

政府總部

發展局

工務科

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19 December 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 meetings of the Bills Committee on Lifts and Escalators Bill (the Bill) from 11 October 2011 to 13 December 2011, we provide the relevant information in the ensuing paragraphs.

Follow up items for the meeting held on 11 October 2011

Assistance to lift and escalator owners

As stated in LegCo paper CB(1)157/11-12(02), we will take measures to further facilitate the owners and property management companies to select suitable contractors for maintaining and repairing their lifts and escalators. The following measures are the improvements

that we are implementing.

Consolidation of the information relevant to registered contractors' performance on the website of the Electrical and Mechanical Services Department

To further facilitate the public to comprehend the performance of registered contractors, the Electrical and Mechanical Services Department (EMSD) is planning to consolidate relevant contractors' performance information for dissemination on EMSD's website in a more user-friendly, easy to understand and direct manner. In the planned improvement, when a user clicks on the name of a registered contractor in relevant webpage, the user can access all information regarding the performance of that contractor. Such information includes its past contractors' performance ratings (CPR), reported equipment fault incident, warning letters issued to the contractor, records of prosecution and disciplinary cases. A sample of the proposed new webpage is shown in **Appendix 1**. EMSD plans to launch the new webpage in the first quarter of 2012.

Improvements in performance assessment criteria

EMSD has revisited the existing assessment criteria of the CPR schemes regarding lifts and escalators in consultation with the trade and representatives of property management associations. With a view to properly reflecting the equipment fault incidents in the CPR of the maintenance contractor, EMSD proposes to include a new point deductible item for the occurrence of equipment fault incident. Besides, EMSD proposes to increase the demerit point for failure of some components including alarm system, inter-communication system, levelling devices, etc. For illustration purpose, a comparison of the example of CPR results using the existing and proposed assessment criteria is given in **Appendix 2**. EMSD plans to implement the proposed assessment criteria in the first quarter of 2012 after securing supports from the trade.

Reference information on price

EMSD has approached the trade and representatives of property management associations to discuss how reference information could be provided on maintenance cost. According to the preliminary advice

collected, lift owners or property management companies in procuring lift maintenance services will normally have their own tendering requirements, such as scope of works, the contractor's technical expertise, capacity of dealing with emergencies, contract duration, payment terms and routine maintenance frequency. The registered contractors in determining their tender prices would consider a host of factors, such as the number of lifts in an estate or building, the age of the lifts, the degree of complexity of lifts, the working environment, frequency of use, and number of landings, etc. It is therefore difficult to compare the maintenance cost without knowing the details of the services under individual contract. Despite the difficulty, EMSD will continue to work with the trade and members of the Task Force on Legislative Amendments to the Lifts and Escalators (Safety) Ordinance (Task Force), including property management associations, to further explore the feasibility of establishing any reference information on lift maintenance prices.

Follow up item for the meeting held on 25 October 2011

Definition of "qualified person"

Following up with the LegCo paper **CB(1)244/11-12(01)**, we propose to amend the notes to the definition of "qualified person" under clause 2(1) of the Bill in order to make clearer the relationship between the definition of "qualified person" and the clause 2(2) of the Bill. The proposed amendments to clause 2(1) of the Bill are shown at **Appendix 3**.

Follow up item for the meeting held on 1 November 2011

Codes of practice under the Bill

As we stated in the LegCo paper **CB(1)299/11-12(01)**, in respect of the provisions under the Bill, EMSD has started drafting a new set of codes of practices (CoPs) to replace the existing CoPs issued under the Lifts and Escalators (Safety) Ordinance (Cap. 327)(LESO). On 25 November 2011, the first batch of the preliminary draft CoPs was circulated to Task Force members for comment. It is expected that EMSD would consult Task Force members on the remaining part of the preliminary draft CoPs by December 2011. Upon considering Task Force members' views, EMSD anticipates that the draft of the CoPs would be uploaded to EMSD webpage in the first quarter of 2012 to facilitate stakeholders to offer views.

Follow up items for the meetings held on 8 and 15 November 2011

Chinese version of Clauses 26(2), 26(3), 27(1)(b), 27(2)(b), 27(3)(b), 31(4)(a), 34(1) and 35(1)(b) of the Bill

Following up with the LegCo papers **CB(1)342/11-12(01)** and **CB(1)402/11-12(01)**, we have considered Members' views on the Chinese text of clauses 26(2), 26(3), 27(1)(b), 27(2)(b), 27(3)(b), 31(4)(a), 34(1) and 35(1)(b) of the Bill, and we propose to provide an alternative version to these clauses with the original policy intention maintained. For the consistency of provisions in the Bill, we also propose to make corresponding amendments to the Chinese text of clauses 28(2), 56(2), 57(1)(b), 57(2)(b), 57(3)(b), 58(2), 61(4)(a), 64(1) and 65(1)(b) of the Bill. The proposed amendments to the above clauses are shown at **Appendix 3**.

Follow up items for the meeting held on 6 December 2011

Clause 141 of the Bill

The provisions under Clause 141 of the Bill are modelled on the provisions under section 43Q of the Employment Ordinance (Cap. 57). The purpose of clause 141 of the Bill is to provide necessary deterrence against contravention of any other legislative requirements under the Bill by a body corporate or a person who is a partner in a partnership. Thus, under the clause, certain other persons connected with the body corporate or partnership are also liable.

To avoid catching any person who is not equally culpable as a person having a managing role in the body corporate or partnership, clause 141 of the Bill expressly targets those concerned in the management of the body corporate or partnership.

