

CHAPTER 7

Buildings Department Fire Services Department

Government's efforts to enhance fire safety of old buildings

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Audit Commission
26th floor, Immigration Tower
7 Gloucester Road
Wan Chai
Hong Kong

Tel : (852) 2829 4210
Fax : (852) 2824 2087
E-mail : enquiry@aud.gov.hk

GOVERNMENT'S EFFORTS TO ENHANCE FIRE SAFETY OF OLD BUILDINGS

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GOVERNMENT'S EFFORTS TO ENHANCE FIRE SAFETY OF OLD BUILDINGS

Executive Summary

1. The fire safety provisions in old buildings, though meeting the safety standards at the time of construction, may not be sufficient under the present-day standards. For better protection of lives and properties, the Fire Safety (Commercial Premises) Ordinance (Cap. 502 — FS(CP)O) and the Fire Safety (Buildings) Ordinance (Cap. 572 — FS(B)O) came into operation in 1997 and 2007 respectively and empowered the Buildings Department (BD) and Fire Services Department (FSD) to issue directions requiring the upgrading of fire safety provisions in certain premises and old buildings. The Fire Safety Section of the BD and the two Building Improvement Divisions of the FSD are responsible for enforcing the FS(CP)O and FS(B)O. As at 30 September 2013, they had an establishment of 129 staff and 177 staff respectively. For 2012-13, the total expenditure amounted to \$158 million. The Audit Commission (Audit) has recently conducted a review to examine the implementation of fire safety improvement programmes under the FS(CP)O and FS(B)O (paras. 1.2, 1.3, 1.6, 1.8 and 1.11).

Implementation of fire safety improvement programmes

2. *Progress in implementing the improvement programmes.* The Government has adopted a phased approach in implementing the fire safety improvement programmes. As at 30 June 2013, the BD and FSD had inspected 75% of the 3,035 Prescribed Commercial Premises (see Appendix A) and 88% of the 1,783 Specified Commercial Buildings (see Appendix B) under the scope of the FS(CP)O, and 72% of the 9,000 Target Composite Buildings (see Appendix C) under the scope of the FS(B)O. As regards directions issued for Prescribed Commercial Premises and Specified Commercial Buildings, the compliance rates were 58% and 74% respectively for those issued by the BD, and 88% and 90% respectively for those issued by the FSD. However, the compliance rates for Target Composite Buildings were only 16% and 27% for directions issued by the BD and FSD respectively, which are a cause for concern (paras. 2.2, 2.12, 2.13, 2.15 and 2.16).

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3. **Facilitation measures.** Experience in implementing the improvement programmes has shown that the existence of Owners' Corporations (OCs) could help coordinate the statutorily required works in the common parts of buildings. However, the Home Affairs Department (HAD)'s assistance was only sought for buildings without OCs after inspections. Consideration can be given to sharing the inspection plans with the HAD as early as practicable so that the HAD can better plan its liaison work for buildings without OCs. For the various financial assistance schemes and technical support that have been put in place to facilitate owners in complying with directions, there is merit to conduct a survey to find out whether these measures are meeting their needs (paras. 2.5, 2.20 and 2.22).

Arrangements for inspections and issuing fire safety directions

4. **Inspection arrangements.** Audit has found that: (a) certain chain shops selling furniture and household items were included in the Prescribed Commercial Premises inspection list drawn up by the FSD, but some other chain shops selling similar products were not; (b) some pre-war buildings had difficulties to comply with fire safety directions due to site constraints. To address the issue, the BD and FSD have commenced a pilot study which is targeted for completion in 2014. Given that 270 (54% of 502) pre-war buildings have not been inspected, there is a need to expedite actions; and (c) according to the FS(CP)O, a commercial building used exclusively as a utilities building would not be regarded as a Specified Commercial Building. While the BD decided in 2011 that the FS(CP)O should apply to some utilities buildings which had been partly used as offices, follow-up action had not yet been taken (paras. 3.6 and 3.8 to 3.10).

5. **Arrangements for issuing directions.** The BD and FSD have laid down guidelines that directions should be issued within four months after inspections. Audit has found that as at 30 June 2013 the four-month time target was not met for more than half of the directions issued. For 160 buildings/premises, the directions were issued three or more years after the lapse of the respective four-month periods. As regards directions yet to be issued, 91% for Prescribed Commercial Premises, 92% for Specified Commercial Buildings and 85% for Target Composite Buildings were overdue (averaging 36 months, 40 months and 18 months respectively). A long delay in issuing directions is unsatisfactory as the implementation of the fire safety improvement programmes would be prolonged. It is also possible that the conditions of the target buildings/premises may have changed and thus necessitate

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re-inspections. Case studies have revealed a need to improve the timelines in preparing inspection reports and determining the boundary of Prescribed Commercial Premises in accordance with the provisions of the FS(CP)O. There is also a need to review the inspection target to see if it is commensurate with the BD's and FSD's capacity in issuing directions for all inspected buildings within four months after inspection (paras. 3.17, 3.19 to 3.22 and 3.24).

Administration of fire safety directions issued

6. *Management information for monitoring follow-up actions.* Generally, the BD and FSD allow owners/occupiers 12 months to comply with the fire safety directions. They have laid down guidelines for their staff on follow-up actions in case of non-compliance. While the BD has maintained a computerised database for monitoring follow-up actions on directions issued, the FSD's computer system did not support case monitoring and statistical analysis of directions issued. The BD's database showed that as at 30 June 2013, 31,450 directions issued by the BD had remained outstanding for an average period of 34 months (paras. 4.2, 4.4 and 4.5).

7. *Case studies.* Audit examination of some long outstanding directions has revealed cases of inadequate check on works progress and delay in conducting compliance inspection of completed works. In one case, enforcement action was not taken by the BD against an owner who did not respond to repeated warnings although the direction had been outstanding since December 2001. To demonstrate the Government's commitment to improving the fire safety provisions of the target buildings/premises and to serve as deterrence, stringent enforcement action is warranted on long outstanding directions without reasonable excuses (paras. 4.6 to 4.8 and 4.11).

Follow-up actions on unauthorised building works found during inspections

8. Unauthorised building works (UBWs) that pose threat to fire safety may be found during inspections of target buildings under the FS(CP)O and FS(B)O. The BD has laid down guidelines on follow-up action to be taken on such UBWs. Case studies have revealed that UBWs and suspected sub-divided flats found during inspections of target buildings/premises had not been promptly followed up (paras. 5.5 to 5.7).

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Audit recommendations

9. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Administration should:

Implementation of fire safety improvement programmes

- (a) step up efforts to improve the compliance rates of fire safety directions, especially those for Target Composite Buildings (para. 2.23(b));
- (b) share inspection plans with the HAD as early as practicable and conduct a survey to find out whether the existing facilitation measures are meeting the owners' need (para. 2.23(c) and (d));

Arrangements for inspections and issuing fire safety directions

- (c) provide adequate guidance to FSD staff for identifying Prescribed Commercial Premises and expedite actions on pre-war and utilities buildings (paras. 3.11(a) and 3.12);
- (d) take effective measures to improve the timeliness in issuing directions and to clear the backlog of directions overdue for issuing as soon as possible (para. 3.28(a));
- (e) review the current annual inspection target for Target Composite Buildings, to see if it is commensurate with the capacity in issuing directions within four months after inspections (para. 3.28(b));

Administration of fire safety directions issued

- (f) enhance the FSD's computer system for case management and monitoring the timeliness of enforcement actions (para. 3.29(a));

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- (g) **tighten controls to ensure that the laid down procedures on checking progress of works and completed works required in fire safety directions are strictly complied with (paras. 4.12(b) and 4.13(a));**
- (h) **step up enforcement actions against non-compliant owners/occupiers, instigating prosecution actions on long outstanding cases without reasonable excuses (paras. 4.12(c) and 4.13(c)); and**

Follow-up actions on unauthorised building works found during inspections

- (i) **take measures to ensure that UBWs with fire hazards found during inspections are promptly followed up (para. 5.8(a)).**

Response from the Administration

10. The Administration agrees with the audit recommendations.

PART 1: INTRODUCTION

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

Background

1.2 The principal legislation providing for fire safety standards in buildings is the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95). Owners and occupiers are required to maintain fire safety construction and fire service installations of buildings in accordance with the building plans approved by the authorities and should not carry out unauthorised alterations and addition to the fire safety construction of the buildings. Over time, the fire safety standards have been revised to take account of the advance in fire safety technology and building design. The fire safety provisions in old buildings, though meeting the safety standards at the time of construction, may not be up to the present-day standards. To enhance the fire safety level of old buildings for better protection of lives and properties, the Government introduced legislation in 1997 and 2002, empowering the Buildings Department (BD) and Fire Services Department (FSD) to serve fire safety directions on owners/occupiers, requiring them to provide additional fire safety measures which were not originally included in the approved building plans in certain types of old buildings.

Fire Safety (Commercial Premises) Ordinance

1.3 Following a serious fire in a Shek Kip Mei branch of a bank in 1994, the Government's investigation team recommended that the fire safety standards in banks and similar commercial premises with a relatively high customer density should be improved. In May 1997, the Fire Safety (Commercial Premises) Ordinance (Cap. 502 — FS(CP)O) came into operation requiring owners/occupiers of five types of Prescribed Commercial Premises (see Note 1 and Appendix A for

Note 1: *Prescribed Commercial Premises refer to commercial premises with a total floor area exceeding 230 m² each that are used for carrying out businesses including banks (excluding merchant banks), off-course betting centres, jewelry or goldsmith shops having a security area, supermarkets, hypermarkets or department stores and shopping arcades. The FS(CP)O applies to both existing and new Prescribed Commercial Premises.*

Introduction

illustration) to improve their fire safety measures which might include any or all of the following:

- (a) ***Provision of fire safety construction measures under the enforcement of the BD.*** The detailed requirements are set out in the three Codes of Practice issued by the BD, namely:
 - (i) the Code of Practice for the Provision of Means of Escape in Case of Fire 1996;
 - (ii) the Code of Practice for Fire Resisting Construction 1996; and
 - (iii) the Code of Practice for Means of Access for Firefighting and Rescue 1995.

These requirements include the provision of adequate means of escape from the premises in case of fire, adequate means of access to the building/premises to facilitate firefighting and rescue; and measures to inhibit the spread of fire and to ensure the integrity of the structure of the building/premises; and

- (b) ***Provision of fire service installations and equipment under the enforcement of the FSD.*** The detailed requirements are set out in the Code of Practice for Minimum Fire Service Installations and Equipment 1994 issued by the FSD. These requirements include the provision of automatic sprinkler systems, automatic cut-off devices for mechanical ventilating systems (e.g. air condition systems), manual fire alarms, emergency lighting and portable fire extinguishers.

1.4 In 1998, the FS(CP)O was amended to extend the enforcement of the above fire safety improvement requirements to Specified Commercial Buildings. The FS(CP)O defines a Specified Commercial Building (see Appendix B for illustration) as the whole of a non-domestic building which was:

- (a) constructed to be used or is being used for the purposes of an office, business, trade or entertainment; and

- (b) constructed or with building plans first submitted to the Building Authority for approval on or before 1 March 1987 (Note 2).

Fire Safety (Buildings) Ordinance

1.5 According to surveys conducted by the BD and FSD in 1998, the fire safety provisions of many old private buildings were not up to the modern standards, particularly those of the composite (partly commercial and partly domestic) buildings. In 2002, the Fire Safety (Buildings) Ordinance (Cap. 572 — FS(B)O) was enacted to improve the fire safety measures of pre-1987 (see para. 1.4(b)) composite buildings (known as Target Composite Buildings — see Appendix C for illustration) in the first instance. This is to be followed by pre-1987 domestic buildings with more than three storeys (known as Target Domestic Buildings).

1.6 The fire safety improvement requirements for the non-domestic parts of the Target Composite Buildings are modelled on those stipulated in the FS(CP)O. For the domestic parts of the Target Composite Buildings and for the Target Domestic Buildings, taking into account their lower fire load and fire risk, only the most essential fire safety improvement items are required (e.g. the provision of fire hydrant/hose reel systems and replacement of those doors nearest to the staircase with doors of the required standard). The FS(B)O came into operation in July 2007 after the Administration had addressed the Legislative Council Members' concern about the ways to facilitate compliance by all owners in multi-storey buildings with the relevant statutory requirements.

1.7 As at 30 June 2013, there were:

- (a) 3,035 Prescribed Commercial Premises;
- (b) 1,783 Specified Commercial Buildings;

Note 2: *The Code of Practice for Minimum Fire Service Installations and Equipment was substantially revised in March 1987. Buildings with their building plans first submitted to the Building Authority for approval on or before 1 March 1987 are likely to fall short of the fire safety standards laid down in the 1987 Code of Practice.*

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- (c) about 9,000 Target Composite Buildings; and
- (d) about 3,000 Target Domestic Buildings.

The Government has adopted a phased approach in implementing fire safety improvement programmes under the FS(CP)O and FS(B)O, depending on the age and the assessed level of risk of the buildings/premises.

1.8 The Fire Safety Section of the BD and the two Building Improvement Divisions of the FSD are responsible for enforcing the FS(CP)O and FS(B)O (see organisation charts at Appendices D and E respectively). As at 30 September 2013, they had an establishment of 129 and 177 staff respectively. For 2012-13, the total expenditure amounted to \$158 million.

Unauthorised building works found during inspections of target buildings

1.9 Building works carried out in contravention of the Buildings Ordinance are deemed as unauthorised building works (UBWs) and are subject to enforcement actions by two Existing Buildings Divisions of the BD (Note 3). Some of these UBWs may pose threat to the fire safety of a building. The BD has laid down guidelines on the follow-up actions that should be taken to tackle such UBWs found during inspections under the FS(CP)O and FS(B)O.

Audit reviews

1.10 In 2004 (at which time the FS(B)O had not yet been implemented), the Audit Commission (Audit) conducted an audit review on “Upgrading of fire safety standards in old buildings”. The results were reported in Chapter 11 of the Director of Audit’s Report No. 43 of October 2004.

Note 3: *Apart from tackling UBWs, the two Existing Buildings Divisions (collectively referred to as the Existing Buildings Division hereinafter) are also responsible for implementing the building safety and maintenance enforcement programme on existing buildings. As at 30 September 2013, the Existing Buildings Division had a total establishment of 419 staff. A breakdown of the staff number into those tackling UBWs is not available.*

1.11 Audit has recently conducted another review to examine new developments in implementing fire safety improvement programmes under the FS(CP)O and FS(B)O. The review has focused on the following areas:

- (a) implementation of fire safety improvement programmes (PART 2);
- (b) arrangements for inspections and issuing fire safety directions (PART 3);
- (c) administration of fire safety directions issued (PART 4); and
- (d) follow-up actions on unauthorised building works found during inspections (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

1.12 Audit has conducted a separate review on the FSD's fire protection and prevention work other than the implementation of the FS(CP)O and FS(B)O. The results are reported in Chapter 6 of the Director of Audit's Report No. 61.

General response from the Administration

1.13 The Director of Buildings and the Director of Fire Services agree with the audit recommendations. The Director of Buildings has said that:

- (a) the BD welcomes the audit review;
- (b) the target buildings of the FS(CP)O and FS(B)O had complied with the fire safety requirements in force at the time of construction. Against this background and taking into account the practical difficulties for some building owners to carry out the required fire safety improvement works due to various constraints, the BD (as committed during the passage of the concerned bills) has always been (without compromising fire safety) adopting a flexible and pragmatic approach in enforcing the FS(CP)O and FS(B)O. In this context, the Audit Report provides some useful recommendations; and

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- (c) the BD will in collaboration with the FSD, conduct an overall review on the implementation strategy of the FS(CP)O and FS(B)O taking into account the recommendations, various previous commitments to the Legislative Council and resource implications in a bid to further enhance the Government's efforts in this respect.

1.14 The Secretary for Security has said that:

- (a) he welcomes the audit recommendations to improve the Government's efforts to enhance the fire safety of old buildings;
- (b) the BD and FSD will work together with relevant parties to follow up on the recommendations as appropriate; and
- (c) the Security Bureau will closely monitor the progress of those follow-up actions and ensure that the recommendations are implemented as far as possible in a timely manner.

1.15 The Secretary for Development has said that:

- (a) he welcomes the audit review, which provides useful recommendations on making further improvement in enhancing the fire safety of old buildings; and
- (b) the BD will follow up the recommendations as appropriate and the Development Bureau will closely monitor the follow-up actions and ensure that they are carried out in a timely manner as far as possible.

