

立法會

Legislative Council

LC Paper No. LS59/10-11

Paper for the House Committee Meeting on 13 May 2011

Legal Service Division Report on Lifts and Escalators Bill

I. SUMMARY

- 1. Objects of the Bill** To provide for the safety of lifts and escalators, and for consequential, incidental and related matters.
- 2. Comments** The Bill aims to replace the existing regulatory regime provided by the Lifts and Escalators (Safety) Ordinance (Cap. 327), so as to, among other things –
 - (a) strengthen the registration regime of personnel engaged in lift and escalator works;
 - (b) increase the penalty levels of offences;
 - (c) extend the coverage of the legislative framework; and
 - (d) enhance operational efficiency and enforcement effectiveness.
- 3. Public Consultation** Public consultation was conducted from November 2009 to February 2010. The public and stakeholders were in general supportive of the legislative proposal.
- 4. Consultation with LegCo Panel** The Panel on Development was briefed in 2009 and 2010. While Members in general welcomed early introduction of the Bill, concerns were expressed on various proposed measures.
- 5. Conclusion** The scrutiny of the Bill is continuing. As the Bill introduces significant and substantial changes to the regulatory regime for the safety of lifts and escalators, Members may wish to study the Bill in detail.

II. REPORT

Objects of the Bill

To provide for the safety of lifts and escalators, and for consequential, incidental and related matters.

LegCo Brief

2. Members may refer to the LegCo Brief issued by the Development Bureau dated 19 April 2011 (File Ref: DEVB(CR)(W)1-10/30) for further information.

Date of First Reading

3. 11 May 2011.

Comments

Background

4. At present, the maintenance of lifts and escalators in safe working order is regulated by the Lifts and Escalators (Safety) Ordinance (Cap. 327) (LESO).

5. According to the LegCo Brief, the Administration conducted a comprehensive review of LESO after The Ombudsman conducted an investigation into the regulatory system of lifts in August 2009 as a result of a lift incident. Upon reviewing LESO, the Administration considers it necessary to introduce a series of enhancement measures. In LESO, certain provisions of similar effects and functions are scattered in various parts, and as substantial amendments to the legislative framework are proposed, the Administration proposes to introduce the Bill and to repeal LESO so that the obligations of stakeholders and the relevant provisions can be set out in a clear and systematic manner.

Major enhancement measures

6. The Bill provides for, among other things –
- (a) the strengthening of the registration regime of personnel engaged in lift and escalator works;
 - (b) the increase of the penalty levels of offences;
 - (c) the extension of the coverage of the legislative framework; and
 - (d) the enhancement of operational efficiency and enforcement effectiveness.

Strengthening the registration regime

7. At present, a holder of a higher diploma or a certificate of a relevant discipline with the necessary experience may be registered as a lift or escalator engineer. The Administration proposes to require such engineers to possess the same level of qualification as that for engineers under other legislation for building safety controls.

8. The Bill also proposes to enhance the transparency of the registration of lift and escalator contractors by setting out in the Bill the factors the Director of Electrical and Mechanical Services are required to consider in an application for registration.

9. In relation to lift and escalator workers, at present, those who have inadequate qualification may nevertheless apply to be registered if they have been employed by a registered contractor and acquired sufficient experience or training. However, such workers may lose their status when they are no longer employed by a registered contractor. To replace this employment-tied registration requirement, the Bill proposes a registration system whereby experienced workers who have passed a trade test for lift or escalator works are eligible to apply for registration.

Increasing the levels of penalty

10. The maximum fine and period of imprisonment for certain offences under LESO, as revised in 1993, are \$10,000 and 12 months. The Bill proposes to increase the maximum penalty for those offences to \$200,000 whilst the maximum period of imprisonment will remain at 12 months.

Extending the coverage of the legislative framework

11. At present, under section 3(1A) of LESO, certain provisions in LESO are not applicable to a lift or escalator installed in any building –

- (a) belonging to the Government;
- (b) upon any land vested in the Housing Authority or in any building over which the Housing Authority has control and management; and
- (c) which belongs wholly to the government of a foreign country and which is used exclusively or mainly for the purpose of official business of the consular officer of such government.

12. According to the LegCo Brief, the Administration considers it necessary on public safety ground to extend the Bill to cover the above buildings.

Enhancing operational efficiency and enforcement effectiveness

13. To enhance operational efficiency and enforcement effectiveness, the Bill introduces measures to improve the existing regulatory processes. Such measures include the delegation of regulation making power from the Chief Executive in LESO to the Secretary for Development under the Bill. According to the LegCo Brief, two sets of regulations will be made. One will provide for, among other things, the applications made under the Bill, the duties of a person who owns a lift or escalator, or any other person who has the management of the lift and escalator, or registered personnel, the carrying of registration cards by registered engineers and workers. The other regulation will provide for fees payable under the Bill.

Commencement

14. The Bill, upon enactment, will come into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

Public Consultation

15. According to the LegCo Brief, the Administration has conducted a three-month public consultation from November 2009 to February 2010 on the legislative proposal and obtained general support from the public and stakeholders.

Consultation with LegCo Panel

16. The Panel on Development was briefed on the legislative proposals contained in the Bill on 27 October 2009 and 22 June 2010. Members in general welcomed early introduction of the Bill to enhance safety of lift and escalators in Hong Kong. However, concerns were expressed on –

- (a) the upgrading of the qualifications of lift and escalator engineers;
- (b) the responsibilities and liabilities of concerned parties in maintenance and repair of lifts and escalators;
- (c) the increase of the penalty levels of offences;
- (d) the number of lifts or escalators a lift or escalator maintenance team should handle; and
- (e) the need for the Administration to enhance education and publicity measures on lift and escalator maintenance for owners' corporations to facilitate them in selecting qualified contractors and monitoring contractors' performance.

Conclusion

17. The scrutiny of the Bill is continuing. As the Bill introduces significant and substantial changes to the regulatory regime for the safety of lifts and escalators, Members may wish to study the Bill in detail.

Prepared by

Kelvin Ka-yun LEE
Assistant Legal Adviser
Legislative Council Secretariat
9 May 2011