



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



Security Bureau



**Fire Services
Department**



**Buildings
Department**

Consultation Paper

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Chapter 1 Introduction

Fire safety hazards in old buildings is a matter of great concern to both the Government and the public. It has been the common goal of the Government, the Legislative Council and members of the public to provide residents and the community at large better protection by enhancing fire safety in buildings, especially the old ones. This also leads to the enactment of the Fire Safety (Buildings) Ordinance (Cap. 572) (“Ordinance”) in the first place. With a view to further protecting the public from fire safety hazards, the Government now puts forward a proposal of amending the Ordinance to empower the enforcement authorities (“EAs”), namely the Fire Services Department (“FSD”) and the Buildings Department (“BD”), to carry out fire safety improvement works for owners of old composite and domestic buildings, who have failed to comply with Fire Safety Directions (“Directions”) or Fire Safety Compliance Orders¹ (“FSCOs”) as required by the Ordinance (to be referred to as “default works”), and to recover relevant fees from them afterwards (“the Proposal”). The public is invited to give their views on the Proposal.



¹ If owners or occupiers do not comply with the Directions within a reasonable timeframe and fail to provide reasonable justifications, the EAs may apply to the Magistrate for an FSCO, ordering them to comply with the requirements of the FSCO. If they do not comply with the Direction or the FSCO, they shall be guilty of an offence and are liable to a fine.

Chapter 2 Background

The Ordinance and its implementation

2. The Ordinance came into operation in 2007. It stipulates that composite and domestic buildings 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 (“target buildings”) must be enhanced to meet modern fire protection requirements. Under the Ordinance, the EA in relation to fire service installations and equipment (“FSIs”) is the Director of Fire Services; the EA in relation to planning, design and construction of buildings is the Director of Buildings. The EAs will issue Directions to owners and/or occupiers with regard to fire safety measures of buildings under their respective purview and specify the required fire safety improvement works. Fire safety measures required of owners and/or occupiers of composite and domestic buildings under the Ordinance are listed at **Appendix I**.



FSIs :



Fire hydrant and hose reel system



Manual fire alarm system



Automatic sprinkler system



Emergency lighting



Automatic cut-off device

Fire safety facilities :



Fire door



Provision of fire resisting enclosures to non-emergency services



Fixed light meeting required fire resistance

3. The EAs will deploy officers to conduct joint inspections of the target buildings. Directions will be issued to owners and/or occupiers in light of the actual condition of the buildings and in accordance with the Ordinance, requiring them to provide appropriate FSIs and/or carry out works in relation to fire safety construction, with a view to enhancing the fire safety standards of their buildings. There are about 13 500 target buildings regulated under the Ordinance. As of end May 2022, FSD and BD have inspected about 10 200 target buildings and issued a total of over 316 000 Directions. Among the Directions issued, about 60% are yet to be complied with.

4. The EAs normally give building owners one year to comply with the Directions. The EAs will, on the premise that basic fire safety will not be compromised, adopt a flexible and pragmatic approach in handling individual cases. If the owners need more time to prepare for and carry out the improvement works, for examples, for reasons that involve the formation of an owners' corporation ("OC"), etc., the EAs will consider their applications for extending the compliance period of the Directions in a reasonable manner in the light of the justifications provided in their applications and/or the scale of works involved. As stipulated under the Ordinance, if owners and/or occupiers fail to comply with the Directions by carrying out the fire safety improvement works as required and fail to provide reasonable justifications, the EAs may institute prosecutions against the concerned owners and/or occupiers.

Various kinds of support provided by the Government

5. We are aware that some owners of old buildings may encounter difficulties on various fronts in complying with the requirements of the Ordinance. Since the Ordinance came into operation, the Government has been proactively providing support to owners of old buildings in relation to support on financial, technical and coordination among owners, with a view to assisting owners to comply with the relevant requirements of the Ordinance as soon as practicable.

6. In respect of coordination among owners, the Government understands that owners of old buildings (whether they are "three-nil"

buildings² or not) may encounter difficulties in coordinating fire safety improvement works. Therefore, the EAs will refer the list of target buildings without OCs to the Home Affairs Department so that the latter can assist the owners of these buildings in forming OCs and advise them on building management matters. After issuing Directions, FSD will proactively promote and recruit Building Fire Safety Envoys and 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. BD will also arrange its in-house Social Services Teams to provide further support to those owners in need, including coordinating residents of the buildings in carrying out the required works, assisting them in applying for financial assistance schemes as appropriate, etc.

7. In respect of technical support, the EAs understand that individual old buildings may encounter difficulties to comply with the requirements of Directions due to their structural or spatial constraints. As such, the EAs have been adopting a flexible and pragmatic approach in handling individual cases on the premise that basic fire safety will not be compromised, and have launched an array of facilitation measures. For buildings of three storeys or less, FSD allows owners to install “improvised hose reel systems” on the ground floor with direct water supply from government mains (commonly known as town mains). Besides, the capacity requirement for fire services water tanks of most four to six-storey buildings has been lowered from 2 000 litres to 500 litres whilst the capacity requirement for fire services water tanks of most buildings of seven storeys or more has also been lowered from 9 000 litres to 4 500 litres, having regard to the structures and geographical locations of the buildings. FSD is actively exploring more facilitation measures to help target buildings solve other technical difficulties. BD has also 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.

² “Three-nil” buildings refer to buildings which do not have OCs or any form of residents’ organisations, or do not engage property management companies.

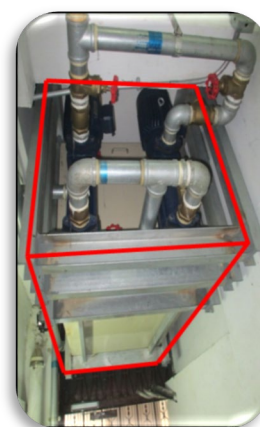
³ Minor Works Control System aims to facilitate building owners and occupiers in carrying out small-scale building works safely and lawfully through simplified requirements.



Backflow prevention device of improvised hose reel system



Supply Tank of 500-litre installed inside staircase



8. With regard to financial support, the Government, in partnership with the Urban Renewal Authority (“URA”), have put in place various financial support 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 Ordinance have been incorporated into the list of works eligible for subsidies or loans under these schemes.