Acknowledgement

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

PART 2: IMPLEMENTATION OF FIRE SAFETY IMPROVEMENT PROGRAMMES

2.1 This PART examines the implementation of fire safety improvement programmes under the FS(CP)O and FS(B)O.

Facilitation measures

Phased implementation

2.2 The Government has adopted a phased approach in implementing fire safety improvement programmes under the FS(CP)O and FS(B)O, depending on the age and the assessed level of risk of the buildings/premises (see Table 1).

Implementation of fire safety improvement programmes

Table 1

Implementation programmes under FS(CP)O and FS(B)O

<i>Prescribed Commercial Premises</i>	
Phase 1 <i>(from May 1997)</i>	Prescribed Commercial Premises in buildings without sprinkler system (mostly built before 1973)
Phase 2 <i>(from January 2001)</i>	Prescribed Commercial Premises in buildings with occupation permits issued before 1980
Phase 3 <i>(from March 2005)</i>	Prescribed Commercial Premises in buildings with occupation permits issued between 1980 and 1990
Phase 4 <i>(from September 2009)</i>	Prescribed Commercial Premises in buildings with occupation permits issued after 1990
<i>Specified Commercial Buildings</i>	
Phase 1 <i>(from June 1998)</i>	Specified Commercial Buildings constructed or with building plans first submitted before March 1973
Phase 2 <i>(from October 2001)</i>	Specified Commercial Buildings constructed or with building plans first submitted between March 1973 and March 1987
<i>Target Composite Buildings and Target Domestic Buildings</i>	
Phase 1 <i>(from July 2007)</i>	Target Composite Buildings constructed or with building plans first submitted before March 1987
Phase 2 <i>(Tentatively from January 2016)</i>	Target Domestic Buildings constructed or with building plans first submitted before March 1987

Source: BD and FSD records

Flexible and pragmatic approach

2.3 There may be practical difficulties for some building owners to comply with some of the fire safety requirements due to the physical constraints and/or structural problems of the buildings/premises. Without compromising fire safety, the BD and FSD have adopted a flexible and pragmatic approach in handling these cases. Some examples are:

- (a) ***Extension of time.*** Under the FS(CP)O and FS(B)O, the BD and FSD are empowered to serve fire safety directions on owners/occupiers, directing them to improve the fire safety measures of their buildings/premises within a specified period (usually 12 months). The compliance period could be extended upon application by owners/occupiers if they have genuine difficulties; and

- (b) ***Relaxation or exemption of some requirements.*** The BD and FSD will exercise flexibility in granting relaxations or even exemptions of some requirements having regard to the particular circumstances of each case. For instance, if an authorised person or a registered structural engineer certifies that the rooftop of the building cannot support a standard fire service water tank of a hose reel system due to structural problems, the FSD will consider accepting a water tank of smaller capacity. In an exceptional situation where installation of a water tank is not practicable, the FSD will even consider waiving the installation of the entire hose reel system and have it replaced by the provision of fire extinguishers and manual fire alarm system. As for the fire safety construction, the BD will adopt a flexible and pragmatic approach in granting relaxation or exemption of some requirements on a case-by-case basis if there is site constraint.

Financial and other assistance

2.4 Various financial assistance schemes are in place to help alleviate possible financial problems that some building owners may encounter. These schemes are operated by the BD and non-governmental organisations as follows:

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- (a) ***Building Safety Loan Scheme administered by the BD.*** The scheme provides owners with loans without any means test and at a no-gain-no-loss interest rate (up to a ceiling of \$1 million per unit of accommodation) to carry out the required improvement works (Note 4). Elderly singletons/couples aged 60 or above eligible for grant of interest-free loan may apply to extend the repayment for an unspecified period until the transfer of title of the property or death of the borrower, whichever is the earlier; and
- (b) ***Loans and grants provided by other organisations.*** The Hong Kong Housing Society and the Urban Renewal Authority (Note 5) provide both loan and grant schemes for individual owners and Owners' Corporations (OCs) covering improvement works in individual flats and common areas. For example, the Building Maintenance Grant Scheme for Elderly Owners administered by the Hong Kong Housing Society on commission of the Administration, offers a maximum grant of \$40,000. Since 2011, the Hong Kong Housing Society and the Urban Renewal Authority have consolidated their respective schemes and jointly rolled out a one-stop Integrated Building Maintenance Assistance Scheme to provide financial assistance and technical support to property owners. Under the Integrated Scheme, owners can complete an application form for making multiple applications for various grants and loans (including the loan scheme administered by the BD).

2.5 Experience in implementing the FS(CP)O shows that the existence of OCs could help coordinate the works in the common parts of the buildings as required under the fire safety directions. To improve building management, the Home Affairs Department (HAD), through its liaison networks in various districts, has been making proactive efforts to encourage, advise and assist owners to form OCs. From 2004 to 2007, in preparation for implementing the FS(B)O, the BD and FSD inspected about 3,200 Target Composite Buildings to explain the improvement

Note 4: *With a rolling fund of \$700 million, the scheme provides loans for carrying out improvement works voluntarily or in compliance with statutory orders (including but not limited to those issued under the FS(CP)O and FS(B)O). Up to 31 March 2013, the total amount of loans made under the scheme was about \$615 million (the amount specifically relating to works under the FS(CP)O and FS(B)O was not readily available).*

Note 5: *Both the Hong Kong Housing Society and the Urban Renewal Authority are not audited organisations under the value for money audit guidelines.*

Implementation of fire safety improvement programmes

works requirements and provide technical advice. In addition, they identified those Target Composite Buildings without OCs so that the HAD could start early in assisting them to form OCs.

Enforcement mechanism

2.6 Under the FS(CP)O and FS(B)O, the BD will issue fire safety directions to owners whereas the FSD will issue fire safety directions to owners/occupiers. An owner/occupier who, without reasonable excuses, fails to comply with the fire safety directions issued by the BD or FSD is guilty of an offence. Upon conviction, the owner/occupier is liable to a fine. The BD and FSD may also apply to:

- (a) the Magistrate for making a compliance order directing the owner/occupier to comply with the requirements specified in the fire safety directions; and
- (b) the District Court for making a use restriction order/prohibition order restricting the use or occupation of the premises/buildings concerned.

2.7 The penalty for failure to comply with a fire safety direction and a court order is summarised in Table 2.

Table 2

Penalty under FS(CP)O and FS(B)O

Non-compliance with	Fine	Further fine	Imprisonment
Fire safety direction	\$25,000	\$2,500/day	—
Compliance order	\$50,000	\$5,000/day	—
Use restriction order/ prohibition order	\$250,000	\$25,000/day	3 years

Source: BD and FSD records

Implementation of fire safety improvement programmes

2.8 Under the FS(B)O, the BD and FSD are empowered to register in the Land Registry a fire safety compliance order or a prohibition order against a building or such parts of it to which the order relates. Such registration would make the fact of potential liability known to any prospective property buyers who may be interested to do a land search. It would thus help provide an incentive for a building owner to comply with the outstanding order so as to maintain the value of his property.

Progress in implementing the improvement programmes

Reporting of compliance position

2.9 The objectives of the FS(CP)O and FS(B)O are to provide better protection from the risk of fire for occupants and users of, and visitors to the target buildings/premises. For example, the provision of an automatic sprinkler system required in a fire safety direction would help control the spread of fire and a fire alarm system would alert occupants in the event of fire. The extent of compliance with the fire safety directions issued by the BD and FSD is an important indicator of the progress made in improving the fire safety measures of these target buildings/premises.

2.10 In the 2004 audit review, it was found that both the BD and FSD only included as performance indicators in their Controlling Officer's Reports (CORs) the annual numbers of Prescribed Commercial Premises and Specified Commercial Buildings inspected and the annual numbers issued with fire safety directions. There was no performance information on the extent of compliance with the fire safety directions. In response to Audit's recommendations, the BD and FSD took the following improvement measures:

- (a) ***Annual compliance figures of directions.*** In the CORs of 2005-06 and onwards, the BD and FSD included as performance indicators the annual numbers of fire safety directions issued for Prescribed Commercial Premises and Specified Commercial Buildings (Note 6), and the numbers

Note 6: *Since 2005-06, the annual numbers of Prescribed Commercial Premises and Specified Commercial Buildings issued with fire safety directions have ceased to be published in the CORs.*

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of directions having been complied with (Note 7). Similar annual compliance information for Target Composite Buildings was included in the BD's and FSD's CORs of 2008-09 and onwards; and

- (b) *Cumulative compliance information.* In the CORs of 2006-07 to 2010-11, the BD and FSD reported the following cumulative figures to show the progress made in improving the fire safety measures of Prescribed Commercial Premises and Specified Commercial Buildings since the implementation of the respective improvement programmes in 1997 and 1998:
- (i) the cumulative numbers of directions issued to Prescribed Commercial Premises and Specified Commercial Buildings, and the numbers of which having been complied with; and
 - (ii) the cumulative numbers of Prescribed Commercial Premises and Specified Commercial Buildings inspected and the numbers of which complying with all directions.

2.11 While both the annual compliance figures and cumulative compliance information are important performance measures, the BD and FSD had ceased to include the cumulative compliance information in their CORs from 2011-12 onwards. As for Target Composite Buildings, no cumulative compliance information had been provided in the CORs of 2008-09 and onwards to show the extent of achievement in upgrading the fire safety provisions of these target buildings since the implementation of the improvement programme in 2007. In Audit's view, there is a need to provide sufficient performance information in the BD's and FSD's CORs (such as the cumulative compliance information) to enable stakeholders to have a better picture of the progress made in implementing the fire safety improvement programmes under the FS(CP)O and FS(B)O.

Note 7: *The numbers of directions having been complied with included those directions discharged for various reasons, such as improvements of equivalent standard, alternative improvement works completed, or cessation of business. The same definition applies throughout this Audit Report.*

Implementation of fire safety improvement programmes

Compliance position for Prescribed Commercial Premises

2.12 From 1997 (the commencement of the improvement programme) to June 2013, the BD and FSD had inspected 2,269 (75%) of the targeted 3,035 Prescribed Commercial Premises. As at 30 June 2013, the BD had issued 3,093 directions for 1,720 Prescribed Commercial Premises while the FSD had issued 13,873 directions for 1,721 Prescribed Commercial Premises (Note 8). Analyses of the compliance rates of directions issued for Prescribed Commercial Premises and the percentages of the Premises having complied with all directions issued (Note 9) from 2006 to 2013 (up to 30 June) are shown in Figures 1 and 2 respectively.

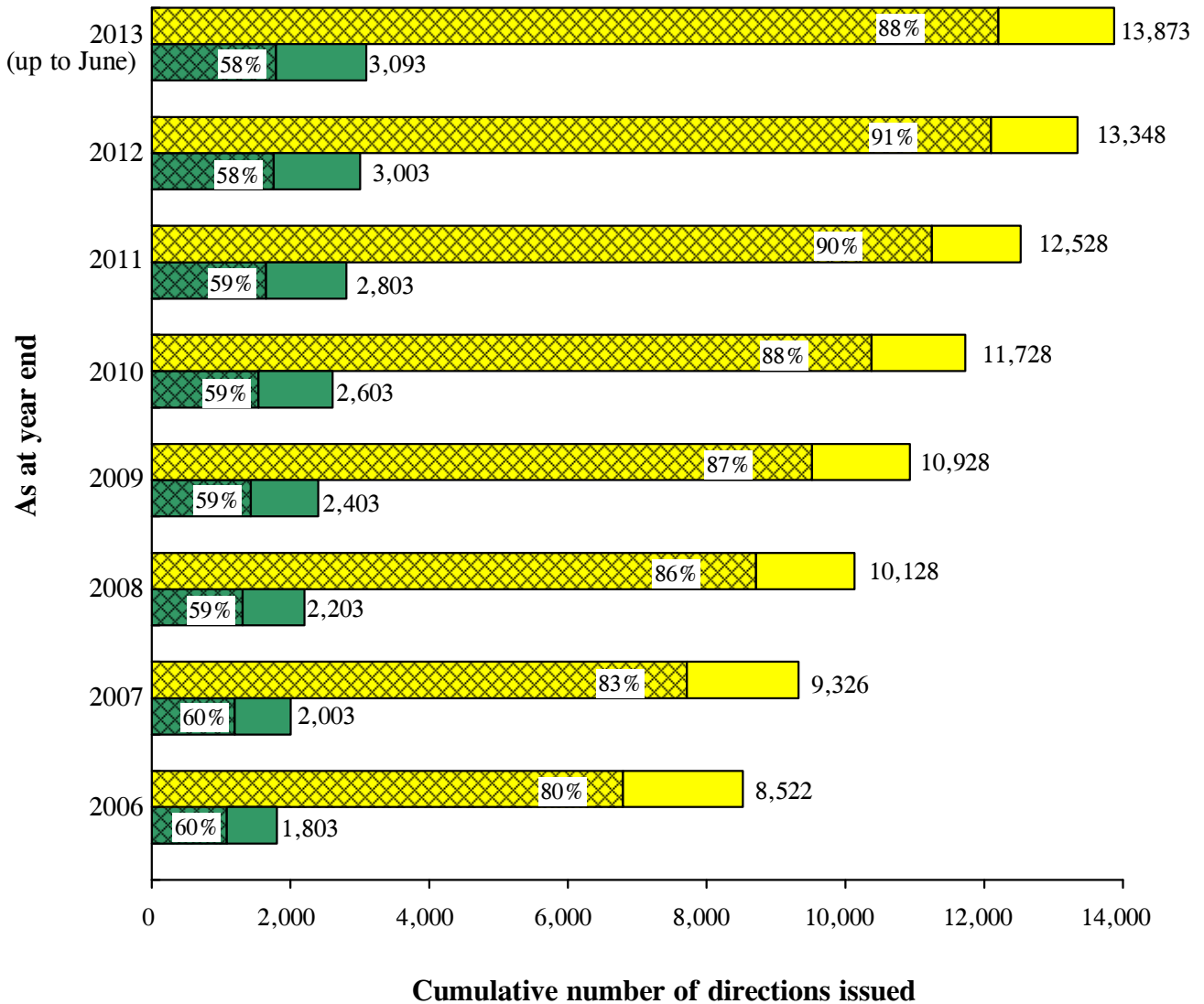
Note 8: *A separate fire safety direction is issued to each owner (and also occupier in case of directions issued by the FSD). As most target buildings/premises require improvement works by more than one owner and occupier, the total number of directions issued is greater than the number of target buildings/premises with directions issued.*

Note 9: *The compliance rate of directions issued was calculated by dividing the cumulative number of directions having been complied with by the total number of directions issued since 1997. The percentage of Prescribed Commercial Premises having complied with all directions was calculated by dividing the cumulative number of Prescribed Commercial Premises having complied with all directions by the total number of Prescribed Commercial Premises issued with directions since 1997.*

Implementation of fire safety improvement programmes

Figure 1

**Cumulative number of directions issued for Prescribed Commercial Premises
and percentages of the directions having been complied with
(2006 to June 2013)**



