

Chapter:	502	Fire Safety (Commercial Premises) Ordinance	Gazette Number	Version Date
		Long title	E.R. 1 of 2012	09/02/2012

An Ordinance to provide for fire safety improvements to be made to certain commercial premises and commercial buildings and to provide for related matters.

(Amended 15 of 1998 s. 2)

[2 May 1997] *L.N. 196 of 1997*

(Enacting provision omitted—E.R. 1 of 2012)

(*Format changes—E.R. 1 of 2012)

(Originally 19 of 1997)

Note:

*The format of the whole Ordinance has been updated to the current legislative styles.

Part:	1	Preliminary	E.R. 1 of 2012	09/02/2012
-------	---	--------------------	----------------	------------

Section:	1	Short title	E.R. 1 of 2012	09/02/2012
----------	---	--------------------	----------------	------------

(1) This Ordinance may be cited as the Fire Safety (Commercial Premises) Ordinance.

(2) (Omitted as spent—E.R. 1 of 2012)

Section:	2	Purpose of Ordinance	E.R. 1 of 2012	09/02/2012
----------	---	-----------------------------	----------------	------------

The purpose of this Ordinance is to provide better protection from the risk of fire for occupants and users of, and visitors to, certain kinds of commercial premises and commercial buildings.

(Amended 15 of 1998 s. 3)

Section:	3	Interpretation	E.R. 1 of 2012	09/02/2012
----------	---	-----------------------	----------------	------------

(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 purpose 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.

Section:	4	Application of Ordinance	E.R. 1 of 2012	09/02/2012
----------	---	---------------------------------	----------------	------------

- (1) This Ordinance applies to-
 - (a) prescribed commercial premises comprising or forming part of an existing building that was constructed on or before 2 May 1997 as well as to premises comprising or forming part of an existing building that is constructed after that date;
 - (b) any specified commercial building listed in Schedule 4.
- (2) The fact that the requirements of this Ordinance relating to specified commercial buildings apply to any particular commercial building shall not be regarded as having the effect of disapplying the requirements of this Ordinance or of any other enactment, not relating to specified commercial buildings, from that particular commercial building.
- (3) The fact that part of any particular commercial building falls within the meaning assigned to **prescribed commercial premises** in section 3 shall not be regarded as having the effect of disapplying the requirements of any other sections of this Ordinance from that part.

(Replaced 15 of 1998 s. 5)

Part:	2	Compliance with Fire Safety Measures	E.R. 1 of 2012	09/02/2012
-------	---	---	----------------	------------

Section:	5	Owner or occupier may be directed to comply with fire safety measures	E.R. 1 of 2012	09/02/2012
----------	---	--	----------------	------------

- (1) The relevant enforcement authority may serve on the owner of prescribed commercial premises a fire safety direction directing the owner to comply with all or any of the requirements specified in Schedule 2.
- (1A) The relevant enforcement authority may serve on the owner of a specified commercial building a fire safety improvement direction directing the owner to comply with all or any of the requirements specified in Schedule 5 or such other appropriate measures in place of any of those requirements specified in that Schedule. (Added 15 of 1998 s. 6)
- (2) The relevant enforcement authority may serve on the occupier of prescribed commercial premises a fire safety direction directing the occupier to comply with all or any of the requirements of Schedule 3.
- (2A) The relevant enforcement authority may serve on the occupier of a specified commercial building a fire safety improvement direction directing the occupier to comply with all or any of the requirements of Schedule 6. (Added 15 of 1998 s. 6)
- (3) A fire safety direction or fire safety improvement 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 of the premises or building sufficient time to comply with the requirements of the direction.
- (4) The relevant enforcement authority may, by similar notice, from time to time amend or withdraw a direction.
- (5) A fire safety direction or fire safety improvement 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 or fire safety improvement compliance order, as the case may be.
- (6) A fire safety direction or fire safety improvement 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.
- (7) (a) An owner or occupier of prescribed commercial premises 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 \$2500 for each day or part of a day during which the failure continues after the expiry of the period specified in the direction.
 - (b) An owner or occupier of a specified commercial building who, without reasonable excuse, fails to comply with a fire safety improvement direction is guilty of an offence and is liable on conviction to a fine at level 4 and to a further fine of \$2500 for each day or part of a day during which the failure continues after the expiry of the period specified in the direction. (Added 15 of 1998 s. 6)
- (8) The reference in subsection (7)(a) or (b) to reasonable excuse includes, but is not limited to, the excuse that, at the time when the fire safety direction or fire safety improvement direction, as the case may be, was not complied with, it was not reasonable to expect the owner or occupier of the premises or building to comply with the direction-
 - (a) because of the risk of prejudicially affecting the structural integrity of the building where the premises or building are located; or
 - (b) because the technology required to comply with the direction is not reasonably available.