9. To further assist owners of old buildings, the Government, in partnership with URA, has implemented the \$2-billion Fire Safety Improvement Works Subsidy Scheme (“FSWS”) since 2018 to subsidise owners of eligible old target composite buildings in carrying out the required fire safety improvement works to comply with the requirements of the Ordinance. Subsequently, the Government further injected \$3.5 billion to FSWS in 2020. It is anticipated that FSWS could benefit around 6 000 to 6 500 buildings. Details of the subsidy schemes under the URA, which are

applicable for fire safety improvement works for complying the Ordinance, are set out at **Appendix II**.



Chapter 3 Proposals

10. Currently, there is no provision in the Ordinance empowering the EAs to carry out works relating to improving fire safety measures of target buildings for complying with Directions or FSCOs. Undertaking fire safety improvement works would involve various feasible proposals and works arrangements (such as, where the facilities or what alternative equipment can be installed), and the scale of the works or associated costs as well as the impacts to individual building owners would vary rather significantly depending on the proposals to be adopted. It would therefore be more appropriate for owners of the buildings to discuss among themselves having regard to the circumstances of the buildings for reaching consensus. If the EAs are to forcibly carry out the works, it could lead to disputes or even litigation. In addition, fire safety improvement works would also require subsequent maintenance. For instance, the owners of FSIs must, in accordance with the requirements of regulation 8 of the Fire Service (Installations and Equipment) Regulations (Cap. 95B), ensure that the relevant installations and equipment are in efficient working order at all times and arrange annual inspection.

11. The Government has been proactively providing various kinds of support to old building owners (see details above) with a view to assisting them in carrying out fire safety improvement works. Nevertheless, some owners, in particular the owners of “three-nil”



buildings, may still have difficulties in complying with the requirements of the Ordinance due to the lack of coordination capability. Therefore, the Government agrees to take into account BD's experience in the work of building safety and the similar mechanism under the Buildings Ordinance

(Cap. 123) (“BO”), improve the existing legal framework and amend the Ordinance in order to empower the EAs to carry out fire safety improvement works for owners of target buildings, who have failed to comply with Directions or FSCOs as required by the Ordinance, for enhancing the fire protection of old buildings, and to recover the relevant fees from such owners upon completion of the default works.

12. 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 thereof according to Directions or FSCOs. The Government would only, under exceptional circumstances, carry out default works for buildings which do not comply with Directions or FSCOs. In light of this principle and the policy objectives as stated above, we should carefully examine and consider various issues such as how to formulate a suitable mechanism and resolve enforcement issues, etc.

13. We listened to the views of the Panel on Security of the Legislative Council (“the Panel”) on the basic principles and key questions regarding the Proposal on 7 September 2021. Overall speaking, the Panel was in support of the Government’s proposal to amend the Ordinance for empowering the EAs to carry out fire safety improvement works for owners of target buildings who have failed to comply with the requirements of the Ordinance, and to recover relevant fees from them afterwards. A member expressed that priorities of buildings that were eligible for the default works should be determined with justifications and reasons. In deciding the final works proposal, there were members holding the view that EAs should decide and select the final works proposal if owners were unable to reach a consensus. Besides, a member said there were views that fire safety of buildings was the responsibility of owners. On whether deterrence effect should be enhanced to increase the compliance rate of Directions or FSCOs, some members said that the EAs should strengthen enforcement work and enhance deterrent effect against uncooperative owners. A member was of the view that the deterrent effect of penalty should be kept abreast of time.

14. As we pointed out at the Panel meeting as mentioned above, the Proposal of the Government carrying out default works for owners involves

complex considerations, including how to set threshold for default works, the mechanism for and the principle of selecting various feasible options in respect of the fire safety improvement works, recovery of the costs of the works from the owners, etc. Legal disputes, enforcement issues and the likes are inevitable during the process. Furthermore, issues such as how to avoid abuse of the default works mechanism, whether there will be moral hazard, etc. have to be considered. Therefore, amending and improving the Ordinance must be considered comprehensively and in a holistic manner. Based on the principle and policy objectives as stated above, we put forward the proposals below on issues relating to the amendments to the Ordinance, including how to formulate a suitable default works mechanism and the implementation, etc. Meanwhile, we would also like to take this opportunity to put forward other proposed initiatives for incentivising owners to shoulder their responsibilities⁴ and comply with the requirements of the Ordinance as soon as possible, with a view to further facilitating the implementation of the Ordinance. Details of the proposals are set out below.

⁴ As emphasized above, the responsibilities of owners include subsequent maintenance of FSIs, i.e. to keep FSIs in any premises in efficient working order at all times, and have such FSIs inspected by a registered contractor at least once in every 12 months, pursuant to regulation 8 of the Fire Service (Installations and Equipment) Regulations. To help the owners concerned perform their statutory duty to carry out subsequent maintenance of FSIs as mentioned above, the Government, after carrying out the default works for the owners, will put forward initiatives to proactively encourage property management staff, owners and occupants of the buildings concerned to be Building Fire Safety Envoys, so that they can help disseminate fire protection messages in their respective buildings and ensure that FSIs therein are inspected by registered FSI contractors at least once every 12 months, for enhancing the fire safety in the buildings in a holistic matter. The annual inspection fee for FSIs is subject to factors such as the type and complexity of FSIs involved, and the price is market-driven. It is thus difficult to make an accurate estimation.

A. Proposals related to the default works mechanism



Proposal 1 : The Government to amend the Ordinance to empower the EAs to carry out fire safety improvement works for target buildings that have failed to comply with Directions or FSCOs, and the EAs to formulate a suitable mechanism for default works so that target building owners with genuine needs can obtain government support

15. As mentioned above, the Ordinance aims to enhance the fire safety standards of target buildings, but this does not mean that these buildings have imminent fire risks. There are a total of about 13 500 target buildings regulated under the Ordinance. Setting too low a threshold will result in too many buildings being eligible for the default works, rendering buildings with genuine needs may not obtain timely support from the Government. In this connection, we have considered relevant factors such as the purpose of amending the Ordinance being to carry out fire safety improvement works for owners of target buildings which have failed to comply with the requirements of the Ordinance, the effective use of public funds and government resources, the trade's capacity and willingness to undertake the works⁵, as well as not compromising the principle that owners are obligated to timely repair and properly maintain their private buildings. We propose amending the Ordinance to empower the EAs to carry out fire safety improvement works for owners of target buildings who have failed to comply with Directions or FSCOs as required by the Ordinance. The EAs will formulate a suitable mechanism for default works so that owners of target buildings with genuine needs will be able to obtain support from the Government.

