs (a), (b), (c), (d), (e) and (f).
- (3) If a person is liable to pay any costs under subsection (2), a surcharge not exceeding 20% of the costs may be imposed on, and is recoverable as a civil debt due to the Government from, the person.
- (4) If—
- (a) a copy of a certificate is served on a person under section 19U(2) in respect of the payment of any costs or surcharge (or both) due under this section; and
 - (b) the payment has not been made or fully made by the person by the expiry of the 30th day (*specified date*) after the day on which the copy is so served,
- then beginning on the day after the specified date, simple interest calculated at the rate of 10% per annum is to be charged on the amount of the payment for the time being unpaid by the person, and the interest is recoverable from the person as part of the payment.
- (5) The making of a payment under this section by any person does not affect the right of the person to recover the payment from another person who is liable to make the payment.

- (6) In this section—

abortive visit (前往施工未遂), in relation to any fire safety improvement works, means any entry onto any premises or land under section 19D(3) or 19E(4) for carrying out the works that is denied or is otherwise not successful.

19U. Certificates for recovery of costs or surcharges

- (1) For the purposes of this Subdivision, the relevant enforcement authority may issue a certificate—
- (a) specifying—
 - (i) the payment of any costs or surcharge (or both) due under section 19T in respect of a building (or part of a building);
 - (ii) the fire safety improvement works concerned;
 - (iii) the name of each person who is liable to make the payment; and
 - (iv) unless there is only one such person—an apportionment of the payment among the persons that the authority considers appropriate; and
 - (b) for recovering the payment in accordance with section 19V(3)(a), specifying—
 - (i) the nature of the claim; and
 - (ii) any particulars of the claim (other than those specified under paragraph (a)).
- (2) If the relevant enforcement authority issues a certificate under subsection (1), the authority must serve a copy of the certificate on each person who is liable to make the payment.
- (3) In any legal proceeding—

- (a) a certificate purporting to be issued by the authority under subsection (1) is admissible in evidence on its production without further proof; and
- (b) on being admitted in evidence under paragraph (a), the certificate is proof of the facts stated in it in the absence of evidence to the contrary.

19V. Registration of certificates

- (1) The relevant enforcement authority may cause to be registered by memorial a recovery certificate against the land register of a building (or part of a building) in the Land Registry so long as the specified payment for the building (or part of the building) has not been recovered or fully recovered.
- (2) For the purposes of the Land Registration Ordinance (Cap. 128), a recovery certificate is taken to be an instrument affecting premises or land and is registrable in the Land Registry.
- (3) On the registration of a recovery certificate under subsection (1) against the land register of a building (or part of a building), the specified payment for the building (or part of the building)—
 - (a) is, subject to subsection (5), recoverable by action in court from any person who appears from that land register to be the owner of the building (or part of the building) on or after the date of registration; and
 - (b) subject to subsection (7), constitutes a legal charge on the building (or part of the building) that gives the relevant enforcement authority the same powers and remedies as a mortgagee under a mortgage by deed in common form would have in respect of the building (or part of the building).

- (4) Despite sections 3(1) and 5 of the Land Registration Ordinance (Cap. 128), if a recovery certificate is duly registered under subsection (1), it has priority from the beginning of the day after the date of registration.
- (5) A specified payment is not recoverable under subsection (3)(a) from a person to the extent that the amount of the specified payment concerned exceeds the value of the person's interest in the building (or part of the building) concerned.
- (6) A charge constituted under subsection (3)(b) becomes void once the specified payment concerned is recovered to the extent of an amount equal to the value of the building (or part of the building) concerned.
- (7) If, after the completion of the fire safety improvement works specified in a recovery certificate but before the registration of the certificate under subsection (1), a person has acquired, and registered an interest in, the building (or part of the building) concerned as a bona fide purchaser (or mortgagee) for valuable consideration—
 - (a) the charge constituted under subsection (3)(b) in respect of the certificate is void against the person; and
 - (b) no liability is to accrue under subsection (3) against the person.
- (8) On full recovery of a specified payment for a building (or part of a building), the relevant enforcement authority must cause to be registered by memorial an instrument certifying such recovery against the land register of the building (or part of the building) in the Land Registry.
- (9) In this section—

recovery certificate (追討證明書) means a certificate issued under section 19U(1);

specified payment (指明款項), in relation to a building (or part of a building)—

- (a) means the payment of any costs or surcharge (or both) due under section 19T in respect of the building (or part of the building) as specified in a recovery certificate; and
- (b) includes any interest recoverable as part of the payment under section 19T(4).

19W. Service of writ of summons

- (1) This section applies in relation to a writ of summons initiating an action to recover any payment due to the Government under section 19T to the exclusion of sections 23 and 23A.
- (2) The writ of summons is taken to have been duly served if the court is satisfied that—
 - (a) unless paragraph (b) applies—the writ was left at the defendant's residence or place of business; or
 - (b) if neither the defendant's residence nor place of business is known—the writ was left—
 - (i) unless subparagraph (ii) applies—at the building (or part of the building) concerned; or
 - (ii) if leaving the writ at the building (or part of the building) concerned is impracticable for reasons such as denial of entry—outside or adjacent to an entrance to the building (or part of the building).”.

19. Part 4, Division 1 heading added

Before section 20—

Add

“Division 1—Government's Liability”.

20. Section 20 amended (Government not liable for certain matters)

- (1) Section 20, Chinese text, heading—

Repeal

“政府”

Substitute

“特區政府”.

- (2) Section 20(2), Chinese text—

Repeal

“政府”

Substitute

“特區政府”.

21. Section 21 amended (authorized officers not personally liable for certain acts and omissions)

Section 21(2), Chinese text—

Repeal

“政府”

Substitute

“特區政府”.

22. Part 4, Division 2 heading added

Before section 22—

Add

“Division 2—Unlawful Disclosure of Information”.

23. Part 4, Division 3 heading and sections 22A and 22B added

After section 22—

Add

“Division 3—Other Matters relating to Offences

22A. Offences by body corporate and partnership

- (1) If an offence under this Ordinance is committed by a body corporate (other than an owners’ corporation) and it is proved that the offence—
 - (a) was committed with the consent or connivance of a director of the body corporate or another person concerned in the management of the body corporate; or
 - (b) was attributable to any neglect or omission on the part of the director or that other person,
 the director or that other person also commits the offence.
- (2) If an offence under this Ordinance is committed by an owners’ corporation and it is proved that the offence—
 - (a) was committed with the consent or connivance of a person concerned in the management of the corporation; or
 - (b) was attributable to any neglect or omission on the part of the person,
 the person also commits the offence.

- (3) If an offence under this Ordinance is committed by a partner of a partnership and it is proved that the offence—
 - (a) was committed with the consent or connivance of any other partner concerned in the management of the partnership; or
 - (b) was attributable to any neglect or omission on the part of that other partner,
 that other partner also commits the offence.