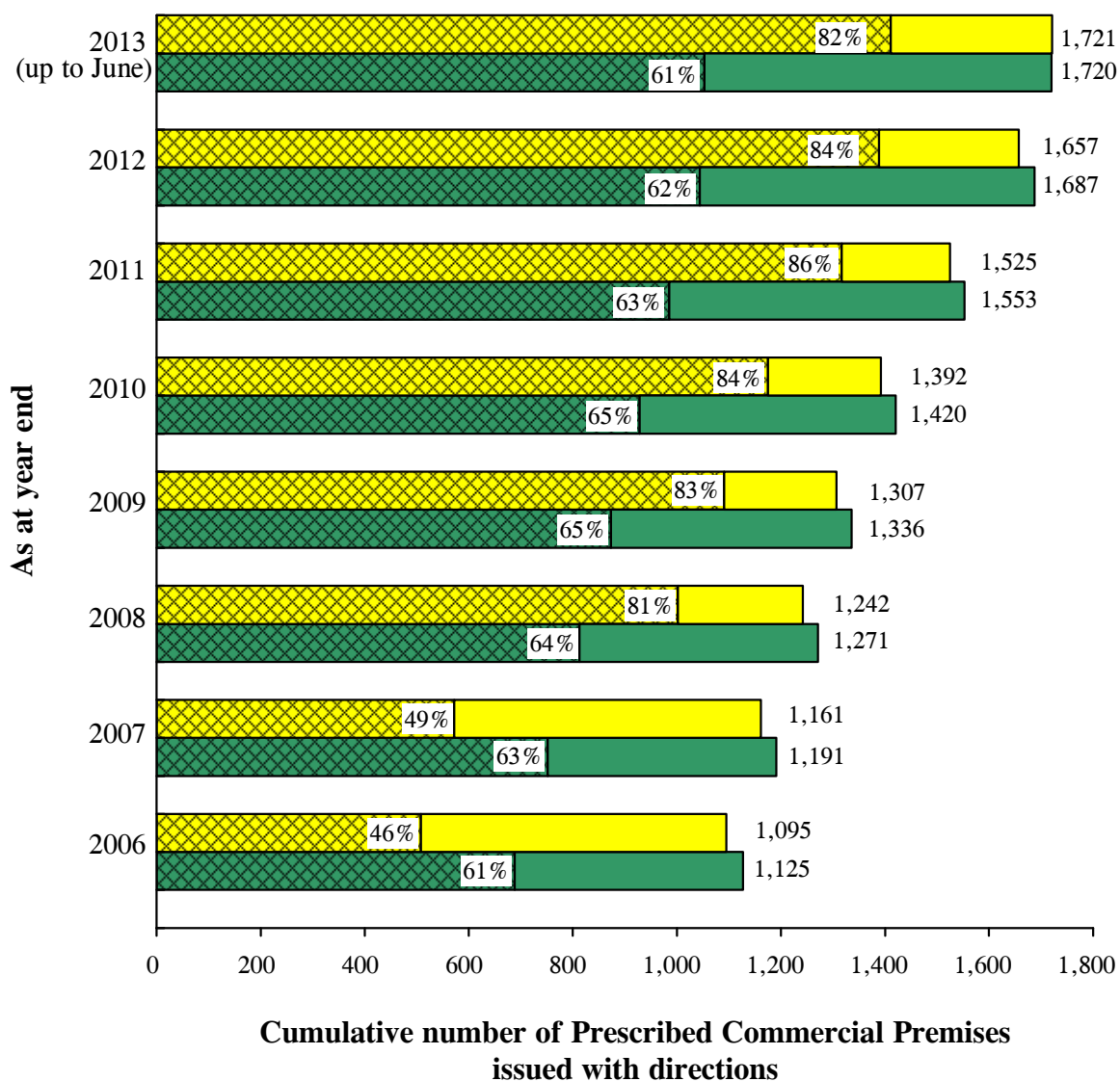
- Legend:
- Directions issued by the FSD
 - Percentage of FSD's directions having been complied with
 - Directions issued by the BD
 - Percentage of BD's directions having been complied with

Source: BD and FSD records

Implementation of fire safety improvement programmes

Figure 2

Cumulative number of Prescribed Commercial Premises issued with directions and percentages of the Premises having complied with all directions (2006 to June 2013)



- Legend:
- Premises with directions issued by the FSD
 - Percentage of premises having complied with all FSD's directions
 - Premises with directions issued by the BD
 - Percentage of premises having complied with all BD's directions

Source: BD and FSD records

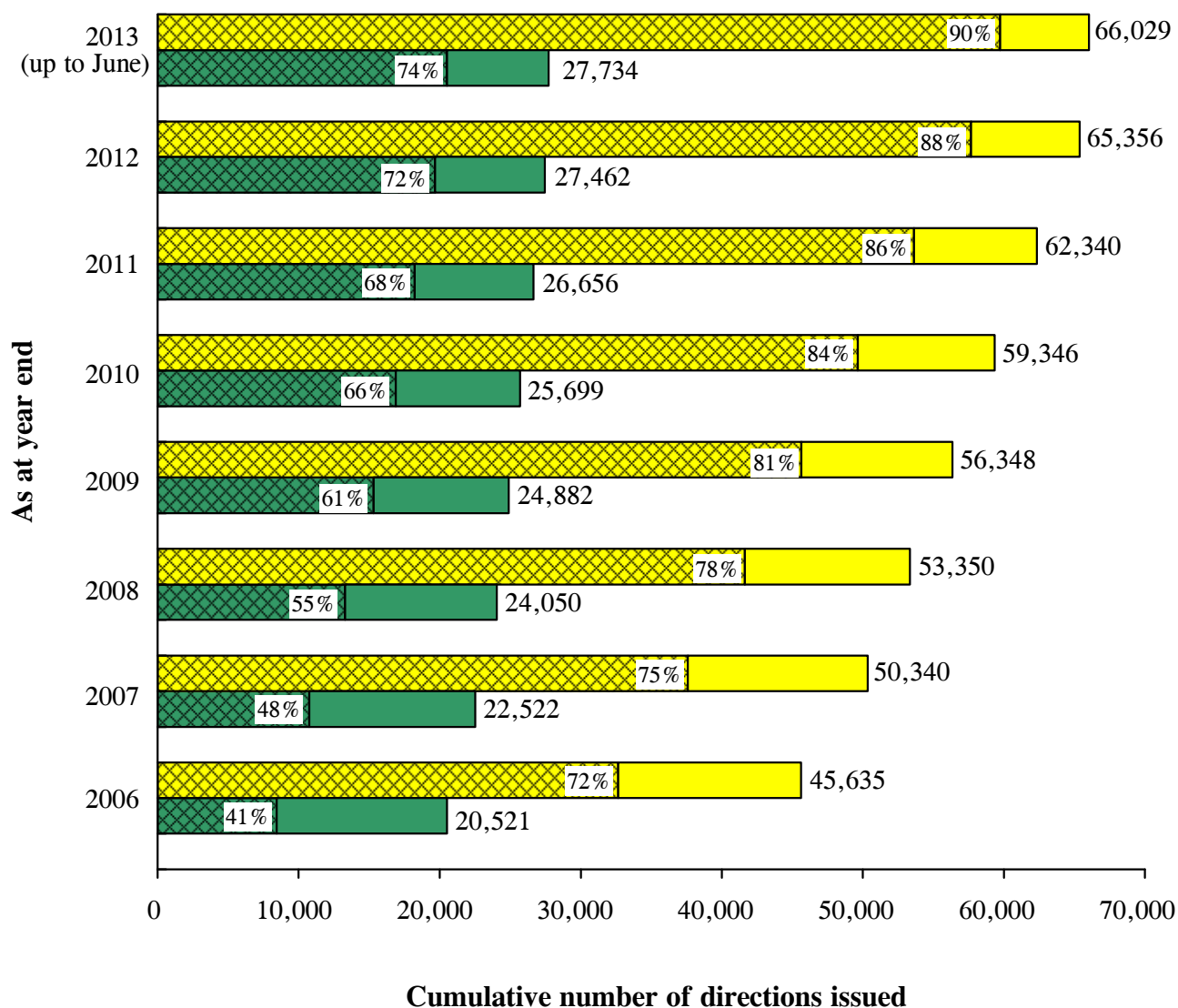
Compliance position of Specified Commercial Buildings

2.13 From 1998 (the commencement of the improvement programme) to June 2013, the BD and FSD had inspected 1,573 (88%) of the targeted 1,783 Specified Commercial Buildings. As at 30 June 2013, the BD had issued 27,734 directions for 1,286 Specified Commercial Buildings while the FSD had issued 66,029 directions for 1,301 Specified Commercial Buildings. The compliance rates of directions issued for Specified Commercial Buildings and the percentages of the Buildings having complied with all directions issued (Note 10) from 2006 to 2013 (up to 30 June) are shown in Figures 3 and 4 respectively.

Note 10: *The compliance rate of directions issued was calculated by dividing the cumulative number of directions having been complied with by the total number of directions issued since 1998. The percentage of Specified Commercial Buildings having complied with all directions was calculated by dividing the cumulative number of Specified Commercial Buildings having complied with directions by the total number of Specified Commercial Buildings issued with directions since 1998.*

Figure 3

Cumulative number of directions issued for Specified Commercial Buildings and percentages of the directions having been complied with (2006 to June 2013)

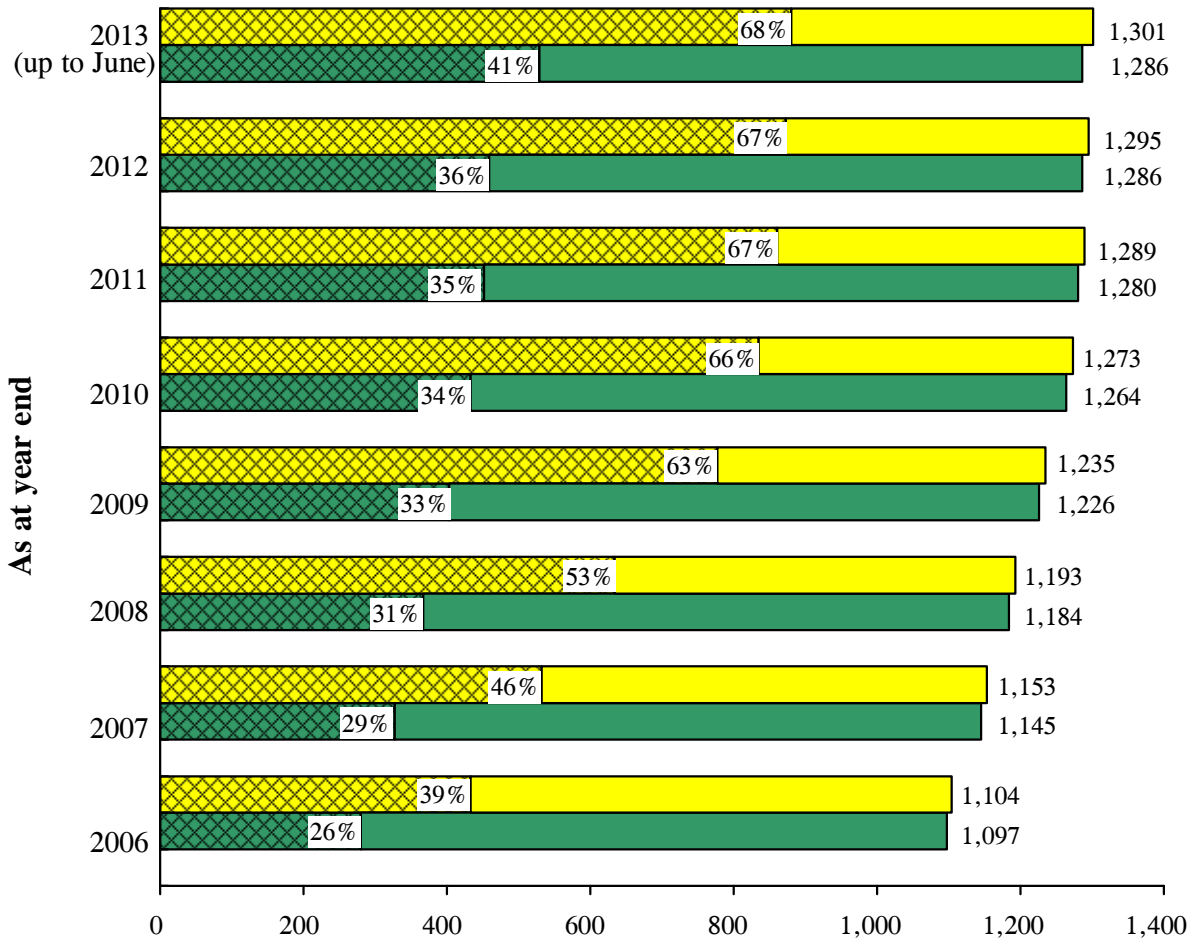


- Legend:
- Directions issued by the FSD
 - Percentage of FSD's directions having been complied with
 - Directions issued by the BD
 - Percentage of BD's directions having been complied with

Source: BD and FSD records

Figure 4

Cumulative number of Specified Commercial Buildings issued with directions and percentages of the Buildings having complied with all directions (2006 to June 2013)



Cumulative number of Specified Commercial Buildings issued with directions

- Legend:
- Buildings with directions issued by the FSD
 - Percentage of buildings having complied with all FSD's directions
 - Buildings with directions issued by the BD
 - Percentage of buildings having complied with all BD's directions

Source: BD and FSD records

Implementation of fire safety improvement programmes

2.14 The compliance situation of both Prescribed Commercial Premises and Specified Commercial Buildings warranted the BD management's attention because:

- (a) *Prescribed Commercial Premises.* From 2006 to June 2013, the compliance rates for the BD's directions decreased from 60% to 58% (see Figure 1); and
- (b) *Specified Commercial Buildings.* Over the same period, while the compliance rates for the BD's directions increased from 41% to 74%, the percentage of compliant Specified Commercial Buildings for the BD's directions only increased from 26% to 41% (see Figures 3 and 4). Given that the FS(CP)O had been in operation for some 15 years, a compliance rate of 41% is not satisfactory.

Compliance position for Target Composite Buildings

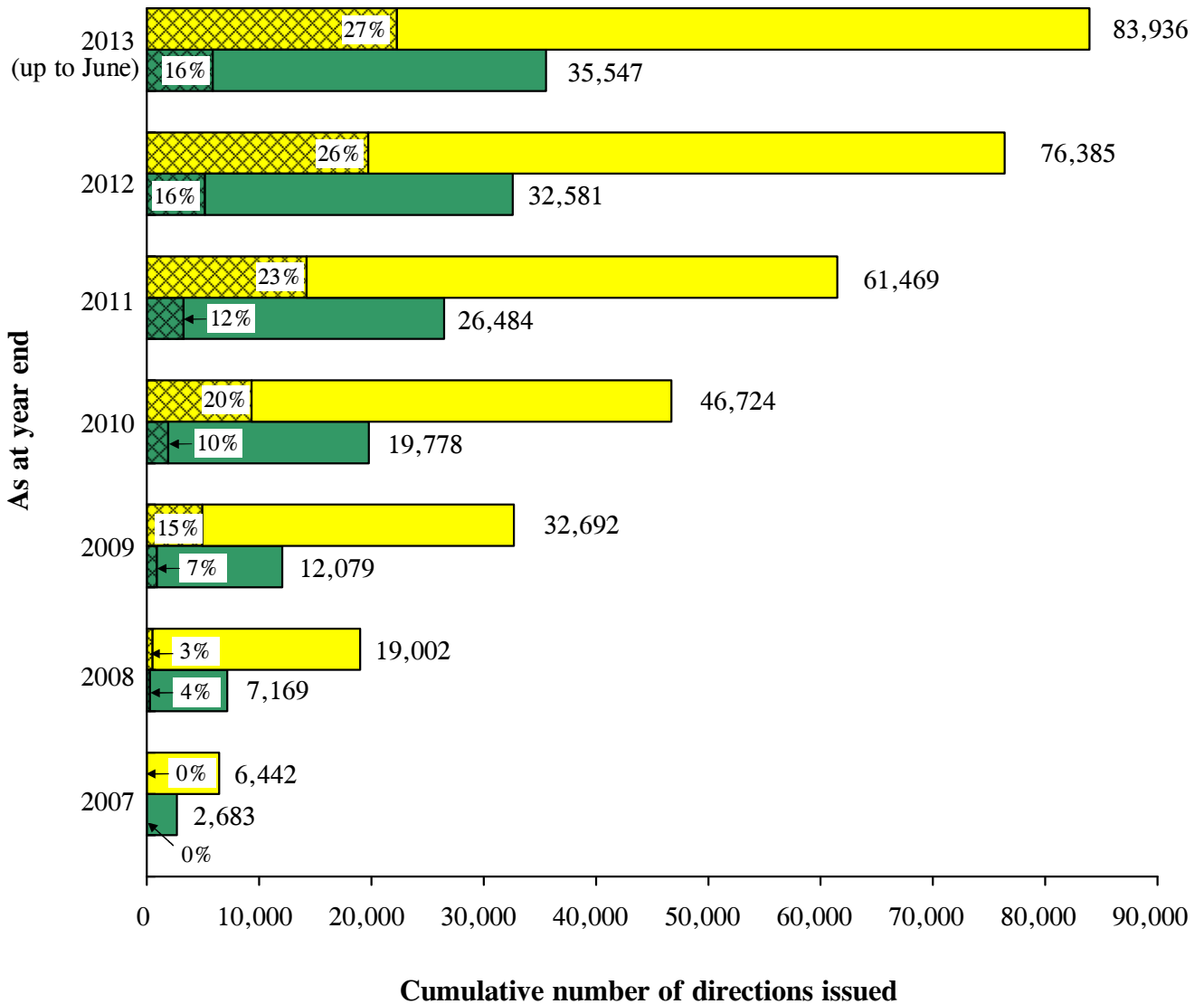
2.15 From 2007 (the commencement of the improvement programme) to June 2013, the BD and FSD had inspected 6,461 (72%) of the 9,000 Target Composite Buildings. As at 30 June 2013, the BD had issued 35,547 directions for 3,564 Target Composite Buildings while the FSD had issued 83,936 directions for 3,564 Target Composite Buildings. Analyses of the compliance rates of directions issued for Target Composite Buildings and the percentages of Target Composite Buildings having complied with all directions issued (Note 11) from 2007 to 2013 (up to 30 June) are shown in Figures 5 and 6 respectively.