(Amended 15 of 1998 s. 6)

Section:	6	Magistrate may make fire safety compliance orders or fire safety improvement compliance orders	E.R. 1 of 2012	09/02/2012
----------	---	---	----------------	------------

- (1) A magistrate who finds an owner or occupier of prescribed commercial premises or a specified commercial building guilty of an offence against section 5(7)(a) or (b) may, on the application of the relevant enforcement authority, make a fire safety compliance order or fire safety improvement compliance order, as the case may be, directing the owner or occupier to comply with all or any of the requirements specified in the fire safety direction or fire safety improvement direction, as the case may be, to which the offence related.
- (2) A fire safety compliance order or fire safety improvement 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 or fire safety improvement compliance order replaces the relevant fire safety direction or fire safety improvement direction, as the case may be, relating to those premises or buildings.

(Replaced 15 of 1998 s. 7)

- (4) A magistrate may, on the application of the relevant enforcement authority or an owner or occupier of the premises or building concerned, revoke or vary a fire safety compliance order or fire safety improvement compliance order, as the case may be, made in respect of that owner or occupier.
- (5) An owner or occupier of the premises or building concerned 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 or fire safety improvement 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 owner or occupier of the premises or building concerned.
- (7) An application under this section may be made by both enforcement authorities acting jointly.
- (8) (a) An owner or occupier of prescribed commercial premises 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 \$5000 for each day or part of a day during which the failure continues after the expiry of the period specified in the order.
(b) An owner or occupier of a specified commercial building who fails to comply with a fire safety improvement compliance order is guilty of an offence and is liable on conviction to a fine at level 5 and to a further fine of \$5000 for each day or part of a day during which the failure continues after the expiry of the period specified in the order. (Added 15 of 1998 s. 7)

(Amended 15 of 1998 s. 7)

Section:	7	District Court may make orders restricting use of prescribed commercial premises	E.R. 1 of 2012	09/02/2012
----------	---	---	----------------	------------

- (1) An enforcement authority may apply to the District Court for an order under this section in respect of prescribed commercial premises on the ground that a requirement of a fire safety direction or a fire safety compliance order is not being, or has not been, complied with in relation to the premises.
- (2) An application under this section may be made at any time after the period for complying with the relevant fire safety direction or the relevant fire safety compliance order has expired and not before.
- (3) An application under this section may be made by both enforcement authorities acting jointly.
- (4) An enforcement authority must give at least 7 days' notice to the owner or occupier of the premises concerned before making an application under this section.
- (5) The procedure for hearing and determining an application under this section is to be in accordance with rules of court made under the District Court Ordinance (Cap 336).
- (6) On the hearing of an application under this section, the District Court may make an order prohibiting the use of prescribed commercial premises for any prescribed commercial activity, but only if it is satisfied that-
 - (a) the owner or occupier of those premises has failed to comply with a requirement specified in a fire safety direction or a fire safety compliance order; and
 - (b) it is reasonable to expect the owner or occupier to comply with the requirement; and
 - (c) the time allowed for complying with the requirement is reasonable.

Section:	7A	District Court may make orders prohibiting occupation of a specified commercial building	E.R. 1 of 2012	09/02/2012
----------	----	---	----------------	------------

- (1) An enforcement authority may apply to the District Court for an order under this section in respect of any unit or part of a specified commercial building on the ground that a requirement of a fire safety improvement direction or a fire safety improvement compliance order is not being, or has not been, complied with in relation to the unit or part, as the case may be.
- (2) An application under this section may be made at any time after the period for complying with the relevant fire safety improvement direction or the relevant fire safety improvement compliance order has expired and not before.
- (3) An application under this section may be made by both enforcement authorities acting jointly.
- (4) An enforcement authority must give at least 7 days' notice to the owner or occupier of the unit or part before making an application under this section.
- (5) The procedure for hearing and determining an application under this section is to be in accordance with rules of

court made under the District Court Ordinance (Cap 336).

