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The Law Society of Hong Kong
3/F., Wing On House,
71 Des Voeux Road Central,
Central, Hong Kong
(Attn: Secretary General Ms. Wendy LEE)

Dear Ms. LEE,

Fire Safety (Buildings) (Amendment) Bill 2024

The Government is committed to improving fire safety in old buildings. The Fire Safety (Buildings) Ordinance, Cap. 572 (“the 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.

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. Although the Government has been proactively providing various kinds of support assisting owners of old buildings to carry out fire safety improvement works, a few hundred of them, in particular those of “three-nil” buildings, may still face genuine difficulties in complying with the requirements of the Ordinance due to the lack of coordination capability. The

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.

Government thus 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.

In the aftermath of a major fire incident at New Lucky House in Jordan in April 2024, which has heightened public concern over fire safety of old buildings, the Government purposely expedited legislative amendment work and introduced the Fire Safety (Buildings) (Amendment) Bill 2024 (“Amendment Bill”) into the Legislative Council for scrutiny in July 2024.

The legislative amendment proposal included –

- 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/Fire Safety Compliance Orders (“FSCO”) (to be referred to as “defaulted works”), and to recover the costs of defaulted works and surcharge from such owners upon completion of defaulted works, with a view to assisting those with genuine difficulties in enhancing the fire safety standards of old buildings; and
- b. introducing different measures with a view to driving owners’ compliance with the requirements of the Ordinance on their own initiative.

The following measures, among new provisions proposed in the Amendment Bill, are of particular concern for existing and prospective property owners of target buildings.

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

Prior to legislative amendments, the Ordinance has already empowered 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 did not empower the EAs to register Directions in the LR. Similar requirements were introduced in the legislative amendments, to the extent 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. Section 13A of the Ordinance facilitates prospective buyers of target buildings or target building units to be aware of the existence of outstanding legal liabilities. It also helps provide an incentive for owners to comply with the outstanding Directions so as to maintain the value of the property.

Notification of Transfer of Interests in Property

With a view to prompting a new property owner to fulfil the obligations stipulated by the Ordinance in respect of the relevant property, the Ordinance was amended to the effect that, if there are outstanding Directions or FSCOs in respect of the relevant property, the new property owner must notify one of the EAs in writing of the transfer of interests in property **within 3 months** after the completion of the property transaction. Section 14B of the Ordinance 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).

Preventing Obstruction to Owners' Corporations ("OCs") in complying with the Requirements of the Ordinance

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 will be guilty of an offence and liable on conviction to fines³. This mechanism seeks to deter any person from obstructing the OCs in fulfilling statutory obligations. Similar mechanism alongside offences of similar penalty levels were introduced 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.

Providing Additional Means of Serving Documents

With reference to the multiple means of serving documents stipulated under the Fire Safety (Industrial Buildings) Ordinance (Cap. 636) ("FS(IB)O") which is of similar nature and legislative intent as those of the Ordinance, the Ordinance was amended by providing the EAs with additional means of serving documents, including facsimile transmission, electronic mail, and posting them prominently inside the premises concerned. Section 23 and Section 23A of the Ordinance seek to provide owners or occupiers with more convenient channels to receive

³ Penalty levels for offences of any person causing obstruction to the OCs for complying with the BO are summarized 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).

the relevant documents.

Publishing Information of Directions and FSCOs etc. on the EAs' websites

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). Section 14C of the Ordinance was 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.

The Amendment Bill came into operation on the same day as it was published in the Gazette on **13 December 2024**. We would appreciate it if the attention of your association's members could be drawn to the aforementioned legislative amendments, particularly when they are engaged in legal practice and provide professional legal services concerning target buildings regulated under the Ordinance.

Should you have any questions regarding the Amendment Bill or issues relating to the Ordinance, please feel free to contact me at 2170 9669 or Mr. SHEN Ka-wai at 2170 9691 (email: ado_biso_1@hkfsd.gov.hk).

Yours sincerely,



(LAI Kin-mo)

for Director of Fire Services

c.c. Buildings Department (Attn: CBS/FS Mr. Wilson CHAU)