Similar to section 43Q of the Employment Ordinance (Cap. 57), clause 141 of the Bill operates to ensure vigilant compliance with the proposed legislation by imposing personal criminal liability also on certain persons concerned in the management of a body corporate or partnership for their role in causing or contributing to the offending conduct, while at the same time addressing the difficulty in proving the relevant knowledge, consent etc. of the management people in question,

which are matters within the personal knowledge of the officer concerned. The prosecution nevertheless bears the burden to prove beyond a reasonable doubt that the offence is committed with the consent or connivance of a manager/partner, or is otherwise attributable to his neglect or omission, if there is evidence that this may not have been so.

The arrangement provides a fair balance between effective enforcement and protection of the innocent. With the built-in safeguard, we are of the view that the provision will not create unduly onerous liabilities to discourage people from participating in the management of their own property. Furthermore, we plan to launch a series of publicity and promotional activities to give the public and the responsible persons a better understanding of the requirements under the proposed legislation and to raise their safety awareness on lifts and escalators.

Prescribed period in clause 5 of schedule 15 of the Bill

The term “prescribed period” in the definition of *prescribed examination with load* in clause 5 of schedule 15 of the Bill is intended to refer to the period beginning on the date the 5th anniversary of which is the relevant date¹ and ending immediately before the relevant date. The proposed revised definition of the term in clause 5(4) of schedule 15 of the Bill are shown at **Appendix 3**.

Provision in other legislation similar to clause 141 of the Bill

As noted above, the provisions under clause 141 of the Bill are modelled on the provisions under section 43Q of the Employment Ordinance (Cap. 57). Pursuant to section 43Q of the Employment Ordinance (Cap. 57), where an offence under section 43P of the Employment Ordinance (Cap. 57) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, the director, manager, secretary or other similar officer of the body corporate commits the like offence. An offence under section 43P of the Employment Ordinance (Cap. 57) committed by a body corporate is presumed to have been committed with the consent or connivance of, or to be attributable

¹ According to clause 1 of schedule 15 of the Bill, “relevant date” in schedule 15 of the Bill means the date on which clause 157 of the Bill comes into operation (i.e. the date on which the LESO is repealed).

to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, if it is proved that, at the time the offence was committed, the director, manager, secretary or other similar officer of the body corporate: (i) was concerned in the management of the body corporate; or (ii) knew or ought to have known that the award of the tribunal in respect of which the offence was committed had been made against the body corporate. The above presumption is rebutted by the director, manager, secretary or other similar officer of the body corporate concerned if: (i) there is sufficient evidence to raise an issue that the offence was committed without his consent or connivance and was not attributable to his neglect; and (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

Section 43Q of the Employment Ordinance (Cap. 57) only seeks to impose an evidential burden on the director, manager, secretary or other similar officer of the body corporate while leaving it to the prosecution to prove its case beyond reasonable doubt. The reasons for adopting this approach are as follows: (i) the Administration seeks to ensure effective compliance with the statutory obligations by creating incentives for enhanced vigilance on the part of the management of a body corporate or partnership; (ii) however, whether the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a partner was very much a matter within his own knowledge and is difficult for the prosecution to prove; and (iii) the Administration seeks to strike a balance between the need to impose liability on those persons who were culpable while avoiding catching those who were not.

Follow up items for the meeting held on 13 December 2011

Clauses 11(2) to 11(7) of schedule 15 of the Bill

The provisions in clauses 11(2) to 11(7) of schedule 15 of the Bill are relevant only to a contravention of the relevant order on or after the date on which the LESO is repealed.

Clause 9 of schedule 15 of the Bill

Clause 157 of the Bill provides for the repeal of the LESO and schedule 15 of the Bill seeks to deal with transitional and savings provisions that are required as a result of the repeal.

According to the policy intention, an order of the Director of Electrical and Mechanical Services (the Director) that falls within the descriptions in section 9 of schedule 15 should continue to be in force after the repeal of the LESO by clause 157 of the Bill. It is not the intention to regard such an order as an order issued under the Bill. The drafting of section 9 achieves the policy objectives. And to reflect the policy, it is not appropriate to treat any such order as an order made under the respective provisions of the Bill as enacted.

Consistency of the terms used to name various types of lifts and escalators in legislation and government publications

As stated in LegCo Paper **CB(1)157/11-12(02)**, we have reviewed the Building Ordinance (Cap. 123) and do not find any inconsistency between the term “goods lift” and those related terms used in the Buildings Ordinance (Cap. 123). To maintain consistency among legislation and government publications, we have requested the Buildings Department and the Labour Department to take note of the interpretation of the terms “escalator”, “goods lift”, “lift”, “mechanized vehicle parking system” and “service lift” under clause 2 of the Bill when they prepare any government publication including practice notes, circulars and guidelines in association with the in association with the Buildings Ordinance (Cap. 123) and the Factories and Industrial Undertakings (Goods Lifts) Regulations (Cap.590).

Yours sincerely,



(Jimmy PM CHAN)
for Secretary for Development

Encl.

c.c. with encl.

