

CHAPTER 11

Security Bureau

**Fire Services Department
Buildings Department**

Upgrading of fire safety standards in old buildings

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UPGRADING OF FIRE SAFETY STANDARDS IN OLD BUILDINGS

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines its objectives and scope.

Background

1.2 Under the Buildings Ordinance (BO, Cap. 123 —Note 1), a building constructed at any time has to comply with the fire safety standards laid down in the Codes of Practices (COPs) in force at the time of construction. These COPs are issued by:

- the Director of Fire Services for Minimum Fire Service Installations and Equipment (FSIs); and
- the Director of Buildings for the provision of Means of Escape in case of fire, for Means of Access for firefighting and rescue, and for Fire Resisting Construction.

The Fire Services Department (FSD) is concerned with the provision and maintenance of FSIs of a building. The Buildings Department (BD) is concerned with the fire safety construction requirements.

1.3 The COPs issued by the Director of Fire Services and the Director of Buildings are reviewed from time to time, revised and promulgated as and when necessary. The revisions do not have retrospective effect. As a result, improved standards would only apply to buildings constructed after the effective dates of the revisions. For older buildings, although their FSIs or fire construction requirements met the fire safety standards prevailing at the time when they were built (i.e. “*extant fire safety standards*”), they do not necessarily meet the present-day fire safety standards. For example, the provision of a sprinkler system was not a mandatory requirement for commercial buildings before 1973. But it is a mandatory requirement from 1973 onwards (Note 2).

Note 1: *The BO governs only private buildings. It does not apply to, among others, buildings in public housing estates and buildings belonging to the Government.*

Note 2: *For buildings with building plans first submitted for approval between 1973 and 1987, the provision of a sprinkler system was a mandatory requirement for all commercial buildings and the commercial portions of composite buildings exceeding 30 metres in height or more than 10 storeys. From March 1987 onwards, it became a mandatory requirement for all commercial buildings with floor area exceeding 230 square metres.*

Legislation enacted to upgrade the fire safety standards of buildings

1.4 During 1994-1998, a number of serious fires occurred in Hong Kong. In order to formulate a strategy to improve fire safety in existing buildings, the FSD conducted a territory-wide building survey in early 1998 to assess the fire safety conditions of existing buildings. The survey indicated that the fire safety conditions of many old private buildings in Hong Kong were not up to present-day standards. To improve the situation, the Legislative Council (LegCo) enacted a series of ordinances from 1997 to 2003. The objectives of the ordinances were to improve the fire safety standards of certain types of premises and buildings, and to better protect people working or living in there from the risk of fire (Note 3).

Audit review

1.5 The fire safety standards in many old (i.e. pre-1987) buildings in Hong Kong are unsatisfactory. Audit Commission (Audit) has recently conducted a review to examine the FSD's and BD's efforts in enforcing the various fire safety upgrading ordinances. The audit has focused on the following areas:

- (a) fire safety upgrading ordinances enacted from 1997 to 2003 (see PART 2);
- (b) prescribed commercial premises (see PART 3);
- (c) specified commercial buildings (see PART 4);
- (d) FSD's and BD's enforcement procedures (see PART 5); and
- (e) pre-1987 composite buildings and pre-1987 domestic buildings (see PART 6).

Acknowledgement

1.6 Audit would like to acknowledge with gratitude the full cooperation of the staff of the FSD and BD during the course of the audit review.

Note 3: *The various ordinances have provisions on the requirement for the various types of buildings specified to comply with the COP for Minimum FSIs 1994, the COP for Means of Access for firefighting and rescue 1995, the COP for the provision of Means of Escape in case of fire 1996, and the COP for Fire Resisting Construction 1996.*

PART 2: FIRE SAFETY UPGRADING ORDINANCES ENACTED FROM 1997 TO 2003

2.1 This PART provides an overview of the fire safety upgrading ordinances that have been enacted during 1997-2003.

Enactment of various fire safety upgrading ordinances

2.2 For protecting people working or living in specified buildings from the risk of fire, the fire safety upgrading ordinances enacted during 1997-2003 to upgrade the fire safety standards of buildings include:

- the Fire Safety (Commercial Premises) Ordinance (FS(CP)O, Cap. 502), which came into operation in May 1997;
- the FS(CP) (Amendment) Ordinance 1998, which came into operation in June 1998;
- the Fire Safety (Buildings) Ordinance (FS(B)O, Cap. 572) of July 2002 (not yet in operation); and
- the Karaoke Establishments Ordinance (KE Ordinance, Cap. 573), which came into operation in January 2003.

The Fire Safety (Commercial Premises) Ordinance of May 1997

2.3 In January 1994, following a tragic fire which occurred at the Shek Kip Mei branch of a bank (Note 4), the Government introduced legislative measures to improve fire safety in certain types of commercial premises. In May 1997, the FS(CP)O was brought into operation.

2.4 The gist of the FS(CP)O was to require owners and occupiers of certain kinds of commercial premises, termed as “*Prescribed Commercial Premises*” (PCP), to upgrade the fire safety standards, as far as possible, to present-day standards. PCP refer to commercial premises with a total floor area exceeding 230 square metres and in which businesses, which include banks, off-course betting centres, jewellery or goldsmith shops,

Note 4: *The fire at the Shek Kip Mei branch of a bank killed 12 people and injured one person.*

supermarkets, departmental stores and shopping arcades, are being carried out. Because of the higher fire risk due to the greater number of people normally present, PCP were required to upgrade the fire safety standards.

The Fire Safety (Commercial Premises) (Amendment) Ordinance 1998

2.5 In 1996, a disastrous fire occurred at Garley Building (Note 5). Consequently, the Government and the public considered that the coverage of the FS(CP)O should be extended to cover **all** old commercial buildings irrespective of their size and use. In June 1998, the FS(CP) (Amendment) Ordinance 1998 was brought into operation.

2.6 The gist of the FS(CP) (Amendment) Ordinance 1998 was to require owners and occupiers of pre-1987 commercial buildings, termed as “*Specified Commercial Buildings*” (SCBs), to upgrade the fire safety measures, as far as possible, to present-day standards. In enforcing the requirements specified in the Ordinance, the first priority was to deal with the some 400 commercial buildings built before March 1973. As from October 2001, the application of the Ordinance was extended to cover commercial buildings built before March 1987.

The Fire Safety (Buildings) Ordinance of July 2002

2.7 In early 1998, two tragic fires at two composite buildings (mixed commercial and domestic uses) (Note 6) triggered public concern on fire safety measures in such buildings, following which the FSD instigated the territory-wide building survey (see para. 1.4). It was found that the fire safety conditions in only 11% of composite buildings were satisfactory. In the same year, the BD also conducted a sample survey of 1,200 buildings. Its result indicated that 80% of the composite buildings had serious deficiencies in their exit routes.

2.8 In July 2002, because of the very unsatisfactory fire safety conditions found in composite buildings by the FSD and BD, and in view of the high fire load and heavy traffic of people in the non-domestic (i.e. primarily commercial) parts of composite buildings, the FS(B)O was enacted. Under the FS(B)O, owners and occupiers of pre-1987 composite

Note 5: *The fire that broke out in Garley Building, Nathan Road in 1996 raged for 21 hours, claiming 40 lives and injuring 81 people.*

Note 6: *In January 1998, a serious fire occurred at a composite building in Tin Hau in which two persons were killed and 57 others injured. Another serious fire occurred in Kwun Tong.*

buildings and pre-1987 domestic buildings were required to upgrade FSIs and the fire safety construction in their buildings to meet the present-day standards. As at July 2004, although the FS(B)O had already been enacted for two years, for the reasons given in paragraphs 6.6 and 6.7, the legislation had not yet been put into operation.

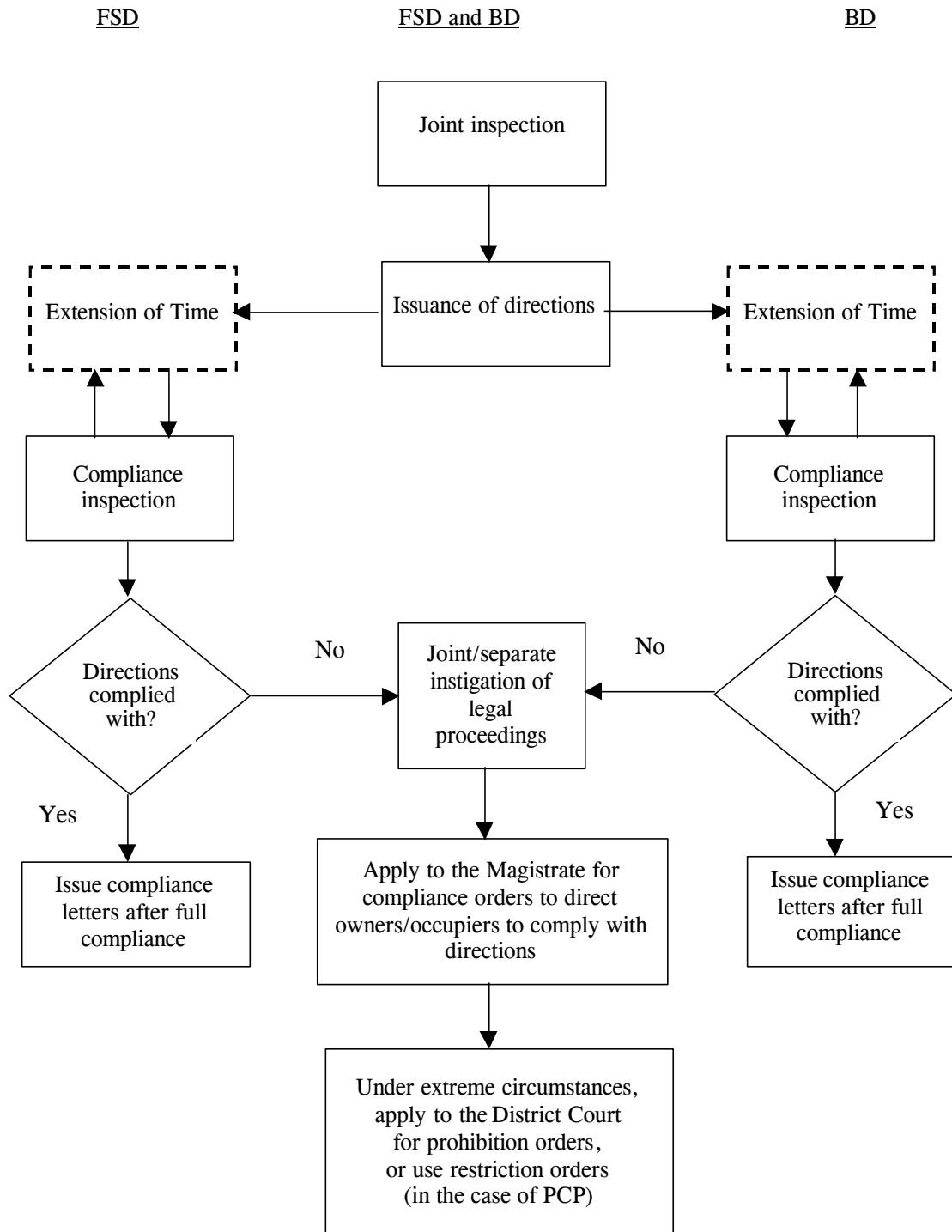
The Karaoke Establishments Ordinance of January 2003

2.9 In January 1997, a serious fire occurred at a karaoke establishment and 17 people were killed. In January 2003, the KE Ordinance was put into operation. As operators of karaoke establishments that were in operation before the commencement of the Ordinance were allowed a transitional period of 12 months to apply for a permit or licence under the KE Ordinance, and as many of them were still upgrading their fire safety requirements, it is too early to review the implementation of the KE Ordinance. Hence, implementation of the KE Ordinance was excluded from this audit review.

Enforcement mechanism and procedures

2.10 Figure 1 shows the procedures of enforcement actions under both the FS(CP)O and the FS(B)O.

Figure 1
Enforcement procedures under the FS(CP)O and the FS(B)O



Legend: Extension of Time Owners/occupiers may apply for an extension of time to comply with the directions.

Source: FSD and BD records

Prescribed Commercial Premises and Specified Commercial Buildings

2.11 Under the FS(CP)O, the FSD and BD are empowered to issue directions (Note 7) to require owners and occupiers to improve the fire safety measures of their buildings to meet the required standards. The direction specifies a reasonable period of time, normally six months to one year (i.e. the initial compliance period), within which the direction must be complied with.

2.12 The FSD and BD may approve an extension of compliance time (EoT) if the owners or occupiers have reasonable grounds for failure to comply with the directions within the initial compliance periods allowed.

2.13 If, without a reasonable excuse, a direction has not been complied with, the FSD/BD may initiate legal proceedings. The FSD/BD may apply to a magistrate for a fire safety compliance order (compliance order). If an owner or occupier fails to comply with a compliance order, the FSD/BD will carefully consider all the circumstances of the case and, under extreme circumstances, may apply to the District Court for a prohibition order (or a use restriction order, in the case of PCP) prohibiting the occupation of the relevant building or part of it if necessary.

2.14 The issue of use restriction orders will have the effect of prohibiting the PCP from being used for the prescribed commercial activity. Similarly, the issue of prohibition orders against SCBs will have the effect of prohibiting the occupation of the commercial building.

