

## **LEGISLATIVE COUNCIL BRIEF**

Lifts and Escalators (Safety)  
Ordinance (Chapter 327)

### **LIFTS AND ESCALATORS (SAFETY) (AMENDMENT) BILL 1998**

#### **INTRODUCTION**

Annex At the meeting of the Executive Council on 8 September 1998, the Council ADVISED and the Chief Executive ORDERED that the Lifts and Escalators (Safety) (Amendment) Bill 1998, as set out at the Annex, should be introduced into the Legislative Council, to improve the statutory control over the safety of lifts and escalators and associated administrative arrangements.

#### **BACKGROUND AND ARGUMENT**

2. The Lifts and Escalators (Safety) Ordinance (the Ordinance) covers the design, construction, maintenance, examination and testing of lifts and escalators. The Director of Electrical and Mechanical Services (DEMS) is responsible for enforcing the Ordinance. His experience of enforcement in recent years has indicated that the Ordinance needs to be improved as follows -

- (a) The Ordinance should apply to all types of mechanised vehicle parking systems, other than those which do not pass through any floor and the height of travel of which does not exceed 3.5m (to which the Ordinance does not apply). At present, only those systems fitted with a platform, the movement of which is restricted by a guide, fall within the definition of “lift” in the Ordinance.
- (b) Part IVA of the Ordinance, which now prohibits service lifts from being used to carry persons, should be amended to cover

not only service lifts but also mechanised vehicle parking systems as well as such other types of lifts not for carrying persons as specified by DEMS by notice in the Gazette. Moreover, for all types of lifts not for carrying persons, the certificate issued by the registered lift engineer concerned should be displayed in a conspicuous position adjacent to the landing door of the main landing of the lift.

- (c) The addition of interlocking devices to the doors of a lift and a change in the type of the interlocking devices of the doors of either a lift-way or the car of a lift should be deemed to be major alterations. The lack of proper maintenance and examination of the interlocking devices may affect the safe operation of lifts. The owner of a lift to which major alterations have been made is required by the Ordinance to engage a registered lift engineer to examine and test the lift before its normal use and operation is resumed.
- (d) The examination, testing and maintenance requirements for passenger lifts under the Ordinance should apply to service lifts. At present, the existing requirements applicable to service lifts are less stringent. We consider it necessary to upgrade the requirements.
- (e) Registered lift/escalator engineers should be required to ensure the lifts/escalators they examine or test are designed and constructed (in relation to safety requirements) to DEMS's satisfaction, in addition to their existing duty to ensure that any lift/escalator works they carry out comply with the requirements of the Ordinance. This requirement will contribute to the safe operation of lifts/escalators.
- (f) The duties of registered lift/escalator contractors under the Ordinance should apply to all types of lift/escalator works and not just those relating to the installation of lifts/escalators as at

present. They should ensure the lifts or escalators concerned are of such design and construction as to comply with the applicable safety requirements. Moreover, a registered lift/escalator contractor should be required to obtain DEMS's approval for a lift or an escalator unless it is of a brand and model for which the contractor has previously obtained DEMS's approval. With such a requirement, it will no longer be necessary for the contractors to obtain a manufacturer's certificate for the lift/escalator.

- (g) The minimum qualifications for the registration of lift/escalator engineers should be expanded and upgraded.
- (h) DEMS should be given the power to establish codes of practice for not only lift works and escalator works but also for specifying safety requirements relating to the design and construction of lifts and escalators. The design and construction should follow such codes of practice unless approved by DEMS, who may impose conditions when giving such approval. Failure to obtain DEMS's approval or follow the approved design and construction details or comply with his conditions is an offence. DEMS should also be empowered to impose conditions when approving lift/escalator works which are not in accordance with the relevant portions of codes of practice, and failure to comply with the conditions is an offence.
- (i) Restriction on subcontracting or assignment of lift/escalator works should apply to maintenance works only as the lifts/escalators subject to installation or demolition works would not be used to carry any passengers until they have been certified to be in safe working order by the registered lift/escalator engineers and permission obtained from DEMS.

- (j) Only lifts designed and constructed in accordance with a safety standard established prior to the publication of British Standard BS5655:Part I and permitted to be used and operated under the Ordinance should be tested with a load weighing 110% of the rated load for the lift. All other lifts should be tested with a load weighing 125% of the rated load for the lift.
- (k) DEMS's power to appoint disciplinary boards under the Ordinance should be transferred to the Secretary for Planning, Environment and Lands (SPEL), and DEMS or his representative should no longer be the chairman or a member of such boards. The members of the disciplinary board panels should be appointed on nomination by various institutions concerned rather than on DEMS's recommendation. No public officer should be appointed to be a member of the disciplinary board panels. Such changes will enhance the independent and impartial roles of the disciplinary boards and the disciplinary board panels.
- (l) The Chief Executive's power to appoint an appeal board panel under the Ordinance and the Chief Secretary for Administration's power to appoint an appeal board under the Ordinance should be transferred to SPEL. This will improve administrative efficiency.
- (m) Applicants for registration as lift/escalator contractors or engineers should pay a prescribed fee at the time of application rather than upon successful registration as at present as this would reflect the costs in processing the applications.