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)

Proposed Contents of New Layout of the CPR Webpage

Contractors' Performance of [Name of Contractor] during [the assessment period]

(A) Past and Present CPR Ratings

	Assessment Period	CPR Rating
Past	From mm/yy to mm/yy	AA
Present	From mm/yy to mm/yy	BB

(B) Reported Equipment Failure Incident to the EMSD

Incident Date	Location	Incident Nature
dd/mm/yy	XX Building	Passenger entrapment due to defective electrical component
dd/mm/yy	YY Building	Passenger loss of balance due to defective levelling device
dd/mm/yy	ZZ Building	Stoppage of lift service due to defective floor selector

(C) List of Warning Letters Issued

Month	Brief Content of Warning Letter
mm/yy	A total of 15PM point for non-compliant found in a single unit inspection
mm/yy	The moving average of the PM points has exceeded 4 points within 12-month interval
mm/yy	Failure to carry out periodic lift examination and testing within 12-month interval according to sections 21 and 23 of the Lifts and Escalators (Safety) Ordinance

(D) Records of Prosecution Cases

Date	Brief Content of Prosecution Case
dd/mm/yy	[Name of the registered contractor] was fined \$XXXX at [Name of the Court] for contravening section XX of the Lifts and Escalators (Safety) Ordinance for failing to carry out the maintenance and repair of the lift works
dd/mm/yy	[Name of the registered contractor] was fined \$XXXX at [Name of the Court] for contravening section XX of the Lifts and Escalators (Safety) Ordinance for failing to examine the lift and test the safety equipment provided

(E) Records of Disciplinary Cases

Date	Brief Content of Disciplinary Case
dd/mm/yy	The Registered Lift Contractor Disciplinary Board having completed its inquiry, is satisfied that [Name of the registered contractor] is guilty of negligence and misconduct (failure to keep lifts and accessories in good working order), and ordered the contractor to be fined \$XXXX and to pay \$XXXXXX for the costs incurred in the proceeding.
dd/mm/yy	The Registered Lift Contractor Disciplinary Board having completed its inquiry, is satisfied that [Name of the registered contractor] is guilty of negligence and misconduct (failure to ensure that lift works were carried out by competent lift workers as required under the Ordinance), and ordered the contractor to be fined \$XXXX and to pay \$XXXXXX for the costs incurred in the proceeding.

Appendix 2

Comparison of the CPR Results using the existing and proposed CPR assessment criteria

Name of Registered Contractors	[Assessment Period]				
	Cumulated Maintenance PM Points	No. of Lifts Inspected	Maintenance Index	Safety Index	Performance Index
Company A	22 (28)	120	41 (38)	50	91 (88)
Company B	32 (44)	100	34 (28)	50	84 (78)
Company C	40 (58)	80	25 (14)	35	60 (49)

() denotes the results after using the proposed CPR assessment criteria (6 performance monitoring (PM) points for each reported equipment-fault incident)

Existing and new assessment criteria for the CPR scheme

Calculation method

A full mark of 100 is used for showing the performance rating of a lift contractor, making up of the maintenance index (0 to 50 marks) and safety index (0 to 50 marks). Please refer to the following formulae:

Performance Index = Maintenance Index + Safety Index

Maintenance Index = $50 \times (1 - \text{cumulated maintenance performance monitoring points} / \text{number of inspections})$

Safety Index = $50 - \text{cumulated safety performance monitoring points}$
(each critical safety non-compliant item to be accorded with 15 points)

Example 1:

EMSD conducted 120 inspections on "Company A" and recorded 22 points for maintenance non-compliant items, but no safety critical non-compliant item.

(1) Existing calculation method

Maintenance Index = $50 \times [1 - 22/120] = 41$

Safety Index = 50

Performance Index = Maintenance Index + Safety Index
= 41 + 50 = 91

(2) New calculation method

According to the new assessment criteria, it is suggested to include 6 demerit points for every reported incident should it be resulted from equipment failure. In the same assessment period, "Company A" involved in one reported equipment-fault incident and its maintenance PM points will be increased by 6 (i.e. the existing maintenance PM points increase from 22 to 28). The performance index of "Company A" will be calculated:-

$$\text{Maintenance Index} = 50 \times [1 - 28/120] = 38$$

$$\text{Safety Index} = 50$$

$$\begin{aligned}\text{Performance Index} &= \text{Maintenance Index} + \text{Safety Index} \\ &= 38 + 50 = 88\end{aligned}$$

Example 2:

EMSD conducted 100 inspections on "Company B" and recorded 32 points for maintenance non-compliant items, but no safety critical non-compliant item.

(1) Existing calculation method

$$\text{Maintenance Index} = 50 \times [1 - 32/100] = 34$$

$$\text{Safety Index} = 50$$

$$\begin{aligned}\text{Performance Index} &= \text{Maintenance Index} + \text{Safety Index} \\ &= 34 + 50 = 84\end{aligned}$$

(2) New calculation method

According to the new assessment criteria, it is suggested to include 6 demerit points for every reported incident should it be resulted from equipment failure. In the same assessment period, "Company B" involved in two reported equipment-fault incidents and its maintenance PM points will be increased by 12 (i.e. the existing maintenance PM points increase from 32 to 44). The performance index of "Company A" will be calculated:-

$$\text{Maintenance Index} = 50 \times [1 - 44/100] = 28$$

$$\text{Safety Index} = 50$$

$$\begin{aligned}\text{Performance Index} &= \text{Maintenance Index} + \text{Safety Index} \\ &= 28 + 50 = 78\end{aligned}$$

Example 3:

EMSD conducted 80 inspections on “Company C” and recorded 40 points for maintenance non-compliant items, and one safety critical non-compliant item.

(1) Existing calculation method

$$\text{Maintenance Index} = 50 \times [1 - 40/80] = 25$$

$$\text{Safety Index} = 50 - 15 = 35$$

$$\begin{aligned} \text{Performance Index} &= \text{Maintenance Index} + \text{Safety Index} \\ &= 25 + 35 = 60 \end{aligned}$$

(2) New calculation method

According to the new assessment criteria, it is suggested to include 6 demerit points for every reported incident should it be resulted from equipment failure. In the same assessment period, "Company C" involved in three reported equipment-fault incidents and its maintenance PM points will be increased by 18 (i.e. the existing maintenance PM points increase from 40 to 58). The performance index of “Company C” will be calculated:-

$$\text{Maintenance Index} = 50 \times [1 - 58/80] = 14$$

$$\text{Safety Index} = 50 - 15 = 35$$

$$\begin{aligned} \text{Performance Index} &= \text{Maintenance Index} + \text{Safety Index} \\ &= 14 + 35 = 49 \end{aligned}$$

Proposed Amendments to Lifts and Escalators Bill
(as at 19 December 2011)

2. 釋義

(1) 在本條例中—

.....