22B. Prosecution deadline

- (1) A prosecution for an offence under this Ordinance may only be started before the end of 12 months beginning on the date on which the offence is discovered by, or comes to the notice of, the enforcement authority.

Note—

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (2) Subsection (1) does not apply in relation to an offence under this Ordinance committed before the date on which the Fire Safety (Buildings) (Amendment) Ordinance 2024 (of 2024) comes into operation.”.

24. Part 4, Division 4 heading added

Before section 23—

Add

“Division 4—Service of Documents”.

25. Section 23 substituted

Section 23—

Repeal the section

Substitute**“23. Service on non-body corporate**

If a document in respect of a building (or part of a building) is to be given to, or served on, a person under this Ordinance by an enforcement authority and the person is not a body corporate, the document may be—

- (a) delivered personally to the person;
- (b) sent by registered post to the person’s usual address of residence or business, or (if that address is unknown) to the person’s last known address of residence or business;
- (c) left with an adult occupier of the building (or part of the building);
- (d) posted at a conspicuous place inside the building (or part of the building);
- (e) sent by facsimile transmission to the usual facsimile number of the person, or (if that number is unknown) to the person’s last known facsimile number; or
- (f) sent by electronic mail to the usual electronic mail address of the person, or (if that address is unknown) to the person’s last known electronic mail address.”.

26. Sections 23A and 23B added

Part 4, Division 4, after section 23—

Add**“23A. Service on body corporate**

- (1) If a document in respect of a building (or part of a building) is to be given to, or served on, a person under

this Ordinance by an enforcement authority and the person is a body corporate (other than a registered non-Hong Kong company), the document may be—

- (a) delivered personally to any address in Hong Kong at which the body corporate carries on business, and given to a person apparently concerned in the management of, or employed by, the body corporate;
 - (b) sent by registered post to the registered office in Hong Kong of the body corporate, or to any address in Hong Kong at which the body corporate carries on business, or (if that address is unknown) to the last known registered or business address of the body corporate;
 - (c) left with an adult occupier of the building (or part of the building);
 - (d) posted at a conspicuous place inside the building (or part of the building);
 - (e) sent by facsimile transmission to the usual facsimile number of the body corporate, or (if that number is unknown) to the last known facsimile number of the body corporate; or
 - (f) sent by electronic mail to the usual electronic mail address of the body corporate, or (if that address is unknown) to the last known electronic mail address of the body corporate.
- (2) If a document in respect of a building (or part of a building) is to be given to, or served on, a person under this Ordinance by an enforcement authority and the person is a registered non-Hong Kong company, the document may be—

- (a) delivered personally to the address of the authorized representative as shown in the Companies Register, and given to the authorized representative;
- (b) sent by registered post to the authorized representative at that address;
- (c) left with an adult occupier of the building (or part of the building);
- (d) posted at a conspicuous place inside the building (or part of the building);
- (e) sent by facsimile transmission to the usual facsimile number of the authorized representative, or (if that number is unknown) to the last known facsimile number of the representative; or
- (f) sent by electronic mail to the usual electronic mail address of the authorized representative, or (if that address is unknown) to the last known electronic mail address of the representative.

(3) In this section—

authorized representative (獲授權代表) has the meaning given by section 774(1) of the Companies Ordinance (Cap. 622);

Companies Register (公司登記冊) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

registered non-Hong Kong company (註冊非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622).

23B. Date of giving or service of documents

For the purposes of this Ordinance, a document given or served is taken, in the absence of evidence to the contrary, to have been given or served—

- (a) if delivered personally, left with a person or posted at a place—on the day after the day on which it was delivered, left or posted;
- (b) if sent by post—on the second working day after the day on which it was posted;
- (c) if sent by facsimile transmission—on the day after the day on which it was sent; or
- (d) if sent by electronic mail—on the day after the day on which it was sent.”.

27. Part 4, Division 5 heading, sections 23C, 23D and 23E and Part 4, Division 6 heading added

Before section 24—

Add

“Division 5—Evidence

23C. Certificate of giving or service admissible as evidence

- (1) A certificate purporting to be signed by, or for, an enforcement authority stating that a document has been given or served is admissible in evidence in any proceeding brought under this Ordinance.
- (2) Unless there is evidence to the contrary, it is presumed that—
 - (a) the certificate is signed by, or for, the authority; and
 - (b) the document to which the certificate relates was duly given or served.

23D. Power to certify documents

- (1) An enforcement authority or a public officer authorized under section 15 may certify a copy or print of (or an extract from) a document made, issued, given or served

for the purposes of this Ordinance as a true copy or print of (or extract from) the document.

- (2) The document referred to in subsection (1) includes—
- (a) a fire safety direction;
 - (b) a notice amending or withdrawing a fire safety direction under section 5(5);
 - (c) a fire safety compliance order;
 - (d) a prohibition order;
 - (e) a certificate of compliance;
 - (f) building plans showing that a building is one to which this Ordinance applies; and
 - (g) correspondence by the enforcement authority with an owner or occupier of a building (or part of a building) in connection with this Ordinance.

23E. Certified true copy admissible as evidence

- (1) A copy or print of (or an extract from) a document is admissible in evidence in a proceeding before any court on its production without further proof if the copy, print or extract—
- (a) purports to be a true copy or print of (or extract from) the document; and
 - (b) has been certified under section 23D.
- (2) The court before which the certified true copy, print or extract is produced must, unless there is evidence to the contrary, presume that—
- (a) the certification is by an enforcement authority or a public officer authorized under section 15; and
 - (b) it is a true copy, print or extract.

Division 6—Regulations and Codes of Practice”.

28. Schedule 1 amended (fire safety measures to be complied with by owners of composite buildings in respect of parts intended for non-domestic purposes)

- (1) Schedule 1—

Repeal

“[ss. 5(1), (2), (10) & (13)]”

Substitute

“[ss. 5(1) & (2)]”.

- (2) Schedule 1, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

- (3) Schedule 1, section 1—

Repeal

“installations and” (wherever appearing)

Substitute

“installation or”.

- (4) Schedule 1, section 1(d)—

Repeal

“areas”

Substitute

“parts”.

- (5) Schedule 1, Chinese text, section 1(f)—

Repeal

“其他消防裝置及”

Substitute

“其他消防裝置或”.

29. 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)

(1) Schedule 2—

Repeal

“[ss. 5(1), (2), (10) & (13)]”

Substitute

“[ss. 5(1) & (2)]”.

(2) Schedule 2, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

(3) Schedule 2, section 1—

Repeal

“installations and” (wherever appearing)

Substitute

“installation or”.

(4) Schedule 2, section 1(c)—

Repeal

“areas”

Substitute

“parts”.

30. Schedule 3 amended (fire safety measures to be complied with by occupiers of composite buildings in respect of parts intended for non-domestic purposes)

(1) Schedule 3, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

(2) Schedule 3, section 1—

Repeal

“installations and”

Substitute

“installation or”.