Composite buildings

2.15 Under the FS(B)O, the enforcement actions generally follow the same procedures as those under the FS(CP)O.

Flexible and pragmatic approach adopted by the enforcement authorities

2.16 The additional fire safety requirements introduced under the new legislations mentioned in paragraph 2.2 cover the basic and essential elements stipulated in the present-day COPs. Owing to the old design of some of the buildings, there might be genuine and practical difficulties to comply with the statutory fire safety measures. In this

Note 7: *Directions in this Report refer to fire safety directions in the case of PCP, and fire safety improvement directions in the case of SCBs.*

regard, LegCo Members had raised concern and emphasised the need for more flexibility and reasonable discretion in actual enforcement. The Administration noted the concern and had assured the LegCo that the FSD and BD would adopt a flexible and pragmatic approach in their enforcement actions.

Phased implementation of the fire safety upgrading ordinances

2.17 For pragmatic reasons, the FS(CP)O and FS(B)O were planned to be implemented in stages, as noted below:

- (a) **PCP.** The FS(CP)O was planned to be implemented on PCP in four phases, according to the age of the buildings where the PCP were sited (see Table 2 in para. 3.3). As the number of PCP in each phase would change over time, the implementation plan was not included in the legislation. However, the Administration undertook to publicise the implementation plan and assured the Bills Committee of the LegCo that, on completion of each phase of implementation, the LegCo Panel on Security (Panel) would be consulted before proceeding to the next phase;
- (b) **SCB.** The FS(CP) (Amendment) Ordinance 1998 has provided for a phased implementation programme. Phase 1 started in June 1998. Implementation of Phase 2 with effect from October 2001 was ordered by the Secretary for Security in May 2001. LegCo Members were advised that, to maintain the momentum, the FSD and BD would roll forward to implementation of Phase 2; and
- (c) **Pre-1987 composite buildings and pre-1987 domestic buildings.** In a LegCo Brief of January 2001, the Administration stated that the FS(B)O would be implemented in two phases over 10 years for old composite buildings. In the first six years, the Government would deal with about 5,000 pre-1973 composite buildings. In the remaining four years, the Government would deal with about 4,000 buildings built between 1973 and 1987. Upon completion of the improvement programme for composite buildings, the Government may deal with about 3,000 pre-1987 domestic buildings (higher than three storeys), with priority given to the pre-1973 buildings.

Audit observations

Prescribed Commercial Premises

2.18 Upon completion of Phase 1 of the PCP improvement programme in December 2000, the Administration did not consult the Panel as promised before proceeding to Phase 2 (see para. 2.17(a)). As at July 2004, Phase 2 of the improvement

programme was being implemented. **Audit considers that the Security Bureau should report the progress of implementation and consult the Panel before proceeding to Phase 3 of the PCP improvement programme.**

Specified Commercial Buildings

2.19 The Security Bureau stated in the LegCo Brief of May 2001 that the implementation of Phase 1 of the improvement programme was satisfactory and that *“more than 96% of the owners had responded positively to the fire safety directions by the time of expiry”*. Based on the FSD’s and BD’s records, Audit noted that the figure of 96% was calculated using the method as shown in Table 1 below.

Table 1

**Implementation of Phase 1 of the SCB improvement programme
(as at end of April 2001 —Note)**

Stages of enforcement	FSD (a)	BD (b)	Total (a) + (b) = (c)	Remarks
(i) No. of directions issued	11,148	3,481	14,629	
(ii) No. of directions complied with	1,830	170	2,000	} 14% of 14,629 directions
(iii) No. of directions prosecuted	74	8	82	
(iv) No. of compliance orders issued by court	27	6	33	
(v) Percentage of owners who had responded positively to the directions was calculated as follows:				

$$\begin{aligned}
 & \frac{\text{No. of directions complied with (item (ii))}}{[\text{No. of directions complied with (item (ii))} + \text{No. of directions prosecuted (item (iii))]} \times 100\% \\
 & = \{2,000 / (2,000 + 82)\} \times 100\% \\
 & = \mathbf{96\%}
 \end{aligned}$$

Source: FSD and BD records

Note: Up to end of April 2001, the FS(CP)(Amendment)Ordinance 1998 had been implemented for nearly three years.

2.20 According to Table 1, as at end of April 2001, **96%** of the directions had been complied with without resorting to prosecution. **Audit considers that the statement “more than 96% of the owners had responded positively to the fire safety directions by the time of their expiry” does not reflect the full picture.** This is because, as at end of April 2001, there were still 12,629 (i.e. 14,629 less 2,000 — see item (i) and item (ii) in Table 1) directions issued, the status of which had not been taken into account. It would appear that, as at April 2001, the compliance rate was only 14% (i.e. 2,000 directions complied with, out of 14,629 directions issued). As at March 2004, in the case of the FSD (Note 8), the rate was only 23% (see para. 4.13). **Audit considers that the Administration needs to report to the LegCo a clearer picture of the progress of the SCB improvement programme.**

Audit recommendations

2.21 **Audit has recommended that the Secretary for Security should:**

- (a) **consult the Panel before proceeding to Phase 3 of the PCP improvement programme; and**
- (b) **report to the LegCo a clearer picture of the progress of the SCB improvement programme.**

2.22 **As the PCP and SCB improvement programmes have been implemented for over six years, it is also opportune to review the effectiveness of the programmes. Audit has recommended that the Director of Fire Services and the Director of Buildings should:**

- (a) **conduct a review of the PCP and SCB improvement programmes; and**
- (b) **on the basis of the results of the review, identify areas for improvement in the implementation of the two programmes and for future reference in the implementation of the FS(B)O on pre-1987 composite buildings and pre-1987 domestic buildings.**

Note 8: *No similar compliance rate was compiled by the BD (see para. 4.14).*

Response from the Administration

2.23 The **Secretary for Security** has said that:

- (a) he would wish to point out the difficulties and Herculean effort required to modernise the fire safety standards and installations of old (pre-1987), private, multi-owner/occupier buildings built to plans and fire safety standards of decades ago. Effort is required not only on the part of the FSD and the BD, but also on the part of the private owners and occupiers. In this connection, the costs of upgrading works, against the backdrop of severe economic downturn and property price drop in the last few years, were significant;
- (b) when introducing the relevant legislation for the upgrading of the fire safety standards of these buildings, the Administration and LegCo were well aware of the difficulties of enforcement. That was why the programme was carefully designed for meting out in many different phases, with emphasis given to the adoption of a flexible and pragmatic approach in enforcement as agreed with LegCo (see paras. 2.16 and 2.17);
- (c) he would like to thank Audit for pointing out that the Security Bureau had overlooked reporting to LegCo upon completion of Phase 1 of the PCP programme before starting Phase 2 (see para. 2.18). The offer to report was made in 1996 at one of the Bills Committee meetings, but was not picked up by the list of outstanding issues for follow-up in the Panel. The Security Bureau will consult the Chairman of the Panel in due course to see if he wishes the Bureau to report progress to the Panel before proceeding to Phase 3 of the upgrading programme in respect of the PCP; and
- (d) regarding the SCB programme, he agrees that when reporting to LegCo, the Security Bureau should include more information to give a fuller picture. The 96% compliance figure reported to LegCo was accurate as this was the percentage of “owners who had responded positively to the fire safety directions by the time of expiry”. In calculating this figure, the Security Bureau could not cover the other 12,629 directions issued because the statutory compliance period in respect of these directions had not yet expired (see para. 2.24(a)). Whether the directions would be complied with was as yet unknown as at the cut-off point of end April 2001.

2.24 The **Director of Fire Services** has said that in general, he considers the audit recommendations very reasonable and appropriate. In addition, he has said that:

- (a) as at April 2001, about one-third of the 14,629 directions issued were still within the one-year initial compliance period, whereas the other two-thirds had been

granted with EoT. Of the directions that had reached expiry as at end April 2001 (i.e. items (ii) and (iii) in Table 1), 96% had achieved full compliance. He considers the calculation method appropriate to reflect the compliance position; and

- (b) regarding the audit recommendations in paragraph 2.22, the FSD has been reviewing the implementation of the PCP and SCB improvement programmes from time to time at both working and management level. Nevertheless, the FSD will conduct a comprehensive review so as to identify areas for further enhancement.

2.25 The **Director of Buildings** has said that he welcomes the audit observations in the review report and the recommendations made on ways for improvement. He has also said that:

- (a) the BD is committed to enhancing public safety by upgrading fire safety standards together with the FSD; and
- (b) the BD will conduct a review of the PCP and SCB improvement programmes and identify areas for improvement and for reference in the implementation of the FS(B)O on pre-1987 composite buildings and pre-1987 domestic buildings.

PART 3: PRESCRIBED COMMERCIAL PREMISES

3.1 This PART examines the FSD's and BD's progress in upgrading the fire safety standards of PCP to present-day standards.

Additional fire safety measures required for prescribed commercial premises

3.2 Under the FS(CP)O, owners/occupiers of PCP are required to provide additional FSIs and meet additional fire safety construction requirements as stipulated in Schedules 2 and 3 of the Ordinance. The requirements include:

Additional FSIs

- an automatic sprinkler system;
- an automatic cut-off device for a mechanical ventilating system;
- an emergency lighting system;
- manual fire alarm;
- portable fire extinguishers if the premises are not equipped with a hose reel system; and
- the requirements specified in the COP for Minimum FSIs 1994.

Additional fire safety construction requirements

- the provision of adequate means of escape from the premises or building in the event of fire (e.g. when more than 30 people are normally present in the PCP, there must be two exits and doors must be open in the direction of exit);
- the provision of adequate means of access for fire fighting and rescue; and
- the provision of measures (such as fire resisting doors) to inhibit the spread of fire and to ensure the integrity of the structure.

Implementation of the improvement programme for prescribed commercial premises

3.3 As at May 2004, the FSD and BD deployed 13 and 14 staff respectively to work on the PCP improvement programme. The FSD and BD had prioritised their enforcement action according to the level of risks. The Government's publicised implementation plan was as follows:

Table 2
Plan for the implementation of the FS(CP)O on PCP
(Implementation date: 2 May 1997)

	Period	Scope
Phase 1	First 3 years	PCP in buildings without sprinkler systems (mostly built before 1973)
Phase 2	Subsequent 4 years	PCP in buildings with occupation permits (OPs) issued before 1980
Phase 3	Subsequent 4 years	PCP in buildings with OPs issued between 1980 and 1990
Final phase	(Not yet specified)	PCP in buildings with OPs issued after 1990

Source: FSD and BD records

3.4 By stocktaking through scouting, the FSD and BD estimated that there were 500 PCP and 1,000 PCP under Phase 1 and Phase 2 respectively. At the rate of inspecting 190 PCP a year (Note 9), they would complete inspecting PCP under Phases 1 and 2 in eight years' time. Up to June 2004, seven years after the FS(CP)O was operational, the FSD and BD had inspected 1,300 PCP. By and large, the schedule of implementation has been met.

Note 9: *Whilst the FSD and BD had set a target of inspecting 150 PCP a year in the COR (see Table 3), starting from 2002, they planned to complete inspecting 190 PCP a year.*

3.5 The FSD and BD conducted initial PCP inspections jointly. The FSD issued directions to both owners and occupiers, whereas the BD issued directions to owners only (Note 10). As a result, the number of directions issued by the FSD was much higher than that issued by the BD. Up to March 2004, the FSD had issued some 6,000 directions whereas the BD had issued some 1,200 directions.

Progress of FSD's and BD's inspection of prescribed commercial premises

3.6 In the Controlling Officer's Reports (CORs), since 1999, both the FSD and BD have set targets of inspecting 150 PCP each year (see also Note 9), and have estimated that directions would be issued to 120 PCP a year. The actual performance for the past five years was as follows:

Table 3

FSD's and BD's progress of inspecting PCP and issuing directions

Performance measure	Target/ Indicator (since 1999)	Actual performance				
		1999	2000	2001	2002	2003
No. of PCP inspected for improvement of fire safety measures	150	152	180	205	191	190
No. of PCP issued with directions	120	134 (FSD) 151 (BD)	121	121	120	120

Source: CORs

Note 10: *For most PCP, there is usually only one owner and one occupier, but in the case of shopping arcades, there may be many owners and occupiers.*

Audit observations and recommendations

3.7 Audit noted that, in the CORs, the actual number of PCP which had their fire safety upgrading works completed (i.e. the number of PCP which had complied with all directions) was not mentioned.

3.8 Reporting of the PCP compliance position would indicate the extent to which the fire safety upgrading works had been completed. It would provide stakeholders (e.g. LegCo Members and the public) with a clearer picture of the degree to which the fire risk has been reduced.

3.9 As the FSD and BD do not report any performance targets/indicators on the compliance position of PCP and directions in the CORs, they have not collected the appropriate compliance information to facilitate data analysis and evaluation.

3.10 **Audit has recommended that the Director of Fire Services and the Director of Buildings should report the compliance position of PCP in the CORs. In order to do so, the FSD and BD need to ascertain their compliance information requirements and collect and analyse the information.**

Response from the Administration

3.11 The **Director of Fire Services** has said that:

- (a) the FSD will consider the inclusion of figures of compliance with directions as one of the indicators in the COR and will explore ways to better reflect the compliance position of PCP and directions; and
- (b) the FSD has set out targets on the number of inspections and directions to be issued for PCP in the COR, and has collected information on the compliance position of PCP and directions.