16. On setting the threshold, in order to enable owners with genuine needs to obtain support from the Government, the EAs may take into consideration a basket of factors, including whether the building owners

⁵ 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.

have complied with Directions or FSCOs issued by the EAs, there are missing/untraceable owners⁶ making it impossible to form 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 Directions or FSCOs but owners of target buildings still fail to comply with the requirements of the Ordinance despite multiple enforcement actions, other fire safety risks, etc.

Consultation Question 1 :

As mentioned above, the Government needs to amend the Ordinance to empower the EAs to carry out default works for target buildings which have failed to comply with Directions or FSCOs. Do you agree that, when setting the threshold, the EAs may take into account the proposed factors as mentioned above (including whether the building owners have complied with Directions or FSCOs issued by the EAs, there are missing/untraceable owners making it impossible to form 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 Directions or FSCOs but owners of target buildings still fail to comply with the requirements of the Ordinance despite multiple enforcement actions, other fire safety risks, etc.), so that owners of target buildings with genuine needs can obtain support from the Government?



⁶ Depending on the Deed of Mutual Covenant of individual building, for example, the owners cannot assemble the necessary titles to form an OC, the number of owners who can become members of the management committee is less than statutorily required number, etc.



Proposal 2 :

Expanding the terms of reference of the existing statutory Advisory Committees concerned to the effect that –

- **they can give advice to the EAs on the criteria of prioritisation for target buildings eligible for default works, and the EAs will then determine the number of default works to be carried out per year, the priority and the timeframe of carrying out the default works for the buildings concerned; and**
- **they can give technical advice to the EAs on the default works proposals involved in those more controversial cases, so that the EAs can decide on the final works option**

17. For default works to be carried out in an orderly manner for target buildings meeting the threshold, we propose to set up a clear, objective and transparent mechanism to facilitate the EAs in deciding the priority of when to conduct the works for those buildings.

18. Currently, according to section 5(10) of the Ordinance, the two EAs have each set up a statutory Advisory Committee⁷ for giving advice to the EAs on matters such as the appropriateness of fire safety measures of target buildings, technical issues regarding the fire safety improvement works, and other fire safety measures put forth by the owners. We propose expanding the terms of reference of the abovementioned two statutory Advisory Committees to the effect that –

- they can give advice to the EAs on the criteria of prioritisation for target buildings eligible for default works; and

⁷ Members of the statutory Advisory Committee established by FSD under the Ordinance include representatives from FSD, BD, the Hong Kong Institution of Engineers, the Association of Registered Fire Service Installation Contractors of Hong Kong Limited, post-secondary institutions specialising in the study of building safety or fire engineering, and persons (one each from Hong Kong, Kowloon and the New Territories) with relevant expertise in fire safety and management of buildings. Members of BD's statutory Advisory Committee include representatives from BD and FSD, authorised persons, fire safety professionals, academics in the fire safety field, and persons (one each from Hong Kong, Kowloon and the New Territories) with relevant expertise in fire safety and management of buildings.

- they can give technical advice to the EAs on the default works proposals involved in those more controversial cases.

19. With regard to the setting of criteria of prioritisation for default works, we are of the opinion that they should be clear and objective, and could include factors such as, among others, building age, number of storeys of the buildings, whether it is a “three-nil” building, whether it is single-staircase, the situation of the building ownership⁸, the number of times that the relevant owners were prosecuted, other fire safety risks, etc. The EAs will, after making reference to the Advisory Committees’ advice on the criteria of prioritisation and considering factors such as the trade’s capacity and willingness to undertake the works, examine and decide on the number of default works to be carried out per year, the prioritisation and the timeframe of carrying out the default works for the buildings concerned.

20. In respect of deciding on the works proposal, fire safety improvement works normally involve various feasible proposals and works arrangements (such as, where the facilities or what alternative equipment can be installed), and the scale of the works or associated costs as well as the impacts to individual building owners would vary depending on the proposals to be adopted. Since the coordination capability among owners tends to be weaker for buildings which need the Government to carry out default works, it is rather difficult for the owners to reach consensus. The above situation would likely be the case if there involves more than one works proposals.

21. In view of the above, we propose to expand the terms of reference of the two statutory Advisory Committees to the effect that they can give technical advice to the EAs on the default works proposals. The two statutory Advisory Committees currently comprise of representatives from FSD and BD, professionals in the related fields, members of the academia and members of the public with relevant expertise. It is considered that the committees can, from the perspectives of technology, costs of works and fire safety standards, tender professional and objective technical advice on the

⁸ Considering that owners’ coordination would not be the reason why OCs cannot be formed for buildings under single ownership, and that the financial capability of those building owners would relatively be higher, making it easier for them to comply with the requirements of the law, buildings under single ownership will therefore be accorded with a lower priority.

works proposals involved in those more controversial cases, so that the EAs can decide on the final works proposal after making reference to the relevant advice and consolidation of other factors (for example, whether the design is conducive to firefighting and rescue operations, whether individual owners' title to the property would be involved, costs of works, etc.).