(6) On the hearing of an application under this section, the District Court may make an order prohibiting the occupation of the unit or part, but only if it is satisfied that-

- the owner or occupier of the unit or part has failed to comply with a requirement specified in a fire safety improvement direction or a fire safety improvement compliance order;
- it is reasonable to expect the owner or occupier to comply with the requirement;
- the time allowed for complying with the requirement is reasonable;
- it is reasonable and necessary in the circumstances to make the order; and
- there could be substantial fire risks if the unit or part is occupied.

(Added 15 of 1998 s. 8)

Section:	8	Effect of use restriction order	E.R. 1 of 2012	09/02/2012
----------	---	--	----------------	------------

- While a use restriction order is in force in respect of prescribed commercial premises- (Amended 15 of 1998 s. 9)
 - a person must not use the premises for any prescribed commercial activity; and
 - the owner of the premises and, if the owner is not the occupier, the occupier of the premises must take all practicable steps to ensure that the premises are not so used.
- A use restriction order takes effect-
 - 28 days after the date on which it is served on the owner or occupier of the premises concerned; or
 - if that owner or occupier appeals against the order, when the appeal is finally rejected or is withdrawn.
- Despite subsection (2), the District Court may, if of the opinion that in the particular circumstances it is appropriate to do so, direct a use restriction order to come into force from the date on which the order is served on the owner or occupier of the premises concerned or from a later date that is before the end of the 28-day period referred to in subsection (2)(a).
- A use restriction order remains in force until it is discharged under section 12(5), is revoked under section 13 or the premises concerned cease to exist, whichever first occurs.
- In subsection (2)(b), a reference to an appeal includes a reference to an appeal from a decision determining the appeal.

Section:	8A	Effect of prohibition order	E.R. 1 of 2012	09/02/2012
----------	----	------------------------------------	----------------	------------

- While a prohibition order is in force in respect of any unit or part of a specified commercial building-
 - (i) save with the permission in writing of the enforcement authority, no person, other than an authorized officer in the course of his duty shall occupy the unit or part;
 - where he thinks fit, the enforcement authority may, subject to such conditions as he thinks fit, by notice in writing permit any person to occupy the unit or part; or
 - any permission granted under paragraph (ii) may be cancelled by the enforcement authority at any time and for any reason; and
- the owner of the unit or part and, if the owner is not the occupier, the occupier of the unit or part must take all practicable steps to ensure that any of the requirements in paragraph (a) is complied with.
- A prohibition order takes effect-
 - 28 days after the date on which it is served on the owner or occupier of the unit or part; or
 - if that owner or occupier appeals against the order, when the appeal is finally rejected or is withdrawn.
- Despite subsection (2), the District Court may, if of the opinion that in the particular circumstances it is appropriate to do so, direct a prohibition order to come into force from the date on which the order is served on the owner or occupier of the unit or part or from a later date that is before the end of the 28-day period referred to in subsection (2)(a).
- A prohibition order remains in force until it is discharged under section 12(5), is revoked under section 13 or the unit or part cease to exist, whichever first occurs.
- In subsection (2)(b), a reference to an appeal includes a reference to an appeal from a decision determining the appeal.

(Added 15 of 1998 s. 10)

Section:	9	Offence in relation to the contravention of use restriction order or prohibition order	E.R. 1 of 2012	09/02/2012
----------	---	---	----------------	------------

- (1) A person who, without reasonable excuse, contravenes section 8(1) is guilty of an offence and is liable on conviction to a fine of \$250000 and to imprisonment for 3 years and to a further fine of \$25000 for each day or part of a day during which the contravention continues. (Amended 15 of 1998 s. 11)
- (2) A person who, without reasonable excuse, contravenes section 8A(1) is guilty of an offence and is liable on conviction to a fine of \$250000 and to imprisonment for 3 years and to a further fine of \$25000 for each day or part of a day during which the contravention continues. (Added 15 of 1998 s. 11)

Section:	10	Copy of use restriction order or prohibition order to be posted at entrances to affected premises or building	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) As soon as practicable after a use restriction order or prohibition order is made in respect of premises or any unit or part of a building, as the case may be, the relevant enforcement authority must, in addition to serving a copy of the order on the owner or occupier of the premises, unit or part, as the case may be, post a copy of it in a conspicuous place-
 - (a) inside the premises, unit or part, as the case may be; or
 - (b) at or in the immediate vicinity of each entrance to the premises, unit or part, as the case may be. (Replaced 15 of 1998 s. 12)
- (2) Failure to comply with subsection (1) does not invalidate the effect of such an order.
- (3) While a use restriction order or prohibition order is in force in respect of premises or a building, any person who, without lawful authority, removes, defaces or otherwise interferes with a copy of the order posted in accordance with subsection (1) is guilty of an offence and is liable on conviction to a fine at level 2.
- (4) As soon as practicable after a use restriction order or prohibition order has ceased to have effect in respect of premises or a building, the relevant enforcement authority must, as far as practicable, remove from the premises or building all copies of the order posted in accordance with subsection (1).