Note 11: *The compliance rate of directions issued was calculated by dividing the cumulative number of directions having been complied with by the total number of directions issued since 2007. The percentage of Target Composite Buildings having complied with all directions was calculated by dividing the cumulative number of Target Composite Buildings having complied with directions by the total number of Target Composite Buildings issued with directions since 2007.*

Implementation of fire safety improvement programmes

Figure 5

**Cumulative number of directions issued for Target Composite Buildings
and percentages of the directions having been complied with
(2007 to June 2013)**



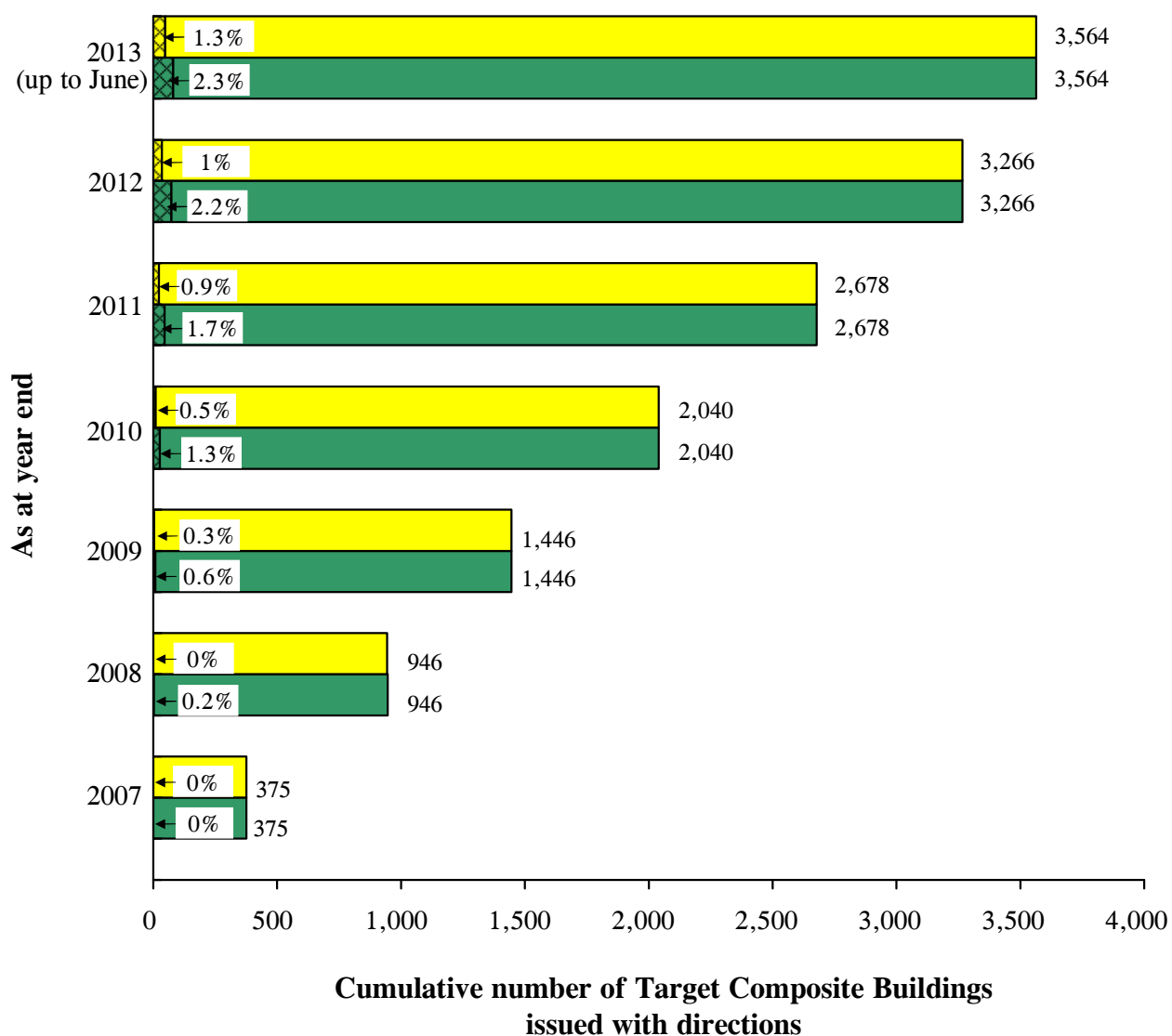
- Legend:
- Directions issued by the FSD
 - Percentage of FSD's directions having been complied with
 - Directions issued by the BD
 - Percentage of BD's directions having been complied with

Source: BD and FSD records

Implementation of fire safety improvement programmes

Figure 6

Cumulative number of Target Composite Buildings issued with directions and percentages of the Buildings having complied with all directions (2007 to June 2013)



- Legend:
- Premises with directions issued by the FSD
 - Percentage of premises having complied with all FSD's directions
 - Premises with directions issued by the BD
 - Percentage of premises having complied with all BD's directions

Source: BD and FSD records

Implementation of fire safety improvement programmes

2.16 The low compliance rates of directions issued for Target Composite Buildings are a cause for concern, given that the FS(B)O has been in operation for some six years. Audit considers that the BD and FSD should step up efforts to improve the compliance rates of directions issued for Target Composite Buildings.

2.17 While it is the primary responsibility of the owners/occupiers concerned to upgrade the fire safety provisions of their buildings/premises as required under the fire safety directions, the BD and FSD, as the enforcement authorities, have a role in:

- (a) carrying out statutory duties in an efficient manner, such as promptly issuing directions after inspections of the target buildings/premises (see paras. 3.19 to 3.27);
- (b) facilitating owners/occupiers in complying with the directions (see paras. 2.18 to 2.22); and
- (c) taking effective enforcement action to compel compliance in warranted cases (see paras. 4.10 and 4.11).

Formation of OCs

2.18 Implementation of the fire safety improvement programmes for Target Composite Buildings is generally more difficult than that of Prescribed Commercial Premises and Specified Commercial Buildings. This is because while Prescribed Commercial Premises and Specified Commercial Buildings are usually owned/occupied by business people, some owners residing in Target Composite Buildings are elderly and may not have the knowledge and means to go about the required works. For Target Composite Buildings without OCs to coordinate the improvement works in the common parts of the buildings, the difficulty in complying with the fire safety directions is even greater. In these cases, the directions for common parts are issued to all owners. For every change of ownership in any individual unit, the BD and FSD have to reissue the directions with a new compliance period thus prolonging the overall implementation time.

Implementation of fire safety improvement programmes

2.19 From 2004 to 2007, in preparation for implementing the FS(B)O, the BD and FSD inspected about 3,200 Target Composite Buildings and identified those without OCs so that the HAD could start early in assisting them to form OCs (see para. 2.5).

2.20 However, since the implementation of the FS(B)O in 2007, the BD and FSD have only sought the HAD's assistance on a case-by-case basis. After inspecting a Target Composite Building, they would check with the Land Registry the owners' information for the issue of directions at which time they would also enquire about the existence of OCs for the Target Composite Building concerned. For a Target Composite Building without an OC, the HAD would then be informed to take action. The formation of OCs takes time and liaison efforts by the HAD. As a result, OCs may not be formed in time for coordinating the required improvement works. As at February 2013, of the 3,358 Target Composite Buildings with directions issued, only 1,393 (41%) had OCs or were under single ownership. To improve the situation, the BD and FSD may consider sharing the inspection plans (Note 12) with the HAD as early as practicable. By making such information available to the HAD before the commencement of the BD/FSD's joint inspections, the HAD would have more time to plan its liaison work to provide timely assistance to owners of target composite/domestic buildings which do not have OCs.

Financial and other assistance

2.21 In 2005 (before the implementation of the FS(B)O), the BD and FSD carried out a survey on owners of target commercial buildings and composite buildings to evaluate the effectiveness of the Building Safety Loan Scheme. While 79% of the commercial unit owners surveyed had no financial need to apply for the loan, only 46% of the domestic unit owners indicated that they had no such need. The survey results suggested about half of the domestic unit owners of Target Composite Buildings and Target Domestic Buildings would have a need for financial assistance in implementing the required works under the FS(B)O.

Note 12: *As at 30 June 2013, there were 2,539 Target Composite Buildings and 3,000 Target Domestic Buildings on the inspection list awaiting inspection.*

Implementation of fire safety improvement programmes

2.22 With the FS(B)O in operation for some six years, there is merit to conduct another survey to find out whether the existing financial assistance and technical support are meeting the owners' needs so that further improvement measures can be taken accordingly. For example, Audit notes that in the attachments to the fire safety directions issued by the BD and FSD, owners are only advised to contact the Hong Kong Housing Society and the Urban Renewal Authority through their hotlines and websites for details of the financial assistance under the Integrated Building Maintenance Assistance Scheme. In Audit's view, handy information such as the leaflet introducing the Scheme can be sent for easy reference of owners.

Audit recommendations

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

- (a) **consider providing more performance information in the BD's and FSD's CORs (such as the cumulative compliance information) to enable stakeholders to have a better picture of the progress made in upgrading the fire safety provisions of Prescribed Commercial Premises/Specified Commercial Buildings/Target Composite Buildings;**
- (b) **step up efforts to improve the compliance rates of fire safety directions, especially those for Target Composite Buildings, and those issued by the BD for Prescribed Commercial Premises and Specified Commercial Buildings;**
- (c) **share the inspection plans with the HAD as early as practicable, so as to allow the HAD more time to plan its liaison work to provide timely assistance to owners of target composite/domestic buildings which do not have OCs;**
- (d) **conduct another survey to find out whether the Government's financial assistance and technical support are meeting the owners' needs so that improvement measures can be taken accordingly; and**

Implementation of fire safety improvement programmes

- (e) **send promotional leaflets of the available financial assistance schemes to owners together with the directions.**

Response from the Administration

2.24 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) in recent years, the actual numbers of target buildings/premises issued with directions and with directions complied with were generally in line with the annual estimates. Due to the inherent nature and complexity of the fire safety improvement works involved, owners will sometimes need more time to submit alternative measures to the BD for consideration. Hence, more time is taken to carry out the works required under the BD's directions; and
- (b) while compliance rates would largely depend on owners' effort, the BD would consider stepping up efforts to improve the compliance rates.

2.25 The Director of Fire Services agrees with the audit recommendations. He has said that:

- (a) the FSD has hitherto maintained cumulative compliance information for internal reference. The BD and FSD will work out the relevant performance information for inclusion in their CORs as appropriate; and
- (b) the following effort will be made to improve the compliance rates of Target Composite Buildings:
 - (i) paying more visits/inspections and issuing reminding letters/warning letters to OCs/owners/occupiers;
 - (ii) actively arranging meetings with OCs/owners/occupiers; and
 - (iii) continuing to explore and apply flexible and pragmatic approach to help owners/occupiers comply with the fire safety improvement measures.

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2.26 The Director of Home Affairs welcomes the BD and FSD to inform the HAD of the inspection results of those buildings without OCs as early as possible. She has also said that:

- (a) the HAD endeavours to encourage and assist owners to form OCs to foster better building management; and
- (b) the crux of OC formation is the participation of owners. The HAD's observation is that owners usually become more proactive and are more willing to support the formation of an OC after they have received statutory orders or directions issued by the BD, FSD or other government departments.

PART 3: ARRANGEMENTS FOR INSPECTIONS AND ISSUING FIRE SAFETY DIRECTIONS

3.1 This PART examines the BD's and FSD's operational arrangements for:

- (a) inspecting target buildings and premises (paras. 3.2 to 3.14); and
- (b) issuing fire safety directions (paras. 3.15 to 3.31).

Arrangements for inspecting target buildings and premises

3.2 For implementing the fire safety improvement programmes under the FS(CP)O and FS(B)O, the BD and FSD carry out joint inspections of the target buildings and premises. Having regard to the total number of target buildings and premises to be covered in each phase of the respective improvement programmes (see Table 1 in para. 2.2), the BD and FSD have set annual inspection targets in their CORs (see Table 3).

Table 3

Annual inspection targets

Target buildings/premises	Annual inspection targets (Number)	Target year
Prescribed Commercial Premises	150	1998 to 2013
Specified Commercial Buildings	140	1999 to 2007
	30 (Note)	2008
	40	2009 to 2013
Target Composite Buildings	900	2007
	840	2008
	1,150	2009 to 2013

Source: BD and FSD's CORs

Note: The annual inspection target has been reduced from 2008 onwards due to the smaller number of remaining Specified Commercial Buildings and many of which were built in the 1980s with larger size and more complicated layout.

Compilation of inspection lists

3.3 ***Prescribed Commercial Premises.*** Before the commencement of each phase of the improvement programmes for Prescribed Commercial Premises, the BD provides the FSD with a list of commercial, industrial and composite buildings with occupation permits issued within the scheduled period for that phase. The FSD carries out scouting exercises of these buildings to identify Prescribed Commercial Premises for compiling an inspection list for agreement with the BD. The five types of Prescribed Commercial Premises are prioritised according to their years of occupation.

3.4 ***Specified Commercial Buildings and Target Composite Buildings.*** The BD is responsible for compiling the inspection lists for Specified Commercial Buildings and Target Composite Buildings based on the dates of occupation permits of these buildings. With reference to the number of target buildings to be jointly inspected by the FSD each year, the BD would select buildings primarily in accordance with their age (starting with the oldest). According to the BD's operation manual, other considerations include:

- (a) a higher priority for a building identified as having a higher fire risk (e.g. as revealed by complaints and other operations of the BD and FSD);
- (b) a lower priority for a building that has undergone major repair in an earlier large scale operation (see para. 3.18) not more than four years from the date of the scheduled inspection; and
- (c) the need for taking synchronised actions on target buildings that are under any BD's current large scale operations to facilitate owners' works for complying with different statutory requirements in one go as far as possible.

Identification of Prescribed Commercial Premises

3.5 The prescribed commercial activities under the FS(CP)O are specified in Schedule 1 of the Ordinance as:

Arrangements for inspections and issuing fire safety directions

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

3.6 Audit scrutiny of the inspection lists of Prescribed Commercial Premises drawn up by the FSD after its scouting exercises of 2003 and 2008 revealed that certain chain shops selling furniture and household items were included as Prescribed Commercial Premises. However, other chain shops selling similar products were not. To prevent omission and inconsistency in drawing up of the Prescribed Commercial Premises inspection list, the FSD should provide adequate guidance for scouting exercises.

Pre-war buildings

3.7 In general, the BD selects buildings primarily in accordance with their age (starting with the oldest) for compiling the Specified Commercial Building and Target Composite Building inspection lists. The BD's records showed that as at 30 June 2013, there were 502 pre-war buildings that fell within the scope of the FS(CP)O or FS(B)O. The BD and FSD had inspected 232 (46%) of them. The remaining 270 (54%) pre-war buildings comprised 8 Specified Commercial Buildings and 262 Target Composite Buildings.

3.8 According to the BD, some pre-war buildings had practical difficulties to comply with fire safety construction requirements under the relevant Codes of Practice (see para. 1.3(a) and (b)) due to site and structural constraints. To address

Arrangements for inspections and issuing fire safety directions

the issue, the BD and FSD have commenced a study (Note 13) on a pilot cluster of pre-war buildings. The study is targeted for completion in 2014. Given that 270 pre-war buildings have not been inspected, there is a need to expedite actions in this regard so that the fire safety measures of pre-war buildings can be improved as soon as practicable.

Utilities buildings

3.9 According to the FS(CP)O, a commercial building under the scope of this Ordinance:

- (a) means the whole of a non-domestic building which was constructed to be used or is being used for the purposes of an office, business, trade or entertainment; and
- (b) does not include the whole of a non-domestic building which was constructed to be used or is being used exclusively for such purposes as utilities buildings, hospitals, hotels and serviced apartments.

3.10 Audit examination revealed that the BD had taken a long time to determine whether some utilities buildings which had been partly used as offices could still be regarded as exclusively used for utilities purpose and exempted from the FS(CP)O. Up to August 2013, the BD had not taken any enforcement actions on these buildings as summarised in Case 1 below.