Consultation Question 2 :

Do you agree that the terms of reference of the existing relevant statutory Advisory Committees should be expanded to the effect that -

- **they can give advice to the EAs on the criteria of prioritisation for target buildings eligible for default works, and the EAs will then determine the number of default works to be carried out per year, the priority and the timeframe of carrying out the default works for the buildings concerned; and**
- **they can give technical advice to the EAs on the default works proposals involved in those more controversial cases, so that the EAs can decide on the final works proposal?**





Proposal 3 : Empowering the EAs to recover the costs of default works and relevant fees by making reference to BD's mechanism under BO

22. Upon completion of default works by the Government for the owners, the EAs will need to recover the costs of works, surcharge and other relevant fees from the owners. At present, pursuant to BO⁹, BD may recover from the owners the costs of works, other relevant fees (including supervision charges¹⁰), and impose a surcharge of not exceeding 20% on the above-mentioned costs¹¹ upon completion of the default works. As regards the surcharge, where the owner is old, infirm, with disability or has genuine practical difficulties (such as unsuccessful attempt at organising the required works in the common parts of a building), BD may reduce or waive the surcharge depending on the individual cases. BD will take the following actions to recover the fees from pertinent owners upon completion of default works:

- (a) finalising the account of default works and issuing demand notes to the owners concerned;
- (b) if the owner has not promptly settled the demand note, BD will serve a certificate of arrears on the owner¹² and register the certificate in the Land Registry ("LR"), which will

⁹ Under section 33(1) of BO, "[i]n any case where under this Ordinance the Building Authority is authorised to recover the cost of any inspection, investigation or works carried out by him or caused to be carried out by him or to recover the costs of services provided by him or caused to be provided by him or to recover the cost of any abortive visit made by him, the Building Authority may impose a surcharge of not exceeding 20% on the cost due and may certify under his hand the cost and surcharge due and names of the persons liable therefor, and may by such certificate apportion such cost and surcharge among such persons."

¹⁰ Under section 33(2) of BO, "[s]uch cost may include (a) the cost of materials supplied by the Building Authority for the purpose of carrying out such inspection, investigation or works; and (b) supervision charges."

¹¹ 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 default works for them, it is hence necessary to impose the surcharge.

¹² Under section 33(4) of BO, interest at the rate of 10 per cent per annum from the expiry of 1 month from the date of the service of a certificate of arrears shall be recoverable as part of such cost or surcharge.

constitute a first charge against the title of the property, allowing BD to recover the outstanding costs and fees of the default works¹³ from the owner in case the property is sold. Since the Government has registered the first charge against the title of the property in LR, if the original owner fails to settle all the arrears after selling the property, the new owner shall be responsible for paying the outstanding arrears to the Government; and

- (c) referring appropriate cases to the Department of Justice or taking legal actions through the Small Claims Tribunal for recovery of the arrears.

23. In respect of fire safety improvement works, as part of the default works mechanism, we propose drawing reference from the afore-mentioned BD's mechanism for recovery of the costs and fees of default works under BO, i.e. empowering the EAs to recover the costs of default works, 20% as the surcharge and other relevant fees including the supervision charges, and to take actions as mentioned at paragraphs (a) to (c) above for the recovery of the costs of default works. As for the surcharge, we also propose to make reference to BD's existing mechanism, i.e. reducing or waiving the surcharge for special cases (for example, the owner is old, infirm, with disability or has genuine practical difficulties in complying with the Directions).

Consultation Question 3 :

Do you agree that the EAs should make reference to BD's mechanism under BO on recovering fees of default works? In other words, do you agree that the EAs should recover from the owners fees of default works, 20% as the surcharge and other relevant fees?



¹³ Under section 33(9)(b) of BO, this will “constitute a first charge on the said premises or land which shall give the Building Authority the same powers and remedies in respect thereof as if he were a mortgagee under a mortgage by deed in common form having power of sale and lease and of appointing a receiver.”



Proposal 4 : Preventing any person from obstructing the EAs in carrying out default works by incorporating relevant provisions into the Ordinance with reference to BO

24. On the premise that the EAs may carry out default works for owners who have failed to comply with the relevant requirements of the Ordinance, with a view to preventing the obstruction of the EAs in carrying out the relevant works, we propose drawing reference from relevant provisions of BO, i.e. any person who obstructs the Building Authority or its authorised officers in the exercise of their powers under BO shall be guilty of an offence and liable on conviction to a fine at level 3 (the maximum fine is \$10,000) and to imprisonment for 6 months.

25. We propose the introduction of the above mechanism by incorporating similar provisions into the Ordinance, with an aim to serving as a deterrent preventing the obstruction of the EAs or their authorised officers in carrying out default works.

Consultation Question 4 :

Do you agree that relevant provisions of BO should be incorporated into the Ordinance for preventing any person from obstructing the EAs in carrying out default works?



B. Proposals on encouraging owners to comply with the requirements of the Ordinance on their own initiative so as to increase the compliance rate



Proposal 5 : Empowering the EAs to cause to be registered Directions against the land register of the property concerned

26. At present, pursuant to the Ordinance, the EAs are empowered to cause to be registered FSCOs or Prohibition Orders¹⁴ in LR¹⁵. However, the Ordinance does not empower the EAs to register Directions in LR. Currently, some prospective property buyers or their solicitors may make enquiries with the EAs about the compliance status of the



relevant buildings or properties to different ordinances (including their compliance status to Directions under the Ordinance) prior to completion of property transactions. In this connection, we propose to empower the EAs to the effect that they may register Directions issued against buildings involved or their relevant parts in LR. When Directions have been complied with, the EAs will register the Compliance Notice in LR. This would be in line with the existing arrangement of the Ordinance after FSCOs or Prohibition Orders have been complied with. Apart from assisting the public in knowing about the compliance status of the buildings concerned to Directions, the registration also allows prospective property buyers intending to do a search about the properties to have a better understanding of their

¹⁴ The EAs may apply to the District Court for a Prohibition Order on the ground that a requirement of a Direction or a FSCO is not being, or has not been, complied with. While Prohibition Order is in force, save with the permission in writing of the relevant EA, no person, other than an authorised officer in the course of his duty, shall occupy the relevant building or part of a building. A person who, without reasonable excuse, contravenes a Prohibition Order shall be guilty of an offence and is liable on conviction to a fine and to imprisonment.

¹⁵ Under section 14(1) of the Ordinance, the relevant EA may cause to be registered by memorial a FSCO or variance thereof or a Prohibition Order against the land register of the relevant property in LR.

potential legal liability. This will also encourage owners of target buildings to comply with Directions that are yet to be complied with so as to preserve the value of their properties.

27. In addition, upon completion of a property transaction, with a view to prompting the new property owners to fulfil the obligations required by the Ordinance in respect of the relevant property (including Directions which have not been complied with), we propose that if there are Directions or FSCOs which have yet to be complied with in respect of the relevant property, the new property owners shall notify the EA concerned in writing of the transfer of interests in land within three months after the completion of the property transaction. This proposal aims to cause the new property owners to be given a clear notice of their legal obligations (including the requirements of relevant Directions and the compliance with Directions).