(Amended 15 of 1998 s. 12)

Section:	11	Power to remove persons from premises or buildings, etc.	E.R. 1 of 2012	09/02/2012
----------	----	---	----------------	------------

A police officer of or above the rank of inspector-

- (a) may remove from premises or a building in respect of which a use restriction order or prohibition order, as the case may be, is in force any person who is apparently contravening or about to contravene section 8(1) or 8A(1); and
- (b) may prevent any such person from re-entering the premises or building while the order remains in force.

(Amended 15 of 1998 s. 13)

Section:	12	Owner or occupier of premises or building may request certificate of compliance	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) At any time while a use restriction order or prohibition order, as the case may be, is in force in respect of premises or a building, an owner or occupier of the premises or building 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, fire safety improvement direction, fire safety compliance order or fire safety improvement 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, fire safety improvement direction, fire safety compliance order or fire safety improvement compliance order, as the case may be, have been complied with, issue to the owner 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 of premises or a building in respect of which a use restriction order or 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, fire safety improvement direction, fire safety compliance order or fire safety improvement 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 of the premises or building concerned of the rejection and the reasons for it.

(Amended 15 of 1998 s. 14)

Section:	13	Right to apply to District Court for revocation of use restriction order or prohibition order	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) If the relevant enforcement authority-
 - (a) rejects the request of the relevant owner or occupier for the issue of a certificate of compliance under section 12; or
 - (b) fails to issue such a certificate within 28 days after the request was made, that owner or occupier may apply to the District Court for the revocation of the use restriction order or prohibition order relating to the premises or building, as the case may be.
- (2) An applicant must give notice in writing of the application to the relevant enforcement authority within 7 days after making the application.
- (3) On the hearing of an application for the revocation of a use restriction order or prohibition order, the District Court must revoke the order if satisfied that the requirements of the relevant fire safety direction, fire safety improvement direction, fire safety compliance order or fire safety improvement compliance order, as the case may be, have been complied with. Otherwise it must refuse the application.

(Amended 15 of 1998 s. 15)

Part:	3	Enforcement	E.R. 1 of 2012	09/02/2012
-------	---	--------------------	----------------	------------

Section:	14	Authorized officers	E.R. 1 of 2012	09/02/2012
----------	----	----------------------------	----------------	------------

- (1) An enforcement authority may, in writing, authorize a public officer to exercise such of the functions conferred or imposed on authorized officers by this Ordinance as are specified in the authorization.
- (2) The Director of Fire Services and the Director of Buildings and all police officers are taken to be authorized officers for the purposes of this Ordinance.
- (3) When exercising or performing a function under this Ordinance, an authorized officer-
 - (a) may be assisted by such persons as the officer reasonably requires in order to exercise or perform the function; and
 - (b) must, if required to do so, produce for inspection the officer's identity card and, except in the case of the persons referred to in subsection (2), the authorization issued to the officer under subsection (1).

Section:	15	Power to enter premises or building and other powers of authorized officers	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) An authorized officer may enter and inspect premises or a building without warrant if the officer reasonably believes that-
 - (a) the premises or building are or may be prescribed commercial premises or a specified commercial building; or
 - (b) an offence against this Ordinance is being or has been committed on those premises or buildings.
- (2) An authorized officer may also enter and inspect prescribed commercial premises or a specified commercial building without warrant in order to ascertain whether or not a fire safety direction, fire safety improvement direction, fire safety compliance order or fire safety improvement compliance order, as the case may be, made in

respect of the premises or building has been complied with. (Replaced 15 of 1998 s. 16)

(3) If, on the application of an enforcement authority, it is proved to the satisfaction of a magistrate on sworn information-

- (a) that admission to premises or a building has been refused, or that refusal of admission is reasonably expected, or that the premises or building are unoccupied or that the case is one of urgency; and
- (b) that there is a good reason for an authorized officer to enter the premises or building,

the magistrate may issue a warrant authorizing an authorized officer to enter the premises or building with such force as may be necessary.