Part 3

Related Amendments to Fire Safety (Commercial Premises) Ordinance (Cap. 502)

31. Section 3 amended (interpretation)

- (1) Section 3(1), definition of *fire safety compliance order*—

Repeal

“section 6”

Substitute

“section 6(1) (including such an order varied under section 6(4))”.

- (2) Section 3(1), definition of *fire safety direction*—

Repeal

“section 5”

Substitute

“section 5(1) or (2) (including such a direction amended under section 5(4))”.

- (3) Section 3(1), definition of *fire safety improvement compliance order*—

Repeal

“section 6”

Substitute

“section 6(1) (including such an order varied under section 6(4))”.

- (4) Section 3(1), definition of *fire safety improvement direction*—

Repeal

“section 5”

Substitute

“section 5(1A) or (2A) (including such a direction amended under section 5(4))”.

- (5) Section 3(1)—

Add in alphabetical order

“*common parts* (公用部分) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);”.

32. Section 13A added

Part 2, after section 13—

Add

“13A. Publishing information

In order to provide appropriate information to the public, an enforcement authority may upload onto its departmental website, or in another way publish, information about a fire safety direction, fire safety improvement direction, fire safety compliance order, fire safety improvement compliance order, use restriction order or prohibition order in respect of a building (or part of a building), including—

- (a) the serial number of the direction or order;
- (b) the address of the building (or part of the building);
- (c) the date of the direction or order; and
- (d) the compliance status of the direction or order.”.

33. Section 19 amended (Government not liable for certain matters)

- (1) Section 19, Chinese text, heading—

Repeal

“政府”

Substitute

“特區政府”.

(2) Section 19(2), Chinese text—

Repeal

“政府”

Substitute

“特區政府”.

34. Section 20 amended (authorized officers not personally liable for certain acts and omissions)

Section 20(2), Chinese text—

Repeal

“政府”

Substitute

“特區政府”.

35. Section 21A added

After section 21—

Add

“21A. Prosecution deadline

- (1) A prosecution for an offence under this Ordinance may only be started before the end of 12 months beginning on the date on which the offence is discovered by, or comes to the notice of, the enforcement authority.

Note—

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (2) Subsection (1) does not apply in relation to an offence under this Ordinance committed before the date on which the Fire Safety (Buildings) (Amendment) Ordinance 2024 (of 2024) comes into operation.”.

36. Section 22 substituted

Section 22—

Repeal the section

Substitute

“22. Service on non-body corporate

If a document in respect of a building (or part of a building) is to be given to, or served on, a person under this Ordinance by an enforcement authority and the person is not a body corporate, the document may be—

- (a) delivered personally to the person;
- (b) sent by registered post to the person’s usual address of residence or business, or (if that address is unknown) to the person’s last known address of residence or business;
- (c) left with an adult occupier of the building (or part of the building);
- (d) posted at a conspicuous place inside the building (or part of the building);
- (e) sent by facsimile transmission to the usual facsimile number of the person, or (if that number is unknown) to the person’s last known facsimile number; or
- (f) sent by electronic mail to the usual electronic mail address of the person, or (if that address is unknown) to the person’s last known electronic mail address.”.

37. Sections 22A to 22E added

After section 22—

Add**“22A. Service on body corporate**

- (1) If a document in respect of a building (or part of a building) is to be given to, or served on, a person under this Ordinance by an enforcement authority and the person is a body corporate (other than a registered non-Hong Kong company), the document may be—
 - (a) delivered personally to any address in Hong Kong at which the body corporate carries on business, and given to a person apparently concerned in the management of, or employed by, the body corporate;
 - (b) sent by registered post to the registered office in Hong Kong of the body corporate, or to any address in Hong Kong at which the body corporate carries on business, or (if that address is unknown) to the last known registered or business address of the body corporate;
 - (c) left with an adult occupier of the building (or part of the building);
 - (d) posted at a conspicuous place inside the building (or part of the building);
 - (e) sent by facsimile transmission to the usual facsimile number of the body corporate, or (if that number is unknown) to the last known facsimile number of the body corporate; or
 - (f) sent by electronic mail to the usual electronic mail address of the body corporate, or (if that address is

unknown) to the last known electronic mail address of the body corporate.

- (2) If a document in respect of a building (or part of a building) is to be given to, or served on, a person under this Ordinance by an enforcement authority and the person is a registered non-Hong Kong company, the document may be—
 - (a) delivered personally to the address of the authorized representative as shown in the Companies Register, and given to the authorized representative;
 - (b) sent by registered post to the authorized representative at that address;
 - (c) left with an adult occupier of the building (or part of the building);
 - (d) posted at a conspicuous place inside the building (or part of the building);
 - (e) sent by facsimile transmission to the usual facsimile number of the authorized representative, or (if that number is unknown) to the last known facsimile number of the representative; or
 - (f) sent by electronic mail to the usual electronic mail address of the authorized representative, or (if that address is unknown) to the last known electronic mail address of the representative.

- (3) In this section—

authorized representative (獲授權代表) has the meaning given by section 774(1) of the Companies Ordinance (Cap. 622);

Companies Register (公司登記冊) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

registered non-Hong Kong company (註冊非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622).

22B. Date of giving or service of documents

For the purposes of this Ordinance, a document given or served is taken, in the absence of evidence to the contrary, to have been given or served—

- (a) if delivered personally, left with a person or posted at a place—on the day after the day on which it was delivered, left or posted;
- (b) if sent by post—on the second working day after the day on which it was posted;
- (c) if sent by facsimile transmission—on the day after the day on which it was sent; or
- (d) if sent by electronic mail—on the day after the day on which it was sent.

22C. Certificate of giving or service admissible as evidence

- (1) A certificate purporting to be signed by, or for, an enforcement authority stating that a document has been given or served is admissible in evidence in any proceeding brought under this Ordinance.
- (2) Unless there is evidence to the contrary, it is presumed that—
 - (a) the certificate is signed by, or for, the authority; and
 - (b) the document to which the certificate relates was duly given or served.

22D. Power to certify documents

- (1) An enforcement authority or a public officer authorized under section 14 may certify a copy or print of (or an extract from) a document made, issued, given or served for the purposes of this Ordinance as a true copy or print of (or extract from) the document.
- (2) The document referred to in subsection (1) includes—
 - (a) a fire safety direction;
 - (b) a fire safety improvement direction;
 - (c) a notice amending or withdrawing a fire safety direction or fire safety improvement direction under section 5(4);
 - (d) a fire safety compliance order;
 - (e) a fire safety improvement compliance order;
 - (f) a use restriction order;
 - (g) a prohibition order;
 - (h) a certificate of compliance mentioned in section 12;
 - (i) building plans showing that a building is one to which this Ordinance applies; and
 - (j) correspondence by the enforcement authority with an owner or occupier of a building (or part of a building) in connection with this Ordinance.