Note 13: *The study aims to consider any alternative improvement measures in respect of the fire safety construction requirements as specified in the directions that may be submitted by the owners. With the experience gained in the pilot scheme, appropriate flexible alternative requirements may be accepted in similar pre-war buildings.*

Case 1

Utilities buildings partly used as office

1. The BD and FSD jointly inspected a utilities building (Building A) in 2001, and another utilities building (Building B) in 2004. In both cases, it was found that: (a) the buildings were partly used as office; and (b) there were deficiencies in the fire safety provisions.

2. However, there were different views within the BD on whether these utilities buildings partly used as office should be exempted from the FS(CP)O. Between 2004 and 2011, a number of BD internal meetings were held, but to no avail.

3. In June 2011, the BD finally decided that Buildings A and B should not be exempted from the FS(CP)O. The inspection teams responsible for Buildings A and B were instructed to take appropriate follow-up action.

4. Notwithstanding the decision made in June 2011, Audit noted that up to August 2013, no enforcement action had been taken on both Buildings A and B. Audit also noted that the BD and FSD, in 2007, jointly inspected two other utilities buildings (Buildings C and D) that were also partly used as office, but had not carried out follow-up enforcement action on the deficiencies in their fire safety provisions.

Audit comments

5. The BD had taken a long time (from 2004 to 2011) to ascertain whether Buildings A and B should be exempted from the FS(CP)O. While a decision was made in 2011, no follow-up enforcement action had been taken during the two years up to August 2013. The BD should expedite action on these two utilities buildings, and also ascertain whether Buildings C and D, and other similar utilities buildings should also be subject to the FS(CP)O.

Source: BD records

Audit recommendations

- 3.11 **Audit has *recommended* that the Director of Fire Services should:**
- (a) **provide adequate guidance to FSD staff for identifying Prescribed Commercial Premises; and**
 - (b) **in conjunction with the Director of Buildings, review the Prescribed Commercial Premises inspection list to see if there are inconsistency and omission in identifying Prescribed Commercial Premises similar to that mentioned in paragraph 3.6 and take necessary action accordingly.**
- 3.12 **Audit has *recommended* that the Director of Buildings should:**
- (a) **in conjunction with the Director of Fire Services, expedite actions on the pilot study of pre-war buildings with a view to improving the fire safety measures of pre-war buildings as soon as practicable;**
 - (b) **expedite actions on Buildings A and B (see Case 1 in para. 3.10) that the BD had determined to be subject to FS(CP)O; and**
 - (c) **ascertain whether Buildings C and D, and other similar utilities buildings should also be subject to the FS(CP)O without further delay.**

Response from the Administration

3.13 The Director of Fire Services agrees with the audit recommendations in paragraph 3.11. He has said that the FSD will, in conjunction with the BD, review the Prescribed Commercial Premises inspection list in the 2013 scouting exercise to see if there is any omitted inclusion of Prescribed Commercial Premises.

3.14 The Director of Buildings agrees with the audit recommendations in paragraph 3.12. He has said that:

Arrangements for inspections and issuing fire safety directions

- (a) pending the outcome of the pilot study mentioned in paragraph 3.8, the BD will derive a strategy in handling all the pre-war buildings; and
- (b) pre-war buildings are subject to periodic inspections by the Existing Buildings Division. Enforcement action will be taken against serious deficiencies in structural and fire safety which constitute obvious hazard or imminent danger to life or property as appropriate.

Arrangements for issuing fire safety directions

3.15 After a joint inspection, the BD and FSD will separately prepare their own directions. To avoid confusion to owners, the BD and FSD have agreed to jointly issue the directions (as far as possible on an agreed date) which are to be sent by the FSD using registered mail.

3.16 In the 2004 review, Audit found that of the 785 Specified Commercial Buildings inspected up to 31 March 2004, 238 (30%) had fire safety directions issued six months or more after inspections. Similar situation was noted for Prescribed Commercial Premises. As long time taken in issuing directions had knock-on effect on subsequent enforcement steps, Audit had recommended that the BD and FSD should issue directions promptly and set performance target for their staff.

Instructions and guidelines

3.17 Regarding the preparation and issuing of directions, the BD and FSD have issued the following guidelines for their staff:

- (a) ***BD's guidelines.*** The inspection team and the Building Surveyor in charge are responsible for preparing detailed inspection reports showing the existing conditions of the buildings/premises and the recommended follow-up action (which should be feasible and practicable, taking into consideration the structural and spatial constraints). Directions will then be prepared for the Senior Building Surveyor's endorsement. Directions should in principle be issued within four months. However, other factors such as the complexity of the cases, synchronisation with large scale operation should also be taken into account (see para. 3.18); and

Arrangements for inspections and issuing fire safety directions

- (b) ***FSD's guidelines.*** The inspection officer should compile the inspection report for endorsement by his supervisors within ten weeks (for cases under the FS(B)O) after the inspection. The fire safety direction should then be ready for issue within ten working days for FS(B)O cases or 14 working days for FS(CP)O cases after receipt of necessary information, such as owners' particulars from the BD. Should the BD fail to provide the necessary details within four months from the inspection date for Prescribed Commercial Premises/Specified Commercial Buildings and within two months for Target Composite Buildings, the inspection officer should liaise with the relevant BD staff. Reasons for any delay should be brought to the attention of the Divisional Officer concerned for follow-up action at the quarterly liaison meetings with the BD.

3.18 ***Synchronised action.*** Since 1999, the Existing Buildings Division of the BD has carried out large scale operations (Note 14) each year to combat the problem of UBWs under the Buildings Ordinance. As UBWs may be found during inspections of target buildings under the FS(CP)O and FS(B)O, the BD has laid down the following guidelines for staff of the Fire Safety Section:

- (a) synchronised action should be taken as far as possible on target buildings under the BD's large scale operations for UBWs to facilitate owners in carrying out necessary works for complying with the Buildings Ordinance and FS(CP)O or FS(B)O in one go; and
- (b) actionable items under a large scale operation should not overlap with the required improvement works under the FS(CP)O or FS(B)O. Items involving improvement should be included in the directions issued under the FS(CP)O or FS(B)O for better results.

Note 14: *Each large scale operation tackles specific types of UBWs with a view to eliminating hazards to the public. For each operation, comprehensive action is taken against all such UBWs found in target buildings.*

Arrangements for inspections and issuing fire safety directions

Long time taken in issuing directions

3.19 In this audit review, Audit found that the timeliness in issuing fire safety directions had not improved over the years. Of the 1,573 Specified Commercial Buildings inspected up to 30 June 2013, 471 (30%, same as that in 2004 — see para. 3.16) had fire safety directions issued six months or more after inspections. With respect to the internal target of issuing directions within four months (see para. 3.17(a)), the extent of achievement as at 30 June 2013 for Prescribed Commercial Premises/Specified Commercial Buildings/Target Composite Buildings is summarised in Table 4.

Arrangements for inspections and issuing fire safety directions

Table 4

**Extent of achievement of internal time target on issuing directions
(30 June 2013)**

Target buildings/premises		Number of		
		Prescribed Commercial Premises	Specified Commercial Buildings	Target Composite Buildings
Directions issued	Within 4 months	694 (40%)	556 (43%)	855 (24%)
	More than 4 months (delayed cases)	1,026 (60%)	730 (57%)	2,709 (76%)
	Total	1,720 (100%)	1,286 (100%)	3,564 (100%)
Directions to be issued	Within 4 months	41 (9%)	14 (8%)	423 (15%)
	More than 4 months (overdue cases)	406 (91%)	163 (92%)	2,450 (85%)
	Total	447 (100%)	177 (100%)	2,873 (100%)

Source: Audit analysis of BD records

Remarks: The total numbers of buildings/premises with directions issued/to be issued are less than the total numbers of buildings/premises inspected (see paras. 2.12, 2.13 and 2.15) because no directions were required to be issued for some buildings/premises inspected.

Arrangements for inspections and issuing fire safety directions

3.20 Ageing analyses of the delayed and overdue cases as at 30 June 2013 are shown in Tables 5 and 6.

Table 5

**Ageing analysis of delayed cases
(30 June 2013)**

Period of delay (Note)	Number of		
	Prescribed Commercial Premises	Specified Commercial Buildings	Target Composite Buildings
Less than 1 year	723 (70%)	554 (76%)	1,926 (71%)
1 year to less than 3 years	221 (22%)	157 (21%)	724 (27%)
3 years to less than 5 years	63 (6%)	18 (3%)	58 (2%)
5 years or more	19 (2%)	1 (-)	1 (-)
Total	1,026 (100%)	730 (100%)	2,709 (100%)
Average delay period	11 months	8 months	9 months

Source: Audit analysis of BD records

Note: The period of delay for each case was counted from the date after the lapse of the targeted 4 months.

Arrangements for inspections and issuing fire safety directions

Table 6

**Ageing analysis of overdue cases
(30 June 2013)**

Period of overdue (Note)	Number of		
	Prescribed Commercial Premises	Specified Commercial Buildings	Target Composite Buildings
Less than 1 year	69 (17%)	34 (22%)	1,012 (41%)
1 year to less than 3 years	147 (36%)	45 (27%)	1,178 (48%)
3 years to less than 5 years	122 (30%)	39 (24%)	222 (9%)
5 years or more	68 (17%)	45 (27%)	38 (2%)
Total	406 (100%)	163 (100%)	2,450 (100%)
Average overdue period	36 months	40 months	18 months

Source: Audit analysis of BD records

Note: The period of overdue for each case was counted from the date after the lapse of the targeted 4 months.

3.21 The large number of inspected buildings/premises with directions overdue for issuing (i.e. averaging 36 months for 406 Prescribed Commercial Premises, 40 months for 163 Specified Commercial Buildings and 18 months for 2,450 Target Composite Buildings) is unsatisfactory as the implementation of the fire safety improvement programmes would be prolonged (see paras. 3.24 to 3.27 for examples) as a result. In fact, a long delay in issuing directions may require re-inspection since the conditions of the target buildings/premises and owners' particulars may have changed. The BD and FSD need to take effective measures to clear the backlog taking into account the observations in paragraphs 3.22 to 3.27.

Performance targets on inspection and issuing directions

3.22 As mentioned in paragraph 3.2, the BD and FSD have set annual inspection targets in their CORs. Since 2009, the BD and FSD have increased the annual inspection target for Target Composite Buildings to 1,150 (up from 840 in 2008, and 900 in 2007) in order to speed up the implementation of the improvement programme under the FS(B)O. While the inspection target of 1,150 was largely met from 2009 to 2013, the large number of directions pending issuance raised the question on whether the objective of speeding up the implementation of the improvement programme has been fully achieved. Inspection is only the first step in the process of improving fire safety of old buildings. The BD and FSD need an overall strategy to achieve concurrently the inspection target and the time target of issuing directions for all inspected buildings. Otherwise, owners of inspected buildings would not be informed of the required improvement works in a timely manner. Moreover, the inspection effort could be wasted as re-inspection may be required before directions are issued. In Audit's view, there is a need to review the present inspection target to see if it is commensurate with the BD's and FSD's capacity in issuing directions for all inspected buildings within 4 months after inspection.

3.23 Moreover, unlike the inspection target, the target to issue directions within four months after inspection is an internal guideline for staff (see para. 3.17). This target is not published in the CORs as a performance measure. To enhance transparency, the BD and FSD need to consider including this time target as a performance measure in their CORs.

Case studies

3.24 Audit selected 20 delayed cases (comprising 4 Prescribed Commercial Premises, 5 Specified Commercial Buildings and 11 Target Composite Buildings) for examination and found in 14 cases (Note 15) that there was room for improvement in one of the following areas:

Note 15: *Of the remaining 6 cases, there were justified circumstances leading to the delays. For example in one case, a Specified Commercial Building was found vacant during a joint inspection in 1998. The owner indicated that the building would be demolished for re-development. In 2002, after learning that the owner would renovate instead of demolishing the Specified Commercial Building, the BD and FSD issued directions accordingly.*

Arrangements for inspections and issuing fire safety directions

- (a) timely preparation of inspection reports (see Case 2 and para. 3.25);
- (b) timely determination of the Prescribed Commercial Premises boundary by the BD (see Case 3 and para. 3.26); and
- (c) synchronisation of actions for target buildings under the BD's large scale operation (see Case 4 and para. 3.27).

Case 2

Long time taken in preparing inspection reports for a Target Composite Building

1. In March 2010, the BD and FSD jointly inspected the subject Target Composite Building. However, they had not prepared inspection reports for issuing fire safety directions within four months after the inspection. The FSD completed its inspection report in September 2010 (i.e. six months after the inspection) and the BD took some 14 months to complete its report in May 2011. There was no documented reason for the long time taken.

2. In the event, directions (14 by the FSD and 3 by the BD) were only issued in August 2011 (17 months after the joint inspection). According to the directions, the fire safety requirements for the building included: (a) a fire hydrant/hose reel system and manual fire alarm system for common areas; (b) automatic sprinkler system and emergency lighting for the shops of ground floor and cockloft; and (c) sealing up door openings of certain flats with walls having a fire resistance period of not less than one hour.

Source: BD and FSD records

Arrangements for inspections and issuing fire safety directions

3.25 Besides Case 2, audit examination revealed three other cases in which the BD and FSD took some 5 to 13 months to complete their inspection reports. There was also no documented reason for the long time taken. These cases indicated a need for strengthening management control to improve the situation. In this connection, Audit notes the following areas for improvement:

- (a) the FSD needs to enhance its computer system to facilitate case management and monitoring the timeliness of its enforcement actions (see para. 4.5); and
- (b) the BD needs to make effective use of the management information in its computer database and the Progress Monitoring Committee (Note 16) to monitor the timeliness in preparing inspection reports.

Note 16: *The Progress Monitoring Committee is chaired by a Chief Building Surveyor (as head of the Fire Safety Section) and comprises Senior Building Surveyors in charge of the inspection teams as members. The terms of reference of the meeting are to monitor the progress of achievement of the COR targets, and review outstanding and problem cases in enforcing the FS(CP)O and FS(B)O.*

Case 3

Long time taken in determining the Prescribed Commercial Premises boundary

1. In August 2006, the BD and FSD conducted a joint inspection of the subject Prescribed Commercial Premises (a shopping arcade). While the FSD prepared its inspection report for issuing fire safety directions in August 2006, the BD's inspection report was still outstanding in December 2006 (four months after inspection).

2. From 2006 to 2012, the FSD made repeated enquiries about the BD's progress and was informed that the premises boundary (Note) had not yet been determined. From July to November 2012, the BD re-inspected the premises. In January 2013, the BD informed the FSD that the boundary of the premises was determined. After FSD's re-inspection in June 2013, 201 directions (193 by the FSD and 8 by the BD) were issued (over six years after the 2006 joint inspection).

3. According to the directions, the fire safety requirements for the premises included the provision of: (a) automatic cut-off devices for mechanical ventilating system and emergency lighting by both the OC and occupiers; and (b) protected lobby, sufficient and proper exit routes and fire shutters for the shopping arcade at level 3.

Source: BD and FSD records

Note: The BD is responsible for preparing and seeking FSD's agreement on the boundary of Prescribed Commercial Premises in accordance with relevant provisions of the FS(CP)O.

3.26 Besides Case 3, audit examination also revealed three other Prescribed Commercial Premises with similar delays (ranging from four to five years) in issuing directions allegedly due to the long time taken to determine their boundaries. While the BD has provided its staff with guidelines on determining a Prescribed Commercial Premises boundary, there is no laid-down time frame for completing the task. The BD needs to take measures to improve the timeliness in determining Prescribed Commercial Premises boundary.

Case 4

Target Composite Building under the 2008 large scale operation

1. According to the BD's laid-down guidelines, synchronised action should be taken as far as possible on target buildings with large scale operations to facilitate owners in carrying out works for complying with the Buildings Ordinance and FS(CP)O or FS(B)O in one go (see para. 3.18(a)). The subject Target Composite Building was included in the BD's 2008 large scale operation for tackling UBWs on external walls and in common staircases of selected buildings.

2. In February 2009, the BD and FSD conducted a joint inspection of the building. In early August 2009, the FSD completed its inspection report but the BD's inspection report was still outstanding. Meanwhile, orders to remove UBWs identified during the 2008 large scale operation were issued by the BD's Existing Buildings Division in mid-July 2009. From 2009 to 2012, the FSD made repeated enquiries about the BD's progress and was informed that a date for issuing directions had not yet been fixed.