28. We also propose that the new property owners who have failed to notify the EA concerned in writing of the transfer of interests in land within three months after completion of the property transaction shall be guilty of an offence and liable on conviction to a fine at level 3 (i.e. a maximum fine of \$10,000).

Consultation Question 5 :

Do you agree that the EAs should be empowered to cause to be registered Directions against the land register of the relevant properties to help inform prospective property buyers of their potential legal liability? In addition, do you agree that new property owners should be required to notify the EA concerned of the transfer of interests in land within three months upon completion of property transactions if there are Directions or FSCOs which have yet to be complied with in respect of the relevant properties?





Proposal 6 : Increasing the penalties for non-compliance with Directions or FSCOs

29. Enhancing the fire safety standards of old buildings for better protection of occupants and visitors is the common aspiration of the community. As mentioned above, the objective of the Government is to prompt owners to comply with the requirements of the Ordinance on their own initiative for enhancing fire safety of their buildings through a variety of measures. At the Panel meeting held on 7 September 2021, a member was of the view that the deterrent effect of penalty should be kept abreast of time. The prevailing penalties under the Ordinance are at Table I.

Prevailing Penalties under the Ordinance	
Offence	Penalty
Non-compliance with Direction	A fine at level 4 (\$25,000 as maximum) and a further fine of \$2,500 for each day during which the failure continues after the expiry of the period specified in the Direction.
Non-compliance with FSCO	A fine at level 5 (\$50,000 as maximum) and a further fine of \$5,000 for each day during which the failure continues after the expiry of the period specified in the FSCO.

Table I : Prevailing penalties under the Ordinance

30. We propose increasing the penalties to preserve the necessary deterrent effect. When considering the penalty levels, we have made reference to the penalties for offences of similar nature or gravity. In considering the penalty for not complying with Direction, we propose to make reference to and raise it to the penalty level for non-



compliance with the Fire Hazard Abatement Notice (“FHAN”)¹⁶ issued under the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95F), as tabulated in Table II.

Fire Services (Fire Hazard Abatement) Regulation	
Offence	Penalty
Non-compliance with FHAN	A fine at level 6 (\$100,000 as maximum) and a further fine of \$10,000 for each day during which the offence continues.

Table II: Penalty of non-compliance with FHAN

31. As for the non-compliance with FSCO, in view of its similar nature¹⁷ as that of the Fire Hazard Order under the Fire Services (Fire Hazard Abatement) Regulation, it is proposed to make reference to and raise it to the penalty level for non-compliance with the latter one. See Table III.

Fire Services (Fire Hazard Abatement) Regulation	
Offence	Penalty
Non-compliance with Fire Hazard Order	A fine of \$ 200,000 and a further fine of \$20,000 for each day during which the offence continues.

Table III: Penalty of non-compliance with the Fire Hazard Order

32. We emphasise that it is our objective that, through putting in place various measures, owners will be willing to assume their responsibility and comply with the requirements of the Ordinance as soon as possible. We have also taken into account the Panel member’s view that the deterrent effect of penalty should be kept abreast of time to enhance deterrence against uncooperative owners.

33. It should be reiterated that the proposed default works mechanism is targeted at eligible owners of old buildings, who are not able to comply

¹⁶ Fire hazards are generally dealt with by the issue of FHAN which requires the person responsible to take abatement action.

¹⁷ If an owner or occupier does not comply with Direction, the EAs may apply to the magistrates’ courts for FSCO, directing them to comply with the requirements in FSCO. As to Fire Hazard Order, a magistrate may, at any time after a person is convicted of an offence related to FHAN, either on application by the Director of Fire Services or on the magistrate’s own initiative, make a Fire Hazard Order in respect of that person.

with the requirements of the Ordinance despite the various supports provided by the Government, for helping them enhance the fire safety of their buildings. The default works mechanism as mentioned above (for instance, the EAs will first provide a range of supports to owners before selecting buildings as targets for default works), increasing the prevailing penalty levels under the Ordinance, and the imposition of a surcharge by the EAs on owners after the Government has carried out default works, will avoid putting undue pressure and burden on those who are old, infirm, with disability or in need as far as possible. For example, when handling cases of non-compliance with the requirements of the Ordinance, the EAs will consider the situations of the individual building owners. As mentioned above, we propose that the EAs will not impose surcharge on needy owners who have genuine practical difficulties in complying with the requirements of the Ordinance. Moreover, as mentioned earlier, the Government will continue to provide support to owners of old buildings on various fronts, including the provision of subsidy through subsidy schemes to eligible persons in need to cover the costs of default works.

34. We will also set out below our other proposal on making use of FSWS to subsidise owners in need with the costs of default works.

Consultation Question 6 :

Do you agree that the penalties for non-compliance with Direction and FSCO should be raised to \$100,000 and \$200,000 as maximum respectively, and a further fine of \$10,000 and \$20,000 respectively for each day during which the offence continues, so as to increase the compliance rate of the Ordinance?





Proposal 7 : Preventing any person from obstructing an OC to comply with the requirements of the Ordinance by making reference to the mechanism against uncooperative owners under BO and incorporating similar provisions into the Ordinance

35. From the EAs' experiences, some target buildings have failed to comply with the requirements of the Ordinance partly because some owners are not cooperative. In this connection, we propose making reference to the mechanism against uncooperative owners under BO. Specifically, sections 40(4B) and (4C) of BO stipulate that any person who, without reasonable excuse, contravenes section 39B of BO by obstructing a person employed or engaged by an OC in the carrying out of any inspection, investigation, works or other action at relevant parts of a building that is required for the purpose of complying with a statutory order or notice, or refusing to allow a person employed or engaged by an OC access to or the use of premises concerned, which is necessary for the carrying out of the required inspection, investigation, works or other action, or refusing to contribute to the cost of the required inspection, investigation, works or other action of an OC commits an offence, and is liable on conviction to the penalties summarised below:

BO	
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 premises concerned, which is reasonably necessary for the carrying out of	

BO	
Offence	Penalty
works for the purpose of complying with a statutory order or notice	
Refuse to contribute to costs of the required 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).