22E. Certified true copy admissible as evidence

- (1) A copy or print of (or an extract from) a document is admissible in evidence in a proceeding before any court on its production without further proof if the copy, print or extract—
 - (a) purports to be a true copy or print of (or extract from) the document; and

- (b) has been certified under section 22D.
- (2) The court before which the certified true copy, print or extract is produced must, unless there is evidence to the contrary, presume that—
 - (a) the certification is by an enforcement authority or a public officer authorized under section 14; and
 - (b) it is a true copy, print or extract.”.

38. Schedule 2 amended (fire safety measures to be complied with by owners of prescribed commercial premises)

- (1) Schedule 2, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

- (2) Schedule 2, section 1—

Repeal

“installations and”

Substitute

“installation or”.

- (3) Schedule 2, section 1(c)—

Repeal

“areas”

Substitute

“parts”.

39. Schedule 3 amended (fire safety measures to be complied with by occupants of prescribed commercial premises)

- (1) Schedule 3—

Repeal

“& 25]”

Substitute

“& 25 & Sch. 6]”.

- (2) Schedule 3, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

- (3) Schedule 3, section 1(1)—

Repeal

“installations and”

Substitute

“installation or”.

40. Schedule 5 amended (fire safety measures to be complied with by owners of specified commercial buildings)

- (1) Schedule 5, paragraph (a)—

Repeal

“installations and” (wherever appearing)

Substitute

“installation or”.

- (2) Schedule 5, paragraph (a)(i)—

Repeal

“areas”

Substitute

“parts”.

- (3) Schedule 5, English text, paragraph (a)—

Repeal

“those”

Substitute

“the”.

- (4) Schedule 5, Chinese text, paragraph (a)—

Repeal

“的裝置及”

Substitute

“的裝置或”.

41. Schedule 6 amended (fire safety measures to be complied with by occupiers of specified commercial buildings)

- (1) Schedule 6, section 1, heading—

Repeal

“installations and”

Substitute

“installation or”.

- (2) Schedule 6, section 1—

Repeal

“installations and” (wherever appearing)

Substitute

“installation or”.

- (3) Schedule 6, Chinese text, section 1—

Repeal

“上述裝置及”

Substitute

“上述裝置或”.

Explanatory Memorandum

The main purpose of this Bill is to amend the Fire Safety (Buildings) Ordinance (Cap. 572) (*principal Ordinance*)—

- (a) to empower the enforcement authorities to carry out fire safety improvement works for owners of certain composite buildings and domestic buildings (*buildings*) who fail to comply with fire safety directions (*directions*) or fire safety compliance orders (*compliance orders*);
 - (b) to provide for the recovery of the costs for carrying out those works and the related surcharges;
 - (c) to provide for the registration of the directions;
 - (d) to increase the penalty level for failing to comply with the directions or compliance orders;
 - (e) to expand the functions of the advisory committees that advise those authorities on matters relating to fire safety improvements (*advisory committees*); and
 - (f) to provide for certain offences for the obstruction of or otherwise in connection with those works.
2. The Bill also makes related and miscellaneous amendments to the principal Ordinance and the Fire Safety (Commercial Premises) Ordinance (Cap. 502) (*Cap. 502*).
 3. The Bill is divided into 3 Parts.

Part 1—Preliminary

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

Part 2—Amendments to Fire Safety (Buildings) Ordinance

5. Clause 3 amends section 3(1) of the principal Ordinance—

- (a) to add certain new definitions for the interpretation of the principal Ordinance as amended by the Bill (including the definition of *fire safety improvement works*); and
 - (b) to make miscellaneous amendments to the definitions of *fire safety compliance order* and *fire safety direction*.
6. Clauses 4, 6, 8, 14, 19, 22 and 24 add new Division headings to Parts 2, 3 and 4 of the principal Ordinance to reorganize the provisions in those Parts in view of the other amendments made to those Parts by the Bill.
 7. Clause 5 amends section 5 of the principal Ordinance—
 - (a) to increase the penalty level for failing to comply with a direction from a fine at level 4 (i.e. \$25,000) (and a further daily fine of \$2,500 for continuing offences) to a fine at level 6 (i.e. \$100,000) (and a further daily fine of \$10,000 for continuing offences);
 - (b) to repeal subsections (10), (11), (12) and (13) of that section, which provide for the establishment and functions of the advisory committees, because the matter is to be provided for under a new Division 7 of Part 2 of the principal Ordinance added by clause 13; and
 - (c) to make miscellaneous amendments to that section.
 8. Clause 7 amends section 6 of the principal Ordinance to increase the penalty level for failing to comply with a compliance order from a fine at level 5 (i.e. \$50,000) (and a further daily fine of \$5,000 for continuing offences) to a fine at \$200,000 (and a further daily fine of \$20,000 for continuing offences).
 9. Clause 9 makes miscellaneous amendments to section 12 of the principal Ordinance.
 10. Clause 10 adds a new Division 4 to Part 2 of the principal Ordinance, which contains provisions relating to the registration of certain

instruments in the Land Registry. Clause 10 also adds a new section 13A to enable the enforcement authorities to register directions that have been served on owners of buildings (or parts of buildings), and to require those authorities to register certain instruments after the compliance or withdrawal of registered directions, or after the replacement of registered directions by compliance orders.

11. Clause 11 amends section 14 of the principal Ordinance—
 - (a) to repeal subsection (3) of that section, which concerns the registration of compliance orders and prohibition orders in relation to owners' corporations, because the matter is to be provided for under a new section 14A added by clause 12; and
 - (b) to make miscellaneous amendments to that section.
12. Clause 12 adds a new section 14A to the new Division 4 of Part 2 to provide for the registration of certain instruments in relation to owners' corporations.
13. Clause 13 adds new Divisions 5, 6 and 7 to Part 2 of the principal Ordinance.
14. The new Division 5 contains a new section 14B, which imposes a duty on new owners of buildings (or parts of buildings) to notify the enforcement authorities of the transfer of interests in the buildings (or parts of the buildings) in respect of which a direction or compliance order is in force.
15. The new Division 6 contains a new section 14C, which provides that the enforcement authorities may publish information about directions, compliance orders, prohibition orders or closure orders on their departmental websites or in another way.
16. The new Division 7 provides for—
 - (a) the establishment and membership of advisory committees (new section 14D);

- (b) the functions of the committees (new section 14E); and
- (c) saving matters (new section 14F).