3. After re-inspecting the building in July 2012 and January 2013, the BD inspection team completed its inspection report in late January 2013. After conducting its own re-inspection, the FSD sent out 36 directions (35 by the FSD and 1 by the BD) in February 2013 (four years after the 2009 joint inspection).

4. According to the directions, the fire safety requirements for the Target Composite Building included: (a) a sprinkler system/hose reel system for individual units; and (b) enclosures to cable and meters within the escape staircases with fire resistance period of not less than one hour for common areas.

Source: BD and FSD records

Arrangements for inspections and issuing fire safety directions

3.27 Besides Case 4, audit examination revealed five other Target Composite Buildings under the 2008 large scale operation (Case 9 in para. 5.5 was one of them) for which synchronised action had not been taken. In the event, there were delays of about four years each in issuing directions for the six Target Composite Buildings. The BD needs to take effective measures to ensure that the laid-down guidelines on taking synchronised action on target buildings also under large scale operations are complied with.

Audit recommendations

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

- (a) **take effective measures to improve the timeliness in issuing directions and to clear the backlog of directions overdue for issuing as soon as possible;**
- (b) **review the current target of inspecting 1,150 Target Composite Buildings a year, to see if it is commensurate with the capacity in issuing directions within four months after inspections;**
- (c) **based on the review result in (b) above, consider including the four-month time target for issuing directions in the CORs of the BD and FSD respectively; and**
- (d) **strengthen controls over the timely preparation of inspection reports after joint inspections.**

3.29 **Audit has also *recommended* that:**

- (a) **the Director of Fire Services should enhance the FSD's computer system for case management and monitoring the timeliness of its enforcement actions; and**
- (b) **the Director of Buildings should take measures to:**

Arrangements for inspections and issuing fire safety directions

- (i) **improve the timeliness in determining Prescribed Commercial Premises boundaries after joint inspections; and**
- (ii) **ensure that the laid-down guidelines on taking synchronised action on target buildings also under large scale operations are complied with as far as possible.**

Response from the Administration

3.30 The Director of Buildings welcomes the audit recommendations in paragraphs 3.28 and 3.29(b). He has said that:

- (a) over the years, because of the increasing complexity of the cases encountered, the mounting backlog arising from buildings inspected, manpower constraints and the need to synchronise with the BD's other large scale operations, the time target to issue directions within four months has become not achievable. To address this issue, the BD will, in conjunction with the FSD, conduct an overall review of the appropriate performance targets in the light of present situation, previous commitments made to the Legislative Council and available resources;
- (b) for Target Composite Buildings with directions not yet issued in five years or more (see Table 6 in para. 3.20), in majority of the cases, major repair works had been carried out arising from the BD's other large scale operations. In order not to cause any repeated disturbances to the owners within a short period of time, the BD decided to defer its actions in issuing fire safety directions. The BD will continue to monitor the cases with a view to ensuring prompt issuance of directions; and
- (c) the BD has spent much effort to synchronise the enforcement actions under the FS(CP)O and FS(B)O with those under the Buildings Ordinance in a timely manner. In 2008 and 2009, due to the large number of target buildings also subject to large scale operations under the Buildings Ordinance, the Fire Safety Section could not synchronise the enforcement actions for all of them (but only to the extent possible). With experience gained over the years, the percentage of synchronisation has been on a rising trend and up to 84% in 2013.

Arrangements for inspections and issuing fire safety directions

3.31 The Director of Fire Services agrees with the audit recommendations in paragraphs 3.28 and 3.29(a). He has said that:

- (a) the four-month time target is an internal prescribed time frame for issuance of directions. Having regard to the present situation and available resources, the BD and FSD will:
 - (i) carry out a review for improving the timeliness in issuing directions and clearing of the backlog of directions overdue;
 - (ii) critically review the performance target of inspecting 1,150 Target Composite Buildings per year, and the four-month time target of issuing directions; and
 - (iii) consider including the time target of issuing directions in the CORs after completing the review; and
- (b) the FSD will enhance its computer system to strengthen the controls over the timely preparation of completion reports after joint inspection and for case management and monitoring the timeliness of the FSD's enforcement actions.

PART 4: ADMINISTRATION OF FIRE SAFETY DIRECTIONS ISSUED

4.1 This PART examines the FSD/BD's administration of fire safety directions issued under both the FS(CP)O and FS(B)O.

Procedures and guidelines

4.2 Generally, the BD and FSD allow owners/occupiers 12 months to comply with the fire safety directions. All directions should be closely monitored with a view to ensuring timely compliance and prompt follow-up actions in case of non-compliance.

4.3 In the 2004 review, Audit found that in many cases, extensions of time were granted repeatedly, and on occasions, the BD and FSD would take a rather lenient attitude in granting extensions of time. The review also revealed that the then prevailing procedures of the BD and FSD on taking enforcement actions against non-compliance cases were either on trial or in draft form. Audit had recommended that the BD and FSD should tighten up the procedures for granting extension of time and formalise the procedures on taking enforcement actions.

4.4 In follow-up of the audit recommendations, the BD and FSD have laid down the following guidelines:

- (a) ***Before expiry of compliance period.*** The BD requires its staff to maintain a dialogue with the owners after the issuance of directions to effect compliance and offer assistance as necessary. Nearing the expiry of compliance period, they are required to contact owners by telephone or letters to remind compliance. A warning letter should be sent if there is still no sign of commencement of works when approaching the expiry of

Administration of fire safety directions issued

the direction. The FSD requires its staff to carry out progress checks at intervals of nine months (Note 17). If progress is found to be unsatisfactory, an advisory letter would be issued to point out the possible consequences. FSD staff are also required to take initiative to render assistance to the owners;

- (b) ***Upon expiry of compliance period/notification of completion of works.*** The BD requires its staff to carry out compliance checks, and report findings and recommendations to their supervisors. If there is no response or no sign of commencement of works after repeated warnings, prosecution action would be instigated. The FSD requires its staff to carry out compliance checks within ten working days for FS(B)O cases or 14 working days for FS(CP)O cases. They are required to take prosecution action against cases of non-compliance without reasonable excuse, after seeking the Department of Justice's advice in case of doubt; and
- (c) ***Granting extension of time.*** The BD requires granting of extension of time to be substantiated (by documents such as OC meeting notes, tender documents and work schedules). Cases without substantiation but justified on individual merits would be endorsed by a Senior Building Surveyor. If an extension of time application has been rejected (such as an application with irrelevant grounds) and the direction is in default, prosecution would be taken. BD staff would also consider prosecution action against delaying tactics when it is detected that the applicant has no intention to carry out the required works. The FSD also requires granting of extension of time to be substantiated (by documents such as OC meeting notes and tender documents). Further extension of time will only be granted when there is evidence that improvement works are delayed by reasonable excuses or circumstances beyond the control of owners/occupiers. In the absence of documentary proof, legal action would be contemplated upon expiry of the compliance period.

Note 17: *Before December 2011, the frequency of progress check was three to four months. Due to heavy workload, the frequency has since been reduced to the present nine months.*

Follow-up actions on fire safety directions issued

Management information for monitoring follow-up actions

4.5 The BD has maintained a computerised database (containing key milestones such as dates of expiry of directions and details of extensions of time granted) for monitoring the follow-up actions on all directions issued. Based on the BD's database, Audit analysed the status of the directions issued (see Table 7) and the ages of the outstanding cases (see Table 8). However, the FSD's computer system did not support case monitoring and statistical analysis of directions issued because key information (such as dates of expiry of directions and details of extension of time granted) was not maintained in a centralised database (see Note to Table 7). The FSD should enhance its computer system for case management and monitoring the follow-up actions on directions issued (see para. 3.29(a)).

Table 7

**Status of directions issued under the FS(CP)O and FS(B)O
(30 June 2013)**

	Number of directions			
	Issued	Complied with	Outstanding	Compliance period not yet expired
BD	66,374 (100%)	28,186 (43%)	31,450 (47%)	6,738 (10%)
FSD	163,838 (100%)	94,225 (58%)	69,613 (Note) (42%)	
Overall	230,212 (100%)	122,411 (53%)	107,801 (47%)	

Source: BD and FSD records

Note: The FSD case officers only reported the total number of directions not yet complied with, without a breakdown to show the number of directions with compliance periods not yet expired and the number of outstanding directions.

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Table 8

**Ageing analysis of all BD's outstanding directions
(30 June 2013)**

Outstanding duration (Note)	Number of directions	(%)
Less than a year	7,593	(24%)
1 year to less than 3 years	12,582	(40%)
3 years to less than 5 years	6,799	(22%)
5 years to less than 7 years	1,241	(4%)
7 years to less than 10 years	2,840	(9%)
10 years or more	395	(1%)
Total	31,450	(100%)
Average outstanding duration: 34 months		

Source: Audit analysis of BD records

Note: The outstanding duration for each direction was counted from the date after the lapse of the compliance period.

4.6 The large number of long outstanding directions (i.e. 31,450 directions outstanding for an average of 34 months) indicates a need to step up enforcement efforts. Audit examined 12 long outstanding cases (comprising 3 Prescribed Commercial Premises, 2 Specified Commercial Buildings and 7 Target Composite Buildings) and identified room for improvement in the following areas:

Administration of fire safety directions issued

- (a) granting extension of time (para. 4.7);
- (b) progress check and compliance inspection (paras. 4.8 and 4.9); and
- (c) follow-up actions on long outstanding directions (paras. 4.10 and 4.11).

Granting extension of time

4.7 In an examination of the extensions of time granted to owners of a Target Composite Building in November 2008 and December 2011, Audit noted that the grounds for some approved applications were that the formation of OC was in progress. Such application grounds were only relevant to directions issued to all owners for works in the common area. However, one of the owners was granted extensions of time twice for the works required in his unit (issued under separate direction) on the same grounds, which did not appear to be relevant. This case suggests a need for further tightening the control over the granting of extension of time.

Progress check and compliance inspection

4.8 Audit examination of two Prescribed Commercial Premises cases revealed inadequate progress checks on works required under directions in one case (Case 5) and late compliance inspection of completed works in another (Case 6).

Case 5

Inadequate progress check on required works

1. In November 2002, the BD and FSD issued a total of 89 directions to owners/occupiers of the subject Prescribed Commercial Premises (a shopping arcade) requiring various fire safety improvement works.

2. ***Inadequate progress check by FSD.*** From 2002 to 2009, the FSD approved extension of time for complying with the required works on six occasions and conducted 25 progress checks. Of the 81 directions issued by the FSD, 73 were complied with by June 2009. For each of the remaining eight directions, the FSD issued a warning letter in mid-August 2009. Subsequently, the FSD approved extensions of time on three occasions from late August 2009 to August 2012, but conducted only one progress check in August 2012. Thereafter, the FSD had not conducted any progress check or taken any enforcement action although the eight directions had not been complied with for 11 months (from the expiry of extension of time in August 2012 up to August 2013).

3. ***No record of progress check by BD.*** Of the eight directions issued by the BD, only one was complied with by October 2004. No extension of time was granted to the remaining seven directions which had been in default since November 2003. For over nine years (from November 2003 to August 2013), there was no record to show that progress check had been conducted (Note). Also, the BD had not taken any enforcement action (such as issuing warning letters).

Audit comments

4. While the FSD's laid-down procedures require progress check to be conducted at nine-month intervals (see para. 4.4(a)), in this case only one progress check was conducted during the three years from August 2009 to August 2012. The FSD needs to tighten control in this regard and consider taking further enforcement action on the eight directions which had not been complied with for 11 months.

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Case 5 (Cont'd)

5. As for the BD, the absence of a stipulated frequency of progress check is unsatisfactory from control point of view. The BD also needs to step up enforcement action on long outstanding directions without reasonable excuses (such as the seven directions in this case which had remained outstanding for nine years).

Source: BD and FSD records

Note: In October 2013, the BD informed Audit that inspection of the building in which the Prescribed Commercial Premises were situated, had been conducted. Due to heavy workload, observations in respect of the Prescribed Commercial Premises were not documented.

Case 6

Late compliance inspection of completed works

1. In August 2001, the BD and FSD issued a total of four directions to the owner and occupier of the subject Prescribed Commercial Premises (a department store) requiring various fire safety improvement works.

2. *Late inspection by BD.* For the direction issued by the BD to the owner, extensions of time for complying with the required works were granted on six occasions up to February 2005. In November 2006, the owner notified the BD that the required works had been completed. In September 2007, the BD responded to the owner that it would conduct inspection to verify the compliance of the direction. However, the BD only conducted three compliance inspections from May to November 2010 (almost four years after the owner's notification) when it was found that the completed works were not fully acceptable (i.e. the smoke vents of the basement floor were blocked by false ceilings). In November 2010, the BD required the owner to carry out remedial works. However, further compliance inspections were only carried out in August 2013 (after more than 2 years). The direction was then discharged.

3. *Need for review due to change of occupier.* Of the three directions issued by the FSD, one for the owner was complied with by September 2009. The remaining two directions for the occupier were withdrawn in November 2004 after the FSD's inspection revealed that the occupier had moved out and the premises were undergoing renovation works. While another department store started business in the same premises in 2007, up to August 2013, the FSD had not reviewed its fire safety provisions to see if new directions should be issued.

Audit comments

4. The delays in carrying out compliance inspection of completed works (4 years) and remedial works (over 2 years) in this case indicate a need to tighten the BD's control over the laid-down procedures on compliance inspection (see para. 4.4(b)). For the FSD, there is a need to review the fire safety provisions of the existing Prescribed Commercial Premises to see if new directions should be issued.

Source: BD and FSD records

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4.9 Besides Case 6, Audit also noted other instances of long time taken in conducting compliance inspection by the BD, as follows:

- (a) since 2010, the BD has engaged external consultants to assist in conducting compliance inspections of completed works in Specified Commercial Buildings/Target Composite Buildings. According to the consultancy agreements, if the consultant cannot gain access to a building for carrying out compliance inspection, he shall make two more attempts, one of which must be made outside office hours. After the third unsuccessful attempt, the BD would take up the compliance inspection. Audit found that as at June 2013, the BD had not conducted compliance inspections on six Target Composite Building cases (7 to 13 months after they were taken over from consultants);
- (b) in September 2011, an owner of a Specified Commercial Building was convicted for failing to comply with the BD's direction (which was issued in 2003) and fined \$2,000. However, compliance inspections were only conducted in August 2013 (2 years later). The required item was found rectified and the direction was then discharged; and
- (c) in May 2004, three owners of office units in a Specified Commercial Building were convicted for failing to comply with the BD's directions (which were issued in 2001) and each fined \$8,000. The court also issued compliance orders to the owners requiring them to complete the outstanding works by November 2004. However, the BD only conducted compliance inspection in October 2005 when it was found that the owners had sold their units in June 2005 without complying with the court orders. As at August 2013, the BD had not taken follow-up action on the default court orders nor issued directions to the new owners of the office units.

Follow-up actions on long outstanding directions

4.10 Notwithstanding the large number of long outstanding directions (i.e. 31,450 directions that had remained outstanding for an average of 34 months — see Table 8 in para. 4.5), the BD had only instigated prosecution actions on 105 cases since 2000. As regards the FSD, the 2004 audit review revealed that there were 171 prosecution cases from 2000 to 2003 (four years). However, this audit review found that there were only 86 prosecution cases from 2004 to August 2013 (almost ten years), suggesting that the FSD had taken even fewer prosecution actions.

4.11 To demonstrate the Government's commitment to improving the fire safety provisions of the target buildings/premises and to serve as deterrence, prosecution actions should be promptly instigated in warranted cases. Besides Case 5 in paragraph 4.8, Case 7 below is another example showing that more stringent enforcement action is warranted for long outstanding directions without reasonable excuses.

Case 7

Long outstanding directions without reasonable excuses

1. In December 2000, the BD and FSD issued a total of three directions to the owner and occupier of the subject Prescribed Commercial Premises (a department store) requiring various fire safety improvement works.
2. **Action by FSD.** While the direction issued by the FSD to the owner was complied with by May 2004, the direction issued to the occupier had been in default since August 2004 (the date of expiry of the fifth extension of time granted). However, enforcement action had not been taken for nine years (from August 2004 to July 2013).
3. **Action by BD.** The direction issued by the BD to the owner had been in default since December 2001 (the date of expiry of the direction as no extension of time had been granted). The BD only issued two warnings (in November 2001 and May 2003). While the owner did not respond to the repeated warnings, further enforcement action had not been taken for ten years (from May 2003 to July 2013).