合資格人士(qualified person) ——

- (a) 就關於升降機或其部分或升降機的相聯設備或機械的試運行或檢驗的升降機工程而言，指—
 - (i) 註冊升降機工程師；
 - (ii) 具有進行該工程的資格的註冊升降機工程人員，而該人員—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊升降機承辦商；
 - (B) 以註冊升降機承辦商的身分，承辦該工程；或
 - (C) 是以註冊升降機承辦商的身分承辦該工程的合夥的合夥人；或
 - (iii) 合資格升降機工程人員，而該人員—
 - (A) 具有進行該工程的資格；及
 - (B) 根據僱傭合約，受僱於承辦該工程的註冊升降機承辦商；
- (b) 就任何其他升降機工程而言，指—
 - (i) 註冊升降機工程師，而該工程師—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊升降機承辦商；
 - (B) 以註冊升降機承辦商的身分，承辦該工程；或
 - (C) 是以註冊升降機承辦商的身分承辦該工程的合夥的合夥人；
 - (ii) 具有進行該工程的資格的註冊升降機工程人員，而該人員—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊升降機承辦商；
 - (B) 以註冊升降機承辦商的身分，承辦該工程；或
 - (C) 是以註冊升降機承辦商的身分承辦該工程的合夥的合夥人；或
 - (iii) 合資格升降機工程人員，而該人員—
 - (A) 具有進行該工程的資格；及
 - (B) 根據僱傭合約，受僱於承辦該工程的註冊升降機承辦商；
- (c) 就關於自動梯或其部分或自動梯的相聯設備或機械的試運行或檢驗的自動梯工程而言，指—
 - (i) 註冊自動梯工程師；
 - (ii) 具有進行該工程的資格的註冊自動梯工程人員，而該人員—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊自動梯承辦商；

- (B) 以註冊自動梯承辦商的身分，承辦該工程；或
- (C) 是以註冊自動梯承辦商的身分承辦該工程的合夥的合夥人；或
- (iii) 合資格自動梯工程人員，而該人員—
 - (A) 具有進行該工程的資格；及
 - (B) 根據僱傭合約，受僱於承辦該工程的註冊自動梯承辦商；及
- (d) 就任何其他自動梯工程而言，指—
 - (i) 註冊自動梯工程師，而該師—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊自動梯承辦商；
 - (B) 以註冊自動梯承辦商的身分，承辦該工程；或
 - (C) 是以註冊自動梯承辦商的身分承辦該工程的合夥的合夥人；
 - (ii) 具有進行該工程的資格的註冊自動梯工程人員，而該人員—
 - (A) 根據僱傭合約，受僱於承辦該工程的註冊自動梯承辦商；
 - (B) 以註冊自動梯承辦商的身分，承辦該工程；或
 - (C) 是以註冊自動梯承辦商的身分承辦該工程的合夥的合夥人；或
 - (iii) 合資格自動梯工程人員，而該人員—
 - (A) 具有進行該工程的資格；及
 - (B) 根據僱傭合約，受僱於承辦該工程的註冊自動梯承辦商；

註—

亦參看第(2)款。就(a)(ii)及(iii)(A)段、(b)(ii)及(iii)(A)段、(c)(ii)及(iii)(A)段及(d)(ii) 及 (iii)(A)段而言—參看第(2)款。該款列明準則，用以斷定註冊升降機工程人員、註冊自動梯工程人員、合資格升降機工程人員或合資格自動梯工程人員是否具有資格，進行特定升降機工程或自動梯工程。

2. Interpretation

(1) In this Ordinance—

.....

qualified person (合資格人士)—

- (a) in relation to any lift works concerning the commissioning or examination of a lift or any part of a lift, or any associated equipment or machinery of the lift, means—
 - (i) a registered lift engineer;
 - (ii) a registered lift worker who is qualified to carry out the works and who—
 - (A) is employed under a contract of employment by the registered lift contractor who undertakes the works;

- (B) has undertaken the works in the capacity of a registered lift contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered lift contractor; or
 - (iii) a competent lift worker who—
 - (A) is qualified to carry out the works; and
 - (B) is employed under a contract of employment by the registered lift contractor who undertakes the works;
- (b) in relation to any other lift works, means—
 - (i) a registered lift engineer who—
 - (A) is employed under a contract of employment by the registered lift contractor who undertakes the works;
 - (B) has undertaken the works in the capacity of a registered lift contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered lift contractor;
 - (ii) a registered lift worker who is qualified to carry out the works and who—
 - (A) is employed under a contract of employment by the registered lift contractor who undertakes the works;
 - (B) has undertaken the works in the capacity of a registered lift contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered lift contractor; or
 - (iii) a competent lift worker who—
 - (A) is qualified to carry out the works; and
 - (B) is employed under a contract of employment by the registered lift contractor who undertakes the works;
- (c) in relation to any escalator works concerning the commissioning or examination of an escalator or any part of an escalator, or any associated equipment or machinery of the escalator, means—
 - (i) a registered escalator engineer;
 - (ii) a registered escalator worker who is qualified to carry out the works and who—
 - (A) is employed under a contract of employment by the registered escalator contractor who undertakes the works;