## **THE BILL**

3. The major provisions of the Bill are as follows -

- (a) **Clause 2** extends the application of the Ordinance to all types of mechanised vehicle parking systems other than those to

which the Ordinance does not apply under Section 3(1)(a)(iv) (paragraph 2(a) above).

- (b) **Clause 3** widens the scope of major alterations as defined under the Ordinance (paragraph 2(c) above).
- (c) **Clause 4** expands and upgrades the minimum qualifications for the registration of lift/escalator engineers (paragraph 2(g) above).
- (d) **Clauses 5 and 10** require an applicant for registration as a lift/escalator engineer or contractor to pay the necessary fee at the time of making the application (paragraph 2(m) above).
- (e) **Clauses 6 to 8, 11 to 13, and 16 to 17** deal with matters relating to disciplinary boards, disciplinary board panels, the appeal board and the appeal board panel appointed under the Ordinance (paragraphs 2(k) and 2(1) above).
- (f) **Clause 9** requires registered lift/escalator engineers to ensure that the lifts/escalators they examine or test comply with the applicable design and construction requirements (paragraph 2(e) above).
- (g) **Clause 14** makes clear the scope of the duties of registered lift/escalator contractors under the Ordinance (paragraph 2(f) above).
- (h) **Clauses 27 and 29** empowers DEMS to establish codes of practice for specifying safety requirements relating to the design and construction of lifts and escalators and requires that DEMS's approval should be sought for any deviation from such codes of practice (paragraph 2(h) above).

- (i) **Clauses 15, 18, 19, 20(b), 30, 31, 33 and 34** apply the examination, testing and maintenance requirements for passenger lifts to service lifts (paragraph 2(d) above).
- (j) **Clause 20(a)** amends the testing requirements for lifts (paragraph 2(j) above).
- (k) **Clauses 21 to 26 and 35** amend the scope of Part IVA of the Ordinance and specifies how the certificate relating to a lift to which Part IVA applies should be posted (paragraph 2(b) above).
- (l) **Clause 28** empowers DEMS to impose conditions when approving lift/escalator works which are not in accordance with the relevant codes of practice (paragraph 2(h) above).
- (m) **Clause 32** makes clear the application of the restriction over subcontracting or assignment (paragraph 2(i) above).
- (n) **Clauses 36 and 37** cover savings and transitional matters. We accept compliance with the repealed Building (Lifts) Regulations or the repealed Building (Escalators) Regulations as alternative design and construction standards for lifts/escalators installed before 18 March 1994. Moreover, the coming into operation of the Bill after being passed by the Legislative Council should not affect the term of office of members of an existing disciplinary board panel or appeal board panel, the disposal of pending proceedings, the validity of proceedings before a board constituted by the members of the existing panels, the registration of persons already registered as lift/escalator engineers, and the manner of processing any outstanding applications for registration as lift/escalator engineers. Owners of service lifts installed before the commencement of amendments to Part IVA and owners of

mechanised vehicle parking systems not previously regulated by the Ordinance are allowed a grace period to comply with the requirements of certain provisions of the Ordinance. The grace period varies, depending on the requirements to be complied with.

- (o) **Clause 38** is a consequential amendment to the Lifts and Escalators (Safety)(Fees) Regulation in relation to the payment of a prescribed fee at the time of application (paragraph 2(m) above).

#### **LEGISLATIVE TIMETABLE**

4. The legislative timetable is as follows -

Publication in the Gazette	18 September 1998
First Reading and commencement of Second Reading debate	30 September 1998
Resumption of Second Reading Debate, committee stage and Third Reading	to be notified

#### **HUMAN RIGHTS IMPLICATIONS**

5. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

#### **BINDING EFFECT OF THE LEGISLATION**

6. The provisions which are amended by this Bill do not bind the State by express provision.

## **FINANCIAL AND STAFFING IMPLICATIONS**

7. Any financial or staffing implications arising from the implementation of the Bill will be absorbed within existing resources of the Electrical and Mechanical Services Department.

## **ECONOMIC IMPLICATIONS**

8. The proposed improvements to the Ordinance are mainly based on safety considerations. There should not be any significant economic implications arising from the amendments.

## **PUBLIC CONSULTATION**

9. DEMS has discussed the legislative proposals with all major professional bodies of the industry, including the International Association of Elevator Engineers (Hong Kong Branch), Lift and Escalator Contractors Association and Registered Elevator and Escalator Contractors Association Limited. They support the legislative proposals.

## **PUBLICITY**

10. A press release will be issued when the Bill is published in the Gazette on 18 September 1998.

## **ENQUIRIES**

11. For enquiries, please contact Mr Esmond Lee, Principal Assistant Secretary for Planning, Environment and Lands at phone number 2848 2266.