3.12 The **Director of Buildings** welcomes the audit recommendations and will study them carefully so that the BD may achieve the targets in a cost-effective manner. He has said that monitoring compliance information and record management are important. Compliance information was kept in standalone computers and is now being collected in the BD's central computer information system for existing buildings (i.e. the Building Condition Information System). He agrees to report the information in the COR.

Audit's calculation of compliance rates

Fire Services Department

3.13 Based on the FSD's monthly operational reports, Audit calculated that as at 31 March 2004 (counting from the operation of the FS(CP)O):

- **330 of 789 PCP** had complied with all directions, representing a cumulative compliance rate of 42%; and
- **2,730 of 5,843 directions** had been complied with, representing a cumulative compliance rate of 47%.

3.14 However, Audit noted that the FSD had incorrectly classified in the monthly operational reports, as non-compliant cases, those PCP for which directions had been withdrawn (Note 11). Furthermore, Audit noted that the FSD had compiled its monthly operational reports based on manual records as kept by individual officers.

Buildings Department

3.15 The BD had not reported to its management any compliance rates either for PCP or for directions. Audit attempted to calculate the BD's compliance rates but could not do so readily because the BD's database did not contain enough information for analysis, particularly for PCP in pre-1973 buildings. For example, the compliance and withdrawal details for directions issued were only recorded as textual data in a "Remarks" field of the BD's database, which does not facilitate analysis.

Audit recommendations

3.16 **Audit has recommended that the Director of Fire Services and the Director of Buildings should:**

- (a) **improve their PCP records to facilitate the regular compilation of useful management information;**

Note 11: *The FSD/BD may withdraw a direction that has been issued. A direction can be withdrawn when the premises should no longer be classified as PCP due to reasons such as cessation of the prescribed commercial activities and reduction of the floor area occupied by the prescribed commercial activities to a size less than the minimum standard for PCP (i.e. 230 square metres).*

- (b) **develop methodologies to better reflect the compliance position of PCP and directions; and**
- (c) **require FSD/BD officers to report the compliance positions for management's information.**

Response from the Administration

3.17 The **Director of Fire Services** agrees with the audit recommendations. He has said that the FSD has in place an appropriate mechanism to monitor the compliance position of PCP and directions. The FSD has taken the initiative to set up an administrative computer system to improve the PCP records. The Commerce, Industry and Technology Bureau (CITB) has approved funding for the setting up of an administrative computer system in the Commercial Buildings and Premises (CBP) Division of the FSD. The system will serve as a central database to facilitate the compilation of management information of PCP records, including their compliance position. The FSD would expedite the database conversion exercise after the commissioning of the administrative computer system.

3.18 The **Director of Buildings** has said that he agrees that monitoring compliance information and record management are important. He welcomes the audit recommendations and will study them carefully so that the BD may achieve the targets in a cost-effective manner.

PART 4: SPECIFIED COMMERCIAL BUILDINGS

4.1 This PART examines the FSD's and BD's progress in upgrading the fire safety standards of SCBs to present-day standards.

Additional fire safety measures required for a specified commercial building

4.2 Under the FS(CP)O, owners/occupiers of SCBs are required to provide additional FSIs and meet more stringent fire safety construction requirements as stipulated in Schedules 5 and 6 of the Ordinance. The requirements include:

Additional FSIs

- an automatic sprinkler system;
- an automatic cut-off device for a mechanical ventilating system;
- a fire hydrant/hose reel system;
- emergency lighting within the common area of the building and within each separately occupied area;
- a manual fire alarm system; and
- the requirements specified in the COP for Minimum FSIs 1994.

More stringent fire safety construction requirements

- width, number and arrangement of exit routes;
- fire and smoke protection to exit routes;
- provision of fireman's lift and fire and smoke protection thereto;
- fire resisting separation between units; and
- provisions for means of escape from and prevention of smoke logging in basements.

Implementation of the improvement programme for specified commercial buildings

4.3 Phase 1 of the improvement programme for SCBs started in June 1998. In the LegCo Brief of January 1998 (when the Amendment Bill to the FS(CP)O was introduced to the LegCo), the Administration informed LegCo Members that the Government would, in the first phase, deal with an estimated 400 pre-1973 commercial buildings and would aim to complete the first phase in three years after the commencement date of the legislation.

4.4 In another LegCo Brief of May 2001, the Administration informed the LegCo that the three-year completion target of the Phase 1 was to be extended to September 2001, due to the fact that an additional 155 pre-1973 commercial buildings had been identified. The LegCo was also informed via the same Brief that the Secretary for Security had made an order, to be effective in October 2001, to extend the SCB improvement programme to Phase 2 to cover 1973 to 1987 commercial buildings.

4.5 At the rate of inspecting 140 SCBs a year (see para. 4.8), and with an estimate of 1,500 pre-1987 SCBs, the FSD and BD planned to complete inspecting these SCBs in 11 years' time. Up to June 2004, after the FS(CP) (Amendment) Ordinance 1998 had been in operation for six years, the FSD and BD had inspected 1,000 SCBs. By and large, the inspection schedule had been met. As at June 2004, the FSD and BD deployed 45 and 27 staff respectively to work on the SCB improvement programme.

4.6 The FSD and BD normally conducted initial SCB inspections jointly. Similar to PCP (see para. 3.5), the FSD issued directions, if necessary, to both owners and occupiers (Note 12) whereas the BD issued directions to owners only. Up to March 2004, the FSD and BD had issued 32,000 and 11,500 directions respectively.

Audit observations

4.7 From an examination of the FSD's and BD's progress in upgrading the fire safety standards of SCBs to present-day standards, Audit noted the following:

- (a) there was no reporting of the compliance information for SCBs in the COR (see paras. 4.8 to 4.12); and
- (b) the compliance rates for SCBs were low (see paras. 4.13 to 4.23).

Note 12: *Occupiers are generally responsible for upgrading those relatively simple FSI systems that do not involve structural changes, such as an emergency lighting system and an automatic cut-off device for a mechanical ventilating system.*

Progress of FSD's and BD's inspection of specified commercial buildings

4.8 In the CORs, both the FSD and BD have set, since 1999, targets of inspecting 140 SCBs a year (Note 13), and have estimated that directions would be issued to 140 SCBs a year. The actual performance for the past five years was as follows:

Table 4

FSD's and BD's progress of inspecting SCBs and issuing directions

Performance measure	Target/ Indicator (since 1999)	Actual performance				
		1999	2000	2001	2002	2003
No. of SCBs inspected for improvement of fire safety measures	140	194	160	148	152	169
No. of SCBs issued with directions	140	142	144	142 (FSD) 141 (BD)	141	142 (FSD) 140 (BD)

Source: CORs

Audit observations and recommendations

4.9 Similar to PCP (see para. 3.7), Audit noted that, in the CORs, the actual number of SCBs which had complied with all directions issued (hereinafter referred to as the "complied SCBs") was not mentioned.

4.10 In order to provide stakeholders with a clearer picture of the degree to which the fire risk has been reduced, Audit has *recommended* that the Director of Fire

Note 13: Whilst the BD had set a target of inspecting 140 SCBs a year in the COR (see Table 4), it planned to complete inspecting 150 SCBs in 2004.

Services and the Director of Buildings should report the compliance positions in respect of SCBs in the CORs. In order to do so, the FSD and BD need to ascertain their compliance information requirements and collect and analyse the information.

Response from the Administration

4.11 The **Director of Fire Services** has said that the FSD will consider the inclusion of figures of compliance with directions as one of the indicators in the COR. He has also said that the administrative computer system approved by the CITB (see para. 3.17) will serve as a central database to facilitate the compilation of management information of SCB records, including their compliance position.

4.12 The **Director of Buildings** has said that he welcomes the audit recommendations and will study them carefully so that the BD may achieve the targets in a cost-effective manner. He has said that monitoring compliance information and record management are important. Compliance information was kept in standalone computers and is now being collected in the BD's central computer information system for existing building (i.e. the Building Condition Information System). He agrees to report the information in the COR.

Compliance rates for directions issued for specified commercial buildings inspected

Fire Services Department

4.13 The FSD reported in its monthly operational reports a cumulative compliance rate for directions issued (hereinafter referred to as the "*complied directions*" —Note 14). As at 31 March 2004, the FSD reported a cumulative compliance rate of **23%** for directions issued. However, the FSD did not compile and report any cumulative compliance rate for SCBs.

Buildings Department

4.14 Although the BD had reported its performance on SCBs (such as the number of SCBs inspected and the number of directions issued) in its monthly operational reports, it

Note 14: *The FSD has compiled the cumulative compliance rates for directions issued, since the commencement of operation of the FS(CP)O, using this formula:*

$$\frac{\text{Number of complied directions}}{\text{Number of directions issued}} \times 100\%$$

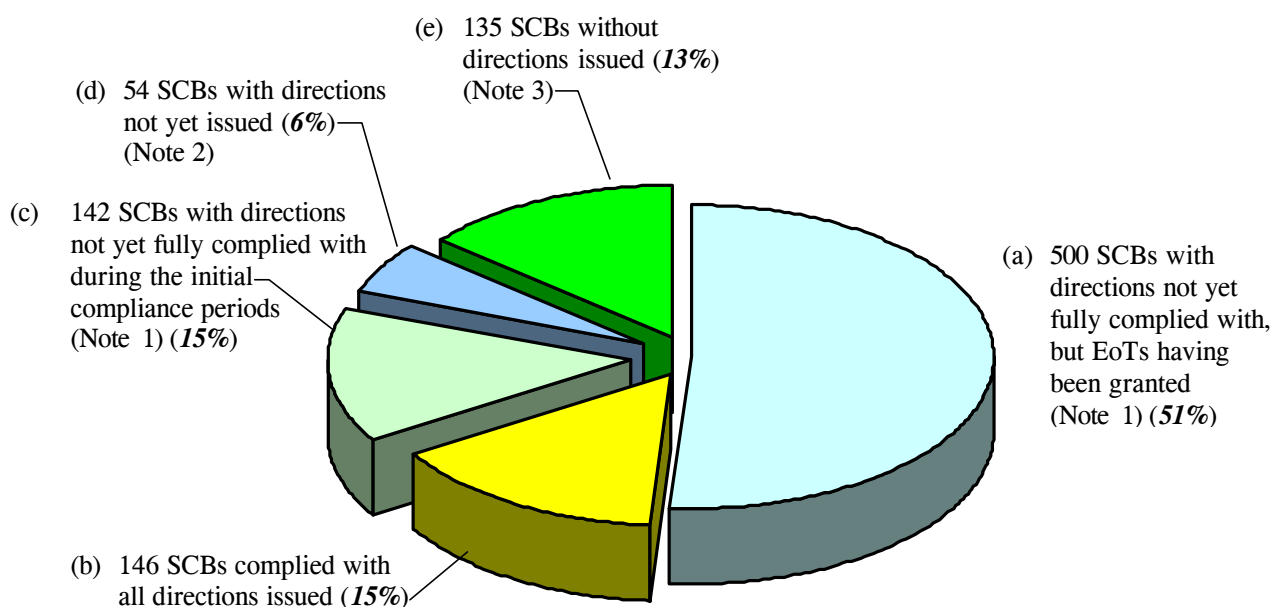
did not compile and report any cumulative compliance rates for SCBs and for directions issued.

**Audit's calculation of compliance rates
for specified commercial buildings**

4.15 To evaluate the extent to which SCBs have improved their fire safety standards and are better protected from fire hazards, it is considered more meaningful to measure the progress in terms of the number of SCBs that have complied with all directions. In this connection, Audit attempted to analyse the FSD's and BD's enforcement results on the basis of SCBs. Audit's analyses of the compliance position up to end March 2004 for 977 SCBs inspected by the FSD and the BD are shown in Figures 2 and 3 respectively.

Figure 2

**Analysis of compliance position for 977 SCBs inspected by FSD
(as at 31 March 2004)**



Source: FSD records

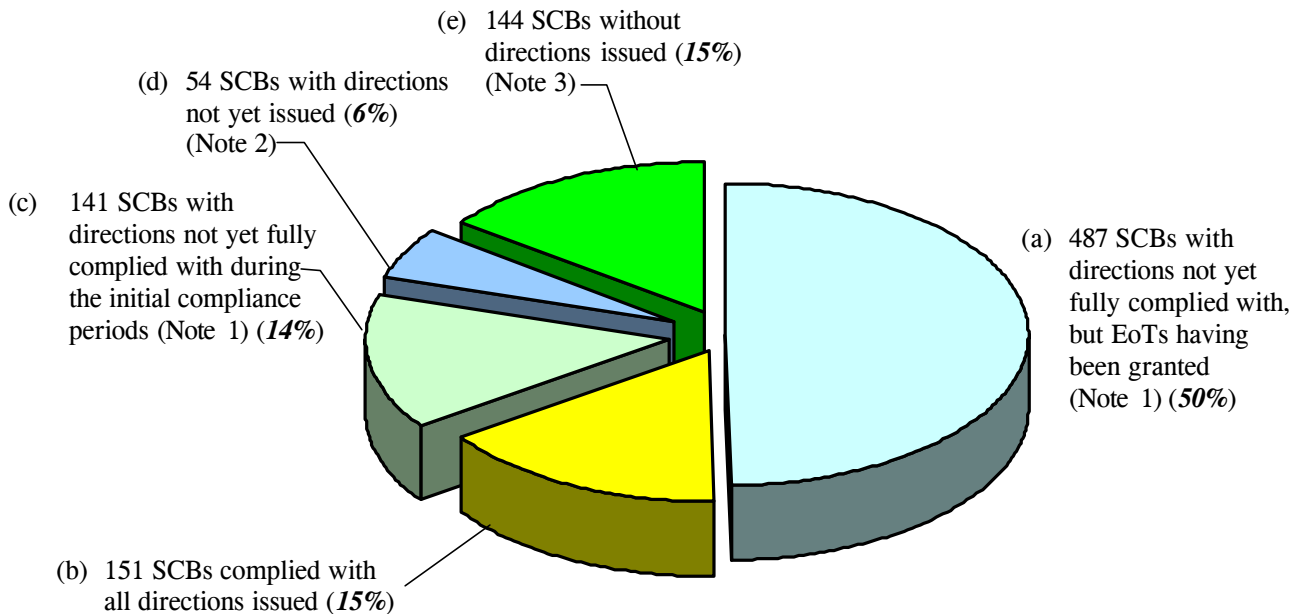
Note 1: The initial compliance periods refer to the periods of time originally allowed in the directions for compliance. The periods may be extended by the FSD through the granting of EoTs (see paras. 2.11 and 2.12). Of 642 SCBs with directions not yet fully complied with (i.e. (a) plus (c)), 160 were related to SCBs with domestic occupancy which might require the issue of new directions with appropriate requirements (see para. 5.26).