- (B) has undertaken the works in the capacity of a registered escalator contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered escalator contractor; or
- (iii) a competent escalator worker who—
 - (A) is qualified to carry out the works; and
 - (B) is employed under a contract of employment by the registered escalator contractor who undertakes the works; and
- (d) in relation to any other escalator works, means—
 - (i) a registered escalator engineer who—
 - (A) is employed under a contract of employment by the registered escalator contractor who undertakes the works;
 - (B) has undertaken the works in the capacity of a registered escalator contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered escalator contractor;
 - (ii) a registered escalator worker who is qualified to carry out the works and who—
 - (A) is employed under a contract of employment by the registered escalator contractor who undertakes the works;
 - (B) has undertaken the works in the capacity of a registered escalator contractor; or
 - (C) is a partner in the partnership that has undertaken the works in the capacity of a registered escalator contractor; or
 - (iii) a competent escalator worker who—
 - (A) is qualified to carry out the works; and
 - (B) is employed under a contract of employment by the registered escalator contractor who undertakes the works;

Note—

For paragraphs (a)(ii) and (iii)(A), (b)(ii) and (iii)(A), (c)(ii) and (iii)(A) and (d)(ii) and (iii)(A)—See also subsection (2) which sets out the criteria for determining whether a registered lift worker, registered escalator worker, competent lift worker or competent escalator worker is qualified to carry out any particular lift works or escalator works.

26. 准用證的發出等

- (1) 在符合第 150 條的規定下，署長可應申請，就升降機發出 —
 - (a) 採用指明表格的許可證，准許該升降機投入使用及操作；或
 - (b) 採用指明表格的許可證，准許繼續使用及操作該升降機。
- (2) 如任何人就第(1)款提述的升降機而違反第 23 條就有關升降機而遭違反，署長可拒絕根據第(1)款發出許可證。
- (3) 如任何人就第(1)款提述的升降機而違反第 143 條就有關升降機而遭違反，署長可拒絕根據第(1)款發出許可證。
- (4) 除非署長信納有關升降機及其所有相聯設備或機械處於安全操作狀態，否則不得根據第(1)款發出許可證。
- (5) 署長如決定拒絕申請或拒絕根據本條發出許可證，須在作出該決定後，在合理地切實可行的範圍內，盡快以書面將以下事宜通知申請人 —
 - (a) 該決定；
 - (b) 作出該決定的原因；及
 - (c) (如適用的話)署長認為為使有關升降機或其相聯設備或機械處於安全操作狀態而需要進行的工作。
- (6) 本條並不影響署長根據《釋義及通則條例》(第 1 章)第 41 及 46 條具有的一般權力。

27. 准用證的有效期

- (1) 根據第 26(1)(a)條發出的、關乎升降機的檢驗的許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在完成該項檢驗的日期的首個周年日，即告有效期屆滿。
- (2) 根據第 26(1)(b)條發出的、關乎升降機的檢驗(該項檢驗是於該升降機上一份准用證的屆滿日期結束前的 2 個月內完成的)的許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在上一份准用證的屆滿日期的首個周年日，即告有效期屆滿。
- (3) 根據第 26(1)(b)條發出的、關乎升降機的檢驗的其他許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在完成該項檢驗的日期的首個周年日，即告有效期屆滿。

28. 復用證的發出等

- (1) 在符合第 150 條的規定下，署長可應申請，就升降機發出採用指明表格的許可證，准許在對該升降機作出主要更改後，恢復使用及操作該升降機。

- (2) 如任何人就第(1)款提述的升降機而違反第 143 條就有關升降機而遭違反，署長可拒絕根據第(1)款發出許可證。
- (3) 除非署長信納有關升降機的受影響部分正處於安全操作狀態，否則不得根據第(1)款發出許可證。
- (4) 署長如決定拒絕申請或拒絕根據本條發出許可證，須在作出該決定後，在合理地切實可行的範圍內，盡快以書面將以下事項通知申請人 —
 - (a) 該決定；
 - (b) 作出該決定的原因；及
 - (c) (如適用的話)署長認為為使有關升降機的受影響部分處於安全操作狀態而需要進行的工作。
- (5) 本條並不影響署長根據《釋義及通則條例》(第 1 章)第 41 及 46 條具有的一般權力。

31. 署長有權截電

- (1) 如署長有合理理由相信，某升降機正被人或相當可能會被人在違反根據第 30 條作出的命令的情況下使用或操作，署長 —
 - (a) 可截斷該升降機的電力供應，如該升降機的任何升降機工程，是由註冊升降機承辦商承辦，署長可藉送達該承辦商的命令，指示該承辦商截斷該升降機的電力供應；及
 - (b) 可進行任何必需的工作，以盡可能防止任何人在未獲署長書面准許重新接通該升降機的電力供應下，重新接通該升降機的電力供應，署長亦可藉向(a)段所述承辦商送達命令，指示該承辦商進行該等工作。
- (2) 根據第(1)款接獲命令的註冊升降機承辦商無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 3 級罰款。
- (3) 如升降機的電力供應已遭根據第(1)(a)款截斷，而任何人在未獲署長書面准許下重新接通該升降機的電力供應，則 —
 - (a) 該人；及
 - (b) 該升降機的負責人，均屬犯罪，一經定罪，可處罰款\$200,000 及監禁 12 個月。
- (4) 被控犯第(3)款所訂罪行的人如證明以下事項，即可以此作為免責辯護 —
 - (a) ~~(如被檢控的人是將電力供應重新接回通有關升降機的電力供應的人)~~，該人當時並不知道(且在盡了應有的努力後亦不會能夠發現)該升降機的電力供應已遭根據第(1)(a)款截斷；或
 - (b) 如被檢控的人並非重新接通有關升降機的電力供應的人，但是該人是該升降機的負責人 —
 - (i) 犯該罪行既不獲該負責人同意，亦不受其縱容；及
 - (ii) 該負責人已採取所有合理步驟，防止犯該項罪行。