36. We propose that reference be made to the above mechanism and similar provisions be added to the Ordinance so as to serve as a deterrent effect to prevent any person from obstructing an OC to carry out fire safety improvement works that is required for the purpose of complying with the requirements of the Ordinance, or from refusing to allow an OC access to or the use of any relevant premises, which is reasonably necessary for carrying out the works, or from refusing to contribute to the costs of carrying out the works that is required for the purpose of complying with the requirements of the Ordinance.

Consultation Question 7 :

Regarding the incorporation of a mechanism against uncooperative owners into the Ordinance with reference to BO, do you agree that this will help prevent any person from obstructing an OC to comply with the requirements of the Ordinance?



C. Financial Support



Proposal 8 : Making use of FSWS to subsidise owners in need for the cost of default works

37. The Government, in partnership with URA, has implemented FSWS with a total funding of \$5.5 billion since 2018 to subsidise owners of target buildings meeting the eligibility criteria¹⁸ ¹⁹ to enhance the fire safety standards of the common parts of their buildings²⁰ pursuant to the requirements of the Ordinance. The amount of subsidy is up to 60% of the cost of the fire safety improvement works and the consultancy fee, or the

¹⁸ Eligibility criteria mainly include:

- a. The building is not under single ownership and is a composite building under the Ordinance;
- b. The average annual rateable value of domestic units in the building shall not exceed the specified limits; and
- c. The building owners have received the Directions issued by FSD and BD in respect of the common parts of the building and/or related FSCOs made by a magistrate, but have not yet received compliance letters confirming the completion of all fire safety improvement works required by the Ordinance as at 11 October 2017.

¹⁹ For buildings with an OC, the OC shall be the applicant who submits an application to URA. For buildings without an OC, all owners collectively shall be the applicant who submits an application to URA.

²⁰ The subsidy is only applicable to works carried out in the common parts of the building that is required for compliance with the Directions and/or related FSCOs (i.e. use of the subsidy), which include:

A. Provision or improvement of the following FSIs:

- (i) automatic sprinkler system;
- (ii) fire hydrant and hose reel system;
- (iii) manual fire alarm system;
- (iv) emergency lighting;
- (v) automatic cut-off device for mechanical ventilating system; and
- (vi) other alternative FSIs/measures approved by FSD

B. Improvement of fire safety construction measures:

- (i) protection of exit routes and staircases with fire resisting construction;
- (ii) improvement of the exit to a street;
- (iii) provision or replacement of fire doors;
- (iv) improvement of staircase width;
- (v) provision of additional staircases;
- (vi) enhancement of existing lifts to become fireman's lifts;
- (vii) provision of fireman's lifts;
- (viii) improvement of the fire resistance of external walls and the protection of openings therein;
- (ix) provision of fire resisting construction separating different parts of the building;
- (x) provision of fire resisting enclosures to non-emergency services within the staircases; and
- (xi) provision of smoke vents to basements.

The necessary professional services (e.g. appointment of consultants) and any associated or follow-up works arising from the works as mentioned above may also be subsidised. All works must comply with the legal requirements and be carried out by qualified registered contractors.

subsidy ceiling for the corresponding category of buildings²¹, whichever is the less. It is estimated that the whole FSWS will benefit around 6 000 to 6 500 target buildings, which should possibly cover eligible buildings regulated by the Ordinance and in need for subsidy²².

38. According to what have been proposed above, the EAs will recover the cost of default works, surcharge and other fees such as supervision charges from the owners upon completion of the default works. Given that some owners may encounter financial difficulties, we propose that owners meeting the eligibility criteria be allowed to apply for FSWS so that they can use the subsidy to pay part of the cost of the default works. Regarding the eligibility criteria and use of the subsidy, we propose to adopt the existing arrangements of FSWS. Meanwhile, in order to continue to encourage the target buildings concerned to set up OCs, same as the existing arrangements, the applicants of these buildings have to submit FSWS application to URA by OCs or all owners. We believe that this will help owners timely repair and properly maintain their private buildings, and also help them comply with the requirements of other ordinances (for example, as mentioned above, owners have to perform their statutory duty to carry out subsequent maintenance of FSIs upon completion of the default works). We propose that the subsidy is up to 60% of the cost of works and other fees related to the works, or the subsidy ceiling for the corresponding category of buildings²³. However, the subsidy cannot be used to pay the surcharge of the works²⁴.

39. Besides, given that some buildings cannot set up OCs or submit applications to URA by all owners because of special circumstances (for example, some owners are missing/untraceable, etc.), we propose that owners of such buildings be allowed to apply for FSWS, even though they

²¹ The subsidy ceiling for each category of buildings is as follows:

Number of storeys	1 to 3	4 to 6	7 to 12	13 or more
Subsidy ceiling	\$230,000	\$470,000	\$790,000	\$1,260,000

²² URA launched two rounds of FSWS application in 2018 and 2020 respectively. As at end-May 2022, URA received a total of around 3 150 eligible applications, involving around 3 230 target buildings.

²³ With reference to the existing arrangement, the subsidy ceiling will be different for buildings with different number of storeys.

²⁴ This is because the surcharge of the works is a result of the owners' failure in complying with the requirements of the Ordinance in a timely manner.

do not have OCs. The subsidy is up to 60% of the cost of works and other fees related to the works, or the subsidy ceiling for the corresponding category of buildings²⁵. However, the subsidy cannot be used to pay the surcharge of the works²⁶.

40. If necessary, the Government will in due course seek the approval of the Finance Committee of the Legislative Council for injecting additional funding into FSWS.

Consultation Question 8 :

Do you agree that FSWS also covers eligible buildings that need to undergo default works?



²⁵ With reference to the existing arrangement, the subsidy ceiling will be different for buildings with different number of storeys.

²⁶ As stated above, this is because the surcharge of the works is a result of the owners' failure in complying with the requirements of the Ordinance in a timely manner

D. Provide additional means for owners or occupiers to receive documents



Proposal 9 : Increasing the means of serving documents (such as Directions)

41. At present, under the Ordinance, the means of EAs to serve documents (such as Directions) on owners or occupiers are limited to personal delivery or registered post sent to the address concerned. We propose that, with reference to the Fire Safety (Industrial Buildings) Ordinance (Cap. 636), the EAs be allowed to have additional means of serving the documents (such as Directions), including sending them by facsimile transmission, electronic mail or by posting them at a conspicuous place inside the premises concerned. This will enable owners or occupiers to receive the relevant documents more conveniently through more channels.