Note 2: These refer to SCBs which were inspected within the six months before March 2004. Directions for these SCBs had not yet been issued. (FSD and BD would normally issue directions within six months after joint inspections.)

Note 3: These refer to SCBs which were inspected more than six months before March 2004 and for which no directions had been issued. FSD's and BD's joint inspections indicated that the majority of the SCBs under this category were composite buildings, were going to be demolished or had been vacated.

Figure 3

**Analysis of compliance position for 977 SCBs inspected by BD
(as at 31 March 2004)**



Source: BD records

Note 1: The initial compliance periods refer to the periods of time originally allowed in the directions for compliance. The periods may be extended by the BD through the granting of EoTs (see paras. 2.11 and 2.12).

Note 2: These refer to SCBs which were inspected within the six months before March 2004. Directions for these SCBs had not yet been issued. (FSD and BD would normally issue directions within six months after joint inspections.)

Note 3: These refer to SCBs which were inspected more than six months before March 2004 and for which no directions had been issued. FSD's and BD's joint inspections indicated that the majority of the SCBs under this category were composite buildings, were going to be demolished or had been vacated.

Low compliance rates of specified commercial buildings

4.16 Figures 2 and 3 show that as at 31 March 2004, six years after the FS(CP) (Amendment) Ordinance 1998 had become operational, only **23.2%** (Note 15) of the SCBs inspected and issued with directions had complied with the upgraded fire safety requirements. The result was less than satisfactory, indicating the slow progress on the part of many SCBs in complying with the upgrading requirements.

4.17 One reason for the low compliance rate for SCBs was the lengthy time required for completing the improvement works required under the directions (see paras. 5.6 to 5.10). Audit's ageing analysis of complied SCBs also shows that, on average, it has taken **2.7 years** for the directions on these SCBs to be complied with, counting from the dates of issue of the directions (details at Appendix A). In a few cases, it had taken some **five years** to achieve compliance.

4.18 In August 2004, BD officers advised Audit that, taking into consideration those cases in which the fire risk level had been lowered by alternative measures and the relevant directions which had been subsequently withdrawn, the compliance rate for the BD's directions for 2003 was 38% (Note 16).

4.19 Due to the low compliance rates for SCBs and directions, the number of non-compliant SCB cases that need to be dealt with has increased over the years. In addition, the FSD and BD have to inspect 140 SCBs a year as stated in the CORs (see para. 4.8). These have resulted in the accumulation of a heavy workload for the CBP Division of the FSD and the Fire Safety Section of the BD.

Note 15: *The compliance rate of 23.2% is calculated using the following formula:*

$$\frac{\text{"Complied SCBs" (i.e. item (b) in Figure 2 or Figure 3)}}{\text{"SCBs with directions not yet fully complied with but EoTs having been granted" plus "Complied SCBs" (i.e. items (a) + (b) in Figure 2 or Figure 3)}^*} \times 100\%$$

$$\left. \begin{array}{l} \text{FSD: } \{146 / (500 + 146)\} \times 100\% = 22.6\% \\ \text{BD: } \{151 / (487 + 151)\} \times 100\% = 23.7\% \end{array} \right\} \text{average } 23.2\%$$

* *In the calculations, SCBs with directions which were still within the initial compliance periods have been excluded.*

Note 16: *The compliance rate of 38% for the BD's directions for 2003 was calculated as follows:*

$$\frac{969 \text{ directions complied with} + 382 \text{ directions withdrawn}}{3,537 \text{ directions issued}} \times 100\%$$

Audit observations and recommendations

4.20 In order to upgrade the fire safety standards of pre-1987 commercial buildings as early as possible, Audit considers that additional measures have to be explored to improve the SCB compliance rates. This could also reduce the FSD's and BD's workload on following up the non-compliant cases.

4.21 **Audit has recommended that the Director of Fire Services and the Director of Buildings should explore ways to improve the SCB compliance rates (see also paras. 5.29 to 5.31).**

Response from the Administration

4.22 The **Director of Fire Services** has said that he agrees with the audit recommendations. He has also said that:

- (a) the FSD has adopted a flexible and pragmatic approach in implementing the SCB programme. Granting of EoTs would be considered when the FSD and the BD are satisfied with the actions taken by the owners/occupiers;
- (b) despite the fact that prosecution action against owners/occupiers who fail to comply with directions may achieve a better compliance rate, such action is considered not in line with the FSD's pragmatic approach endorsed by the LegCo, which takes into account the genuine difficulties of the owners/occupiers. It should be noted that the amendments to the Building Management Ordinance (BMO, Cap. 344) have not yet come into operation; and
- (c) pre-1973 SCBs would have greater difficulties in complying with directions because most of these buildings do not have sprinkler systems. However, in implementing the Phase 2 improvement programme, non-provision of sprinkler system will be uncommon. Hence a better compliance position will be expected.

4.23 The **Director of Buildings** has said that:

- (a) the BD will explore ways to improve compliance, with due consideration given to the difficulties encountered by parties concerned to comply with the directions issued as identified by Audit, and expedite enforcement action; and
- (b) regarding the less than satisfactory result mentioned in paragraph 4.16, the difficulties encountered by parties concerned to comply with the directions issued include the high cost of upgrading works, difficulties in coordinating owners/occupiers, frequent changes of occupiers, spatial/structural constraints and the long process of actual upgrading works. As a result, more time is often needed for the owners to comply with the directions.

PART 5: FSD's AND BD's ENFORCEMENT PROCEDURES

5.1 This PART suggests areas of improvement in the FSD's and BD's enforcement procedures for improving the fire safety standards of PCP and SCBs.

Difficulties encountered by owners in complying with directions

5.2 *FSD's survey.* In 2003, the FSD conducted a work study of its business processes for improving the fire safety standards of PCP and SCBs. As part of the study, the FSD conducted a comprehensive survey (FSD's survey) to identify difficulties encountered by owners, occupiers and contractors in complying with directions and reasons for low compliance as experienced by FSD's frontline staff. The common difficulties and reasons identified are summarised in Table 5.

Table 5

Difficulties encountered in compliance with directions and reasons for low compliance

Difficulties/reasons	Difficulties encountered in compliance with directions by		Reasons for low compliance as identified by FSD's frontline staff
	(i) FSI profession	(ii) Owners and occupiers	
(a) High cost of upgrading works	✓	✓	✓
(b) Difficulties in coordinating owners/occupiers		✓	✓
(c) Frequent changes of occupiers			✓
(d) Spatial/structural constraints	✓		
(e) Long process of actual upgrading works	✓		

Source: FSD survey

5.3 *Audit's case studies.* Audit has also conducted a number of case studies on the FSD's and BD's direction enforcement procedures. Details of four typical case studies (Cases 1 and 2 for PCP, and Cases 3 and 4 for SCBs) are given at Appendices B to E.

Audit observations

5.4 Based on the FSD's survey and Audit's case studies, Audit has identified scope for improvement in the FSD's and BD's enforcement of the FS(CP)O in the following areas:

- (a) timely issue of directions (see para. 5.5);
- (b) lengthy upgrading process and owners' financial constraints in meeting the upgrading costs (see paras. 5.6 to 5.16);
- (c) enhancing the enforcement mechanism to improve compliance (see paras. 5.17 to 5.25); and
- (d) enforcing the upgrading requirements in SCBs with domestic occupancy (see paras. 5.26 to 5.28).

Timely issue of directions

5.5 Directions issued under the FS(CP)O are law enforcement instruments. The issue of a direction marks the beginning of enforcement actions requiring owners/occupiers of PCP/SCBs to carry out the fire safety improvement works within the specified period. Delays in issuing directions have a knock-on effect on all subsequent steps. There were delays in the issue of directions, as shown in Table 6.

Table 6

**Timing of directions issued to 785 inspected SCBs
(as at 31 March 2004)**

Period after joint inspections by FSD and BD	Number	%
< 3 months	233	30
3 months to < 6 months	314	40
6 months to < one year	155	20
≥ 1 year	83	10
Total	785	100

} 30%

Source: FSD and BD records

Table 6 shows, for 30% of the SCBs inspected, the directions were issued six months or more after the FSD's and BD's joint inspections. Similar delays were noted for PCP. *Case 1* (at Appendix B) is a case in point, where the directions were issued eight months after the FSD's and BD's joint inspection. In *Case 2* (at Appendix C), the directions were issued two years and five months after the joint inspection.

Lengthy upgrading process and owners' financial constraints in meeting the upgrading costs

5.6 The FSD's survey and Audit's case studies show that there were many instances where delays had occurred in the upgrading process. For example, much time was required for liaising with different building owners, appointment of Authorised Persons, selection of contractors through tendering and removal of unauthorised structures. Prolonged time was spent in retrofitting standard FSI provision to old commercial premises/buildings, which were often subject to many spatial/structural constraints, rendering it difficult to meet the upgraded requirements and resulting in high upgrading costs. According to the FSD's survey, many respondents considered that the upgrading cost was high because of the poor local economy, and that the cost was not commensurate with the market value of the old premises/buildings.

5.7 *Case 1* is a case in point, where over three years had elapsed but no major upgrading works had been completed. The case was only closed after the bank had moved out of the premises and the premises ceased to be classified as a PCP. In this case, similar to many other cases, the owners were unable to obtain the agreement of other building owners to build a reinforced concrete sprinkler water tank at the roof. Instead, they had to apply for installation of an improvised sprinkler system with water supplied from town mains. The improvement works turned out to be very complex due to the need for the bank to remove the cockloft, asbestos and the safe deposit boxes.

5.8 In *Case 3* (at Appendix D), although the FSD and BD had issued the directions for more than five years and prosecution actions had been taken since 2001, as at June 2004, the improvement works had not yet been completed. FSD advised Audit, as at September 2004, only the installation works for the sprinkler system and fire hydrant/hose reel system had not been started.

5.9 There were cases in which the owners of buildings who had been issued with directions could not understand the upgrading requirements or encountered difficulties in liaising with other owners. *Case 3* is a case in point, where the owner found the upgrading requirements in the directions unclear. This, together with the less than cooperative attitude of the owner, further delayed the progress of the improvement works which, as at June 2004, had not been completed.

5.10 **Audit considers that the lengthy upgrading periods can be shortened if the FSD and BD can more readily offer to the owners/occupiers alternative but still acceptable options of meeting the upgrading requirements, and take a more proactive approach in providing them with advice and support.**

5.11 On Audit's enquiries in August 2004, BD has advised that it is only empowered to require essential and minimum fire safety upgrading works prescribed under the FS(CP)O and is already giving technical advice to owners upon request. Therefore the BD would suggest to owners to appoint professionals to help them explore and advise on the best alternatives according to their own circumstances.

The need to mitigate the owners' financial burden due to the upgrading works

5.12 Based on the FSD's survey, owners' financial difficulties to meet the high upgrading cost were regarded as the major factor leading to the low compliance rates. The high upgrading cost was in turn related to the spatial/structural constraints of the PCP/SCBs.

5.13 The FSD and BD did not have information on the actual cost spent by the owners/occupiers on the upgrading works. However, the FSD and BD had obtained from surveys carried out in earlier years that the average cost for the improvement works would be about \$1.5 million and \$5.2 million, for each PCP and SCB respectively (Note 17). *Case 3* is a case in point, where the FSI works alone for the 6-storey SCB had cost \$0.8 million. In *Case 4* (at Appendix E), the improvement works for the 11-storey SCB had cost \$3.3 million.

5.14 To help owners address their cash flow problems in fulfilling their obligations to upgrade fire safety of their buildings, the Administration introduced in March 1998 a Fire Safety Improvement Loan Scheme (FSILS), with a commitment of \$200 million, under the Director of Fire Services. The objective of the FSILS was to provide financial assistance, in the form of loans, to owners of PCP and SCBs who had been issued with directions to improve the fire safety of their premises or buildings. However, due to its extremely low take-up rate (with only one case approved during 1998-2001), in July 2001 the Scheme was merged with another loan scheme, the Building Safety Improvement Loan Scheme under the Director of Buildings, to form a Building Safety Loan Scheme (hereinafter referred to as the Loan Scheme).