34. 檢驗令

- (1) 署長如有合理理由相信，~~為安全起見~~，向升降機的負責人送達命令指示該人採取以下行動~~是~~，~~為安全起見屬~~可取的，可~~送達作出~~該命令 —
 - (a) 安排註冊升降機工程師以該命令指明的方式，在該命令指明的期間內，檢驗該升降機或其部分，或該升降機的相聯設備或機械；及
 - (b) 在該命令指明的期間內，提交由該工程師採用指明表格擬備的報告，述明該工程師是否信納，該升降機、該部分或該設備或機械正處於安全操作狀態。
- (2) 根據第(1)款作出的命令 —
 - (a) 須採用指明表格；
 - (b) 須述明作出該命令的原因；及
 - (c) 可載有署長可合理地施加的任何條件。
- (3) 根據第(1)款接獲命令的人無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 4 級罰款及監禁 6 個月，如屬持續的罪行，可就罪行持續期間的每一日，另處罰款\$2,000。

35. 拆除令

- (1) 署長如有合理理由相信有以下情況，可藉向升降機的負責人送達命令，指示該人拆除該升降機或其部分，或該升降機的相聯設備或機械 —
 - (a) 如使用或操作(或繼續使用或操作)該升降機、該部分或該設備或機械，會導致或相當可能會導致任何人受傷或任何財產受損的風險；或
 - (b) 因其他理由，為安全起見，~~有需要~~作出該命令~~是可取的~~。
- (2) 根據第(1)款作出的命令 —
 - (a) 須採用指明表格；
 - (b) 須述明 —
 - (i) 作出該命令的原因；及
 - (ii) 須於何日之前拆除有關升降機或其部分，或有關相聯設備或機械；及
 - (c) 可載有署長可合理地施加的任何條件。
- (3) 根據第(1)款接獲命令的人無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 4 級罰款及監禁 6 個月，如屬持續的罪行，可就罪行持續期間的每一日，另處罰款\$2,000。

56. 准用證的發出等

- (1) 在符合第 150 條的規定下，署長可應申請，就自動梯發出 —
 - (a) 採用指明表格的許可證，准許該自動梯投入使用及操作；或
 - (b) 採用指明表格的許可證，准許繼續使用及操作該自動梯。

- (2) 如任何人就第(1)款提述的自動梯而違反第 143 條就有關自動梯而遭違反，署長可拒絕根據第(1)款發出許可證。
- (3) 除非署長信納有關自動梯及其所有相聯設備或機械處於安全操作狀態，否則不得根據第(1)款發出許可證。
- (4) 署長如決定拒絕申請或拒絕根據本條發出許可證，須在作出該決定後，在合理地切實可行的範圍內，盡快以書面將以下事項通知申請人 —
 - (a) 該決定；
 - (b) 作出該決定的原因；及
 - (c) (如適用的話)署長認為為使有關自動梯或其相聯設備或機械處於安全操作狀態而需要進行的工作。
- (5) 本條並不影響署長根據《釋義及通則條例》(第 1 章)第 41 及 46 條具有的一般權力。

57. 准用證的有效期

- (1) 根據第 56(1)(a)條發出的、關乎自動梯的檢驗許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在完成該項檢驗的日期翌日開始的 6 個月期間的最後一日，即告有效期屆滿。
- (2) 根據第 56(1)(b)條發出的、關乎自動梯的檢驗(該項檢驗是於該自動梯上一份准用證的屆滿日期結束前的 2 個月內完成的)的許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在上一份准用證的屆滿日期翌日開始的 6 個月期間的最後一日，即告有效期屆滿。
- (3) 根據第 56(1)(b)條發出的、關乎自動梯的檢驗的其他許可證 —
 - (a) 在署長指明的日期生效；及
 - (b) 的有效期在完成該項檢驗的日期翌日開始的 6 個月期間的最後一日，即告有效期屆滿。

58. 復用證的發出等

- (1) 在符合第 150 條的規定下，署長可應申請，就自動梯發出採用指明表格的許可證，准許在對該自動梯作出主要更改後，恢復使用及操作該自動梯。
- (2) 如任何人就第(1)款提述的自動梯而違反第 143 條就有關自動梯而遭違反，署長可拒絕根據第(1)款發出許可證。
- (3) 除非署長信納有關自動梯的受影響部分正處於安全操作狀態，否則不得根據第(1)款發出許可證。
- (4) 署長如決定拒絕申請或拒絕根據本條發出許可證，須在作出該決定後，在合理地切實可行的範圍內，盡快以書面將以下事項通知申請人 —
 - (a) 該決定；
 - (b) 作出該決定的原因；及

- (c) (如適用的話)署長認為為使有關自動梯的受影響部分處於安全操作狀態而需要進行的工作。
- (5) 本條並不影響署長根據《釋義及通則條例》(第 1 章)第 41 及 46 條具有的一般權力。

