

**For Discussion
on 27 October 2009**

LEGISLATIVE COUNCIL PANEL ON DEVELOPMENT

**Update on the Regulatory Control on Lift Safety and the Legislative Amendment
Proposal to the Lifts and Escalators (Safety) Ordinance, Chapter 327**

Purpose

This paper updates Members on the implementation of various measures, including those recently recommended by the Ombudsman, to enhance lift safety in Hong Kong and seeks Members' views on the proposed amendments to the Lifts and Escalators (Safety) Ordinance, Chapter 327 (the Ordinance).

Background

2. We briefed Members on 24 February 2009 in regard to a package of improvement measures to enhance lift safety. These measures include the enhancement of the Code of Practice for Lift Works, disclosure of contractors' performance, stepping up inspections, enhancing publicity, and audit inspections of lifts in Tenant Purchase Scheme estates. We undertook to keep Members posted on the progress of implementing these measures. We also indicated that we would review the Ordinance to enhance lift safety and seek Members' views on the legislative amendment proposal.

3. Separately, the Ombudsman announced on 27 August 2009 the findings of a direct investigation into the regulatory system of lifts administered by Electrical and Mechanical Services Department (EMSD). We will update Members on the progress of implementing the recommended measures.

Update on the Progress of Implementing the Measures to Enhance Lift Safety

(a) Enhancement of Code of Practice for Lift Works

4. The Lift Safety Working Group, with the collaboration of lift contractor associations and the workers' union, introduced a set of new practices to enhance the Code of Practice for Lift Works. The progress of implementing these new practices is as follows:

(i) *Notification to lift owners of the duration of maintenance activities* - Starting from 1 June 2009, registered lift contractors are required to indicate the number of hours they plan to spend on routine maintenance per month in the lift maintenance log book kept on site. This is in line with the “shared responsibility” and “user surveillance” principles and will enable lift owners and their building management agents to keep an eye on the manpower input of their contractors in carrying out periodic lift maintenance.

(ii) *Performance of maintenance activities by at least two workers* - In order to better address the safety of workers, the number of prescribed activities requiring engagement of at least two workers (“Worker in Pair”) has been increased from two to ten since 1 June 2009. All lift works within the lift pit and maintenance works within the lift shaft (while the lift needs to be in motion) will hitherto be carried out by Worker in Pair.

(b) *Disclosure of Contractors’ Performance*

5. The Contractors’ Maintenance Performance Rating Scheme, a demerit points system based on the audit inspections by EMSD, was launched on 1 June 2009 with the first quarterly result released on 1 September 2009. This will enable lift owners to make an informed choice of lift maintenance contractors. On the other hand, the trade will view it as an incentive for upholding their lift maintenance standards.

(c) *Stepping up Inspections*

6. Since December 2008, EMSD has stepped up audit inspections with sampling rate enhanced from one-out-of-ten to one-out-of-seven. The average number of audit inspections per month is 772 (against 420 per month before stepping up inspections) and totally, 456 improvement notices and 20 warning letters have been issued to the registered contractors. Separately, since January 2009, all registered contractors are required to submit their schedule of forthcoming periodic examination activities through a web-based data system to enable EMSD to conduct surprise checks. Up to date, EMSD has conducted 1,112 surprise checks on site to curb malpractice of registered contractors and engineers.

(d) *Enhancing Publicity*

7. Since November 2008, EMSD has rolled out a series of publicity activities to enhance public awareness of lift safety and the practice in selecting and monitoring of the performance of the contractors. These include briefings given to 11 District Councils, and 24 seminars delivered to over 2,000 lift owners and building management company staff. Separately, EMSD updated the "Lift Owners' Guidebook" in April 2009 and has to date distributed over 1,200 copies to lift owners.

(e) *Audit Inspections to Lifts in Tenant Purchase Scheme Estates*

8. The comprehensive audit inspection of 1,404 lifts in 39 housing estates under the Tenant Purchase Scheme (TPS) was completed in end March 2009. It was found that these lifts were all in safe working condition. Separately, EMSD and the Housing Authority have jointly organized four seminars to share experience with the TPS owners' corporations in ensuring lift safety.