Source: BD and FSD records

Audit recommendations

- 4.12 **Audit has recommended that the Director of Buildings should:**
- (a) **consider stipulating the frequency of progress check on works required under the FS(CP)O and FS(B)O;**
 - (b) **tighten controls to ensure that BD staff strictly follow the laid-down procedures on:**
 - (i) **granting extension of time for complying with fire safety directions based on relevant and substantiated grounds; and**
 - (ii) **conducting compliance inspections of completed works in a timely manner (including those cases taken over from consultants as mentioned in para. 4.9(a));**
 - (c) **step up enforcement actions against non-compliant owners/occupiers by requiring BD staff to:**
 - (i) **promptly issue warning letters upon detection of non-compliance with the directions, and closely monitor the response from owners/occupiers for considering the need for further enforcement actions; and**
 - (ii) **instigate prosecution actions on long outstanding cases without reasonable excuses (such as Case 5 in para. 4.8 and Case 7 in para. 4.11); and**
 - (d) **closely monitor the convicted owners' compliance with outstanding directions and court orders, and take necessary actions accordingly.**

- 4.13 **Audit has recommended that the Director of Fire Services should:**
- (a) **tighten controls to ensure that the stipulated frequency of progress check is strictly complied with;**
 - (b) **remind FSD staff to review the need for issuing new directions for any change in the occupier of Prescribed Commercial Premises (such as Case 6 in para. 4.8); and**
 - (c) **step up enforcement actions against non-compliant owners/occupiers by requiring FSD staff to:**
 - (i) **promptly issue warning letters upon detection of non-compliance with the directions, and closely monitor the response from owners/occupiers for considering the need for further enforcement actions; and**
 - (ii) **instigate prosecution actions on long outstanding cases without reasonable excuses.**

Response from the Administration

4.14 The Director of Buildings agrees with the audit recommendations in paragraph 4.12. He has said that:

- (a) the BD will remind staff to strictly adhere to the guidelines in considering application for extension of time;
- (b) the target buildings under the FS(CP)O and FS(B)O had complied with the fire safety standards at the time of construction. The objective of the two Ordinances is to improve their fire safety measures to modern standards. Building owners may have various practical difficulties (e.g. site constraints) to carry out the required improvement works. BD staff would take a flexible and pragmatic approach and offer assistance so as to facilitate the building owners to comply with the directions. Prosecution action would only be considered as a last resort. That said, the BD agrees that there is a need to step up those prosecution actions on long outstanding cases without reasonable excuses; and

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- (c) the BD will, in collaboration with the FSD, conduct an overall review of the enforcement actions, including progress checks, compliance inspections, issue of warning letters, prosecution actions, etc., to improve the overall situation of compliance.

4.15 The Director of Fire Services agrees with the audit recommendations in paragraph 4.13. He has said that:

- (a) the FSD will enhance its computer system to facilitate case management and ensure that the stipulated frequency of progress check is strictly complied with; and
- (b) all case officers of the FSD will be reminded to:
 - (i) review the need for issuing new direction(s) without delay for any change in the occupancy of Prescribed Commercial Premises; and
 - (ii) strictly observe the FSD procedural instructions on enforcement actions against non-compliant owners/occupiers. Besides, supervising officers concerned will also be reminded to tighten the relevant monitoring work.

PART 5: FOLLOW-UP ACTIONS ON UNAUTHORISED BUILDING WORKS FOUND DURING INSPECTIONS

5.1 This PART examines the BD's follow-up actions on UBWs found during inspections of target buildings under the FS(CP)O and FS(B)O.

Enforcement tools and guidelines

5.2 *Enforcement tools.* At present, all building works are subject to the control of the Buildings Ordinance. All building works, except for the designated minor works and exempted works as defined under the Buildings Ordinance (Note 18), require prior approval and consent of the Building Authority before such works may commence. Otherwise, they will be regarded as UBWs. UBWs include those associated with sub-divided flats, the safety problems of which have attracted public attention (Note 19). All UBWs (including those associated with sub-divided flats) are subject to the following enforcement actions:

- (a) the BD will issue a statutory order under section 24 of the Buildings Ordinance requiring the owner concerned to remove the UBWs within a specified period (usually 60 days), and will register the order in the Land Registry (Note 20). If the property is mortgaged, the financial institution concerned will be notified; and

Note 18: *Though exempted works and minor works do not require prior approval and consent of the Building Authority, they will still be regarded as UBWs if they are carried out in contravention of the regulations under the Buildings Ordinance (e.g. not up to the standards stipulated in the regulations).*

Note 19: *In recent years, the Government has adopted a series of measures to specifically address the building safety issues of sub-divided flats (see Appendix F for details).*

Note 20: *Before April 2011, it was the BD's practice to register orders issued under large scale operations in Land Registry after compliance inspections (which were carried out immediately upon expiry of orders). With effect from April 2011, all orders (irrespective whether they are issued under large scale operations or not) are required to be registered in the Land Registry upon issuance.*

Follow-up actions on unauthorised building works found during inspections

- (b) if the owner, without reasonable excuse, fails to comply with the order, the BD may:
 - (i) instigate prosecution action against the owner for the non-compliance. Upon conviction, there may be a maximum penalty of one year's imprisonment and a maximum fine of \$200,000. For continuing offences, there is a further daily fine of \$20,000; and/or
 - (ii) arrange for the government contractor to carry out the required works and then recover the cost of works plus a supervision charge and a surcharge from the owner.

Enforcement guidelines

5.3 As UBWs may be found during inspections of target buildings under the FS(CP)O and FS(B)O, the BD has laid down the following guidelines for staff of the Fire Safety Section:

- (a) for UBWs found within the actionable areas of the FS(CP)O and FS(B)O (Note 21) which affect fire safety, the requirements for their removal might be included in the directions. However, for UBWs having imminent danger to fire safety, an order under section 24 of the Buildings Ordinance could be issued to rectify the situation more promptly (Note 22); and

Note 21: *Actionable areas refer to all the internal areas of a Prescribed Commercial Premises, and the means of escape, internal areas, external wall and common parts of a Specified Commercial Building. The actionable areas of the non-domestic portion of a Target Composite Building are similar to those of a Specified Commercial Building (i.e. all the means of escape, internal areas, external wall and common parts of a Specified Commercial Building) while those of the domestic portion of a Target Composite Building and Target Domestic Building include the exit staircases and the ground floor exit leading therefrom.*

Note 22: *60 days are usually allowed for compliance of an order issued under the Buildings Ordinance, and 12 months for a direction issued under the FS(CP)O or FS(B)O. In case of non-compliance with an order, the Buildings Ordinance empowers the BD to carry out the required remedial works and recover the cost from the owner concerned. Such default power is however not available under the FS(CP)O and FS(B)O.*

Follow-up actions on unauthorised building works found during inspections

- (b) UBWs not within the scope of the FS(CP)O and FS(B)O should be referred to the Existing Buildings Division for taking necessary action. Nevertheless, the Fire Safety Section may take enforcement action on isolated incidents in order to minimise referral.

5.4 For the Existing Buildings Division, the BD's guidelines stipulate that reports on UBWs referred from other BD's sections (including the Fire Safety Section) should be screened by the responsible team leader to see if they are actionable cases (i.e. cases with imminent danger and undetermined cases due to insufficient information). For an actionable case, an inspection of the UBWs shall be carried out to determine the priority and enforcement actions required within 50 days after receipt of the referral. For cases assessed not having imminent danger, the guidelines have not stipulated any time frame for taking action.

Case studies

5.5 During inspections of the target buildings/premises for the 20 delayed cases of issuing fire safety directions referred to in paragraph 3.24, the Fire Safety Section found UBWs and suspected sub-divided flats in 7 cases. Audit examination of these 7 cases revealed that in 5 cases, follow-up actions on the UBWs and sub-divided flats had not been promptly taken. Examples are described in Cases 8 and 9 below.

Follow-up actions on unauthorised building works found during inspections

Case 8

Follow-up on UBWs by the Fire Safety Section and Existing Buildings Division

1. The subject Target Composite Building was included in the Fire Safety Section's 2011 inspection programme under the FS(B)O.
2. The BD's records show the following:
 - (a) ***Long time taken to make referral.*** In a joint inspection with the FSD in June 2011, the Fire Safety Section identified UBWs and a suspected sub-divided flat in the building (besides its findings relating to the FS(B)O). The Section considered that the UBWs and the suspected sub-divided flat might affect the means of escape of the building in the event of fire. However, the Section only referred its findings on the sub-divided flat and UBWs to the Existing Buildings Division for action under the Buildings Ordinance in April and May 2012 respectively (i.e. some 10 months afterwards); and
 - (b) ***Long time taken to follow up on referral.*** After receiving the Fire Safety Section's referrals, the Existing Buildings Division:
 - (i) appointed a consultant to follow up on the UBWs. An advisory letter and a statutory order were issued to the owners concerned in August and October 2012 respectively; and
 - (ii) reviewed the information of the suspected sub-divided flat provided by the Fire Safety Section. The Existing Buildings Division's assessment was that the case did not have imminent danger, but should be considered for inclusion in the coming large scale operation for tackling sub-divided flats (Note). However, a decision was only made in September 2013 (i.e. 17 months later) that the subject building would be included in the 2013 large scale operation for tackling sub-divided flats.

Follow-up actions on unauthorised building works found during inspections

Case 8 (Cont'd)

Audit comments

3. There was no record to show the reason why:
 - (a) it had taken some 10 months before the Fire Safety Section referred the UBWs (including those associated with a sub-divided flat) found during inspection to the Existing Buildings Division; and
 - (b) the Existing Buildings Division only decided to include the subject building in the 2013 large scale operation for tackling sub-divided flats in September 2013 (17 months after receipt of the referral).
4. The BD needs to take measures to ensure prompt follow-up action on UBWs and sub-divided flats found during its inspection.

Source: BD and FSD records

Note: Since April 2011, the BD has launched large scale operations to tackle UBWs associated with sub-divided flats (see para. B of Appendix F).

Case 9

Follow-up on UBWs by the Existing Buildings Division

1. The subject Target Composite Building was included in the Existing Buildings Division's 2008 large scale operation for tackling UBWs on external walls and in common staircases. The building was also included in the Fire Safety Section's 2008 inspection programme under the FS(B)O.

2. ***Inspections findings.*** The building was inspected by the Existing Buildings Division in June 2008, and jointly by the Fire Safety Section and the FSD in September 2008. Besides its findings relating to FS(B)O, the Fire Safety Section also identified UBWs which affected the means of escape of the building, and a suspected sub-divided flat. In November 2008, the Section informed the Existing Buildings Division by e-mail of its findings on the UBWs and the suspected sub-divided flat.

3. ***Inadequate actions on first referral.*** In July 2009, the Existing Buildings Division issued 16 statutory orders for the building covering the UBWs identified in its 2008 large scale operation and also those referred from the Fire Safety Section. Up to June 2013 (four years later), all 16 orders remained outstanding, but no enforcement action had been taken. Moreover, no action had been taken on the suspected sub-divided flat mentioned in the Fire Safety Section's e-mail of 2008.

4. ***Re-inspection findings.*** In September 2012, the Fire Safety Section inspected the building again (Note) and identified new UBWs and those associated with a sub-divided flat. In October 2012, it informed the Existing Buildings Division of its latest findings for follow-up action.

5. ***Long time taken to follow up on second referral.*** In December 2012, the Existing Buildings Division instructed a consultant to inspect the sub-divided flat. However, only in September 2013 (i.e. about 11 months after the receipt of the referral) did the Existing Buildings Division complete the inspection on the sub-divided flat and issue a statutory order to the owner.

Follow-up actions on unauthorised building works found during inspections

Case 9 (Cont'd)

Audit comments

6. There was no record to show the reason why the Existing Buildings Division:
- (a) did not take any action on the suspected sub-divided flat after the receipt of the Fire Safety Section's e-mail in 2008;
 - (b) did not take any enforcement action on the 16 statutory orders which had remained outstanding since 2009; and
 - (c) took some 11 months to complete the inspection on the sub-divided flat referred by the Fire Safety Section and issue a statutory order to the owner.
7. The BD needs to tighten controls to ensure that UBWs and sub-divided flats with fire hazards are promptly followed up.

Source: BD and FSD records

Note: In 2009, the Fire Safety Section did not take action to synchronise the issue of directions under the FS(B)O with the issue of orders by the Existing Buildings Division (see para. 3.27). In 2012 (due to the lapse of 4 years since the 2008 inspection), the Fire Safety Section had to re-inspect the building before issuing the directions.

5.6 **Enforcement guidelines.** Audit examination has revealed that there is room for improvement in the following areas:

- (a) the guidelines have not specified a time frame within which:

Follow-up actions on unauthorised building works found during inspections

- (i) the Fire Safety Section should issue orders under the Buildings Ordinance for the fire-safety-related UBWs found or refer such findings to the Existing Buildings Division for action. Case 8 and one other case examined by Audit (see para. 5.5) showed that the Fire Safety Section took 10 and 11 months respectively to refer fire-safety-related UBWs found to the Existing Buildings Division for action; and
 - (ii) the Existing Buildings Division should follow up referred cases not having imminent danger (such as determining whether to include these cases in its large scale operation on sub-divided flats) as soon as possible. Case 8 and one other case examined by Audit showed that it had taken some 17 and 19 months respectively to do so; and
- (b) Case 9 showed that the Existing Buildings Division had not carried out follow-up inspections on the UBWs/sub-divided flats with imminent danger referred by the Fire Safety Section within 50 days as laid down in the guidelines (see para. 5.4). In another case examined by Audit, it had taken 64 days to carry out the inspection.

5.7 *Use of enforcement tools.* Audit examination has revealed that as at 30 September 2013:

- (a) all the 7 cases examined by Audit had statutory orders not yet complied with, but the BD had not registered the outstanding orders in the Land Registry in 3 of them (see para. 5.2(a)). The orders in these 3 cases were issued in 2009; and
- (b) ageing analysis of the outstanding orders showed that in 4 cases (including Case 9), the orders had remained outstanding for more than 4 years. However, the BD had not arranged for the government contractor to carry out rectification works or instigated prosecution action in all 4 cases. There is a need to make effective use of the available enforcement tools to expedite the compliance with statutory orders for the early rectification of the fire-safety-related UBWs/sub-divided flats.

Audit recommendations

- 5.8 **Audit has recommended that the Director of Buildings should:**
- (a) **take measures to ensure that UBWs/sub-divided flats found during inspections under the FS(CP)O and FS(B)O are promptly followed up, particularly those with fire hazards. Such measures may include:**
 - (i) **stipulating a time frame within which the Fire Safety Section staff should issue statutory orders for fire-safety-related UBWs/sub-divided flats found or refer such findings to the Existing Buildings Division for action;**
 - (ii) **stipulating a time frame within which the Existing Buildings Division should determine whether to include buildings found with sub-divided flats in its large scale operations for tackling sub-divided flats; and**
 - (iii) **reminding the Existing Buildings Division staff to carry out inspection on actionable cases within 50 days as laid down in the BD's guidelines; and**
 - (b) **make effective use of all available enforcement tools to expedite the compliance with statutory orders for early rectification of fire-safety-related UBWs/sub-divided flats.**

Response from the Administration

5.9 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) the BD will review the treatment of UBWs, including those associated with sub-divided flats, identified during inspections under the FS(CP)O and FS(B)O to ensure timely follow-up. Any time frame for issuing statutory orders must be considered in the light of present situation and available resources of the Fire Safety Section;

Follow-up actions on unauthorised building works found during inspections

- (b) the BD will review the procedures on inclusion of buildings with sub-divided flats in the large scale operation. In order to make the most effective use of the available resources, there is the need for considering priorities in inclusion of buildings in the large scale operation for tackling sub-divided flats;
- (c) the BD will closely monitor those cases referred from Fire Safety Section to ensure timely completion of necessary inspections; and
- (d) to make the most effective use of available resources, enforcement action on the outstanding orders would be carried out in an orderly manner. Priorities will be given to those cases with obvious hazard or imminent danger to life and property.