61. 署長有權截電

- (1) 如署長有合理理由相信，某自動梯正被人或相當可能會被人在違反根據第 60 條作出的命令的情況下使用或操作，署長 —
 - (a) 可截斷該自動梯的電力供應，如該自動梯的任何自動梯工程，是由註冊自動梯承辦商承辦，署長可藉送達該承辦商的命令，指示該承辦商截斷該自動梯的電力供應；及
 - (b) 可進行任何必需的工作，以盡可能防止任何人在未獲署長書面准許重新接通該自動梯的電力供應下，重新接通該自動梯的電力供應，署長亦可藉向(a)段所述承辦商送達命令，指示該承辦商進行該等工作。
- (2) 根據第(1)款接獲命令的註冊自動梯承辦商無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 3 級罰款。
- (3) 如自動梯的電力供應已遭根據第(1)(a)款截斷，而任何人在未獲署長書面准許下重新接通該自動梯的電力供應，則 —
 - (a) 該人；及
 - (b) 該自動梯的負責人，均屬犯罪，一經定罪，可處罰款\$200,000 及監禁 12 個月。
- (4) 被控犯第(3)款所訂罪行的人如證明以下事項，即可以此作為免責辯護 —
 - (a) ~~(如被檢控的人是將電力供應重新接回通有關自動梯的電力供應的人)~~，該人當時並不知道(且在盡了應有的努力後亦不會能夠發現)該自動梯的電力供應已遭根據第(1)(a)款截斷；或
 - (b) 如被檢控的人並非重新接通有關自動梯的電力供應的人，但是該人是該自動梯的負責人 —
 - (i) 犯該罪行既不獲該負責人同意，亦不受其縱容；及
 - (ii) 該負責人已採取所有合理步驟，防止犯該項罪行。

64. 檢驗令

- (1) 署長如有合理理由相信，~~為安全起見~~，向自動梯的負責人送達命令指示該人採取以下行動~~是~~，~~為安全起見屬~~可取的，可~~送達作出~~該命令 —
 - (a) 安排註冊自動梯工程師以該命令指明的方式，在該命令指明的期間內，檢驗該自動梯或其部分，或該自動梯的相聯設備或機械；及
 - (b) 在該命令指明的期間內，提交由該工程師採用指明表格擬備的報告，述明該工程師是否信納，該自動梯、該部分或該設備或機械正處於安全操作狀態。
- (2) 根據第(1)款作出的命令 —

- (a) 須採用指明表格；
 - (b) 須述明作出該命令的原因；及
 - (c) 可載有署長可合理地施加的任何條件。
- (3) 根據第(1)款接獲命令的人無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 4 級罰款及監禁 6 個月，如屬持續的罪行，可就罪行持續期間的每一日，另處罰款\$2,000。

65. 拆除令

- (1) 署長如有合理理由相信有以下情況，可藉向自動梯的負責人送達命令，指示該人拆除該自動梯或其部分，或該自動梯的相聯設備或機械 —
- (a) 如使用或操作(或繼續使用或操作)該自動梯、該部分或該設備或機械，會導致或相當可能會導致任何人受傷或任何財產受損的風險；或
 - (b) 因其他理由，為安全起見，有需要作出該命令是可取的。
- (2) 根據第(1)款作出的命令 —
- (a) 須採用指明表格；
 - (b) 須述明 —
 - (i) 作出該命令的原因；及
 - (ii) 須於何日之前拆除有關自動梯或其部分，或有關相聯設備或機械；及
 - (c) 可載有署長可合理地施加的任何條件。
- (3) 根據第(1)款接獲命令的人無合理辯解而違反該命令，即屬犯罪，一經定罪，可處第 4 級罰款及監禁 6 個月，如屬持續的罪行，可就罪行持續期間的每一日，另處罰款\$2,000。

附表 15 第 4 部

若干工程等視為條例所指的定期保養工程等

5. 若干檢驗及測試就第 22、23 或 53 條而言視為徹底檢驗

- (1) 就第 22 條而言，對上一次在有關日期前就有關的升降機進行的訂明檢驗，須視為註冊升降機工程師就該升降機及其所有相聯設備或機械進行的徹底檢驗。
- (2) 就第 23 條而言，對上一次在有關日期前就有關的升降機按照《已廢除條例》進行的有負載訂明檢驗，須視為註冊升降機工程師按照第 24(2)及(3)條就該升降機及其所有相聯設備或機械進行的檢驗。
- (3) 就第 53 條而言，對上一次在有關日期前就有關的自動梯進行的訂明檢驗，須視為註冊自動梯工程師就該自動梯及其所有相聯設備或機械進行的徹底檢驗。
- (4) 在本條中 —

有負載訂明檢驗 (prescribed examination with load)就第(2)款而言 —

- (a) (如若非第 157 條實施，《已廢除條例》第 39(3)條本就某升降機適用)指在訂明期間就該升降機進行的檢驗，包括檢驗與該升降機連接的所有機械及設備，及在有負載的情況下測試該升降機設有的安全設備，而有訂明證明書已就該項檢驗發出；及
- (b) 就任何其他升降機而言，指在訂明期間就該升降機進行的檢驗，包括檢驗與該升降機連接的所有機械及設備，及在有負載的情況下測試該升降機設有的安全設備，而有訂明證明書已就該項檢驗發出；

訂明人士 (prescribed person)就**訂明證明書**的定義的(f)段而言，指《已廢除條例》第 2(1)條所界定的註冊升降機工程師；

訂明期間 (prescribed period)就**有負載訂明檢驗**的定義而言，指符合以下說明的期間 —

- (a) 始於某日而該日的 5 周年日是有關日期翌日；及
- (b) 終於緊接有關日期之前一日；

訂明檢驗 (prescribed examination) —

- (a) 就第(1)款而言 —
 - (i) (如若非第 157 條實施，《已廢除條例》第 39(3)條本就某升降機適用)指該升降機的檢驗，包括檢驗與該升降機連接的所有機械及設備，及測試該升降機設有的安全設備，而有訂明證明書已就該項檢驗發出；及
 - (ii) 就任何其他升降機而言，指該升降機的檢驗，包括檢驗與該升降機連接的所有機械及設備，及測試該升降機設有的安全設備，而有訂明證明書已就該項檢驗發出；及
- (b) 就第(3)款而言 —
 - (i) (如若非第 157 條實施，《已廢除條例》第 39(3)條本就某自動梯適用)指該自動梯的檢驗，包括檢驗與該自動梯連接的所有機械及設備，而有訂明證明書已就該項檢驗發出；及
 - (ii) 就任何其他自動梯而言，指該自動梯的檢驗，包括檢驗與該自動梯連接的所有機械及設備，而有訂明證明書已就該項檢驗發出；