**Planning, Environment and Lands Bureau**

**17 September 1998**

File Ref:PELB(L)30/30/75(98) IV

**Lifts and Escalators (Safety) (Amendment) Bill 1998**

**CONTENTS**

Section		Page
1.	Short title and commencement	1
2.	Interpretation	1
3.	Certain works deemed to be major alterations in relation to lifts	2
4.	Registers of lift engineers and escalator engineers and qualifications for inclusion therein	2
5.	Procedure on application for registration	4
6.	Section substituted	
	8. Disciplinary board for the purposes of section 9	4
7.	Appointment of disciplinary board panel	5
8.	Disciplinary proceedings	6
9.	Duties of registered lift engineers or escalator engineers	6
10.	Procedure on application for registration	7
11.	Section substituted	
	11E. Disciplinary board for the purposes of section 11G	7
12.	Appointment of disciplinary board panel	8
13.	Disciplinary proceedings	9
14.	Duties of registered lift contractors or escalator contractors	9
15.	Part III not to apply to service lifts	11
16.	Section substituted	
	16. Appointment of appeal board	11
17.	Appointment of appeal board panel	12
18.	Periodic maintenance of lifts and escalators	13

Section		Page
19.	Certain lift works and escalator works to be carried out by registered lift contractor or registered escalator contractor	13
20.	Periodic testing of safety equipment of lifts	13
21.	Part heading substituted	14
22.	Section added - 27CA. Application	14
23.	Construction of service lifts	14
24.	Overloading and carriage of persons in lifts to which this Part applies	15
25.	Duty of owners of lifts to which this Part applies	15
26.	Duty of person engaged in operating service lift to report defects	15
27.	Section substituted 27G. Codes of practice	15
28.	Lift works and escalator works to be carried out to satisfaction of Director	16
29.	Section added 27I. Design and construction of lifts and escalators to be to the satisfaction of Director	16
30.	Certain offences	17
31.	Prohibition of use and operation of lifts and escalators in certain cases, and offences in connection therewith	18
32.	Subcontracting restricted	18
33.	Lifts and escalators to be numbered in certain cases, etc.	18
34.	Right of owner of lift or escalator aggrieved by decision of engineer to apply to Director, and procedure thereon	18
35.	Director to certify receipt and registration of certificates from registered lift engineer or registered escalator engineer	19

Section		Page
36.	Transitional	19
37.	Section added	
	51. Savings and transitional	20
	Consequential Amendments	
	Lifts and Escalators (Safety) (Fees) Regulation	
38.	Table of Fees	23

A BILL

To

Amend the Lifts and Escalators (Safety) Ordinance.

Enacted by the Legislative Council.

**1. Short title and commencement**

(1) This Ordinance may be cited as the Lifts and Escalators (Safety) (Amendment) Ordinance 1998.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Planning, Environment and Lands by notice in the Gazette.

**2. Interpretation**

Section 2(1) of the Lifts and Escalators (Safety) Ordinance (Cap. 327) is amended -

(a) by repealing the definition of “lift” and substituting -

““lift” (升降機) means -

- (a) a lifting machine or appliance having a car or platform the direction of movement of which is restricted by a guide or guides; or
- (b) a mechanized vehicle parking system,

but does not include an escalator;”;

(b) in the definition of “service lift”, by repealing “, used or intended to be used exclusively for carrying goods,”;

(c) by adding -

““mechanized vehicle parking system” (機動泊車系統) means a mechanical plant (with or without a car or platform) which has a power operated mechanism for conveying vehicles (whether or not such conveyance is restricted by guides) to parking spaces within the plant;

“Secretary” (局長) means the Secretary for Planning, Environment and Lands;

“vehicle” (車輛) has the same meaning as in the Road Traffic Ordinance (Cap. 374).”.

**3. Certain works deemed to be major alterations in relation to lifts**

Section 4(1) is amended by repealing “of interlocking devices” and substituting “or the car of any lift of interlocking devices or changing the type of such interlocking devices”.

**4. Registers of lift engineers and escalator engineers and qualifications for inclusion therein**

Section 5 is amended -

- (a) in subsection (2)(a) -
  - (i) by adding “or building services” after “electronic”;
  - (ii) by adding “approved by the Director” after “institute”;
- (b) by repealing subsection (2)(b) and substituting -
  - “(b) has -
    - (i) completed an apprenticeship of not less than 2 years in mechanical or electrical or electronic or building services engineering and has not less than 3 years subsequent working experience in the installation, commissioning, testing and maintenance of lifts or escalators, as the case may be;  
or
    - (ii) not less than 5 years working experience in the installation, commissioning, testing and maintenance of lifts or escalators, as the case may be; and”;
- (c) by repealing subsection (2A);

- (d) in subsection (2B), by repealing “or (2A)”.

**5. Procedure on application for registration**

Section 6 is amended -

- (a) in subsection (1), by adding “accompanied by the prescribed fee” after “form”;
- (b) in subsection (2), by repealing “; but no name shall be so included in a register except upon payment of the prescribed fee”.