17. Clause 15 makes miscellaneous amendments to section 16 of the principal Ordinance.
18. Clause 16 adds a new section 18A to the principal Ordinance to provide for certain offences for the obstruction of owners' corporations in carrying out fire safety improvement works for ensuring that directions or compliance orders are complied with, and relating to the refusal to contribute to the costs of carrying out those works by the owners' corporations.
19. Clause 17 repeals section 19 of the principal Ordinance, which concerns offences committed by persons concerned in the management of bodies corporate, because the matter is to be provided for under a new section 22A added by clause 23.
20. Clause 18 adds a new Division 2 to Part 3 of the principal Ordinance, which contains provisions about the powers relating to the carrying out of fire safety improvement works by the enforcement authorities. That Division contains 4 new Subdivisions (new Subdivisions 1 to 4).
21. The new Subdivision 1 (preliminary)—
 - (a) defines *auxiliary person* and *specified person* for the interpretation of the new Division 2 (new section 19A);
 - (b) provides that the new Division 2 does not limit Division 1 of Part 3 of the principal Ordinance (new section 19B); and
 - (c) empowers the enforcement authorities to authorize auxiliary persons to perform functions under the new Division 2 (new section 19C).
22. The new Subdivision 2 (power to enter premises etc.)—

- (a) empowers authorized officers to enter any premises or land to carry out fire safety improvement works for buildings (or parts of buildings) if the entry is permitted or a warrant is obtained (except for urgent cases) (new section 19D);
- (b) empowers auxiliary persons to, as directed by authorized officers, enter any premises or land to carry out those works for buildings (or parts of buildings) if the entry is permitted or a warrant is obtained (new section 19E);
- (c) empowers the authorized officers and auxiliary persons to exercise the power with the assistance of other persons (new section 19F);
- (d) enables the enforcement authorities to apply to a magistrate for the warrant in the case where the entry or the carrying out of those works is refused (new section 19G);
- (e) provides for specified persons' duty to produce the warrant for inspection (new section 19H);
- (f) provides for when the warrant ceases to be in force (new section 19I);
- (g) requires specified persons, after entering any unoccupied premises or land, to leave the premises or land as secured against trespassers as it originally was (new section 19J);
- (h) empowers specified persons to dispose of materials left unused in carrying out, or wastes generated from, those works (new section 19K); and
- (i) provides for offences for the obstruction of specified persons in performing functions under the new Subdivision 2 (new section 19L).

23. The new Subdivision 3 (closure orders)—

- (a) provides for the application for closure orders by the enforcement authorities (new section 19M);
- (b) provides for the making of closure orders by the District Court (new section 19N);
- (c) empowers the police to remove persons from buildings (or parts of buildings) in respect of which a closure order is in force (*closed buildings*) (new section 19O);
- (d) empowers those authorities to seal entrances or exits of closed buildings (new section 19P);
- (e) empowers those authorities to permit persons to enter or be present in closed buildings (new section 19Q);
- (f) provides for offences relating to closure orders (new section 19R); and
- (g) provides for when closure orders cease to be in force (new section 19S).

24. The new Subdivision 4 (recovery of costs etc. for fire safety improvement works carried out by enforcement authorities etc.)—

- (a) provides for what costs and surcharges are recoverable in relation to the carrying out of fire safety improvement works, and from whom the costs and surcharges are to be recovered (new section 19T);
- (b) empowers the enforcement authorities to issue certificates for the recovery of the costs and surcharges (new section 19U);
- (c) enables those authorities to register the certificates in the Land Registry (new section 19V); and
- (d) provides for certain ways of service of writs of summons for recovering the costs and surcharges (new section 19W).

25. Clauses 20 and 21 make miscellaneous amendments to the Chinese text of sections 20 and 21 of the principal Ordinance respectively.
26. Clause 23 adds a new Division 3 to Part 4 of the principal Ordinance, which contains provisions about certain matters relating to offences under the principal Ordinance. That Division—
 - (a) provides for the vicarious liability of officers of a body corporate and partners of a partnership when the body corporate or partnership commits an offence under the principal Ordinance (new section 22A); and
 - (b) sets out the deadline for prosecuting offences under the principal Ordinance, replacing the time limit under section 26 of the Magistrates Ordinance (Cap. 227) (new section 22B).
27. Section 23 of the principal Ordinance provides for the service of documents under the principal Ordinance. Clause 25 substitutes section 23 of the principal Ordinance, and clause 26 adds new sections 23A and 23B to the principal Ordinance, so that the service of the documents is provided for under the principal Ordinance as follows—
 - (a) section 23 provides for the means of serving the documents on persons who are not bodies corporate;
 - (b) the new section 23A provides for the means of serving the documents on bodies corporate; and
 - (c) the new section 23B provides for the date on which a document is taken to have been served for the different means of service.
28. Clause 27 adds a new Division 5 to Part 4 of the principal Ordinance, which contains provisions about evidence (new sections 23C, 23D and 23E). Clause 27 also adds a new Division 6 heading to that Part for reorganizing the provisions in that Part in view of the other amendments made to that Part by the Bill.

29. The new section 23C provides for the admissibility of certain certificates in proceedings as evidence of giving or service of documents.
30. The new section 23D empowers the enforcement authorities and public officers authorized under the principal Ordinance to certify certain documents.
31. The new section 23E provides for the admissibility as evidence of certain certified true copies in proceedings.
32. Clauses 28, 29 and 30 make miscellaneous amendments to Schedules 1, 2 and 3 to the principal Ordinance respectively.

Part 3—Related Amendments to Fire Safety (Commercial Premises) Ordinance

33. Clause 31 makes related and miscellaneous amendments to section 3 of Cap. 502.
34. Clause 32 adds a new section 13A to Cap. 502, which provides that the enforcement authorities may publish information about directions, fire safety improvement directions, compliance orders, fire safety improvement compliance orders, use restriction orders or prohibition orders on their departmental websites or in another way.
35. Clauses 33 and 34 make miscellaneous amendments to the Chinese text of sections 19 and 20 of Cap. 502 respectively.
36. Clause 35 adds a new section 21A to Cap. 502, which sets out the deadline for prosecuting offences under Cap. 502, replacing the time limit under section 26 of the Magistrates Ordinance (Cap. 227).
37. Section 22 of Cap. 502 provides for the service of documents under Cap. 502. Clause 36 substitutes section 22 of Cap. 502, and clause 37 adds new sections 22A and 22B to Cap. 502, so that the service of the documents is provided for under Cap. 502 as follows—

- (a) section 22 provides for the means of serving the documents on persons who are not bodies corporate;
 - (b) the new section 22A provides for the means of serving the documents on bodies corporate; and
 - (c) the new section 22B provides for the date on which a document is taken to have been served for the different means of service.
- 38. Clause 37 also adds new sections 22C, 22D and 22E to Cap. 502.
- 39. The new section 22C provides for the admissibility of certain certificates in proceedings as evidence of giving or service of documents.
- 40. The new section 22D empowers the enforcement authorities and public officers authorized under Cap. 502 to certify certain documents.
- 41. The new section 22E provides for the admissibility as evidence of certain certified true copies in proceedings.
- 42. Clauses 38, 39, 40 and 41 make miscellaneous amendments to Schedules 2, 3, 5 and 6 to Cap. 502 respectively.