(4) On leaving unoccupied premises or an unoccupied building entered in accordance with this section, an authorized officer must ensure that they are as effectively secured against trespassers as the officer found them at the time of entry.

(5) 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.

(Amended 15 of 1998 s. 16)

Section:	16	Authorized officer may request information about ownership or occupation of premises or building	E.R. 1 of 2012	09/02/2012
----------	----	---	----------------	------------

(1) An authorized officer may ask a person to provide information that may identify an owner or occupier of premises at which a prescribed commercial activity is carried on or an owner or occupier of a specified commercial building, but only if- (Amended 15 of 1998 s. 17)

- (a) the officer reasonably believes that the person has the information; and
- (b) the information is not readily available by an inspection of a public record.

(2) A person who, without reasonable excuse-

- (a) refuses to answer a question put to the person under subsection (1); or
- (b) provides an answer that the person knows or ought reasonably to know is false or misleading,

is guilty of an offence and is liable on conviction to a fine at level 4.

Section:	17	Offence to obstruct certain persons exercising or performing functions under this Ordinance	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

Any person who, without lawful excuse, resists, obstructs or delays a person who is exercising or performing, or attempting to exercise or perform, a function conferred or imposed by this Ordinance is guilty of an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

Section:	18	Offences by persons concerned in management of body corporate	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

(1) If-

- (a) a person convicted of an offence under this Ordinance is a body corporate; 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) a person convicted of an offence 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.

Part:	4	Miscellaneous	E.R. 1 of 2012	09/02/2012
-------	---	----------------------	----------------	------------

Section:	19	Government not liable for certain matters	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) A person to whom this section applies does not incur liability for damages only because of a failure to exercise or perform a function conferred or imposed by this Ordinance.
- (2) This section applies to the Government, the enforcement authorities and all authorized officers.

Section:	20	Authorized officers not personally liable for certain acts and omissions	E.R. 1 of 2012	09/02/2012
----------	----	---	----------------	------------

- (1) An authorized officer is not personally liable for any act done or omitted to be done by the officer while exercising or performing a function conferred or imposed by this Ordinance if the officer did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this Ordinance.
- (2) Subsection (1) does not affect any liability that the Government may have because an authorized officer has done or omitted to do an act to which that subsection applies.

Section:	21	Offence to disclose information obtained officially	E.R. 2 of 2012	02/08/2012
----------	----	--	----------------	------------

- (1) A person who, without lawful authority, discloses to another person information obtained while exercising or performing a function conferred or imposed on the person by this Ordinance is guilty of an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (2) A person has lawful authority to disclose information if the person discloses the information-
 - (a) in order to exercise or perform a function under this Ordinance; or
 - (b) in connection with proceedings brought under this Ordinance; or
 - (ba) in relation to exercising a power or performing a function under the Buildings Ordinance (Cap 123), or for the purpose of enabling or facilitating any thing or work to be done by any person under that Ordinance; or
(Added 16 of 2011 s. 47)
 - (c) in accordance with an order of the District Court; or
 - (d) with the consent of all persons who are entitled to have the information kept confidential.
- (3) For the purposes of subsection (2), information that a person is entitled to have kept confidential includes, but is not limited to, information that concerns the trade, business or profession of the person or another person with whom the person has business dealings.

(Format changes—E.R. 2 of 2012)

Section:	22	How documents are to be served for purposes of this Ordinance	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

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.

Section:	23	Chief Executive in Council may make regulations	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

The Chief Executive in Council may make regulations- (Amended 71 of 1999 s. 3)

- (a) prescribing anything required or permitted to be prescribed by regulations under this Ordinance; and
- (b) generally providing for the better carrying into effect of the provisions and purposes of this Ordinance.

Section:	24	Secretary for security may amend Schedule 1	E.R. 1 of 2012	09/02/2012
----------	----	--	----------------	------------

- (1) The Secretary for Security may, by order published in the Gazette, amend Schedule 1 by adding, substituting or omitting matter, but only if the amendment promotes the purposes of this Ordinance.
- (2) In determining whether or not a commercial activity should be added to Schedule 1, the Secretary for Security must have regard to the fire risks that could arise in carrying on the activity on premises and the consequences that could result should a fire occur on premises while the activity is being carried on there.