**6. Section substituted**

Section 8 is repealed and the following substituted -

**“8. Disciplinary board for the purposes of section 9**

- (1) Within the period of 21 days beginning on the date a notice is received by him under section 9(1), the Secretary must appoint a board (“the disciplinary board”).
- (2) The disciplinary board is to consist of 5 members from the panel appointed under section 8A.
- (3) The 5 members referred to in subsection (2) must include at least one member from each category constituting the panel appointed under section 8A.
- (4) The members of the disciplinary board must elect a chairman from among themselves.
- (5) The chairman is to determine the procedure of the disciplinary board.
- (6) In proceedings before the disciplinary board, the Director is also to be a party.

(7) A party to proceedings before the disciplinary board may appear by himself or be represented by any other person, whether legally qualified or not.

(8) The disciplinary board may appoint a legal adviser to advise on legal matters relating to a disciplinary matter referred to the board under section 9 and, accordingly, the legal adviser may be present at any hearing before the disciplinary board to so advise the board.

(9) A member of the disciplinary board is to be remunerated out of money provided by the Legislative Council for the purpose at a rate determined by the Financial Secretary.”.

## **7. Appointment of disciplinary board panel**

Section 8A is amended -

- (a) in subsections (1) and (4), by repealing “for Planning, Environment and Lands”;
- (b) in subsection (1)(a) and (b), by adding “and are nominated by that Institution for appointment under this paragraph” after “engineers”;
- (c) in subsection (1)(c), by adding “who are nominated for appointment under this paragraph by an organization which, in the opinion of the Secretary, represents the interests of lift engineers or escalator engineers” after “escalator engineers”;

- (d) in subsection (1)(d), by adding “and are nominated by an organization which, in the opinion of the Secretary, represents the interests of this category of engineers” after “Ordinance (Cap. 123)”;
- (e) in subsection (2), by repealing everything after “years” and substituting a full stop;
- (f) by adding -

“(2A) A public officer is not eligible for appointment to the disciplinary board panel.”.

## **8. Disciplinary proceedings**

Section 9 is amended -

- (a) in subsection (1), by repealing everything after “the Director may” and substituting “refer the matter by notice in writing to the Secretary.”;
- (b) by adding -

“(1A) Within the period of 21 days beginning on the date a notice is received by him under subsection (1), the Secretary must refer that matter to a disciplinary board appointed under section 8 for inquiry.”.

## **9. Duties of registered lift engineers or escalator engineers**

Section 11A is amended by adding -

“(1A) A registered lift engineer or registered escalator engineer shall, in carrying out any examination or testing of a lift or escalator, ensure that the design and construction of the lift or escalator complies with section 27I.”.

#### **10. Procedure on application for registration**

Section 11C is amended -

- (a) in subsection (1), by adding “accompanied by the prescribed fee” after “form”;
- (b) in subsection (3)(a), by repealing “; but no name shall be so included in a register except upon payment of the prescribed fee”.

#### **11. Section substituted**

Section 11E is repealed and the following substituted -

##### **“11E. Disciplinary board for the purposes of section 11G**

- (1) Within the period of 21 days beginning on the date a notice is received by him under section 11G(1), the Secretary must appoint a board (“the disciplinary board”).
- (2) The disciplinary board is to consist of -
  - (a) 5 members from the panel appointed under section 8A; and
  - (b) one member from the panel appointed under section 11F.
- (3) The 5 members referred to in subsection (2)(a) must include at least one member from each category constituting the panel appointed under section 8A.

(4) The members of the disciplinary board must elect a chairman from among themselves.

(5) The chairman is to determine the procedure of the disciplinary board.

(6) In proceedings before the disciplinary board, the Director is also to be a party.

(7) A party to proceedings before the disciplinary board may appear by himself or be represented by any other person, whether legally qualified or not.

(8) The disciplinary board may appoint a legal adviser to advise on legal matters relating to a disciplinary matter referred to the board under section 11G and, accordingly, the legal adviser may be present at any hearing before the disciplinary board to so advise the board.

(9) A member of the disciplinary board is to be remunerated out of money provided by the Legislative Council for the purpose at a rate determined by the Financial Secretary.”.

## **12. Appointment of disciplinary board panel**

Section 11F is amended -

(a) in subsections (1) and (3), by repealing “for Planning, Environment and Lands”;

(b) by adding -

“(1A) A public officer is not eligible for appointment to the disciplinary board panel.”.

**13. Disciplinary proceedings**

Section 11G is amended -

- (a) in subsection (1) , by repealing everything after “the Director may” and substituting “refer the matter by notice in writing to the Secretary.”;
- (b) by adding -

“(1A) Within the period of 21 days beginning on the date a notice is received by him under subsection (1), the Secretary must refer that matter to a disciplinary board appointed under section 11E for inquiry.”.