Consultation Question 9 :

Do you agree that the means of serving documents be increased to include sending them by facsimile transmission, electronic mail or by posting them at a conspicuous place inside the premises concerned, enabling owners or occupiers to be informed of and receive the relevant documents more conveniently?



E. Provide information to the public and prospective property buyers



Proposal 10 : Empowering the EAs to use platforms such as departmental websites to publish information about Directions, FSCOs and Prohibition Orders

42. In order to facilitate the public to obtain information about Directions, FSCOs and Prohibition Orders (such as the compliance status, date of issue, etc.), we propose that, with reference to the existing arrangement under the Fire Safety (Industrial Buildings)



Ordinance²⁷, the EAs be empowered to use platforms such as departmental websites to publish such information²⁸ allowing the public (especially the prospective buyers/tenants of target building units) to have better knowledge of the outstanding legal liabilities of the target buildings. Such information provides an important reference for the prospective property buyers/tenants, thereby encouraging owners to comply with the requirements of the Ordinance.

²⁷ According to section 32 of the Fire Safety (Industrial Buildings) Ordinance, “in order to provide appropriate information to the public, EA may upload onto its departmental website, or in another way publish, information about a Direction, an FSCO, or a Prohibition Order, for a building or a part of a building, including but not limited to:

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

²⁸ In formulating the provision concerning publication of information under section 32 of the Fire Safety (Industrial Buildings) Ordinance, the Government has considered in detail the issue of personal data privacy. The four types of information listed under section 32 of the Fire Safety (Industrial Buildings) Ordinance 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.

Consultation Question 10 :

Do you agree that the EAs should be empowered to use platforms such as departmental websites to publish information on Directions, FSCOs and Prohibition Orders allowing the public (especially the prospective buyers/tenants of target building units) to have better knowledge of the outstanding legal liabilities of the target buildings?

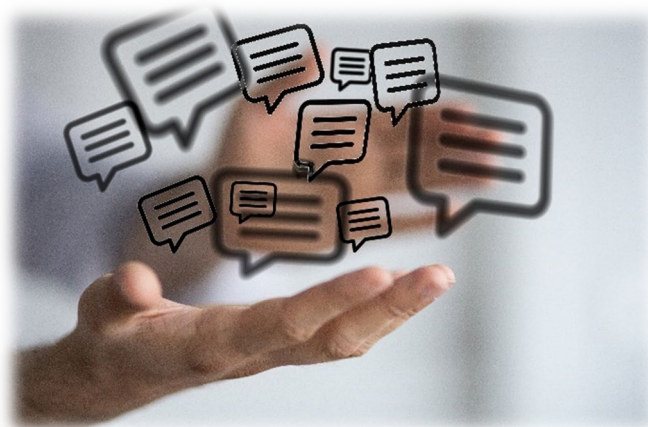


Chapter 4 Way Forward

43. The Government's proposal to carry out fire safety improvement works for owners involves complex considerations, including how to set threshold for default works, the mechanism for and the principle of selecting feasible options in respect of the fire safety improvement works, recovery of the costs of work from the owners, etc. Legal disputes, enforcement issues and the likes are inevitable during the process. Furthermore, issues such as how to avoid abuse of the default works mechanism, and whether there will be moral hazards have to be considered. Therefore, amendments and improvements to the Ordinance must be considered comprehensively and holistically. The views of the public should also be listened to.



Chapter 5 Offer Your Views



44. Members of the public are invited to offer their views on the proposals as set out in this document. Please send your views to the Security Bureau by mail, facsimile or email on or before 13 September 2022 –



Address :

B Division, Security Bureau
- Public Consultation on the
Proposed amendments to the Fire
Safety (Buildings) Ordinance
(Cap. 572)
9/F, East Wing,
Central Government Offices
2 Tim Mei Avenue, Tamar, Hong
Kong



Fax :

2868 9159



Email :

fsbab_consultation@sb.gov.hk

45. For ease of responding to this consultation exercise and to facilitate subsequent analysis, members of the public may download a response form at the website of the Security Bureau to submit their views.

46. It is optional for members of the public to supply their personal data when providing views on this consultation paper. The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to this consultation exercise. The Government bureaux and departments receiving the data may only use the data for such purposes.

47. The names and views of individuals and organisations who/which put forth submissions in response to this consultation paper (“senders”) may be published for public viewing. We may, either in public or private discussions, or in any subsequent report, cite comments submitted in response to this consultation paper.

48. To safeguard senders’ personal data privacy, we will remove senders’ relevant data, such as contact details, identification numbers, and signatures when publishing their submissions.

49. We will respect the wish of senders to remain anonymous and/or keep the views confidential in part or in whole. If the senders request anonymity in the submissions, their names will be removed when publishing their views. If the senders request confidentiality, their submissions will not be published.

50. If the senders do not request anonymity or confidentiality in the submissions, it will be assumed that the senders can be named and the views can be published in their entirety.

51. Any sender providing personal data to the Security Bureau in the submission will have rights of access and correction with respect to such personal data. Requests for data access and correction of personal data should be made in writing to the correspondence addresses as set out in paragraph 44 above.

Security Bureau
Fire Services Department
Buildings Department
July 2022

Appendix I

Fire Safety Measures required of Owners and/or Occupiers of Composite and Domestic Buildings under the Fire Safety (Buildings) Ordinance

Fire Service Installations and Equipment	Non-domestic Parts of Composite Buildings		Domestic Parts of Composite Buildings and Domestic Buildings
	Owner	Occupier	Owner
Automatic Sprinkler System	✓ ¹		
Fire Hydrant and Hose Reel System	✓		✓
Manual Fire Alarm System	✓		✓
Emergency Lighting (Common areas)	✓		✓ ²
Emergency Lighting (Non-common areas)		✓	
Automatic Cut-off Device for the Mechanical Ventilating System (Common areas)	✓		
Automatic Cut-off Device for the Mechanical Ventilating System (Non-common areas)		✓	

Fire Safety Construction	Non-domestic Parts of Composite Buildings	Domestic Parts of Composite Buildings and Domestic Buildings
	Owner	Owner
Means of Escape	✓	✓ ³
Fire Resisting Construction	✓	✓
Means of Access for Fire Fighting and Rescue	✓	✓

¹ Applicable to a composite building in which the total floor area of the non-domestic parts exceeds 230 m².