Appendix A
(para. 1.3 refers)

Illustrations of Prescribed Commercial Premises



Bank (other than merchant bank)



Shopping arcade



Off-course betting centre



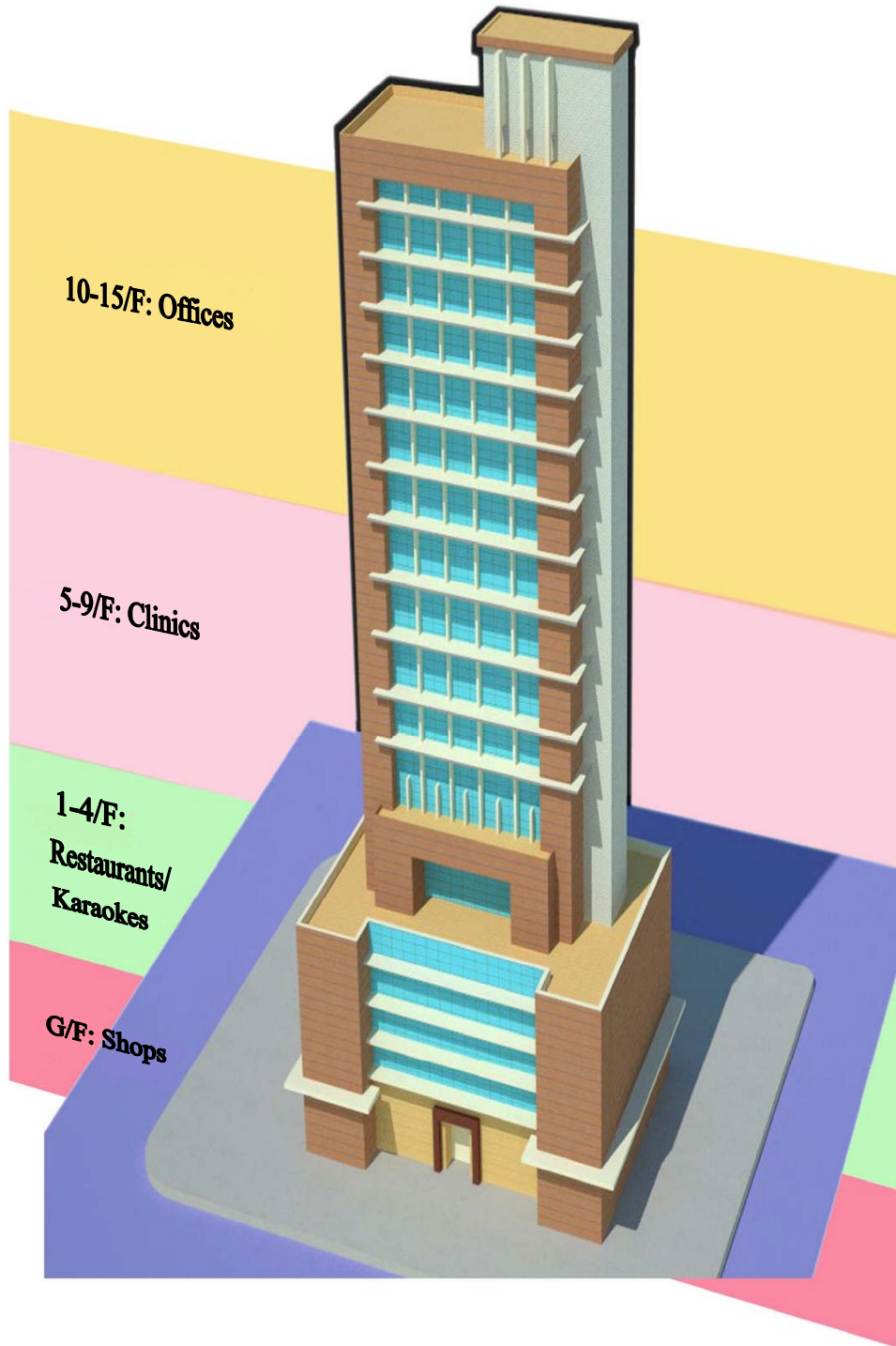
Jewelry or goldsmith's business on premises that have security area



Supermarket, hypermarket or department store

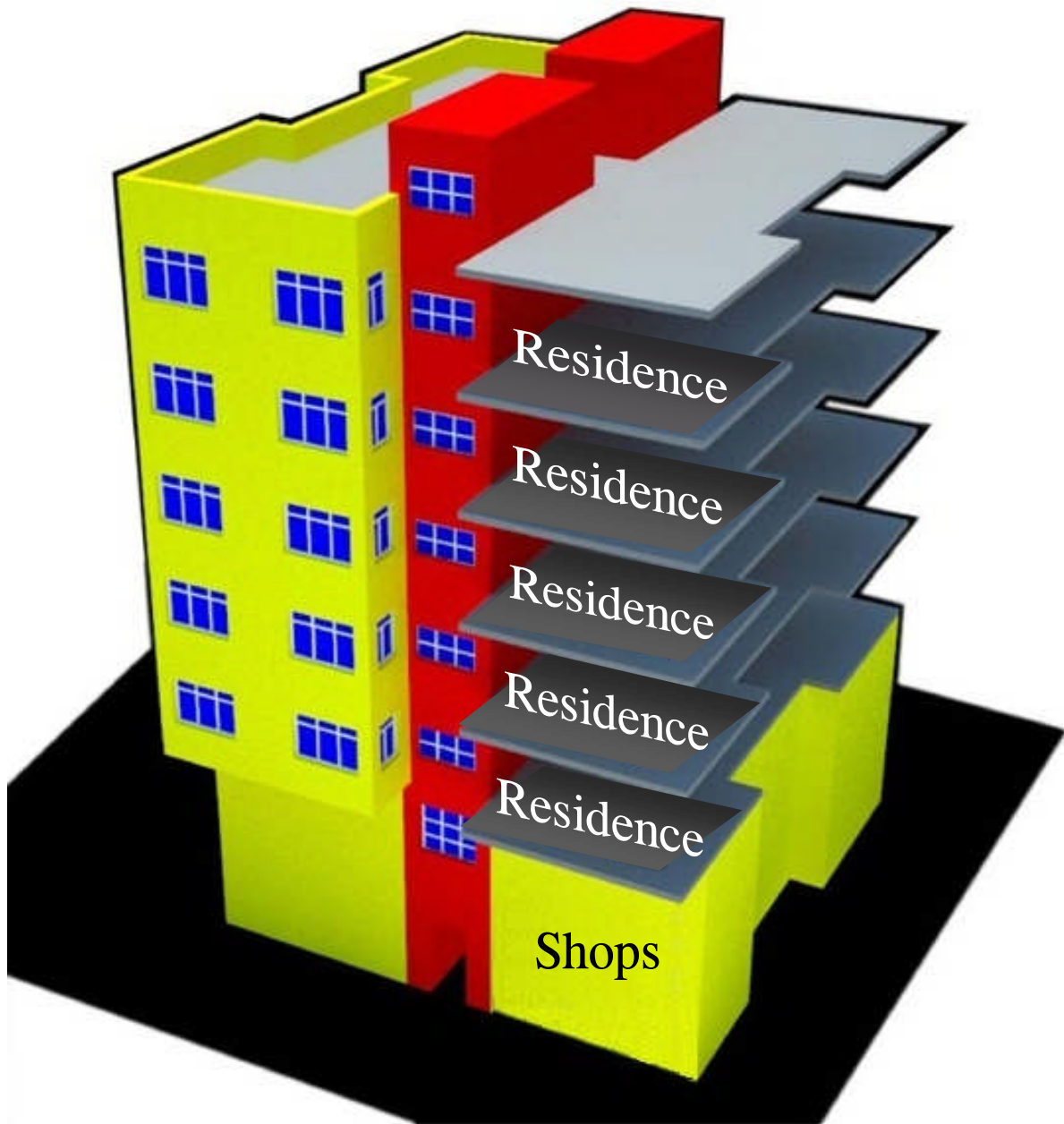
Source: BD records

An illustration of a Specified Commercial Building



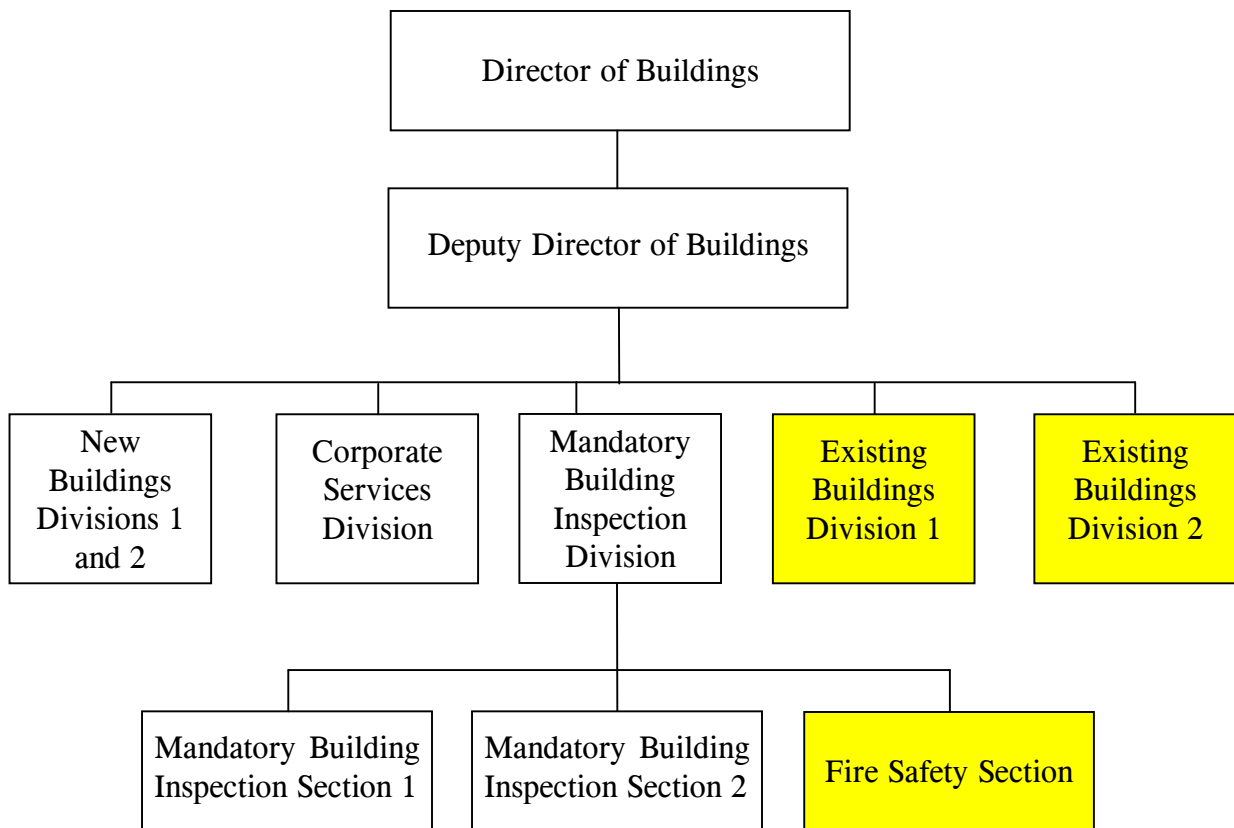
Source: BD records

An illustration of a Target Composite Building



Source: BD records

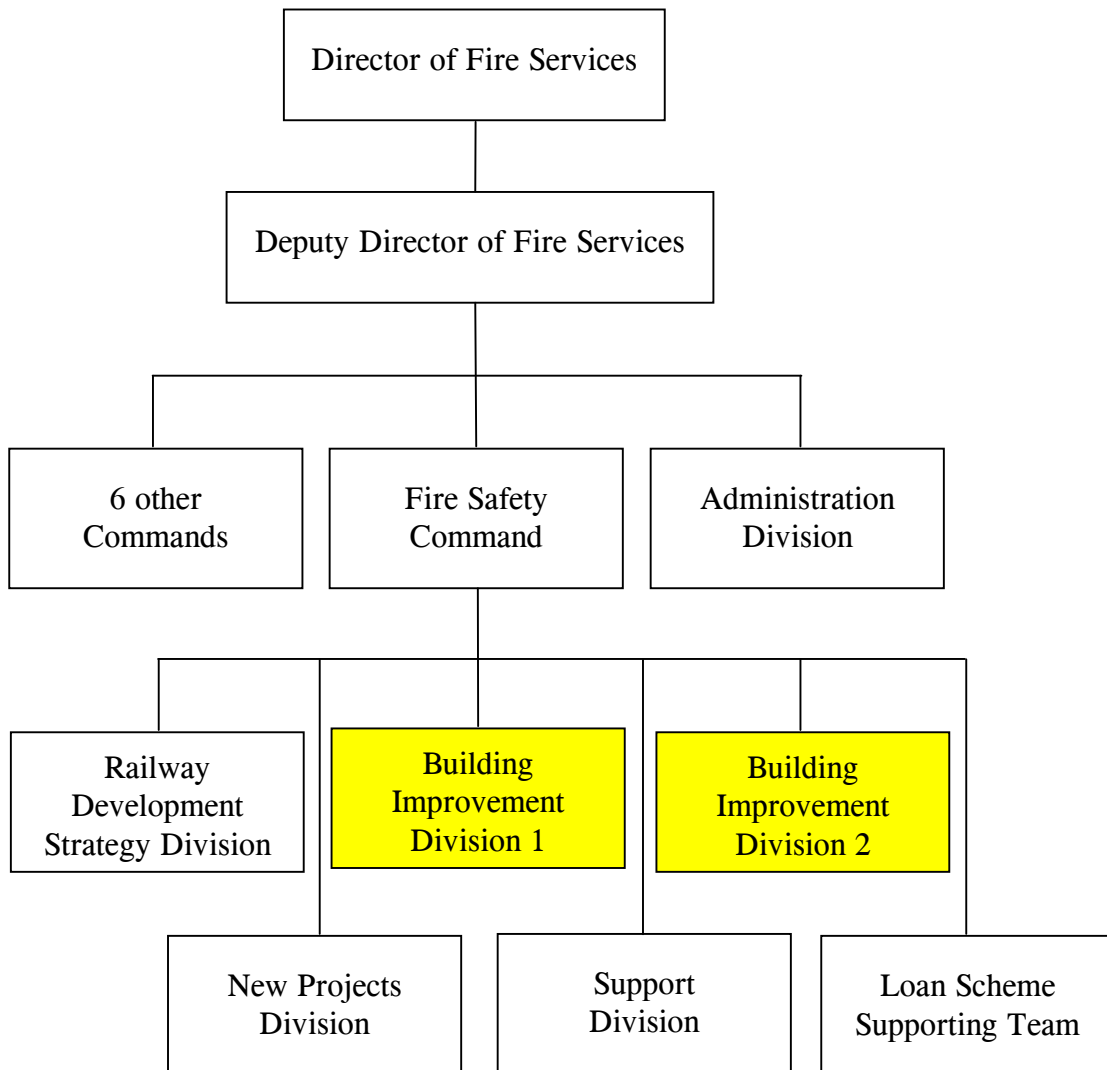
**Buildings Department
Organisation chart (extract)
(30 September 2013)**



Source: BD records

Remarks: The Existing Buildings Division is responsible for tackling UBWs and the Fire Safety Section is responsible for enforcing the FS(CP)O and FS(B)O.

**Fire Services Department
Organisation chart (extract)
(30 September 2013)**



Source: FSD records

Remarks: The Building Improvement Divisions are responsible for enforcing the FS(CP)O and FS(B)O.

Measures to address building safety issues of sub-divided flats

(A) Legislation

The Building (Minor Works) (Amendment) Regulation 2012, which came into effect on 3 October 2012, has included building works associated with sub-divided flats under the Minor Works Control System, so that these works would be required to be carried out by qualified professionals and contractors. Legislation to provide for application to the court for a warrant under the Buildings Ordinance for entry into premises to facilitate the BD's enforcement actions was enacted in July 2012. This is particularly useful for inspections relating to sub-divided flats.

(B) Enforcement

Apart from carrying out investigation in response to reports on sub-divided flats from members of the public and taking appropriate enforcement actions, the BD has since April 2011 launched large scale operations aimed at rectifying irregularities of building works associated with sub-divided flats. In 2012, the BD also extended the scope of target buildings of the large scale operations against sub-divided flats to cover industrial buildings.

(C) Publicity

The BD has published a number of pamphlets providing guidance to the public on how to ensure building safety in sub-divided flats and the need to prevent UBWs associated with sub-divided flats. The BD has also produced announcement in the public interests and publications on Minor Works Control System to encourage owners to arrange minor works and alteration works to be carried out by qualified professionals and contractors.

Source: BD records

Acronyms and abbreviations

Audit	Audit Commission
BD	Buildings Department
CORs	Controlling Officer's Reports
FS(B)O	Fire Safety (Buildings) Ordinance
FS(CP)O	Fire Safety (Commercial Premises) Ordinance
FSD	Fire Services Department
HAD	Home Affairs Department
OCs	Owners' Corporations
UBWs	Unauthorised building works