**14. Duties of registered lift contractors or escalator contractors**

Section 11J(1) is amended -

- (a) in paragraph (a), by repealing everything after “him” and substituting -
  - “other than one of a brand and model for which the contractor has previously obtained written approval from the Director for installation, submit the following to the Director and obtain the written approval of the Director to the installation -
  - (i) particulars of the quality assurance scheme adopted by the manufacturer, the training and technical support provided by

the manufacturer and other basic information on the manufacturer of the new brand or model as specified by the Director;

(ii) general specification and other technical information of the lift or escalator concerned as specified by the Director;

(iii) type test certificates issued by institutes approved by the Director in respect of the safety gear, overspeed governor, buffer and door locking device for lifts and step or pallet for escalators and any other components as specified by the Director for lifts or escalators;”;

(b) in paragraph (b), by repealing “the lift works or escalator works in question” and substituting “any lift works or escalator works which he is engaged to carry out”;

(c) in paragraph (c), by repealing “the lift works or escalator works in question” and substituting “any lift works or escalator works which he is engaged to carry out”;

(d) in paragraph (d) -

(i) by repealing “the lift works or escalator works in question” and

substituting “any lift works or escalator works which he is engaged to carry out”;

(ii) by repealing “and” at the end;

(e) by adding -

“(da) ensure that the design and construction of the lift or escalator concerned complies with section 27I; and”.

**15. Part III not to apply to service lifts**

Section 15A is repealed.

**16. Section substituted**

Section 16 is repealed and the following substituted -

**“16. Appointment of appeal board**

(1) Within 7 days beginning on the date an appeal is lodged with the Director under section 6(5), 11C(4) or 15, the Director must give notice in writing to the Secretary of the appeal.

(2) Within the period of 21 days beginning on the date a notice is received by him under subsection (1), the Secretary must appoint a board (“the appeal board”) and refer the appeal to the appeal board.

(3) The appeal board is to consist of 4 members from the appeal board panel.

(4) The 4 members of the appeal board must include at least one member from each category constituting the appeal board panel appointed under section 16A.

(5) The members of the appeal board must elect a chairman from among themselves.

(6) The chairman is to determine the procedure of the appeal board.

(7) In proceedings before the appeal board, the Director is also to be a party.

(8) A party to proceedings before the appeal board may appear by himself or be represented by any other person, whether legally qualified or not.

(9) The appeal board may appoint a legal adviser to advise on legal matters relating to an appeal referred to the board under subsection (2) and, accordingly, the legal adviser may be present at any hearing before the appeal board to so advise the board.

(10) A member of the appeal board is to be remunerated out of money provided by the Legislative Council for the purpose at a rate determined by the Financial Secretary.”.

## **17. Appointment of appeal board panel**

Section 16A is amended -

(a) in subsection (1) -

(i) by repealing “Governor” and substituting “Secretary”;

(ii) by repealing “President of the”;

(b) in subsection (5), by repealing “Governor” and substituting “Secretary”.

## **18. Periodic maintenance of lifts and escalators**

Section 19(2) is repealed.

**19. Certain lift works and escalator works to be carried out by registered lift contractor or registered escalator contractor**

Section 20(3) is repealed.

**20. Periodic testing of safety equipment of lifts**

Section 23 is amended -

- (a) in subsection (1) (d), by repealing everything after “its rated” and substituting -

“speed -

- (i) in the case of a lift designed and constructed in accordance with a safety standard established prior to the publication of British Standard B.S. 5655 : Part 1 and permitted to be used and operated under this Ordinance, with a load weighing 110 per cent of the rated load for the lift;
- (ii) in the case of any other lift, with a load weighing 125 per cent of the rated load for the lift.”;

- (b) by repealing subsection (3).

**21. Part heading substituted**

The heading to Part IVA is repealed and the following substituted -

“LIFTS WHICH ARE NOT FOR CARRYING PERSONS”.

**22. Section added -**

The following is added before section 27C -

**“27CA. Application**

(1) This Part applies to -

(a) service lifts;

(b) mechanized vehicle parking systems; and

(c) any lift of a type or description specified under subsection (2).

(2) The Director may, by notice in the Gazette, specify types or descriptions of lifts, other than those referred to in subsection (1) (a) or (b), as lifts which are not to be used for carrying persons.

(3) For the avoidance of doubt, it is declared that a notice under subsection (2) is subsidiary legislation.”.

**23. Construction of service lifts**

Section 27C is repealed.

**24. Overloading and carriage of persons in lifts to which this Part applies**

Section 27D is amended -

- (a) in subsection (1), by repealing “service lift” and substituting “lift to which this Part applies”;
- (b) in subsection (2), by repealing “in a service lift” and substituting “(whether inside a vehicle or otherwise) in a lift to which this Part applies”.

**25. Duty of owners of lifts to which this Part applies**

Section 27E is amended -

- (a) by repealing “service lift” and substituting “lift to which this Part applies”;
- (b) in paragraph (c), by adding “(whether inside a vehicle or otherwise)” after “person”.

**26. Duty of person engaged in operating service lift to report defects**

Section 27F is repealed.