THE GOVERNMENT’S SUPPORT MEASURES

Financial Aspect

The Government, in partnership with the Urban Renewal Authority (“URA”), have put in place various financial assistance schemes for owners in need, including the Building Safety Loan Scheme, the Building Maintenance Grant Scheme for Needy Owners, etc. Fire safety improvement works pertaining to the Fire Safety (Buildings) Ordinance (“the Ordinance”) have been incorporated into the list of works eligible for subsidies or loans under these schemes. To further assist owners of old buildings, the Government, in partnership with the URA, implemented a \$2 billion Fire Safety Improvement Works Subsidy Scheme (“FSWS”) in 2018, providing subsidies for carrying out fire safety improvement works. The subsidy provided is up to 60% of the costs of the fire safety improvement works and the consultancy fee, or the subsidy ceiling for the corresponding category of buildings, whichever is the less.¹ Subsequently, the Government increased the funding for the FSWS to a total of \$5.5 billion. It is anticipated that the FSWS can benefit around 6 000 to 6 500 buildings.²

Coordination Among Owners and Further Support

2. To tackle difficulties of old buildings in coordinating fire safety improvement works, the enforcement authorities (“EAs”) will refer the list of target buildings without owners’ corporations (“OCs”) to the Home Affairs Department so that the latter can assist the owners in forming OCs and advise them on building management matters. After issuing the Fire Safety Directions (“Directions”), the Fire Services Department (“FSD”) will proactively promote and recruit Fire Safety Ambassadors in “three-nil” buildings as a means to enhance the residents’ awareness of fire prevention and facilitate the coordination of upgrading works of fire service installations and equipment in future. The Buildings Department (“BD”) will also arrange its in-house Social Services Teams to provide further support to those owners in need, including, among others, coordinating residents of the buildings in carrying out the required works, and assisting them in applying for financial assistance schemes as appropriate.

3. To provide further support for owners of target buildings in complying with the requirements of the Ordinance, the FSD established the Fire Services Department Building Improvement Support Centre (“Support Centre”) in December 2023 to provide the owners and occupiers of these buildings with one-stop support services, such as consultation services on fire safety improvement works as well as related subsidy and loan schemes. In order to effectively improve the overall fire safety

¹ The subsidy ceiling will vary for buildings with different number of storeys.

² In 2018 and 2020, the URA rolled out two rounds of applications. Since then, the URA launched the third round of application from April to September 2023, to assist more owners in need to enhance the fire safety standard of their buildings. We will conduct a review in due course and decide whether to launch another round of application based on actual needs.

standard of old buildings in the long run, the Support Centre makes every effort to assist owners in completing the improvement works step-by-step to comply with the statutory requirements.

4. In addition, the FSD's Building Improvement Community Support Team will also render support to the owners of target buildings, including assisting them in overcoming the difficulties encountered during the co-ordination of fire safety improvement works, applying for appropriate subsidy schemes and support services, etc.

Technical Aspect

5. The EAs put in place measures assisting target buildings in overcoming difficulties arising from technical or spatial constraints for complying with the requirements of the Ordinance. The FSD has been in close co-operation with the Water Supplies Department and have put in place an array of facilitation measures, including "improvised hose reel systems (direct-feed type)" which allows buildings of three or fewer storeys to have their fire services systems operating on direct water supply from government mains (commonly known as town mains). In July 2023, the FSD further introduced the improvised hose reel system (direct pumping design) and improvised fire hydrant/hose reel system (direct pumping design) for which the connection of fixed fire pumps to government mains is allowed for target buildings of four storeys or more storeys so that the installation of fire service water tank is not required, subject to the conditions that no contamination will be caused to the fresh water supply system and measures against unlawful water consumption are in place. Besides, the BD has amended the Building (Minor Works) Regulation, allowing owners to, amongst others, erect small water tank through the simplified requirements and procedures under the Minor Works Control System³.

³ Minor Works Control System aims to facilitate building owners and occupiers in carrying out small-scale building works safely and lawfully through simplified requirements.

**Existing Provisions under
the Fire Safety (Buildings) Ordinance (Cap. 572) and
the Fire Safety (Commercial Premises) Ordinance (Cap. 502)
to be amended by
the Fire Safety (Buildings) (Amendment) Bill 2024**

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. A) 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. A) 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. A) 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. A) 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 elderly persons, home for persons with disabilities, child care centre or nursery; (*Amended 12 of 2011 s. 47*)

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; (*Amended 7 of 2003 s. 24*)
- (c) providing access to any premises or place for the purpose of extinguishing, attacking, preventing or limiting a fire;

- (d) facilitating the evacuation from any premises or place in case of fire; or (*Added 7 of 2003 s. 24*)
- (e) providing a stand-by power supply to an installation or equipment the purposes of which are mentioned in paragraphs (a) to (d) in the event of the loss of normal power supply; (*Added 7 of 2003 s. 24*)

function (職能) includes a power and a duty;

home for elderly persons (安老院) means a residential care home as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459); (*Added 12 of 2011 s. 47*)

home for persons with disabilities (殘疾人士院舍) means a residential care home for PWDs as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613); (*Added 12 of 2011 s. 47*)

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 elderly persons, home for persons with disabilities, child care centre or nursery. (*Amended 12 of 2011 s. 47*)

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 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 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 must establish a committee (referred to in this section as *advisory committee*) consisting of such persons with relevant expertise as he considers appropriate to give advice on such matters.

- (11) Only the relevant enforcement authority may refer a case to the advisory committee for advice.
- (12) The advisory committee may, before giving advice on any case referred to it, receive representations from an owner of a building to whom the case is related.
- (13) Where advice has been given by the advisory committee, the relevant enforcement authority must take into consideration such advice before 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.

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.

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 concerned 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 concerned of the rejection and the reasons for it.

14. Registration 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.
- (2) Where—
 - (a) a fire safety compliance order or variance thereof is registered under subsection (1) and subsequently—
 - (i) the order is revoked under section 6(4); or
 - (ii) the relevant enforcement authority has, by a written notice referred to in section 6(6), informed the magistrate's clerk that the order has been complied with; or
 - (b) a prohibition order is registered under subsection (1) and subsequently—
 - (i) a certificate of compliance has been issued under section 12(3); or
 - (ii) the order is—
 - (A) discharged under section 12(5); or
 - (B) revoked under section 13(3),

the relevant enforcement authority must cause to be registered by memorial the revocation, notice, certificate of compliance or discharge, as the case may be, against the land register of the relevant property in the Land Registry as soon as practicable and in any event not later than one month after the date of the revocation, notice, certificate of compliance or discharge.

- (3) 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.

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) An authorized officer must not enter under subsection (1) or (2) any part of a building—
 - (a) intended for domestic purposes; and
 - (b) in respect of which the occupier of that part of the building has an exclusive right of use and enjoyment,

unless no less than 24 hours' notice in writing of an intended entry by such officer has been given to that occupier.

- (4) 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.
- (5) 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.
- (6) 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.

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 other than a corporation registered under section 8 of the Building Management Ordinance (Cap. 344); 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 corporation registered under section 8 of the Building Management Ordinance (Cap. 344) is convicted of an offence under this Ordinance, and it is proved that the offence was committed with the consent or connivance of a person concerned in the management of the corporation, that person also commits the offence.
- (3) 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.

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.

Schedule 1

[ss. 5(1), (2), (10) & (13) & 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.