5.15 The Loan Scheme was set up with a commitment of \$700 million and is administered by the Director of Buildings. The Loan Scheme had an expanded scope and had more flexible eligibility criteria to assist owners to maintain and improve their properties. During the two and a half years from July 2001 to December 2003, the BD received 153 loan applications solely for fire safety works, and 1,252 loan applications for comprehensive building repair works, including fire safety works.

5.16 The high cost of improving fire safety could be a burden to the owners, even though they could borrow from the Loan Scheme. **As one of the objectives of the Loan Scheme was to provide financial assistance to those affected by the various fire safety upgrading ordinances, Audit considers that the BD should, in conjunction with the FSD, review the effectiveness of the Loan Scheme in assisting owners to meet their fire safety improvement works and assess if the Government needs to provide more assistance to owners.**

Note 17: *The cost is high particularly for SCB. This is because improvement works for SCB may involve more expensive FSIs for the entire building. On the other hand, improvement works for PCP (other than shopping arcades) are usually of smaller scale and involve single premises and simpler works are anticipated.*

Enhancing the enforcement mechanism to improve compliance

Extensions of time allowed for compliance

5.17 Under the present enforcement procedures, the FSD and BD can, and have granted EoTs to a significant number of non-compliant cases upon applications from owners and occupiers. Prosecution will only be considered if, without reasonable excuse, the owners/occupiers fail to comply with the directions. In extreme cases, the FSD and BD can apply to the District Court for prohibition orders or use restriction orders (see para. 2.13).

5.18 Audit noted that in many cases, EoTs were granted repeatedly. For example, in *Case 2*, the FSD granted seven EoTs. In *Case 4*, the FSD and BD granted nine and ten EoTs respectively. It appears that the enforcement authorities would, on occasion, take a rather lenient attitude in approving EoT. In *Case 2*, for example, the BD approved an EoT in April 2004 to one direction, relying mainly on the advice of the management company of the building that it would include the BD's fire safety improvement requirements in its planned building maintenance works. However, the management company had not submitted any timetable indicating when it would complete the fire safety improvement works. *Case 4* is another case in point where, towards the end of the improvement works, the FSD repeatedly granted EoTs for durations longer than that applied for by the owners. According to the FSD, its inspection officers would apply their professional judgement in assessing the on-site situation upon receiving an EoT application. Should they consider the period applied for by the owner/occupier is insufficient to complete the outstanding fire safety improvement works, they would recommend an appropriate period, which should be no more than nine months, to their supervisors with justifications. This would help reduce unnecessary subsequent inspection and administrative work due to another EoT application.

5.19 As EoTs allow owners more time for compliance with directions, Audit considers that EoTs should generally be granted only when the FSD and BD are satisfied that the owners/occupiers have made actual progress in the improvement works, are able to produce good reasons for the delay and show convincing evidence of work in progress. **Audit considers that the FSD and BD should tighten up their procedures for granting EoTs.**

Prosecutions

5.20 According to the FSD's and BD's laid down procedures, if an owner/occupier fails to comply with the direction without reasonable excuse, prosecution action shall be instigated (see Figure 1 under para. 2.10 and para. 2.13).

5.21 *Fire Services Department.* From 2000 to 2003, the FSD successfully prosecuted 145 cases. Fifty-five cases were related to the prosecution of owners and 90 cases were related to the prosecution of occupiers. An analysis of the prosecution cases indicated that prosecution of owners had achieved a compliance rate of 4% only, whereas prosecution of occupiers had achieved a compliance rate of 90%. The analysis also indicated that, despite successful prosecutions against owners, there were still many long-outstanding non-compliance cases (as indicated in column (c) of Table 7). Tables 7 and 8 summarise the analysis.

Table 7

**FSD's efforts on prosecution of owners
(as at 31 March 2004)**

Year	Number of successfully prosecuted cases	Number of directions/ compliance orders complied with	Number of directions/ compliance orders not yet complied with
	(a)	(b)	(c)
2000	13	2	11
2001	15	0	15
2002	4	0	4
2003	23	0	23
Total	55	2	53
		(4% of 55)	(96% of 55)

Source: FSD records

Table 8

**FSD's efforts on prosecution of occupiers
(as at 31 March 2004)**

Year	Number of successfully prosecuted cases	Number of directions/ compliance orders complied with	Number of directions/ compliance orders not yet complied with
	(a)	(b)	(c)
2000	36	36	0
2001	43	43	0
2002	0	0	0
2003	<u>11</u>	<u>2</u>	<u>9</u>
Total	<u>90</u>	<u>81</u>	<u>9</u>
		(90% of 90)	(10% of 90)

Source: FSD records

5.22 In May 2004, the FSD produced a draft Procedural Manual, which requires its staff to instigate prosecution action upon non-compliance of the directions. Under the existing procedures, owners/occupiers who could offer a reasonable excuse for failing to comply with the directions can apply for EoT. Such applications would be considered on the merits of each case in accordance with established criteria. Prosecution action would be taken when, without reasonable excuse, owners/occupiers fail to comply with the directions upon expiry.

5.23 *Buildings Department.* Since October 2002, the BD has tightened up its procedures by laying down, on a trial basis, the requirement of issuing warning letters one month after the expiry of the directions. Prosecution action would be instigated if no response was received from the owners within three months after the issuance of the warning letters. Following this, the BD had successfully prosecuted 14 cases of non-compliance with directions in 2003. (For the three years 2000 to 2002, there were only 13 prosecution cases.) Of the prosecuted cases, the BD achieved a compliance rate of 70%. Table 9 summarises the results.

Table 9

**Results of BD's prosecution actions
(as at 31 March 2004)**

Year	Number of successfully prosecuted cases	Number of directions/ compliance orders complied with	Number of directions/ compliance orders not yet complied with
	(a)	(b)	(c)
2000	4	4	0
2001	8	5	3
2002	1	0	1
2003	14	10	4
Total	27	19	8
		(70% of 27)	(30% of 27)

Source: BD records

5.24 The results indicate that:

- (a) in the case of the FSD, prosecution action seemed effective to enforce directions issued to occupiers, but not as effective against owners. Prolonged time is still required to enforce compliance (see *Case 3* at Appendix D); and
- (b) the BD's prosecution actions seemed effective.

Exploring alternative effective enforcement tools

5.25 Audit has noted that the FSD and BD do not have other effective tools to enforce the FS(CP)O, except taking prosecution action and applying for prohibition orders or use restriction orders. But prosecutions are costly and time-consuming, because the onus of proof rests with the Government. For prosecutions against owners in the case of SCBs, prolonged time is still required to enforce compliance with the directions (see para. 5.21). As regards the use of prohibition orders or use restriction orders, up to the end of

July 2004, none had been applied for. **Audit considers that the FSD and BD need to explore, in consultation with the Security Bureau, the feasibility of developing alternative effective enforcement tools (Note 18) before proceeding with prosecutions.**

Enforcing the upgrading requirements in specified commercial buildings with domestic occupancy

5.26 In enforcing the FS(CP)O, the FSD also encountered problems in dealing with SCBs with domestic occupancy (Note 19). As at 31 March 2004, there were 160 such SCBs, which represented 25% of 642 SCBs with directions not yet fully complied with (i.e. items (a) and (c) in Figure 2).

5.27 Before December 2003, there had been disputes on whether the **full** set of fire safety requirements should also be applied to the domestic units of SCBs. Legal advice obtained in December 2003 indicated that the Director of Fire Services had the discretion to specify the appropriate requirements in a direction to achieve the purpose of improving the fire safety standard of a SCB.

5.28 **Having clarified the legal position, Audit considers that the FSD and BD should expedite their enforcement actions on SCBs with domestic occupancy without delay so as to reduce the number of non-compliant SCBs.**

Audit recommendations

5.29 **Audit has recommended that the Director of Fire Services and the Director of Buildings should:**

Note 18: *For example, a possible alternative tool is to agree with the owners/occupiers on major milestones for completion of the expected sequence of works in order to monitor the actual progress of direction compliance, before approving EoTs.*

Note 19: *SCBs with domestic occupancy may include:*

- *SCBs entirely changed to domestic use;*
- *SCBs with domestic and commercial units separated distinctively into upper and lower levels at a particular floor; and*
- *SCBs with irregular mix of domestic and commercial uses on different floors or units.*

- (a) **after joint initial inspections, issue directions promptly and set performance targets in this regard for staff reference (say, in the Procedural Manuals);**
- (b) **review the effectiveness of the Loan Scheme in assisting owners to meet their fire safety improvement works under the FS(CP)O and assess if the Government needs to provide more assistance to owners;**
- (c) **tighten up the procedures for granting EoTs;**
- (d) **in consultation with the Secretary for Security, explore the feasibility of developing alternative effective enforcement tools before proceeding with prosecutions; and**
- (e) **expedite the enforcement actions on SCBs with domestic occupancy.**

5.30 **Given that the primary aim of the fire safety upgrading programme is to achieve a reasonable level of fire safety, Audit has also *recommended* that the Director of Fire Services should adopt a more proactive approach in offering alternative means of achieving compliance with the directions to owners and occupiers and in providing them with necessary advice, assistance and support.**

5.31 **With regard to prosecutions, Audit has *recommended* that:**

- (a) **the Director of Fire Services should:**
 - **formalise the FSD's draft Procedural Manual; and**
 - **for the prosecution of owners, seek measures to improve the compliance rate of directions/compliance orders; and**
- (b) **the Director of Buildings should formalise the BD's procedures for enforcement action under the FS(CP)O and apply them in practice as far as possible.**

Response from the Administration

5.32 **The Director of Fire Services has said that:**

- (a) **after joint inspection by the BD and the FSD, the FSD needs information on owners' particulars, boundary of the PCP and the Deed of Mutual Covenant**

from the BD before the issue of directions. The FSD and the BD had agreed to issue directions simultaneously (i.e. in one envelope), so that owners/occupiers of SCB/PCP can arrange for the fire and building safety upgrading works at the same time. It therefore may require a reasonable period of time to coordinate the efforts of both departments;

- (b) as soon as the Building Management (Amendment) Bill (BM(A)B) is ready, the owners' corporations (OCs) will be empowered to borrow from the Loan Scheme. This would enhance the effectiveness of the Loan Scheme. Subject to the views of the BD, as the loan scheme administrator, the evaluation of the effectiveness of the Loan Scheme will be covered in the review (see para. 5.33(b));
- (c) he agrees to review the mechanism of granting EoTs, including the procedures for granting EoTs. The FSD has been adopting a pragmatic approach and has established criteria for granting EoTs. Case officers would recommend/approve EoT applications only if they are satisfied that there is evidence of "*positive action*" taken by the owners, such as the setting up of the OC, owners' meeting to decide the tendering action, the appointment of FSI contractors and Authorised Persons, the submission of FSI and building plans, and the commencement of installation work etc.;
- (d) he agrees in principle with the audit recommendation of exploring, in consultation with the Secretary for Security, the feasibility of developing alternative measures of enhancing fire safety standards before prosecution, and will submit his further views to the Secretary for consideration;
- (e) he agrees to expedite the enforcement actions on SCBs with domestic occupancy. FSD has been stepping up enforcement action;
- (f) he agrees with the audit recommendation in paragraph 5.30. The FSD has adopted a flexible and pragmatic approach in implementing the PCP and SCB improvement programmes. The FSD is ready to accept improvised FSI systems proposed by owners/occupiers to overcome structural or technical constraints. From time to time, the FSD invites owners/occupiers, Authorised Persons, FSI contractors and management companies to exchange views on how to resolve problems in complying with the directions. Furthermore, the FSD will liaise with the Home Affairs Department (HAD) to explore the possibility of holding seminars at the Building Management Resource Centres of the HAD so as to provide assistance and advice for owners; and

- (g) regarding the audit recommendations on prosecutions in paragraph 5.31(a), the FSD will consider drawing up more comprehensive guidelines on the granting of EoTs.

5.33 The **Director of Buildings** has said that:

- (a) regarding the issuing of directions promptly after joint initial inspections (see para. 5.29(a)), the BD will review the relevant Instructions. In the COR, the BD has set targets to issue directions to a certain number of premises. Audit has also pointed out in *Case 2* at Appendix C the problems associated with delays in issuing directions and compliance;
- (b) regarding the effectiveness of the Loan Scheme (see para. 5.29(b)), the present Loan Scheme launched in 2001 was last reviewed in June 2003. The average amount of loan has increased and is eight times that of the previous scheme. The BD will continue to publicise the Loan Scheme and keep it under review. Pamphlets on the Loan Scheme are sent out with all directions and orders issued by the BD;
- (c) regarding the tightening up of the procedures for granting EoTs (see para. 5.29(c)), the BD will review the relevant Instructions and it is the BD's principle to adopt a pragmatic and flexible approach such that owners would be allowed more time to overcome difficulties in carrying out the improvement works;
- (d) the BD will review the feasibility of developing alternative effective enforcement tools before proceeding with prosecutions and liaise with the FSD to consider the feasibility of expediting enforcement actions against SCBs with domestic occupancy (see paras. 5.29(d) and (e)); and
- (e) with regard to prosecutions (see para. 5.31(b)), the BD will review the relevant Instructions and formalise the enforcement procedures.