**27. Section substituted**

Section 27G is repealed and the following substituted -

**“27G. Codes of practice**

The Director may establish codes of practice -

- (a) for lift works and escalator works; and
- (b) specifying safety requirements relating to the design and construction of lifts and escalators.”.

**28. Lift works and escalator works to be carried out to satisfaction of Director**

Section 27H is amended -

(a) by adding -

“(3A) The Director may, in giving approval under subsection (3), impose any condition as he thinks fit as to the lift works or the escalator works or to the operation, maintenance and examination of the lift or escalator or the testing of any safety equipment provided for the lift or escalator.”;

(b) in subsection (4), by adding “or contravenes a condition imposed under subsection (3A)” after “to the Director”.

**29. Section added**

The following is added -

**“27I. Design and construction of lifts and escalators to be to satisfaction of Director**

(1) The design and construction of all lifts and escalators shall be to the satisfaction of the Director.

(2) Design and construction of a lift or escalator in accordance with the relevant portions of codes of practice established under this Part shall be deemed to be to the satisfaction of the Director.

(3) Where a registered lift engineer, registered escalator engineer, registered lift contractor or registered escalator contractor carries out any lift works or escalator works -

- (a) in relation to a lift or escalator of which the design or construction is neither in accordance with the relevant portions of codes of practice nor approved by the Director under this subsection; or
- (b) resulting in a lift or escalator of such design or construction as referred to in paragraph (a),

he shall, before carrying out such works, submit details of the design and constructions or the proposed design and construction to the Director for approval.

(4) The Director may, in giving approval under subsection (3), impose any condition as he thinks fit as to the design and construction of the lift or escalator or to the operation, maintenance and examination of the lift or escalator or the testing of any safety equipment provided for the lift or escalator.

(5) A person who contravenes subsection (3), or having obtained the approval of the Director to any proposed design and construction, fails to design or construct a lift or an escalator in accordance with the details approved by the Director or contravenes a condition imposed under subsection (4), commits an offence and shall be liable to a fine at level 2 and to imprisonment for 6 months.”.

### **30. Certain offences**

Section 28 is amended -

- (a) in subsection (2), by repealing “27C or”;

- (b) in subsection (3), by repealing “27F,”.

**31. Prohibition of use and operation of lifts and escalators in certain cases, and offences in connection therewith**

Section 29 is amended -

- (a) in subsections (1) and (2), by repealing”, other than a service lift,”;
- (b) in subsection (3), by repealing “or section 32(2B)”.

**32. Subcontracting restricted**

Section 29B is amended -

- (a) by renumbering it as section 29B(1);
- (b) by adding -

“(2) Subsection (1) does not apply to the installation or demolition of a lift or escalator.”.

**33. Lifts and escalators to be numbered in certain cases, etc.**

Section 32 is amended -

- (a) in subsection (2A), by repealing”, subject to subsection (2B),”;
- (b) by repealing subsections (2B) and (2D).

**34. Sections amended**

Sections 35(3) (a) and (b) and 38(1) are amended by repealing “or section 32(2B)”.

**35. Director to certify receipt and registration of certificates from registered lift engineer**

**or registered escalator engineer**

Section 39 (3) is repealed and the following substituted -

“(3) The owner of a lift or escalator shall display or cause to be displayed any certificate delivered to him under this section and keep it displayed until another such certificate is delivered to him, in the following manner -

- (a) if the certificate relates to a lift to which Part IVA applies,  
posted in a conspicuous position adjacent to the landing door of  
the main landing of the lift;
- (b) if the certificate relates to -
  - (i) any other lift; or
  - (ii) an escalator,posted in a conspicuous position in the lift or adjacent to a landing of  
the escalator, as the case may be.”.

**36. Transitional**

Section 50 is amended by -

- (a) renumbering it as section 50(1);
- (b) by adding -

“(2) For a lift or escalator to which the repealed Building (Lifts) Regulations (Cap. 123 sub. leg.) or the repealed Building (Escalators) Regulations (Cap. 123 sub. leg.), as the case may be, continues to apply by virtue of subsection (1), the design and construction of such a

lift or escalator in accordance with such Regulations shall be deemed to be in accordance with the relevant portions of the codes of practice for the purposes of section 27I.”.

**37. Section added**

The following is added -

**“51. Savings and transitional**

(1) Notwithstanding anything in the Amending Ordinance -

(a) any person who was a member of a panel immediately before the commencement date is to continue to be such a member for the remainder of his term of office unless he ceases to be so for any other reason before his term of office expires;

(b) a panel which consists of members referred to in paragraph (a) or includes any such member is deemed to be a properly constituted panel for the purposes of this Ordinance.

(2) All pending proceedings which have not been disposed of on the commencement date are to continue and be disposed of as if the Amending Ordinance had not been enacted.

(3) Notwithstanding anything in the Amending Ordinance, the validity of any proceedings before -

- (a) an appeal board is not affected by the inclusion in the board of a member of an appeal board panel serving the remainder of his term of office as provided in subsection (1) (a);
- (b) a disciplinary is not affected by the inclusion in the board of a member of the relevant disciplinary board panel serving the remainder of his term of office as provided in subsection (1) (a).