Section:	24A	Amendment of Schedule 4	E.R. 1 of 2012	09/02/2012
----------	-----	--------------------------------	----------------	------------

The Secretary for Security may by order published in the Gazette amend Schedule 4.

(Added 15 of 1998 s. 18)

Section:	25	Effect of substituted or amended codes of practice	E.R. 1 of 2012	09/02/2012
----------	----	---	----------------	------------

- (1) If a code of practice specified in a Schedule to this Ordinance is substituted or amended, the substituted code or the code as amended applies for the purposes of this Ordinance only when-
 - (a) the Legislative Council has passed a resolution declaring that the substituted code or the code as amended is to apply for those purposes; and
 - (b) the reference to the code in the Schedule is amended in accordance with subsection (2); and
 - (c) that amendment has taken effect.
- (2) If the Legislative Council has passed a resolution declaring that a substituted or amended code of practice is to apply for the purposes of this Ordinance, the Secretary for Security may, by order published in the Gazette, amend the relevant Schedule by substituting the reference to the substituted or amended code for the reference to the code then specified in that Schedule.
- (3) Such an amendment takes effect on the date on which the order is published in the Gazette or on such later date as may be specified in the order.

Schedule:	1	Prescribed Commercial Activities	E.R. 1 of 2012	09/02/2012
-----------	---	---	----------------	------------

[sections 3(1) & (2) & 24]

1. Commercial activities

The following are prescribed commercial activities for the purposes of this Ordinance-

- (a) banking (other than merchant banking);
- (b) conduct of off-course betting;
- (c) conduct of a jewelry or goldsmith's business on premises that have a security area;
- (d) use as a supermarket, hypermarket or department store;
- (e) use as a shopping arcade.

2. Definitions

In this Schedule-

department store (百貨公司) means a shop where a wide variety of goods (for example, men's and women's clothing, furniture, electrical appliances and hardware) is sold in separate departments.

security area (保安區), in relation to premises used for conducting a jewelry or goldsmith's business, means a part of the premises that is segregated by a security partition, such as a bullet-proof glass panel, from the part of the premises to which members of the public normally have access.

Schedule:	2	Fire Safety Measures to be Complied with by Owners of Prescribed Commercial Premises	E.R. 1 of 2012	09/02/2012
-----------	---	---	----------------	------------

[section 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.

2. Construction requirements for prescribed commercial premises

- (1) In relation to the matters specified in subsection (2), requirements with which an owner of prescribed commercial premises can be directed to comply under section 5(1) of this Ordinance are those specified in the following codes of practice published by the Director of Buildings and printed by the Government Printer-
 - (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;
 - (c) the Code of Practice for Means of Access for Firefighting and Rescue 1995.
- (2) The matters referred to in subsection (1) are as follows-
 - (a) provision of adequate means of escape from the premises in the event of fire;
 - (b) provision of adequate means of access to the premises to facilitate access for fire fighting and rescue;
 - (c) provision of measures to inhibit the spread of fire and to ensure the integrity of the structure of the building where the premises are located.

Schedule:	3	Fire Safety Measures to be Complied with by Occupiers of Prescribed Commercial Premises	E.R. 1 of 2012	09/02/2012
-----------	---	--	----------------	------------

[sections 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.

2. Definition

In this Schedule-

fire compartment (防火間), in relation to a building, means a part of the building that is physically separated from adjoining parts by walls, and by a floor and ceiling, that meets the standard of fire resistance prescribed by the Code of Practice for Fire Resisting Construction 1996, as published by the Director of Buildings and printed by the Government Printer.

Schedule:	4	Specified Commercial Building	E.R. 1 of 2012	09/02/2012
-----------	---	--------------------------------------	----------------	------------

[sections 3, 4 & 24A]

Definition

A specified commercial building means any commercial building-

- (a) being a building 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.

(Added 15 of 1998 s. 21. Amended L.N. 117 of 2001)

Schedule:	5	Fire Safety Measures to be Complied with by Owners of Specified Commercial Buildings	E.R. 1 of 2012	09/02/2012
-----------	---	---	----------------	------------

[section 5]

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 hosereel 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	Fire Safety Measures to be Complied with by Occupiers of Specified Commercial Buildings	E.R. 1 of 2012	09/02/2012
-----------	---	--	----------------	------------

[section 5]

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.

2. **Definition**

In this Schedule, *fire compartment* (防火間) has the same meaning as in Schedule 3.

(Added 15 of 1998 s. 21)