

### 3.3 Types of Statutory Orders

Should defects of buildings or related nuisance have developed to a stage that safety or health of the public would likely be compromised, the Government will intervene to expedite the rectification process.

#### 3.3.1 Orders Issued by the Buildings Department

The Buildings Department (BD) may issue advisory/warning letters or even orders to private building owners to investigate and rectify defects or irregularities. Once an order is issued, the owners/Owners' Corporation (OC) should take the necessary action to comply with the requirements immediately. Otherwise, they may be liable to prosecution, fines and/or imprisonment. Furthermore, orders will be registered against the title of the property in the Land Registry and will come to the attention of potential property buyers before completing transactions. The following are examples of orders frequently issued by the BD to private building owners:



##### (a) Unauthorized Building Works - Removal Order under Section 24 of the Buildings Ordinance (Chapter 123)

It is served upon the registered owners of a property where UBW are located. The owners are required to remove the UBW and to reinstate the building in accordance with approved building plans. Deadlines for complying with the

issued orders usually do not exceed 60 days.

##### (b) Investigation - Order under Section 26A of the Buildings Ordinance

It is served upon building owners or OC where early signs of building defects are detected and requires detailed investigation to identify the extent and the nature of the dilapidation/defects.

Owners are required to engage an Authorized Person (AP) to carry out the investigation and to submit the remedial proposal to the BD for acceptance. The AP is also required



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#### (c) **Repair - Order under Section 26 of the Buildings Ordinance**

It requires building owners or OC of buildings which are found to bear serious defects likely to cause risk of injury or damage, to carry out the required repair works and to render the buildings safe.

Owners may be required to engage an AP to supervise the remedial works to the satisfaction of the BD. The time specified in the order for the owners to comply usually does not exceed 6 months.

#### (d) **Dangerous Hillside - Order under Section 27A and Investigation and Repair - Order on Water Pipes, Drains or Sewers Laid in Slopes under Section 27C of the Buildings Ordinance**

They are served on building owners or OC when the slopes and retaining walls are dangerous and likely to cause risk of injury or damage to adjoining property; or the drains or buried pipes behind the slopes or retaining walls are leaking and may result in landslip or collapse.

The Order may require the owners to carry out investigation and submit remedial proposals for approval, and to carry out the remedial works in a specified period of time. Owners are always required to engage the service of an AP in handling the investigation and remedial works



#### (e) **Drainage Repair - Order under Section 28 of the Buildings Ordinance**

It requires building owners or OC of buildings which are found to bear defective or inadequate drainage installations, or the drainage system of which is causing nuisance, to investigate and repair or rectify the situation.

The owners may be required to engage an AP to submit remedial proposal and to supervise the remedial works to the satisfaction of the BD. The order will also specify a period of time for compliance.



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#### 3.3.1 Orders Issued by the Buildings Department (continues)

#### (f) Fire Safety Improvement Direction - under Fire Safety (Commercial Premises) Ordinance (Chapter 502)

These directions may be issued by the Buildings Department or the Fire Services Department.

Under the scope of the Ordinance, there are 2 kinds of commercial premises namely, prescribed commercial premises and specified commercial buildings.

**Prescribed commercial premises** include the following premises that have an area over 230m<sup>2</sup>:

- banks;
- off-course betting centers;
- premises requiring exceptionally high security measures for business such as jewelry or goldsmith;
- supermarkets and hypermarkets;
- department stores; and
- shops/shopping arcades.

**Specified commercial buildings** are those buildings which have been completed before 1st March 1987. Basically, these buildings are found to have inadequate fire service installations and may pose danger to the occupiers in case of fire when judged against the current standards.

The property owners and the occupiers will be served with the Fire Safety Improvement Directions requiring them to upgrade and improve the fire service installations (usually by adding sprinkler system) and carry out other necessary works. Examples of such required works are reinstatement or improvement of smoke lobby doors, fire resisting construction (walls and openings), and removal of obstructions in escape routes. Owners are required to engage an Authorized Person (AP) to carry out the investigation, to submit the remedial proposal to the Building Authority for acceptance, and to supervise the remedial works.