(4) Any application for registration made under section 6 or 11C which is not disposed of on the coming into operation of the amendments in sections 5, 10 and 38 of the Amending Ordinance is to be proceeded with as if those amendments had not been made.

(5) For a service lift installed before the commencement of section 15 of the Amending Ordinance -

- (a) the owner shall not be required to obtain permission from the Director for the lift to be used and operated under section 12, and section 29(1) shall not apply, if a certificate under section 26(1) in respect of the lift is received by the Director before that commencement;
- (b) sections 19 and 23 do not apply until the expiry of 90 days and 12 months respectively beginning on that commencement.

(6) For a mechanized vehicle parking system which has been installed before the commencement of section 2 of the Amending Ordinance but was not a lift within the meaning of this Ordinance prior to that commencement -

(a) the owner shall obtain permission from the Director for the system to be used and operated in accordance with section 12 within 90 days beginning on that commencement and section 29(1) shall not apply until expiry of that period;

(b) sections 19, 21 and 23 do not apply until -

(i) the expiry of 90 days beginning on that commencement; or

(ii) the system has been permitted to be used and operated under this Ordinance,

whichever is the earlier.

(7) The commencement of section 4 of the Amending Ordinance does not affect the registration of any person who was included in the register of lift engineers, or the register of escalator engineers, as it existed immediately before that commencement.

(8) In this section, unless the context otherwise requires -

“Amending Ordinance” (修訂條例) means the Lifts and Escalators (Safety)

(Amendment) Ordinance 1998 ( of 1998);

“appeal board” (上訴委員會) means a board appointed to hear an appeal lodged with the Director under this Ordinance;

“commencement date” (生效日期) means the date of coming into operation of the amendments in the Amending Ordinance relating to the appointment of members to a panel;

“disciplinary board” (紀律審裁委員會) means a board appointed to hear a matter referred to it under section 9 or 11G;

“former board” (既有委員會) means an appeal board or a disciplinary board appointed before the commencement date;

“panel” (委員團) means a disciplinary board panel within the meaning of section 8A or 11F or an appeal board panel within the meaning of section 16A;

“pending proceedings” (待決法律程序) means any proceedings before a former board.”.

## **Consequential Amendments**

### **Lifts and Escalators (Safety) (Fees) Regulations**

#### **38. Table of Fees**

The Schedule to the Lifts and Escalators (Safety) (Fees) Regulations (Cap. 327 sub. leg.) is amended in items 1, 2, 3, 4 and 5 by adding “application for” before “inclusion”.

#### **Explanatory Memorandum**

This Bill amends the Lifts and Escalators (Safety) Ordinance (Cap. 327) to slightly widen the ambit of the Ordinance and to generally improve the efficacy of the Ordinance in the interests of safety.

2. Clause 1(2) empowers the Secretary for Planning, Environment and Lands (“the Secretary”) to bring the Bill into operation on a day to be appointed by him by notice in the Gazette.
3. Clause 2 amends section 2 to extend the definition of “lift” to include all types of mechanized vehicle parking systems other than those which do not pass through any floor and the height of which does not exceed 3.5 m.
4. Clause 3 amends section 4 to include the addition of interlocking devices to the door of the car of a lift and the changing of the type of interlocking devices on the doors of either a lift-way or the car of any lift, among “major alterations” for the purposes of the Ordinance.
5. Clause 4 amends section 5 to include a higher diploma or higher certificate in buildings services engineering as a qualification for registration as a lift engineer or escalator engineer. Section 5 (2) (b) is amended to include 5 years working experience in the installation and maintenance of lifts or escalators as an alternative to the present requirement of 2 years apprenticeship and 3 years working experience in those fields (which present requirement is restated as subparagraph (i)). With the amendment in clause 4(c), working experience alone is generally insufficient for registration as a lift engineer or escalator engineer. However, the position of those who have already been registered on that basis is not affected by the amendments (see new section 51(4) at Clause 37).

6. Clauses 5 and 10 amend sections 6 and 11C respectively to require applications for registration to be accompanied by a prescribed fee.

7. Clause 6 replaces section 8 with a new provision under which the Secretary (instead of the Director of Electrical and Mechanical Services (“the Director”)) appoints the disciplinary board for lift engineers and escalator engineers. Further, under the new provision the Director is not represented on the board as chairman or as a member.

8. Clause 7 amends section 8A (which deals with the appointment of the disciplinary board panel for lift engineers and escalator engineers) so that the panel members are not appointed on the recommendation of the Director but only on nomination by the various institutions concerned. It also excludes public officers from membership of the panel.

9. Clause 8 amends section 9 to the effect that the Director, instead of referring a disciplinary matter to the disciplinary board himself, has to bring it to the attention of the Secretary who is required to refer the matter to the board for inquiry.

10. Clause 9 adds a new subsection (1A) to section 11A so that a lift engineer or escalator engineer has to ensure that a lift or escalator is in conformity with the new section 27I.