PART 6: PRE-1987 COMPOSITE BUILDINGS AND PRE-1987 DOMESTIC BUILDINGS

6.1 This PART examines the FSD's and BD's efforts to prepare for upgrading the fire safety standards in pre-1987 composite buildings and pre-1987 domestic buildings.

Ten-year upgrading programme

6.2 The objective of the FS(B)O is to require owners and occupiers to upgrade the fire safety standards of pre-1987 composite buildings and pre-1987 domestic buildings to present-day standards. In January 2001, the Government planned to implement the FS(B)O in composite buildings within ten years (i.e. the upgrading programme).

Cost of upgrading and fire safety upgrading requirements

6.3 According to estimates made in 2001, the cost of upgrading works for a typical composite building (Note 20) would be \$57,000 for a commercial unit and \$18,000 for a residential unit. For a typical domestic building (Note 21), it would be \$23,000 per unit.

6.4 For the commercial parts of the composite buildings, the new fire safety standards were modelled on those stipulated under the FS(CP)O. These included the installation of sprinkler systems and improvements to fire safety construction in buildings, such as protection of exit routes and fireman's access, and prevention of spread of fire between compartments of different uses or adjoining buildings. To minimise the financial burden on owners, certain requirements (such as fire resisting separation between the commercial and domestic portions) had been waived. The new fire safety standards for the domestic parts of composite buildings were further relaxed by including only the most essential items.

6.5 Figure 4 shows the upgraded fire safety requirements for pre-1987 composite buildings and pre-1987 domestic buildings under the FS(B)O.

Note 20: *A typical composite building refers to a 16-storey building which contains 8 commercial units and 84 residential units.*






Note 21: *A typical domestic building refers to a 15-storey building which contains 64 units.*

Figure 4

Upgraded fire safety requirements for pre-1987 composite buildings and pre-1987 domestic buildings

(a) Provision of fire service installations and equipment

An owner/occupier of the composite building or domestic building may be required to comply with all or any of the following fire safety measures:

Fire Service Installations and Equipment	Premises/Building Responsible Person	Non-domestic portion of Composite building		Domestic building and domestic portion of Composite building
		Owner	Occupier	Owner
 Automatic sprinkler system		✓*		
 Fire hydrant and hose reel system		✓		✓
 Manual fire alarm system		✓		✓
 Emergency lighting (common areas) Emergency lighting (non-common areas)		✓		✓#
			✓	
 VAC▲ (common areas) VAC▲ (non-common areas)		✓		
			✓	




Note: * applicable to a composite building in which the total floor areas of the non-domestic portion exceeds 230 m²

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

▲ denotes automatic cut-off device for mechanical ventilating system.

(b) Provision of fire safety construction

An owner of the composite building or domestic building may be required to comply with all or any of the following fire safety construction :

Fire Safety Building Works	Premises/Building Responsible Person	Non-domestic portion of Composite building		Domestic building and domestic portion of Composite building
		Owner	Owner	Owner
 Adequate means of escape		✓		✓
 Inhibition of fire spread and integrity of building structure		✓		✓
 Adequate means of access for firefighting and rescue.		✓		✓

Source: FSD records

The effective date for the operation of the Fire Safety (Buildings) Ordinance has not yet been determined

6.6 In July 2002, the FS(B)O was enacted. However, as at July 2004, the Ordinance had not yet been made operational. This was because, during the third reading debate of the Bill in July 2002, LegCo Members considered that the law should not come into operation until after the passing of the amendments to the BMO to the effect that OCs could borrow from the Loan Scheme to cover the missing or irresponsible owners' shares of the costs.

6.7 In the same LegCo meeting, the Administration also undertook that, before putting the FS(B)O into operation, the Government would prepare a paper for the Panel on Security setting out a proposal on how to bring the legislation into force, and would seek the support of the Panel Members. As at July 2004, the amendment bill to the BMO had not yet been submitted to the LegCo for consideration. The Government has planned to do so in the legislative year 2004-05.

Staff resources to support the implementation of the Fire Safety (Buildings) Ordinance

6.8 To prepare for the implementation of the FS(B)O, both the FSD and BD had already set up, through redeployment of existing staff and creation of posts, offices to implement the upgrading programme, as detailed in paragraphs 6.9 and 6.10 below.

Fire Services Department

6.9 In 1999, the FSD set up a Building Improvement and Support (BI&S) Division under the then Fire Protection Command (now re-titled as Fire Safety Command). Initially manned by 13 staff, the Division was tasked to, among other things, examine the feasibility of introducing legislation to upgrade the FSIs of composite buildings and conduct inspections of buildings without modern fire and structural safety provisions. The then Secretary for Security, in her 1999 Policy Objective, disclosed her plan to introduce the FS(B) Bill into the LegCo by 2000. The Financial Secretary also confirmed in his 2000-01 Budget Speech the Government's intention to provide, over two years, 66 additional staff to the FSD to step up fire inspection and enforcement in private buildings, with particular attention paid to old composite buildings. Funds of \$26.34 million from 2001-02 onwards (with \$10.3 million for 2000-01) were allocated to the FSD to support the employment of contract staff to increase the staff resources of the BI&S Division. As at July 2004, there were 64 staff working in the BI&S Division.

Buildings Department

6.10 In 1999, a Target Composite Buildings (TCB) Unit under the Fire Safety Section was formed. The Unit, initially manned by 13 staff, was tasked to follow up the 2,400 problematic composite buildings identified by the FSD and BD in their surveys in 1998 (see para. 2.7). The Unit's work scope was expanded in 2000 to cover the enforcement of the FS(B)O in 9,000 pre-1987 composite buildings. Similar to the FSD, the Financial Secretary confirmed in his 2000-01 Budget Speech the Government's intention to provide, over two years, 47 additional staff to the BD to step up fire inspection and enforcement in private buildings, with particular attention paid to old composite buildings. Funds of \$15.35 million from 2001-02 onwards (with funds of \$5.4 million for 2000-01) were allocated to the BD to support the employment of contract staff to run the TCB unit. As at July 2004, there were 65 staff in the TCB Unit.

Use of the manpower resources provided under the upgrading programme

6.11 As the FS(B)O is not yet operational, the FSD and BD staff assigned to work on the upgrading programme have been deployed to inspect old composite buildings based on extant fire safety standards. During the inspections, they would, where appropriate, require building owners to restore the original fire safety standards of their buildings, by virtue of the Fire Services Ordinance (FSO, Cap. 95) and the BO (Note 22).

Fire Services Department

6.12 The FSD does not conduct regular territory-wide fire safety inspections of private buildings. However, FSD staff would periodically inspect buildings that are subject to greater fire risks. Audit noted that, during 1998-2003, the FSD had conducted several rounds of inspections based on extant fire safety standards on composite buildings. In addition to the full-scale territory-wide survey in 1998, in 2000 and 2001 the FSD conducted another round of inspections on 9,000 pre-1987 composite buildings to follow up on irregularities identified previously. In 2002 and 2003, the FSD carried out follow-up inspections. Audit noted that, for certain buildings, inspections had been conducted for a few times, as shown in the following two typical cases.

Note 22: *Examples of enforcing the extant fire safety standards under the current FSO and BO include: (a) issuing fire hazard abatement notices or advisory letters on irregularities, such as the improper maintenance of FSIs, floating obstructions in the means of escape and missing fire extinguishers; and (b) issuing removal orders under section 24 of the BO on unauthorised building works.*

Case 5
A composite building in Battery Street, Kowloon

Time of Inspection	Particulars
February/ March 1998	FSD carried out a full-scale territory-wide survey of all buildings in Hong Kong.
October 2000	FSD carried out a second fire safety inspection on this building. Floating obstructions were noted in the staircase and a few fire extinguishers were found missing.
February to May 2001	FSD carried out a follow-up inspection and issued advisory letters to the owners/occupiers of three units. A compliance inspection carried out in May 2001 indicated that fire extinguishers had been installed.
October 2002	FSD carried out a third inspection and found that three fire extinguishers had expired.
January 2003	FSD carried out a follow-up inspection. Similar irregularities were found as those noted in October 2002.
April to July 2003	FSD carried out a number of follow-up inspections. The fire extinguishers were found in order.

Source: FSD records

Case 6
A composite building in King's Road, Hong Kong

Time of inspection	Particulars
February/ March 1998	FSD carried out a full-scale territory-wide survey of all buildings in Hong Kong.
February 2001	FSD carried out a second fire safety inspection on this building and noted that the exit door to the roof was locked. Unauthorised building works were noted and were referred to BD for follow-up.
December 2001	FSD carried out a follow-up inspection.
December 2002	FSD carried out another follow-up inspection and noted that one of the smoke stop doors in the building was defective.
September 2003	FSD carried out a further follow-up inspection and noted that the smoke stop door was in order.

Source: FSD records

6.13 To promote the upgrading programme, FSD staff also distributed standard advisory letters (Note 23) to owners, OCs and mutual-aid committees of old composite and domestic buildings advising them the impending introduction of the new legislation which would require the upgrading of fire safety standards in old composite buildings and urging the owners to start preparing for the upgrading works.

Fallback plan for implementation of the Fire Safety (Buildings) Ordinance

6.14 In 2003, as the FS(B)O was not yet operational, the FSD and BD agreed on a fallback plan. Through the implementation of the fallback plan, the FSD and BD aimed to complete part of the preparatory works associated with the enforcement of the FS(B)O and, at the same time, help restore the original fire safety standards in the buildings under extant legislations.

6.15 This fallback plan has the following salient features:

- (a) ***900 target buildings to be inspected a year.*** The FSD and BD would conduct joint inspections of 900 composite buildings a year;
- (b) ***Enforcement of extant fire safety standards under existing law.*** During the joint inspections, should the FSD and BD notice any defects or irregularities based on the extant fire safety standards or breaches of the FSO or the BO, they would require the owners and occupiers to restore the original fire safety standards of their buildings. As a result, they would issue fire hazard abatement notices (FHANs), advisory or warning letters, or statutory orders under the FSO and BO; and
- (c) ***Advising owners and occupiers on the upgraded fire safety standards under the FS(B)O.*** Concurrently, the FSD and BD would apply the present-day fire safety standards in the inspections and advise owners/occupiers in the form of fire safety advisory directions (hereinafter referred to as “*advisory directions*” — which are not legally enforceable) on the scope of improvement works required under the FS(B)O.

Note 23: *Such advisory letters were “standard” in that they did not contain owners’ particulars and did not specify the individual building deficiencies which did not meet the present-day fire safety standards.*

6.16 Starting from **1 January 2004**, the FSD and BD staff originally deployed to enforce the FS(B)O began to implement the fallback plan. By the end of June 2004, the FSD and BD had inspected 550 composite buildings and issued advisory directions to 270 composite buildings on improvement works required under the FS(B)O. In addition, they had issued 38 FHANs and 1,200 advisory/warning letters in enforcement of the extant fire safety standards.

Monitoring the implementation of the fallback plan

6.17 As the fallback plan has been implemented for only a few months, it is still too early to assess its effectiveness. In the absence of a proper set of performance measures, it is difficult to monitor and evaluate the effectiveness of the fallback plan. Audit is however concerned with the potential added value that may be achieved from the implementation of the plan. This is because:

- (a) experience gained from enforcing the upgrading works for PCP and SCBs has shown that law enforcement alone might not be adequate to effectively implement the upgrading programme. Without a legal mandate, it appears doubtful whether the fallback plan is effective in upgrading fire safety standards;
- (b) the FSD had already carried out several rounds of inspections on the composite buildings in the past few years and had already followed up the irregularities identified (see para. 6.12). Hence, the FSD has identified fewer irregularities recently, and issued only 38 FHANs since January 2004 under the fallback plan. Take *Case 5* for example, although the subject composite building had been inspected in 1998, 2000 and 2002, in January 2004 the FSD conducted another inspection, jointly with the BD, pursuant to the fallback plan;
- (c) when the FS(B)O becomes operational, a composite building that had already been inspected under the fallback plan would be subject to another round of inspection. Take *Case 5* as an example, after the joint inspection in January 2004, it is likely that the FSD and BD will have to conduct another joint inspection after the FS(B)O is operational;
- (d) up to July 2004, although the FSD and BD had dispatched over 100,000 standard advisory letters reminding owners and occupiers on the enactment of the FS(B)O and had received a few enquiries, they had thus far noted no record of any cases of voluntary compliance; and
- (e) as mentioned in paragraph 6.16, the FSD and BD had issued advisory directions to 270 composite buildings under the fallback plan. However, as at July 2004, seven months since the implementation of the fallback plan, no cases of voluntary compliance had been noted.

6.18 **As the implementation of the fallback plan requires considerable resources, the FSD and BD should set a timetable for conducting an interim review to examine the effectiveness of the fallback plan in meeting its objectives, and to identify opportunities for improvement.** In the review, due consideration should also be given to various factors including, for example, the potential added value that may be achieved through implementing the fallback plan and other priority tasks which may also be competing for resources.

