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7 November 2011

Clerk to the Bills Committee,
LegCo Secretariat,
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

(Attn: Ms Anita SIT)

Dear Ms SIT,

**Bills Committee on Lifts and Escalators Bill
Administration's Response to Follow-up Items**

In response to Members' discussion at the meeting of the Bills Committee on Lifts and Escalators Bill held on 1 November 2011, we provide in the ensuing paragraphs the relevant information.

1. Renewal of Registration for Registered Lift and Escalator Engineers

Like other similar statutory registration or licensing regimes, for example the regime under the Engineers Registration Ordinance (Cap. 409), we propose to establish a renewal mechanism and confer on the Registrar the power to renew a registration under the Bill. The drafting approach adopted in the Bill reflects the policy intention. The drafting of clauses 79 and 91 of the Bill also follows the normal drafting approach. Examples can also be found in existing legislation which adopt the same

or a similar approach¹.

Regarding the suggestion to consider revising clauses 79 and 91 of the Bill so that the Registrar is obliged to renew a registration if certain stipulated requirements are complied with (alternative approach), we have checked, as requested, if this approach is commonly adopted in existing legislation. Only a few precedents can be found and one of them is section 15(1) of the Water Pollution Control Ordinance (Cap. 358).

In the course of preparing the Bill, we have deliberated of whether it is appropriate to adopt the alternative approach. Taking into account the policy intention, the comprehensibility of the two clauses if the two approaches are respectively adopted and the current drafting practice, it is considered appropriate to adopt the approach now reflected in the Bill.

The power conferred on the Registrar under clause 79 or 91 of the Bill is not an unfettered power and must be exercised properly. If the Registrar decides to refuse an application or not to grant a renewal of registration, the Registrar must provide the applicant the reasons for making the decision (clauses 81 and 93 of the Bill). Further, any person who is aggrieved by the decision of the Registrar may appeal against the decision under clause 115 of the Bill.

Besides, we have discussed with the industry and received their general support during the process of drawing up the registration renewal requirements. The Task Force on Legislative Amendments to the Lifts and Escalators (Safety) Ordinance (Task Force) comprising representatives from industry stakeholder has also expressed their support for the relevant proposed legislative requirements.

2. Registration of Lift Contractors

The registration requirements for lift contractors are stipulated under clause 74 and part 2 of schedule 8 of the Bill. They include the technical

¹ Examples include section 7B of the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59Z), section 8C of the Buildings Ordinance (Cap. 123), section 16 of the Architects Registration Ordinance (Cap. 408), section 15 of the Engineers Registration Ordinance (Cap. 409), section 15 of the Planners Registration Ordinance (Cap. 418), section 14 of the Land Survey Ordinance (Cap. 473), section 15 of the Landscape Architects Registration Ordinance (Cap. 516) and section 44 of the Construction Workers Registration Ordinance (Cap. 583).

qualifications of the applicant and the applicant's employees; the capability of the applicant to maintain the necessary facilities, resources and workforce to carry out lift works; and the capability of the applicant to obtain technical support from any other person, including a lift manufacturer, for technological updating, technical training of staff, sourcing of spare parts, etc. in case this is required. We are prepared to explain the registration requirements in more details when examining clause 74 and schedule 8 of the Bill.

3. The Codes of Practice under the Bill

In respect of the provisions under the Bill, the Electrical and Mechanical Services Department (EMSD) will promulgate a new set of codes of practices (CoPs) in due course to replace the existing CoPs issued under the Lifts and Escalators (Safety) Ordinance (Cap. 327). In this regard, discussions with the Task Force on the drafting of the CoPs have already commenced. EMSD will take into account the views of the Task Force and complete drafting the CoPs. Since the new set of CoPs is for the provisions under the Bill, EMSD is prepared to upload the draft to its departmental webpage to facilitate stakeholders to offer views. EMSD will promulgate the CoPs soonest possible following passage of the Bill

Yours sincerely,



(Jimmy PM CHAN)
for Secretary for Development

c.c.

Director of Electrical and Mechanical Services (Attn: Mr Alfred SIT)
Law Officer (Civil Law), Department of Justice (Attn: Ms Bonnie CHAU)
Law Draftsman, Department of Justice (Attn: Ms Frances HUI and Ms Angie LI)