訂明證明書 (prescribed certificate) —

- (a) 就**訂明檢驗**的定義的(a)(i)段而言，指本附表第 6(3)(a)(i)條所界定的訂明證明書；
- (b) 就**訂明檢驗**的定義的(a)(ii)段而言，指本附表第 6(3)(a)(ii)條所界定的訂明證明書；
- (c) 就**訂明檢驗**的定義的(b)(i)段而言，指本附表第 6(3)(b)(i)條所界定的訂明證明書；
- (d) 就**訂明檢驗**的定義的(b)(ii)段而言，指本附表第 6(3)(b)(ii)條所界定的訂明證明書；
- (e) 就**有負載訂明檢驗**的定義的(a)段而言，指署長根據《已廢除條例》第 39 條交付的證明書的文本；
- (f) 就**有負載訂明檢驗**的定義的(b)段而言，指訂明人士就該升降機由有關的人進行的檢驗(包括檢驗與該升降機連接的所有機械及

設備，及測試該升降機設有的安全設備)發出的證明書，而該證明書載有該人的一項陳述，表明該人信納在檢驗當日該升降機處於安全操作狀態。

Schedule 15 Part 4

Certain Works, etc. Regarded as Periodic Maintenance Works, etc. under Ordinance

5. Certain examinations and testing to be regarded as thorough examinations for purposes of section 22, 23 or 53

- (1) For the purposes of section 22, the prescribed examination last carried out in respect of a lift before the relevant date is to be regarded as a thorough examination carried out in respect of the lift and all its associated equipment or machinery by a registered lift engineer.
- (2) For the purposes of section 23, the prescribed examination with load last carried out in respect of a lift before the relevant date (in accordance with the repealed Ordinance) is to be regarded as an examination carried out in respect of the lift and all its associated equipment or machinery by a registered lift engineer in accordance with section 24(2) and (3).
- (3) For the purposes of section 53, the prescribed examination last carried out in respect of an escalator before the relevant date is to be regarded as a thorough examination carried out in respect of the escalator and all its associated equipment or machinery by a registered escalator engineer.
- (4) In this section—

prescribed certificate (訂明證明書) means—

- (a) for the purposes of paragraph (a)(i) of the definition of ***prescribed examination***, a prescribed certificate as defined by section 6(3)(a)(i) of this Schedule;
- (b) for the purposes of paragraph (a)(ii) of the definition of ***prescribed examination***, a prescribed certificate as defined by section 6(3)(a)(ii) of this Schedule;
- (c) for the purposes of paragraph (b)(i) of the definition of ***prescribed examination***, a prescribed certificate as defined by section 6(3)(b)(i) of this Schedule;
- (d) for the purposes of paragraph (b)(ii) of the definition of ***prescribed examination***, a prescribed certificate as defined by section 6(3)(b)(ii) of this Schedule;
- (e) for the purposes of paragraph (a) of the definition of ***prescribed examination with load***, a copy of a certificate delivered by the Director under section 39 of the repealed Ordinance;
- (f) for the purposes of paragraph (b) of the definition of ***prescribed examination with load***, a certificate that is issued by a prescribed person relating to an examination of the lift,

including examination of all machinery and equipment connected with the lift and testing of the safety equipment provided for the lift, carried out by the person and that contains a statement of the person to the effect that the person is satisfied that on the date of the examination, the lift was in safe working order;

prescribed examination (訂明檢驗) means—

- (a) for the purposes of subsection (1)—
 - (i) in relation to a lift to which section 39(3) of the repealed Ordinance would have applied but for the coming into operation of section 157, examination of the lift, including examination of all machinery and equipment connected with the lift and testing of the safety equipment provided for the lift, in respect of which a prescribed certificate has been issued; and
 - (ii) in relation to any other lift, examination of the lift, including examination of all machinery and equipment connected with the lift and testing of the safety equipment provided for the lift, in respect of which a prescribed certificate has been issued; and
- (b) for the purposes of subsection (3)—
 - (i) in relation to an escalator to which section 39(3) of the repealed Ordinance would have applied but for the coming into operation of section 157, examination of the escalator, including examination of all machinery and equipment connected with the escalator, in respect of which a prescribed certificate has been issued; and
 - (ii) in relation to any other escalator, examination of the escalator, including examination of all machinery and equipment connected with the escalator, in respect of which a prescribed certificate has been issued;

prescribed examination with load (有負載訂明檢驗), for the purposes of subsection (2), means—

- (a) in relation to a lift to which section 39(3) of the repealed Ordinance would have applied but for the coming into operation of section 157, examination of the lift, including examination of all machinery and equipment connected with the lift and testing of the safety equipment provided for the lift with load, carried out within the prescribed period and in respect of which a prescribed certificate has been issued; and
- (b) in relation to any other lift, examination of the lift, including examination of all machinery and equipment connected with the lift and testing of the safety equipment provided for the lift with load, carried out within the prescribed period and in respect of which a prescribed certificate has been issued;

prescribed period (訂明期間), for the purposes of the definition of ***prescribed examination with load***, means the period—

- (a) beginning on the date the 5th anniversary of which is ~~the date immediately after~~ the relevant date; and
- (b) ending immediately before the relevant date;

prescribed person (訂明人士), for the purposes of paragraph (f) of the definition of ***prescribed certificate***, means a registered lift engineer as defined by section 2(1) of the repealed Ordinance.