Progress in Taking Forward the Ombudsman's Recommendations

9. The Ombudsman's recommendations are outlined in **Annex A**. EMSD accepted all 13 recommendations, with seven of them already implemented. Whilst progress on items relating to the "shared responsibility and user surveillance" and "disclosure of contractor's performance" have been reported in paragraphs 4(i) and 5 above, other recommendations are essentially issues related to overdue lift certificates and warning/disciplinary actions against the registered contractors/engineers. In this regard, EMSD is upgrading the information system and has enhanced the procedures to closely monitor the periodic lift examinations and submissions of lift certificates. The trade is required to report all milestones (including the date of examination and the date of delivery of the lift certificate to the owner) to EMSD through a web-based information system, which will enable EMSD to ascertain the party responsible for the delay and impose administrative sanctions on the repeated offenders. Furthermore, lift owners, upon receipt of the lift certificates from registered engineers, are required to submit the certificates to EMSD for registration. Statutory orders will be served on the owner to urge for a timely submission of certificates and in case of failure to comply with the statutory requirement within the prescribed time frame, suspend lift services.

10. Since May 2009, four warning letters have been issued to registered lift contractors/engineers for repeatedly delayed examination of lifts. These measures were found to be effective in reducing the number of overdue examinations and submission of certificates. EMSD has also reviewed the procedures for triggering disciplinary actions which have been incorporated into the departmental quality management system in October 2009.

Legislative Amendment Proposal to the Ordinance

11. In April 2009, two Task Forces (led by EMSD) were formed to review respectively the need to introduce a registration system for lift/escalator workers, and the qualification requirements for registration as lift/escalator engineers. Membership of the Task Forces is given at **Annex B**. A legislative amendment proposal to the Ordinance has since been drawn up as follows:-

(a) *Registration of Lift and Escalator Worker*

12. Experienced lift/escalator workers who are currently designated as “competent workers” under section 29A(4)(b) of the Ordinance may lose their status of being “competent workers” when they change employers or when they are not directly employed by a registered contractor. To replace this employment-tied arrangement, it is proposed to introduce a registration system under section 29A of the Ordinance, whereby qualified lift/escalator workers could register as “registered workers” on their own. Through the registration system, we can exert better control on workmanship, promote continuous self-development and impose sanctions against improper and unsafe practices of individual in performing lift and escalator works.

13. Under the new system, workers seeking registration are required to demonstrate that they have fulfilled both the pre-requisite academic and experience requirements. The registration status will be valid for 5 years and a renewal requirement will also be introduced. Workers will need to demonstrate that they have been practising in the lift and escalator trade and have kept themselves abreast of technological advancement by completing a prescribed duration of continuous professional development for renewal of their registration status.

14. In order not to affect the livelihood of the existing “competent workers”, transitional arrangements with concessions in certain requirements will be allowed. “Competent workers” not in possession of the pre-requisite requirements of academic attainment but are currently practising in a particular category of work will be registered under the respective category of “registered worker”. Also, subcontractors’ workers who currently do not have any status under the Ordinance will be allowed to register as “registered installers”, if they possess the required working experience and complete a related refresher course.

(b) *Upgrading of the Qualification Requirements for Lift and Escalator Engineers*

15. At present, a candidate may seek registration as a lift and escalator engineer from EMSD if he is in possession of a qualification at, or higher than a higher diploma or higher certificate in mechanical engineering, electrical engineering, electronic engineering or building services engineering issued by recognized institutions, and either (i) has completed an apprenticeship in a suitable discipline of not less than 2 years, and has not less than 3 years’ subsequent working experience, or (ii) has not less than 5 years’ relevant working experience.

16. In order to cope with the advancement in lift and escalator technologies and the public concern about lift and escalator safety, it is proposed to adopt the qualification of registered professional engineer (“RPE”) of suitable disciplines plus at least 2 years’ relevant working experience as the pre-requisite requirements for registration as lift and escalator engineers in the long term. The registration status will be valid for 5 years and a renewal requirement will be introduced. Registrants will be required to demonstrate that they have been practising in the lift and

escalator industry and have attained the prescribed hours of continuous professional development for renewal of their registration status.

17. At present, only a small percentage (6%) of the existing registrants possess the RPE qualification. In order to ensure a smooth transition, all the existing registered lift and escalator engineers will be allowed to retain their statutory status and as an interim measure, degree-holders in suitable disciplines with 4 years' relevant working experience will also be eligible for registration.