Audit recommendations

6.19 **As the implementation of the fallback plan calls for substantial resources, Audit has recommended that the Director of Fire Services and the Director of Buildings should:**

- (a) **set a timetable for conducting an interim review to examine the effectiveness of the fallback plan in meeting its objectives and to identify opportunities for improvement; and**
- (b) **develop appropriate performance measures to evaluate the effectiveness of the fallback plan.**

6.20 **Audit has also recommended the Secretary for Security should:**

- (a) **liaise closely with the Secretary for Home Affairs for the early submission of the BM(A)B to the LegCo; and**
- (b) **consider the need for contingency measures in case the implementation of the FS(B)O is deferred for an unduly long period.**

Response from the Administration

6.21 **The Director of Fire Services** agrees with the audit recommendations in paragraphs 6.19(a) and (b). He has said that:

- (a) preparatory work for the FS(B)O should start as early as possible. The efforts in taking forward a fallback plan are worthwhile as it does help restore fire safety standards and reduce fire hazards in composite buildings. As the fallback plan has only been rolled out for eight months, the FSD will evaluate its effectiveness at a suitable juncture; and

- (b) after rolling out the fallback plan since January 2004, the average number of FHANs issued for each composite building has dropped considerably, from 2.94 FHANs per building in the years before 2004 to 0.06 FHAN per building in 2004.

6.22 The **Director of Buildings** agrees with the audit recommendations and has said that the BD, in conjunction with the FSD, will review the effectiveness of the fallback plan and evaluate it with appropriate performance measures.

6.23 The **Secretary for Security** has said that:

- (a) the preparatory work for the implementation of the FS(B)O is necessary as well as time-consuming and can start even though the Ordinance is not yet operational. The fallback plan represents the FSD's best effort in taking forward the fire safety programmes pending the coming into force of the FS(B)O. Clearly it should be continued; and
- (b) regarding the audit recommendations in paragraph 6.20, he has been liaising with the Home Affairs Bureau on the progress of the BM(A)B.

6.24 The **Director of Home Affairs** has said that the HAD plans to introduce the BM(A)B to the LegCo in the legislative year of 2004-05. A bid has been made for a legislative slot in March/April 2005 while the Department of Justice is considering the Draft Drafting Instructions.

**Ageing analysis of specified commercial buildings
with all directions complied with**

(as at 31 March 2004)

Time taken for the SCBs to have all directions complied with (counting from the dates of issue of the directions)	From FSD's database		From BD's database	
	(Number of SCBs)			
< 1 year	6	(4 %)	6	(4 %)
1 year to < 2 years	24	(17 %)	33	(22 %)
2 years to < 3 years	54	(37 %)	51	(34 %)
3 years to < 4 years	47	(32 %)	43	(28 %)
4 years to < 5 years	13	(9 %)	17	(11 %)
≥ 5 years	2	(1 %)	1	(1 %)
Total	146	100%	151	100%

Average:

2.8 years

2.7 years

(say 2.7 years)

Source: FSD and BD records

Case 1
Prescribed commercial premises in Nam Cheong Street, Kowloon

Case particulars: This PCP was situated in a pre-1973 composite building. The PCP was both owned and occupied by a bank.

Date	Key event (Note)
April 2000	FSD and BD conducted a joint fire safety inspection of the PCP.
December 2000	FSD issued two directions to the bank which was allowed a period of six months to comply with the two directions. BD also issued a direction to the owner allowing a period of six months for compliance. In addition, BD served a section 24 (s.24) order to the bank demanding for the removal of unauthorised structure within 60 days.
June 2001	Authorised Person (AP) applied on behalf of the bank to FSD and BD for a 6-month EoT of the directions.
July 2001	AP advised FSD and BD that he still could not agree with the other building owners on providing the reinforced concrete tank at roof level and, due to space constraint and structural limitation, would apply for the installation of an improvised sprinkler system (with water supply from town mains). FSD granted a 6-month EoT (to end on 4.12.2001) to the bank.
October 2001	BD granted to the bank an EoT that would end on 20.2.2002. FSD issued a warning letter to the bank urging it to take steps to comply with the directions as soon as possible.
February 2002	AP again applied to FSD and BD for another EoT due to the need to remove the safe deposit boxes, long construction period expected and the need to conduct an asbestos survey before construction work commenced. AP also applied for an EoT for the s.24 order.
March 2002	FSD granted to the bank another EoT which would last until 15.9.2002.
June 2002	BD approved an EoT for the direction to end by 15.9.2002 and decided to withhold temporarily the enforcement of the s.24 order.
August 2002	FSD inspected the PCP but found that the upgrading works were far behind schedule, and issued a warning letter to the bank.
September 2002	AP advised FSD that asbestos was found in the premises and which had to be removed before starting any construction work. He also advised that the bank would close the branch in 2003. FSD rejected the AP's application for another EoT. Legal action was instituted.
December 2002	BD approved an EoT for the direction to last until February 2003 and agreed to withhold temporarily the enforcement of the s.24 order.
January 2003	AP informed BD the progress of its rectification works and applied for EoTs to the direction and s.24 order.
April 2003	The Magistrate issued to the bank compliance orders that would expire in October 2003. BD approved EoTs for the direction and s.24 order to last until 15.9.2003.
July 2003	FSD inspected the PCP and found that the premises had been vacated.
September 2003	BD withdrew its direction as the premises had ceased to be a PCP. FSD also agreed not to take further action under the FS(CP)O. The compliance orders were revoked by the Magistrate.

Source: FSD and BD records

Audit comments:

In this case, both the FSD and BD had worked on enforcing the FS(CP)O on the PCP for over three years, but the required upgrading works had not been completely carried out. In the event, the case was closed after the PCP had been vacated.

Response from the BD:

The BD considers that it had been pragmatic, flexible and proactive in enforcing the FS(CP)O on the PCP.

Note: This is a typical PCP case which was examined by the FSD in a work study conducted in 2003 on the business processes of the CBP Division of the Fire Safety Command (see para. 5.2).

Case 2
Prescribed commercial premises in Kimberley Road, Kowloon

Case particulars: This PCP was a shopping arcade in a pre-1973 composite building which comprised three blocks (A, B & C). The common areas of the PCP were owned by all owners of the building.

Date	Key event
September 1997	FSD and BD conducted a joint fire safety inspection of the PCP.
October 1997 to April 1999	BD liaised with other government departments to clarify the ownership details of the shopping arcade and to determine the fire safety construction requirements of the PCP.
August 1999	FSD and BD re-inspected the PCP.
February 2000	In respect of the fire safety improvement requirements for the common areas of the PCP, FSD and BD each issued three directions to the owners, i.e. one direction for each block of building. The owners were allowed to comply with the directions within 12 months.
November 2000	FSD carried out two inspections and issued warning letters to the owners. BD also carried out an inspection.
December 2000	FSD noted that the owners had negative response to the directions, and requested the HAD to step up coordination work with a view to convincing the owners to comply with the directions. BD issued warning letters to the owners.
February 2001	FSI contractor applied on behalf of the owners to FSD for an EoT. FSD granted a 9-month EoT to the owners (to last until 8.11.2001).
August 2001	FSD issued warning letters to the owners.
October 2001	BD issued warning letters to the owners.
December 2001	BD noted that the apportionment of fire safety improvement cost of the common areas had led to delay in the progress of improvement works.
January 2002	FSI contractor advised FSD that the owners were still discussing the basis for apportionment of the fire safety improvement cost of the common areas. Due to changes in circumstances, BD revised the fire construction requirements specified in the direction issued to the owners of Block B.
April 2002	The newly appointed FSI contractor, who was responsible for designing the fire safety improvement works, submitted a work plan and applied to FSD for an EoT. The OC of Block A disapproved the installation of a water tank for the sprinkler system at the roof floor or a tee off of the water supply from the existing fire hydrant/hose reel system.
May 2002	FSD granted to the owners another EoT to last until 8.11.2002.
August 2002	Due to changes in circumstances, BD withdrew the direction issued to the owners of Block C. The contractor advised BD that the improvement works of Block A would be completed within a week. BD urged the owners of Block B to commence improvement works as soon as possible.

Appendix C
(Cont' d)
(para. 5.3 refers)

Date	Key event
October 2002	<p>FSD issued warning letters to the owners.</p> <p>FSI contractor advised FSD the progress of improvement works and applied for an EoT on the directions issued to the owners of Blocks A and B. There was no application for EoT for directions issued to the owners of Block C because the OC had not made a decision on the appointment of contractor.</p> <p>As certain modification works had been done, BD withdrew the direction issued to owners of Block A.</p>
November 2002	<p>The management company of Block C applied to FSD for an EoT due to the resignation of OC members. FSD approved an EoT for directions issued to the owners of Blocks A and B to last until 8.5.2003 and of Block C to last until 8.1.2003. BD urged the owners of Block B to carry out the improvement works as soon as possible.</p>
January 2003	<p>The management company of Block C advised FSD that the OC would make a decision on the carrying out of the required fire improvement works after Chinese New Year, and applied for an EoT.</p>
February 2003	<p>FSD approved another EoT for directions issued to the owners of Block C to last until 8.5.2003.</p>
March 2003	<p>FSD issued warning letters to the owners of Block A, B and C.</p>
May 2003	<p>FSI contractor advised FSD:</p> <ol style="list-style-type: none"> a. the progress of the improvement works of Block A and B, b. that the improvement works of Block C had not been proceeded due to the problem in raising money to carry out the works; and c. the completion date of the improvement works for the shopping arcade could not be ascertained. <p>He applied for a 4-month EoT for the directions issued to the owners of Block A and B.</p> <p>The construction contractor responsible for fire safety construction requirements of Block B advised BD about his appointment.</p> <p>The management company of Block C applied to FSD for an EoT because the process of collecting money from owners took time.</p> <p>FSD approved EoT applications. The expiry date for direction compliance for Blocks A and B was revised to 8.9.2003 whereas that for Block C was revised to 8.8.2003.</p>
June 2003	<p>BD requested the construction contractor of Block B to carry out the improvement works as soon as possible.</p>
August 2003	<p>FSI contractor applied to FSD for a 6-month EoT, claiming that installation works had already been proceeded.</p>
September 2003	<p>FSD granted another EoT for directions issued by extending the expiry date of the directions to 8.3.2004.</p>

Appendix C
(Cont' d)
(para. 5.3 refers)

Date	Key event
October 2003	<p>BD issued warning letters to the owners of Block B. It also considered taking prosecution action against the owners of Block B because of slow response to the directions, and enquired with FSD the compliance progress of the directions it issued. FSD replied that 80% of the FSI works for the common area of the shopping arcade had been completed and it would not consider prosecution for the time being.</p> <p>The management company of Block B applied to BD for another EoT.</p>
November 2003	<p>Noting the appointment of a management company for Block B, BD approved an EoT for directions issued to the owners of Block B to last until 30.4.2004.</p>
February 2004	<p>FSI contractor advised FSD that the installation works for the sprinkler system had been completed, but its full functioning was suspended pending mains water connection. He applied for another 4-month EoT.</p>
March 2004	<p>FSD approved another EoT for the directions issued to last until 8.7.2004.</p>
April 2004	<p>The management company of Block B advised BD that the fire safety improvement works would be incorporated into the building maintenance works under planning and applied for an EoT.</p> <p>BD approved an EoT for directions issued to the owners of Block B to last until 31.10.2004.</p>
July 2004	<p>FSI contractor applied on behalf of the owners of Blocks A, B and C a 3-month EoT, claiming that installation works for the sprinkler system had already been completed, but its full functioning was suspended pending mains water connection. FSD approved another EoT for the directions issued to the owners of Blocks A, B and C to last until 8.10.2004.</p>

Source: FSD and BD records

Audit comments:

In this case, both the FSD and BD had worked on enforcing the FS(CP)O on the PCP for over six years, but the upgrading works had not been completed. Up to July 2004, FSD had granted seven EoTs for the directions issued. For BD, of the three directions issued for the common areas of the PCP, two had been withdrawn, one due to changes in circumstances and the other due to most of the modification works having been completed. Two EoTs had been granted for the third direction.

Directions were issued two years and five months after joint inspection. For two years, the BD had corresponded with the Lands Registry and the HAD to ascertain/clarify the ownership details of the shopping arcade and to determine the fire safety construction requirements of the PCP.

The improvement works were complicated due to multiple ownership of the common areas of the PCP which was owned by all owners of the three blocks. Much time was spent by the owners to coordinate among themselves, to agree on how to apportion the improvement costs and to collect monies from individual owners.

Response from the BD:

In August 2004, BD advised Audit that this was a complicated case. Of five directions that had been issued on the PCP, four had been complied with/withdrawn. The direction issued to the OC of Block B was being complied with. The OC had informed the BD that tender invitation would be made by end of August 2004.

Case 3
A specified commercial building in Li Yuen Street East, Hong Kong

Case particulars: The SCB was a pre-1973 commercial building with six storeys. Owner of the building was an individual who let the units out for various commercial purposes.