Schedule 2

[ss. 5(1), (2), (10) & (13) & 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.

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.

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 14 or a person taken to be an authorized officer because of that section;

commercial building (商業建築物) means the whole of a non-domestic building—

- (a) which contains any number of units therein comprising one or more levels including basements or underground parking areas, and which was constructed to be used or is being used for the purposes of an office, business, trade or any entertainment, and does not include the whole of a non-domestic building which was constructed to be used or is being used exclusively for the purposes of a—
 - (i) hotel, serviced apartment, guest-house or similar establishment;
 - (ii) kindergarten, school, college, university or similar educational establishment;
 - (iii) hospital, clinic, medical centre, rehabilitation centre or similar establishment;
 - (iv) carpark;
 - (v) home for elderly persons, home for persons with disabilities, child care centre, nursery or social services centre; (*Amended 12 of 2011 s. 46*)
 - (vi) factory or industrial undertaking;
 - (vii) godown, warehouse or place of bulk storage;
 - (viii) utilities building or power station or sub-station; or
 - (ix) cinema or theatre; and
- (b) being a building—
 - (i) 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. A) on or before 1 March 1987; or
 - (ii) 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. A) on or before that date,

and excludes a building which was partly constructed to be used or is being partly used for domestic or industrial purposes; (*Added 15 of 1998 s. 4*)

domestic (住用), for the purposes of the definition of **commercial building** and in relation to a part or the whole of a building, means the use of such part or the whole of the building for human habitation or family dwelling, but excludes the use of such part or the whole of the building for hotel, serviced apartment, guest-house, dormitory, home for elderly persons, home for persons with disabilities, child care centre, nursery or similar establishment; (*Added 15 of 1998 s. 4. Amended 12 of 2011 s. 46*)

enforcement authority (執行當局)—

- (a) in relation to the planning, design and construction of prescribed commercial premises or a specified commercial building, means the Director of Buildings; and (*Amended 15 of 1998 s. 4*)
- (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 safety improvement compliance order (改善消防安全令) means a fire safety improvement compliance order made under section 6; (*Added 15 of 1998 s. 4*)

fire safety improvement direction (改善消防安全指示) means a fire safety improvement direction given under section 5; (*Added 15 of 1998 s. 4*)

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; or
- (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; or (*Amended 7 of 2003 s. 23*)
- (d) facilitating the evacuation from any premises or place in case of fire; or (*Added 7 of 2003 s. 23*)
- (e) providing a stand-by power supply to an installation or equipment the purposes of which are mentioned in paragraphs (a) to (d) in the event of the loss of normal power supply; (*Added 7 of 2003 s. 23*)

function (職能) includes a power and a duty;

home for elderly persons (安老院) means a residential care home as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459); (*Added 12 of 2011 s. 46*)

home for persons with disabilities (殘疾人士院舍) means a residential care home for PWDs as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613); (*Added 12 of 2011 s. 46*)

mechanical ventilating system (機械通風系統) includes an air conditioning system;

occupier (佔用人)—

- (a) in relation to prescribed commercial premises, means the person who is occupying the premises (whether as owner or under any form of lease or licence), and in particular means—
 - (i) any person who is carrying on or managing a prescribed commercial activity on the premises; and
 - (ii) any person who is controlling and managing the premises as the agent of the person so occupying the premises; or
- (b) in relation to a specified commercial building, means—
 - (i) the person who is occupying the building (whether as owner or under any form of lease or licence); or
 - (ii) (if no person is occupying the specified commercial building) the owner of the building; (*Replaced 15 of 1998 s. 4*)

owner (擁有人), in relation to prescribed commercial premises or a specified commercial building, has the same meaning as in the Buildings Ordinance (Cap. 123); (*Replaced 15 of 1998 s. 4*)

prescribed commercial activity (訂明商業活動) means an activity of a kind specified in Schedule 1;

prescribed commercial premises (訂明商業處所) means a building, or a part of a building, of a kind specified in subsection (2);

prohibition order (禁止令) means an order made under section 7A; (*Added 15 of 1998 s. 4*)

shopping arcade (商場) includes the passageway between the shops that form the arcade and any ceiling above the passageway;

specified commercial building (指明商業建築物) means any commercial building specified in Schedule 4 and includes a unit or part thereof; (*Added 15 of 1998 s. 4*)

use restriction order (限制使用令) means an order made under section 7.

- (2) A building or part of a building is prescribed commercial premises for the purposes of this Part if—
- (a) the building or part is used, or is proposed to be used, for carrying on a commercial activity specified in Schedule 1; and
 - (b) the total floor area of the building or part exceeds 230 square metres.
- (3) For the purposes of subsection (2), in the case of a building, or a part of a building, that is used or designed to be used as a shopping arcade, the building or part is taken to be prescribed commercial premises for the purposes of this Part if the total floor areas of all the shops and any passageway between the shops exceed 230 square metres.
- (4) For the purpose of subsection (2)(b), the total floor area of a building or part of a building is to be calculated by reference to—
- (a) the area contained within the external walls of the building or part measured at each floor level (including any floor below ground level); and
 - (b) the area of any balcony of the building or part; and
 - (c) the area of the thickness of the external walls of the building or part and any such balcony.
- (5) For the purposes of subsection (2), in calculating the total floor area of a building or part of a building, a part of the floor area is to be disregarded if it is— (*Amended 15 of 1998 s. 4*)
- (a) used or is to be used only for parking motor vehicles or for loading or unloading them; or
 - (b) occupied only by machinery or equipment comprising or forming part of a lift or escalator, or an air conditioning, heating or cooling system or any other system that serves the building or part.
- (6) A part of a building is not to be regarded as prescribed commercial premises for the purposes of this Ordinance if—
- (a) members of the public have access to that part only by express invitation; and
 - (b) that part—
 - (i) is physically separated by a fire resistant wall, floor or ceiling from the parts to which members of the public generally have access; and
 - (ii) has a means of egress that is separated from the means of egress provided for those parts; and
 - (c) the separate means of egress does not pass through those parts.

22. 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.

Schedule 2

[ss. 5(1) & 25]

Fire Safety Measures to be Complied with by Owners of Prescribed Commercial Premises

(Replaced 15 of 1998 s. 19)

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 prescribed commercial premises can be directed to comply under section 5(1) of this Ordinance are the following— *(Amended 15 of 1998 s. 19)*

- (a) a requirement to install an automatic sprinkler system on the premises;
- (b) a requirement to install an automatic cut-off device for a mechanical ventilating system installed on the premises, but only if the system—
 - (i) forms an integral part of the building where the premises are located; and
 - (ii) also serves other premises located within that building;
- (c) in the case of prescribed commercial premises that are a shopping arcade—a requirement to install emergency lighting within the common areas of the arcade so as to facilitate the evacuation of the premises if the supply of electricity to the premises should fail;
- (d) a requirement to install on the premises one or more manual fire alarm so as to alert occupants, visitors and others in the event of a fire;
- (e) 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.