² Applicable to a building where the uppermost storey exceeds 30 m above ground floor level.

³ Including the replacement of doors nearest to the first step of the staircase on each floor with fire doors which meet the current fire safety standard.

Subsidy Schemes under the Urban Renewal Authority (“URA”)
which are Applicable to the Fire Safety Improvement Works
Required by the Fire Safety (Buildings) Ordinance (“Ordinance”)

Applicable to owners’ corporations (“OCs”) /owners’ organisations/all owners		Applicable to individual owners		
	Fire Safety Improvement Works Subsidy Scheme	Common Area Repair Works Subsidy	Operation Building Bright 2.0	Building Maintenance Grant Scheme for Needy Owners
Building requirements	<ul style="list-style-type: none"> ● Target composite buildings under the Ordinance which are not under single ownership ● The average annual rateable value of the domestic units falls within the specified limits 	<ul style="list-style-type: none"> ● Private domestic or composite buildings aged 30 years or above which are not under single ownership ● The average annual rateable value of the domestic units falls within the specified limits 	<ul style="list-style-type: none"> ● Private domestic or composite buildings aged 40 years or above ● The average annual rateable value of the domestic units falls within the specified limits 	<ul style="list-style-type: none"> ● Residential units in private domestic or composite buildings
Application requirements	<ul style="list-style-type: none"> ● Owners have received Fire Safety Directions in respect of the common parts of the buildings and / or related Fire Safety Compliance Order issued by the Fire Services Department and the Buildings Department (“BD”), but compliance letters confirming the completion of all fire safety improvement works required by the Ordinance have not been received as at 11 October 2017. ● Depending on the building situation, the OC or all owners submits application to URA as applicant 	<ul style="list-style-type: none"> ● Resolution to apply for the scheme and the Smart Tender Scheme has been passed at an owners’ general meeting ● Application must be submitted before conducting tender for engaging a consultant ● Depending on the building situation, the OC or all owners submits application to URA as applicant 	<ul style="list-style-type: none"> ● Buildings aged 50 or above: Regardless of whether the building owners have received statutory notice(s) or pre-notification letter(s) issued by BD for mandatory inspection of the common parts of the buildings, the owners’ organisations/owners are prepared to carry out the prescribed inspection and repair works in accordance with the requirements under the Mandatory Building Inspection 	<ul style="list-style-type: none"> ● Unit owners and aged 60 or above or receiving Old Age Living Allowance, Comprehensive Social Security Assistance or Disability Allowance ● The applicant and his/her spouse (if married) are residing in the property under application

**Subsidy Schemes under the Urban Renewal Authority (“URA”)
which are Applicable to the Fire Safety Improvement Works
Required by the Fire Safety (Buildings) Ordinance (“Ordinance”)**

Applicable to owners’ corporations (“OCs”) /owners’ organisations/all owners		Applicable to individual owners	
Fire Safety Improvement Works Subsidy Scheme	Common Area Repair Works Subsidy	Operation Building Bright 2.0	Building Maintenance Grant Scheme for Needy Owners
		<p>Scheme (“MBIS”), but the compliance letter(s) confirming the completion and compliance of the prescribed inspection and prescribed repairs under the MBIS requirements had not been issued by BD as of 11 October 2017</p> <ul style="list-style-type: none"> ● Buildings aged between 40 to 49: BD has issued statutory notice(s) or pre-notification letter(s) for mandatory inspection of the common parts of the building, but the compliance letter(s) confirming the completion and compliance of the prescribed inspection and prescribed repairs under the MBIS requirements had not 	

**Subsidy Schemes under the Urban Renewal Authority (“URA”)
which are Applicable to the Fire Safety Improvement Works
Required by the Fire Safety (Buildings) Ordinance (“Ordinance”)**

Applicable to owners’ corporations (“OCs”) /owners’ organisations/all owners		Applicable to individual owners	
Fire Safety Improvement Works Subsidy Scheme	Common Area Repair Works Subsidy	Operation Building Bright 2.0	Building Maintenance Grant Scheme for Needy Owners
		<p>been issued by BD as of 11 October 2019</p> <ul style="list-style-type: none"> Depending on the building situation, the OC or all owners submits application to URA as applicant 	
Subsidy <p>The applicant may receive a subsidy of up to 60% of the cost of the fire safety improvement works and the consultancy fee, or the corresponding subsidy ceiling for the relevant category of buildings, whichever is the less</p>	<ul style="list-style-type: none"> General repair works subsidy – The applicant may receive the following total amount of subsidy (whichever is the less) <ul style="list-style-type: none"> For building with 20 or less units, 30% of the approved cost of the general repair works and related consultancy fee, capped at \$ 150,000 For building with 21-49 units, 20% of the approved cost of the general repair works and related consultancy fee, capped at \$150,000 	<ul style="list-style-type: none"> Subsidy for the common parts of buildings: <ul style="list-style-type: none"> Generally, owner-occupiers can receive a subsidy of 80% of the relevant cost, subject to a cap of \$40,000 per unit Elderly owner-occupiers aged 60 or above can receive a subsidy of 100% of the relevant cost, subject to a cap of \$50,000 per unit 	<p>The maximum amount of grant for each application is \$80,000. Each eligible applicant and his/her spouse (if married) will be altogether eligible for a maximum grant of \$80,000. The maximum amount of grant for each property is \$80,000. The amount of grant will be calculated in proportion to the share of ownership of the flat owned by the applicant and his/her spouse (if married).</p>

Subsidy Schemes under the Urban Renewal Authority (“URA”)
which are Applicable to the Fire Safety Improvement Works
Required by the Fire Safety (Buildings) Ordinance (“Ordinance”)

Applicable to owners’ corporations (“OCs”) /owners’ organisations/all owners		Applicable to individual owners	
Fire Safety Improvement Works Subsidy Scheme	Common Area Repair Works Subsidy	Operation Building Bright 2.0	Building Maintenance Grant Scheme for Needy Owners
	➤ For building with 50 or more units, 20% of the approved cost of the general repair works and related consultancy fee, or not more than \$3,000 per unit, capped at \$1,200,000		