Date	Key event
December 1998	FSD and BD conducted a joint fire safety inspection of the SCB.
February 1999	FSD issued a direction requiring the owner to install FSIs for the entire building. BD also issued three directions to the owner requiring him to conduct certain fire safety improvement works for the building. All directions would expire by 5.11.1999. (BD had also issued an s.24 order demanding the owner to remove the illegal rooftop structure identified and the s. 24 order was complied with in July 1999.)
June 1999	FSD conducted a progress inspection and found that the FSIs had not yet been installed.
October 1999	FSD conducted a progress inspection but the owner claimed that he had not received any direction from the FSD. Only an unofficial copy of the direction was given to him at site.
November 1999	BD issued a warning letter to the owner urging him to comply with the expired directions as soon as possible or to submit an application for EoT.
December 1999	FSD conducted a compliance inspection and found that the FSIs had not yet been installed.
January 2000	BD conducted a compliance inspection and noted little progress made in the improvement works.
July 2000	FSD and BD agreed to take joint prosecutions against the owner. BD conducted a site inspection with the owner's representative and explained to him about the requirements of the directions.
February 2001	BD's prosecution case against the owner was adjudicated. Although the owner defended that he did not know how to comply with the directions, he pleaded guilty and was fined \$24,100. The Magistrate issued a compliance order to replace one of the three directions. The owner was required to comply with the order by 23.11.2001. BD conducted a site visit with the owner and explained to him the requirements of the directions.
May 2001	In response to FSD's several enquiries about the compliance status of the direction, the owner claimed that the court had extended the direction expiry date to end of the year. Apparently the owner had got confused with BD's directions, FSD's directions and the court's compliance order.
October 2001	BD issued a warning letter reminding the owner to expedite the improvement works as the compliance order would soon expire in November 2001.
January 2002	FSD's prosecution case against the owner was adjudicated. The owner pleaded guilty and was fined \$2,000. The Magistrate issued another compliance order to replace FSD's direction. The owner had to complete the installation of FSIs by 5.10.2002.
February 2002	As ownership of the building had been clarified, BD issued two superseding directions to replace those previously issued. The superseding directions were to expire by 11.8.2002.
July 2002	FSD issued a warning letter reminding the owner to take steps to comply with the compliance order by October 2002.
October 2002	When the compliance order expired, FSD interviewed the owner and obtained particulars for prosecution. The owner claimed that he could not find a suitable FSI contractor. BD conducted a compliance inspection and noted that the owner had complied with the compliance order but not the two superseding directions.
November 2002	The owner applied for an EoT on FSD's compliance order as he could not afford the high cost of installing a sprinkler system in such an old building, especially during an economic downturn. The court approved an EoT to last until 30.9.2003.

Appendix D
(Cont' d)
(para. 5.3 refers)

Date	Key event
February 2003	BD conducted another compliance inspection and noted that one superseding direction was complied with.
March 2003 to September 2003	During this period, FSD and BD issued three and one warning letters respectively urging the owner to comply with the compliance order and the superseding direction. The owner was advised to apply under the Loan Scheme in case he had financial difficulties. The owner appointed an AP for the FSI works in April 2003.
October 2003	FSD conducted a compliance inspection and found that the FSIs had not yet been installed. The owner applied for another EoT on FSD's compliance order as it took time to install a sprinkler system in an old building.
November 2003	FSD informed the Magistrate that it was satisfied with the progress of the FSI installation works and recommended the granting of a 6-month EoT for the compliance order. As advised, the Magistrate granted an EoT to last until 30.3.2004.
December 2003 to February 2004	During this period, FSD issued two warning letters urging the owner to comply with the compliance order.
March 2004	The owner submitted an application for EoT on the FSD's compliance order for reasons that more time was required to install a sprinkler system in an old building. The owner informed FSD that he had signed a contract with the contractor for the FSI works which cost \$812,000.
April 2004	The Magistrate extended the expiry date of FSD's compliance order to 30.9.2004. The contractor submitted to FSD an application of using a 9000-litre water tank for both fire hydrant/hose reel and improvised sprinkler system.
June 2004	After vetting the drawings, FSD informed the owner that the sprinkler system had to cover individual units as well. FSD conducted an inspection and noted that installation of emergency lighting was completed but the sprinkler system had not yet been installed.

Source: FSD and BD records

Audit comments:

In this case, both the FSD and BD had worked on enforcing the FS(CP)O on the SCB for over five years since their initial joint inspections. However, as at June 2004, the fire safety improvement works for the SCB were not yet completed. There was delay in complying with the directions because the owner considered the upgrading cost too high and he was confused about FSD's and BD's directions and had mixed up the compliance order with the EoT granted by the two departments. The owner also found the directions on the upgrading requirements unclear and started on the improvement works only after the BD had clarified the requirements.

In view of the slow progress of the works, FSD and BD stepped up the enforcement action by taking legal proceedings against the owner. After prosecution, the owner had expedited the fire safety improvement works. By the end of June 2004, only some items required by BD's direction remained outstanding. For the FSI upgrading, proposals of the installation works had been submitted for FSD's approval. As the FSI works are substantial, the fire safety improvement works might not be completed in the near future.

Response from the FSD

In September 2004, FSD advised Audit that it had issued 11 directions to occupiers of the building and all 11 directions had been complied with during the years (only the direction issued to the owner was outstanding). The owner had installed emergency lightings in the common part of the building. The FSI works for the sprinkler system and fire hydrant/hose reel system had not been started.

Response from the BD

In August 2004, BD advised Audit that only some items required by its direction still remained outstanding. The outstanding items concerned electrical meters and main entrance metal gate. The owner, who was often out of Hong Kong, had undertaken to do the works together with the FSIs.

Case 4

A specified commercial building in Chiu Lung Street, Hong Kong

Case particulars: The SCB was a pre-1973 commercial building with 11 storeys. The building was owned by ten companies and two individuals. The owners had set up an OC for the building.

Date	Key event
December 1998	FSD and BD conducted a joint fire safety inspection of the SCB.
May 1999	FSD issued 12 directions requiring the OC and individual owners to install FSIs for the entire building. BD issued four directions to the OC and individual owners requiring them to improve fire safety construction for the building. The directions were to expire by 31.5.2000.
December 1999	FSD conducted a progress inspection and found that all the FSIs had not yet been installed.
May 2000	The OC appointed an AP to coordinate all the fire safety improvement works. AP submitted an application for a 9-month EoT from both FSD and BD on the grounds that substantial works such as survey, design and tendering were required before the actual work could be conducted. FSD granted an EoT for the directions to last until 30.11.2000.
June 2000	BD granted an EoT for the directions to last until 1.11.2000. BD conducted a compliance inspection and found that all the directions had not yet been complied with.
July 2000	FSD conducted a compliance inspection and found that the FSIs had not yet been installed.
October 2000	AP submitted to BD an application for an 8-month EoT as the improvement works involved substantial alteration to the building and owners would need considerable time to examine the AP's proposal.
November 2000	AP submitted to FSD an application for an 8-month EoT as BD had not yet approved the layout plan. FSD granted another EoT for the directions to last until 30.5.2001.
January 2001	AP submitted a revised proposal of the improvement works and a detailed work programme to BD and applied an EoT for the directions.
February 2001	BD had no objection to the revised proposal and was prepared to withdraw certain requirements of the directions. BD granted an EoT for the directions to last until 1.4.2001. The OC appointed another AP.
March 2001	AP submitted to BD an application of EoT to last until mid-September as the proposal had been amended and the tender would be issued in April.
May 2001	As requested by the AP, FSD granted an EoT to 31.12.2001 as the project was being tendered and the works were expected to be completed by the end of December 2001. For the building works, BD rejected the AP's proposal but granted an EoT for the directions to last until 3.7.2001.
June 2001	After clarification with the AP, BD accepted the amended proposal. AP applied for an EoT as the works were expected to be completed by December 2001.
July 2001	BD granted an EoT for the directions to last until 31.8.2001.
August 2001	The OC awarded the tender for the improvement works at a cost of \$3.3 million. AP submitted to BD an application of EoT to end of November 2001.
September 2001	BD granted an EoT to 31.10.2001 and warned that no more EoT would be approved unless the improvement works had commenced.
October 2001	The AP provided photos to BD for the works carried out at site and applied for an EoT to last until the end of November 2001.
November 2001	BD granted another EoT to 30.11.2001. When the EoT expired, the AP submitted to BD a revised work programme and asked for another EoT to last until the end of February 2002.

Appendix E
(Cont' d)
(para. 5.3 refers)

Date	Key event
December 2001	AP submitted photos and work programme to FSD and applied for an EoT to last until February 2002. FSD approved the EoT for the directions to last until 31.3.2002 as the works were considered to be in good progress.
January 2002	BD approved the application for EoT to last until 28.2.2002 as the works had been commenced.
February 2002	Since the roof of the building was not a common area and was not available for the installation of a water tank for the sprinkler system, AP submitted a proposal to FSD to install an improvised sprinkler system using the existing fire services tank. AP reported to BD the progress of works and submitted a revised programme to support the application of EoT to 30 April 2002. Due to structural constraints, AP requested BD to relax the requirements on clear width and height of Means of Escape and the requirements of new smoke vent.
March 2002	Upon FSD's request, AP submitted a revised structural appraisal report with the new sprinkler water tank installed at the top of lift machine room but reiterated that it was not structurally feasible. As the issue on the sprinkler system had not yet been finalised, AP submitted an application to FSD for an EoT.
April 2002	FSD approved an EoT for the directions to last until 31.8.2002. As BD had not yet approved the revised proposal, AP submitted an application for EoT to last until 31 July 2002.
May 2002	AP obtained FSD's approval for installing an improvised sprinkler system. In view of the site constraints, BD also approved the revised proposal and granted an EoT to last until 30.7.2002.
August 2002	AP submitted to FSD an application for EoT as the FSI works would be completed by 30 September 2002. FSD granted an EoT to 31.10.2002. AP requested BD to approve an EoT to end of September 2002 for the completion of some minor works. BD approved an EoT to last until 30.9.2002.
October 2002	AP informed FSD that the FSI works had been completed and the contractor was preparing to certify the systems. AP submitted to FSD an application for EoT to last until 30.11.2002. FSD granted an EoT to last until 31.1.2003 with the warning that no further EoT would be granted unless reasonable work progress was made. BD conducted another compliance inspection and noted that all the upgrading works were completed except the removal of roller shutter at the main entrance.
January 2003	FSD conducted another inspection and noted the completion of FSI works except the connection of sprinkler distribution pipe to the main riser system at two shops. AP expected the work would be completed by early March and applied an EoT from FSD.
February 2003	FSD granted an EoT to 30.4.2003 with the warning that no further EoT would be granted unless reasonable progress was observed. In connection with BD's requirement to remove the roller shutter at the main entrance, AP proposed a new door opening to provide an interchange between staircases.
April 2003	AP applied for another EoT from FSD as the works were expected to be completed by late May 2003. FSD granted another EoT to last until 31.7.2003. BD approved the proposal on new door opening and the works were then completed by the end of April.
June 2003	AP applied for an EoT from BD for the removal of roller shutter as it was part of the renovation work to be done at the main entrance. BD granted an EoT for the directions to last until 30.9.2003.
July 2003	FSD conducted another compliance inspection at the two shops and noted the completion of all the FSI installation works.
December 2003	AP reported that the roller shutter had been removed. Fire safety improvement works required by BD were therefore completed.
<i>Source: FSD and BD records</i>	

Audit comments:

In this case, the fire safety improvement works for the building were completed in December 2003, five years after the FSD's and BD's joint inspection. Prolonged time was required for the upgrading works as substantial building works were involved and the owner's AP was required to submit a building plan before building works could start. Much time was required for agreeing with the BD on the building plan, for tendering and selecting contractors. Because the roof of the building was not a common area and was not available for the installation of a sprinkler water tank, the AP had to submit a revised proposal to the FSD for installing an improvised sprinkler system. FSD granted nine EoTs and towards the end of the improvement works, it repeatedly granted EoTs for durations longer than that applied for by the owners.

Response from the FSD:

In September 2004, FSD advised that it had been adopting a flexible and pragmatic approach in implementing the PCP and SCB improvement programmes. In executing their duties, the FSD inspection officers would apply their professional judgement in assessing the on-site situation upon receiving an EoT application. Should they consider the period applied for by the owner/occupier is insufficient to complete the outstanding fire safety improvement works, they would recommend an appropriate period, which should be no more than nine months, to their supervisors with justification. This would help reduce unnecessary subsequent inspection and administrative work due to another EoT application.

Response from the BD:

The BD agreed with Audit's comments and advised Audit in August 2004 that the works had been completed.

Acronyms and abbreviations

Advisory directions	Fire safety advisory directions
AP	Authorised Person
Audit	Audit Commission
BD	Buildings Department
BI&S Division	Building Improvement and Support Division
BM(A)B	Building Management (Amendment) Bill
BMO	Building Management Ordinance
BO	Buildings Ordinance
CBP Division	Commercial Buildings and Premises Division
CITB	Commerce, Industry and Technology Bureau
Compliance orders	Fire safety compliance orders
COPs	Codes of Practices
CORs	Controlling Officer's Reports
Directions	Fire safety directions (for PCP) and fire safety improvement directions (for SCBs)
EoT	Extension of compliance time
FHANs	Fire hazard abatement notices

Appendix F
(Cont' d)

FS(B)O	Fire Safety (Buildings) Ordinance
FS(CP)O	Fire Safety (Commercial Premises) Ordinance
FSD	Fire Services Department
FSILS	Fire Safety Improvement Loan Scheme
FSIs	Fire service installations and equipment
FSO	Fire Services Ordinance
HAD	Home Affairs Department
KE Ordinance	Karaoke Establishments Ordinance
LegCo	Legislative Council
Loan Scheme	Building Safety Loan Scheme
OCs	Owners' Corporations
OPs	Occupation permits
Panel	LegCo Panel on Security
PCP	Prescribed commercial premises
s.24 order	Order issued under section 24 of the Buildings Ordinance
SCB	Specified commercial building
TCB	Target composite building