Schedule 3

[ss. 5(2) & 25]

Fire Safety Measures to be Complied with by Occupiers of Prescribed Commercial Premises

(Replaced 15 of 1998 s. 20)

1. Provision of fire service installations and equipment

- (1) In relation to the provision of fire service installations and equipment, requirements with which an occupier of prescribed commercial premises can be directed to comply under section 5(2) of this Ordinance are the following— *(Amended 15 of 1998 s. 20)*
 - (a) a requirement to install an automatic cut-off device for a mechanical ventilating system installed on the premises, but only if the system does not serve other premises within the building where the premises are located 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 the premises;
 - (b) in the case of premises comprising a shopping arcade—a requirement to install emergency lighting in each separately occupied area located within the arcade so as to facilitate the evacuation of the premises if the supply of electricity to the premises should fail;
 - (c) in the case of prescribed commercial premises other than a shopping arcade—a requirement to install emergency lighting within the premises so as to facilitate the evacuation of the premises if the supply of electricity to the premises should fail;
 - (d) a requirement to provide portable fire extinguishers, so that there is at least 1 fire extinguisher for each 100 square metres of floor area of the premises or part of that area.
- (2) Subsection (1)(d) does not apply to premises that are equipped with a hose reel system.

Schedule 5

[s. 5]

Fire Safety Measures to be Complied with by Owners of Specified Commercial Buildings

The owners of a specified commercial building may be required to—

- (a) provide or improve the following fire service installations and equipment—
 - (i) emergency lighting within the common areas of a commercial building so as to facilitate the evacuation of occupants of the building in the event of a power failure;
 - (ii) an automatic cut-off device for the mechanical ventilating system to limit the spread of smoke through the ventilating system, where one is provided (only if the system forms an integral part of the commercial building and also serves other separately occupied areas or parts of that building);
 - (iii) a manual fire alarm system to alert occupants of the building in the event of fire;
 - (iv) a fire hydrant and hose reel system as a source of water supply for fire fighting;
 - (v) 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; and
 - (vi) 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,

and the detailed specifications and requirements of the installations and equipment under subparagraphs (i) to (v) 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. An owner of an individual unit of the commercial building may be required by the Director of Fire Services to integrate the fire service installations and equipment in his unit with those fire service installations and equipment in other parts of the commercial building;

- (b) ensure that the following construction requirements are met—
 - (i) in relation to a means of escape—
 - (A) the improvement of staircases in terms of their width and number;
 - (B) the protection of exit routes and staircases with separating walls of adequate fire resisting construction;
 - (C) the improvement of exit arrangement in terms of exit from rooms, storeys and ground storeys, access to staircases, direct distance or travel distance;
 - (D) the provision of fire doors;
 - (ii) in relation to a means of access for firefighting and rescue—
 - (A) the improvement of at least one of the existing lifts; or
 - (B) the installation of a new lift,

- up to the standard of the fireman's lift;
 - (iii) in relation to fire resisting construction—
 - (A) the improvement of fire resistance of external walls and the protection of openings therein to inhibit the spread of fire to adjoining buildings;
 - (B) the provision of suitable fire resisting separation between different parts in a building;
 - (C) the provision of smoke vents to basements,
- and the detailed requirements on the design, construction or installations in relation to such construction requirements are set out in the following Codes of Practice published by the Director of Buildings—
- (A) the Code of Practice for the Provision of Means of Escape in Case of Fire 1996;
 - (B) the Code of Practice for Fire Resisting Construction 1996; and
 - (C) the Code of Practice for Means of Access for Firefighting and Rescue 1995.

(Added 15 of 1998 s. 21)

Schedule 6

[s. 5]

Fire Safety Measures to be Complied with by Occupiers of Specified Commercial Buildings

1. Provision of fire service installations and equipment

The occupiers of the individual units of a specified commercial building may be required to provide the following fire service installations and equipment—

- (a) emergency lighting within each separately occupied area located within a commercial building so as to facilitate the evacuation of occupants of the area in the event of a power failure;
- (b) 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 building 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 within the building,

and the detailed specifications and requirements of the above installations and equipment 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.

IMPLICATIONS OF THE PROPOSAL

Economic Implications

The proposed implementation of the defaulted works mechanism and an array of measures, by way of amending the Fire Safety (Buildings) Ordinance (Cap. 572) (“the Ordinance”), should help as well as encourage owners of old composite and domestic buildings (“target buildings”) to enhance the fire safety standards of their buildings, thereby reducing the economic costs, in the form of property damages and loss of lives, caused by fire. Considering that a clear, objective and transparent mechanism will be established to select and prioritise target buildings for defaulted works, and that all relevant costs plus surcharge will be collected from owners upon completion of the works, moral hazard associated with the abuse of the defaulted works mechanism should be limited. Meanwhile, the proposal is expected to increase demand for fire safety improvement works and related maintenance and repair services. The extent and its impact on the manpower balance of relevant sectors will depend mainly on the actual coverage of defaulted works that are to be carried out by the enforcement authorities under the proposed mechanism, and the pace of implementation of those works.

Financial and Civil Service Implications

2. To take forward various measures in connection with the present legislative amendment exercise (e.g. preparation and implementation of the proposed defaulted works mechanism), in enforcing the Ordinance (including stepping up prosecution against non-compliance with the requirements of the Ordinance) as well as other related measures (e.g. the provision of assistance to owners of target buildings through the Social Services Teams of the Buildings Department (“BD”) and the Fire Services Department (“FSD”) Building Improvement Support Centre), the FSD and the BD have respectively secured a recurrent provision of \$10.2 million including the creation of 11 permanent non-directorate posts; and a recurrent provision of \$4.5 million and a total time-limited provision of \$77.8 million for five years (from 2024-25 to 2028-29) including the creation of one permanent non-directorate post and engagement of contract staff, for carrying out the aforesaid tasks.

3. As for the proposed fire safety defaulted works mechanism, the associated advances are to be charged to an advance account to be created according to established mechanism and are recoverable, as we will draw reference from the BD’s prevailing cost recovery mechanism under the Buildings Ordinance (Cap. 123) (which includes, among other elements, empowering the EAs to register in the Land Registry (“LR”) the certificate of arrears served on an owner who failed to promptly settle the demand note, the legal effect of which is that this would constitute a legal charge against the title of the property concerned in the LR and the outstanding amount would be recoverable from the subsequent owners of such property), and make necessary amendments to the

Ordinance to empower the EAs to recover the cost from pertinent owners after the completion of the works.

4. Separately, we will continue to take forward the Fire Safety Improvement Works Subsidy Scheme (“FSWS”) and allow the use of the FSWS to subsidise eligible owners in need to partially cover the costs of the defaulted works under the existing approved commitment of \$5.5 billion. We will monitor and review the need for further injection to the FSWS in due course and, if necessary, seek necessary resources with justifications according to the established mechanism.

Sustainability Implications

5. The implementation of our proposal can help enhance the fire safety standards of target buildings, thus creating a safer environment for the owners and occupiers therein.