(c) Review of Penalty levels and Sanctions under the Ordinance

18. The current penalty level of offences under the Ordinance, with maximum fine at \$5,000 and imprisonment for 12 months in relation to contravention of safety requirements, is considered not commensurate with the severity of the offences. Over the past 10 years, four out of 22 prosecution cases were of serious nature with casualties but the offenders were only fined between \$500 and \$5,000. Such penalty level is considered inadequate to produce the necessary punitive and deterrent effects. We propose to increase the penalty level to a maximum fine of \$200,000 and imprisonment for 12 months. This is on par with other similar ordinances such as the Builders' Lifts and Tower Working Platforms (Safety) Ordinance, Cap. 470, the Factories and Industrial Undertakings Ordinance, Cap. 59, the Electricity Ordinance, Cap. 406, and the Gas Safety Ordinance, Cap. 51.

(d) Procedure of Disciplinary Proceedings

19. With the increasing number of practitioners, there is a need to streamline the process under sections 8 and 11E of the Ordinance to enable efficient and effective administration of the proceedings. In this regard, we propose to empower the Director of Electrical and Mechanical Services (the Director) to take disciplinary action against relatively minor offences. This is in line with the disciplinary provisions in other similar ordinances such as the Builders' Lifts and Tower Working Platform (Safety) Ordinance, Cap. 470, and the Electricity Ordinance, Cap. 406. For those disciplinary cases of a minor nature involving a contractor, an engineer and a worker, the maximum fine that can be ordered by the Director is proposed to be \$10,000, \$1,000 and \$1,000 respectively. The Director can also reprimand the persons/parties committing such offenses.

(e) Issuance of Notice for Non-compliances

20. The Director may, under section 27(1)(d), prohibit the use and operation of the lift or escalator when it is considered not in safe working order. In other cases where minor defects or malpractices of a minor nature by the registered contractor/engineers are found, the Director may serve notice(s) to the lift or escalator owner, or the registered contractor/engineer requiring rectification within a prescribed period. Currently, these notices are only advisory in nature. We propose to formalise the issuance of such notices (to be named as "Improvement

Notice”) by granting statutory power to the Director to impose sanctions for failure to comply with the requirements within the prescribed period specified in the notice.

(f) Safety Label and Certificates of Periodic Examination

21. At present, after the satisfactory examination of lifts and escalators, the registered lift and escalator engineers are required to submit a certificate in a prescribed format to the owner who in turn is required to deliver the certificate to EMSD for registration. The certificate will then be returned to the owner for display at a conspicuous position. Occasionally, the certificate displayed inside the lift car may not be replaced in a timely manner even if the periodic examination has been satisfactorily completed, thereby defeating the original intention of displaying a valid certificate. This is also not conducive to promoting the concept of “user surveillance” on timely examination of lifts and escalators. To overcome this problem, we propose to introduce and require the display of a more prominent and user-friendly safety label in a prescribed format to be signed by the registered engineer immediately upon completion of periodic examination.

Way Forward

22. EMSD will continue to monitor the operation and maintenance of lifts in Hong Kong to ensure public safety and will closely monitor the progress in taking forward the various improvement measures.

23. With regard to the legislative amendment proposal, we will commence a 3-month public consultation exercise in November 2009 and consider any public views received before finalizing the proposed amendments to the Ordinance. We aim to introduce the Bill to LegCo in 2011.

**Development Bureau
Electrical and Mechanical Services Department
October 2009**

Summary of the Ombudsman's Recommendations and Follow up Actions

Ombudsman's Recommendations		EMSD's Follow up Actions
(A) Shared Responsibility and User Surveillance		
(1)	Promote the principles of “shared responsibility” and “user surveillance” of lift safety through extensive publicity and public education.	More effort and publicity activities will be put in to educate the public on their roles and responsibilities in relation to the lift safety in future. Activities scheduled for the coming 6 months include briefing sessions to owners associations and building management companies, new leaflet on owners' responsibilities, evening seminars for individual owners and the trade. A copy of the latest version of the "Lift Owners' Guidebook" will also be given to each and every lift owner.
(2)	Revise the format of the lift certificate and enforce rigorously the requirement for its conspicuous display to enable "user surveillance" of the current state of lift maintenance	Guidelines in respect of the conspicuous display of the certificates have been issued, and the format of the Form 11 (periodic lift maintenance certificate) is being revised in consultation with the trade.
(B) Performance of the Registered Contractor (RC) and Registered Engineer (RE)		
(3)	<i>Introduce transparency in the performance monitoring system and performance rating scores so that lift owners</i>	<i>* After the consultation with the trade, a new “Maintenance Performance Rating” scheme was developed and implemented in</i>