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#### (g) "Blitz Action - Clearance of Unauthorized Building Works (UBW)" and "Coordinated Maintenance of Buildings Scheme (CMBS)"

The BD has, since 1999, launched large scale UBW clearance operations called "Blitz" aiming to clear up UBW mainly on the external walls. Since November 2000, the BD has also launched a Coordinated Maintenance of Buildings Scheme (CMBS) in various districts to coordinate other relevant departments to survey the target buildings and determine the scope and nature of improvement works required so as to ensure efficiency and cost-effectiveness to owners and the OC. Besides BD, departments which have joined CMBS include Home Affairs Department, Fire Services Department, Electrical and Mechanical Services Department, Food and Environmental Hygiene Department and Water Supplies Department.

The owners or the OC are advised to comply with the orders, advisory or warning letters or directions voluntarily. To facilitate and assist owners in complying with the requirements, the Building Safety Loan Scheme has also been launched by the BD. Readers may refer to Section 4.2.1 of Chapter 4 and Appendix 6 of this Guidebook for details and guided procedures for complying with the orders. The BD is determined to instigate prosecutions against the non-complying owners.

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#### 3.3.2 Notices or Directions Issued by Other Government Departments

##### (a) Water Authority (Water Supplies Department or WSD)

Notices may be served under **Section 16 of Waterworks Ordinance (Chapter 102)** in the following situations:

- unauthorized alteration of water works; or
- when the supplied water is wasted or polluted or if there is such a risk.

Section 4.2.3(a) of Chapter 4 suggests solutions to comply with notices from the WSD.

##### (b) Environmental Protection Department (EPD)

The following notices may be served by EPD:

- Under **Section 3 of Water Pollution Control Ordinance (Chapter 358)** in respect of drainage systems that are not properly discharged into the public sewage system.
- Under **Section 10 of Air Pollution Control Ordinance (Chapter 311)** in respect of emission of air pollutants which may cause deposit of dust/grit or affect public safety, etc.
- Under **Section 13 of the Noise Control Ordinance (Chapter 400)** requiring the owner or occupier to bring his noise emissions into a state of compliance by certain date.

Readers may refer to Section 4.2.3(b) of Chapter 4 for solutions to comply with such notices.

##### (c) Fire Services Department (FSD)

###### (i) Fire Safety Improvement Directions

Please see Section 3.3.1(f) above.

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#### (ii) Fire Hazard Abatement Notice

Notice may be served under **the Fire Services Ordinance (Chapter 95)** for the removal of identified fire hazards in buildings within a specified period of time. This notice may be served to the owner, tenant, occupier or person-in-charge where appropriate. Non-compliance with the notice may result in legal action or the application for court order. Section 4.2.3(c) provides suggestions on how to comply with such notices.

#### (d) Electrical and Mechanical Services Department (EMSD)

##### (i) Electrical installation

Notice may be served under **the Electricity Ordinance (Chapter 406)** for lack of repair, maintenance and test of electrical installation of building and improper wiring connection that may be in danger if fire and electrical fault are caused.

##### (ii) Gas installation

Notice may be served under **the Gas Safety Ordinance (Chapter 51)** for the lack of repair, maintenance and test of gas supply system, and to prohibit the excessive stock of LPG cylinders in order to ensure safe operation of the system.

##### (iii) Lift installation

Notice may be served under **the Lift and Escalator (Safety) Ordinance (Chapter 327)** for the lift installation of building not complying with the Regulations. The objective is to ensure the lifts meet safety standards and operate smoothly.

#### (e) Food & Environmental Hygiene Department (FEHD)

Notice may be served under the **Public Health and the Municipal Services Ordinance (Chapter 132)** for the repair of water leakage at drainage pipe, and the cleansing of private sewers to prevent nuisance to other owners, occupants or to the general public.