11. Clauses 11, 12 and 13 make amendments in relation to the disciplinary board and disciplinary board panel for registered lift contractors and registered escalator contractors which are equivalent to the amendments made by clauses 6, 7 and 8 in relation to the disciplinary board and disciplinary board panel for lift engineers and escalator engineers.

12. Clause 14(a) replaces the requirement for a lift contractor or escalator contractor to obtain a manufacturer's certificate for a lift or escalator to be installed by him with a requirement for the contractor to obtain the Director's approval for a lift or escalator unless it is of a brand and model for which the contractor has previously obtained approval. Clause 14(b), (c) and (d) amends section 11J so that the duties of a lift contractor or escalator contractor under that section extend to any lift works or escalator works he is engaged to carry out and are not restricted to lift works or escalator works relating to the installation of a lift or escalator. Clause 14(e) adds a new section 11J(1) (da) which requires contractors to ensure that the design and construction of the lift and escalator concerned complies with the new section 27I.

13. Clause 15 repeals section 15A so as to extend the requirements in Part III to service lifts.

14. Clause 16 replaces section 16 so that the Secretary instead of the Chief Secretary for Administration appoints the appeal board for hearing appeals under the Ordinance and public officers are not appointed to the appeal board.

15. Clause 17 amends section 16A to transfer the power to appoint the appeal board panel to the Secretary.

16. Clauses 18 and 19 extend the requirements of sections 19 and 20 to service lifts.

17. Clause 20 amends section 23 so that the requirements in that section apply to service lifts and all lifts are to be tested with a load weighing 125 per cent of the rated load

except for lifts designed and constructed in accordance with safety standards prior to British Standard B.S. 5655.

18. Clause 22 introduces a new section 27CA to extend the application of Part IVA to mechanized vehicle parking systems and other lifts specified by the Director and not only to service lifts.

19. Clauses 23 and 26 repeal sections 27C and 27F respectively as they are no longer necessary in view of the amendments which extend the requirements in the Ordinance to lifts to which Part IVA applies.

20. Clauses 24 and 25 amend sections 27D and 27E respectively consequential upon the extension of Part IVA under clause 22.

21. Clause 27 amends sections 27G to give the Director power to establish codes of practice for design and construction of lifts and escalators.

22. Clause 28 amends section 27H to empower the Director to impose conditions when giving approval to lift works and escalator works which are not in accordance with the relevant codes of practice and to make the contravention of such a condition an offence.

23. Clause 29 adds a new section 27I to require the design and constructions of lifts and escalators shall be to the satisfaction of the Director. The design and construction is to be either in accordance with the relevant codes of practice or approved by the Director. The registered lift engineer, registered escalator engineer, registered lift contractor or registered escalator contractor shall apply for the Director's approval before carrying out any lift works or escalator works in relation to a lift or escalator of which the design or

construction is neither in accordance with the relevant codes of practice nor approved by the Director or any lift works or escalator works resulting in such a lift or escalator. The Director may impose conditions when giving such approval. Failure to obtain the Director's approval or failure to follow approved details of proposed design and construction or failure to comply with conditions imposed by the Director is an offence.

24. Clauses 30, 31, 33 and 34 contain consequential amendments.

25. Clause 32 clarifies that the prohibition against subcontracting under section 29B does not apply to installation or demolition of a lift or escalator.

26. Clause 35 amends section 39 to provide that a certificate under that section which relates to a lift to which Part IVA applies should be posted in a conspicuous position adjacent to the landing door of the main landing of the lift (new section 39(3) (b) restates the existing provision relating to other types of lifts and escalators).

27. Clause 36 amends section 50 so that design and construction in accordance with the repealed Building (Lifts) Regulations (Cap. 123 sub. leg.) or the repealed Building (Escalators) Regulations (Cap. 123 sub. leg.) is deemed to be compliance with the relevant portions of codes of practice for a lift or escalator installed before 18 March 1994.

28. Clause 37 contains savings and transitional provisions. Members of any panel appointed before the commencement of the relevant amendments are to serve until the end of their respective terms. A panel consisting of or including a panel

member serving a term of office which existed at the time the relevant amendments came into force is to be regarded as being properly constituted. Proceedings before a board including such a panel member are not to be called into question. Proceedings before a board pending on the commencement of the relevant amendments are to be disposed of as if the Amending Ordinance had not been enacted. Applications for registration under the Ordinance pending at the time of the commencement of the provisions which require the payment of the fee at the time of making an application are to be treated under the old procedure under which the fee could be paid at the time the applicant's name was included in the register. The registration of persons who are on the register when the amendments relating to new qualifications become operative are saved. Owners of service lifts which have been installed before the commencement of the amendments to Part IVA and owners of mechanized vehicle parking system previously outside the ambit of the Ordinance are allowed a grace period to comply with the requirements of certain provisions.

29. Clause 38 makes consequential amendments to the Lifts and Escalators (Safety) (Fees) Regulations (Cap. 327 sub. leg.).