	<i>can make an informed choice in selecting the lift maintenance contractors.</i>	<i>June 2009. All the details including the first quarter results were posted in the EMSD website. A press release was also published on 1 September 2009.</i>
(4)	<i>Alert the insurance industry to the availability of the performance rating system as an additional incentive for RC to adhere to good practices and high standards</i>	<i>* EMSD has approached the Hong Kong Federation of Insurers on 3 September 2009, informing them how the "Maintenance Performance Rating" scheme operates and the availability of the published results.</i>
(C) Standards, Statistics, Monitoring and Analysis of Trends		
(5)	Invest time and efforts in setting clear procedures and building up an information base to facilitate the monitoring of lift examination and submission of lift certificates	New procedures have been established, and the computer system is being upgraded to capture new parameters and statistical data especially in the handling of overdue lift certificates
(6)	Review the mechanism for following up overdue lift examinations and lift certificates	The new procedures, in conjunction with the web-based e-Platform, have been established for handling overdue lift certificates. The implementation of new mechanism will be reviewed for refinement in the coming months.
(7)	<i>Prescribe an express time limit on the RC for endorsing safety certificates and sending them to lift owners</i>	<i>* A circular was issued to the trade on 10 August 2009. All RC were required to countersign the certificate within 21 days after the lift examination.</i>
(8)	<i>Require RC to record the date of issuing lift certificates to lift owners.</i>	<i>* A circular was issued to the trade on 4 September 2009. All RC were required to record the date of delivering the lift certificates to lift owners</i>

(9)	<i>Track the date RC issue lift certificates to lift owners so as to identify the party responsible for the delay and impose sanctions for non-compliance</i>	<i>* After the implementation of the new web-based information system, all RC are required to inform EMSD on-line the date they deliver lift certificates to lift owners.</i>
(10)	<i>Issue advisory or warning letters to RC or RE for repeated late examination of lifts</i>	<i>* New procedures were implemented in May 2009 for issuing advisory or warning letters to RC or RE for repeated late examination of lifts</i>
(11)	<i>Remind RE to fill in the date of delivery of the lift certificates to lift owners in Form 11.</i>	<i>* A circular reminding all RE to enter the correct information in the date field at the top right corner of the lift certificate was issued on 10 August 2009 .</i>
(12)	Consider a proper code of practice and a hierarchy of accountability for determining whether or not to proceed with disciplinary action against a RC or RE, including the monitoring of the progress of disciplinary proceedings.	The existing procedures for considering the cases which may trigger disciplinary action will be reviewed and incorporated in the departmental ISO9001 quality system in October, 2009. The entire system will be subject to regular internal and external audits in future.
(13)	Review the procedures and criteria for issuing warning letters under the performance monitoring system, set out the rules and clarify their rationale, update the documents and promulgate it to the trade.	Review of the system and consultation with the trade commenced in September 2009. New circular letter will be issued upon completion of the review by end 2009.

Notes

1. * denotes action items which have been implemented and completed
2. Recommendation no. 5 to 13 (section C) are essentially issues related to overdue lift certificates and warning/disciplinary actions against the registered contractors/engineers.

Membership of the Taskforce on Lift Worker Registration

1. HK General Union of Lift and Escalator Employees (HKGULEE)
2. Lift & Escalator Contractors Association (LECA)
3. Registered Elevator and Escalator Contractors Association Limited (REECAL)
4. Vocational Training Council (VTC)
5. Construction Workers Registration Authority (CWRA)

Membership of the Taskforce on Qualification of Registered Lift/Escalator Engineer

1. Hong Kong Institution of Engineers (HKIE)
2. The International Association of Elevator Engineers (HK-China Branch) (IAEE)
3. Lift & Escalator Contractors Association (LECA)
4. Registered Elevator and Escalator Contractors Association Limited (REECAL)