

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

**Bills Committee on
Lifts and Escalators (Safety) (Amendment) Bill 1998**

**Minutes of meeting held on
Tuesday, 10 November 1998, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon Raymond HO Chung-tai, JP (Chairman)
Hon Ronald ARCULLI, JP
Hon Howard YOUNG, JP
Hon TAM Yiu-chung, JP

Public officers attending : Mr Esmond LEE
Principal Assistant Secretary for Planning,
Environment and Lands (Lands)

Mr LAW Yu-wing
Chief Engineer
Electrical and Mechanical Services Department

Miss Betty CHEUNG
Senior Government Counsel
Department of Justice

Clerk in attendance : Miss Odelia LEUNG, Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG, Assistant Legal Adviser 1

Mrs Mary TANG, Senior Assistant Secretary (1)2

I Election of Chairman

Dr Hon Raymond HO Chung-tai was elected Chairman of the Bills Committee.

II Meeting with the Administration

2. At the invitation of the Chairman, the Principal Assistant Secretary for Planning, Environment and Lands (PAS/PEL) briefed members on the object of the Bill which sought to improve the statutory control over the safety of lifts and escalators and associated administrative arrangements. According to PAS/PEL, the provisions of the Bill could be classified into two categories. The first category dealt with the safety aspects of lifts and escalators. The Bill proposed to expand the scope of application of the Lifts and Escalators (Safety) Ordinance, Cap. 327 (the Ordinance), and to provide the Director of Electrical and Mechanical Services (DEMS) with the power to establish codes of practice specifying safety requirements relating to the design and construction of lifts and escalators. The second category of the proposals dealt with the upgrading of minimum qualifications of registered lift/escalator engineers and the imposition of restrictions on subcontracting of maintenance and examination of lifts and escalators. The Bill also provided for changes in the appointment of disciplinary boards, appeal boards, and associated panels to enhance independence and improve administrative efficiency. PAS/PEL said that prior to the introduction of the Bill, the Administration had consulted all the 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 and had obtained their support for the legislative proposals. The Lift and Escalator Contractors Association however wrote to the Electrical and Mechanical Services Department recently expressing reservations over the proposal to upgrade the minimum qualifications for the registration of lift/escalator engineers. The letter was tabled at the meeting for members' reference.

Scope of application of the Bill - clause 2

(a) *Mechanized vehicle parking system*

3. On the reasons for revising the definition of lifts to cover mechanized vehicle parking systems, the Chief Engineer/Electrical and Mechanical Services Department (CE/EMSD) explained that the present definition only covered a lifting machine in which the direction of movement of the car or platform was restricted by a guide or guides. If the movement of the car or platform within a mechanized vehicle parking system was not restricted by a

guide, it would fall outside the scope of the existing definition. Since these systems were highly sophisticated technologically, the Administration considered it necessary to control their installation and operation to ensure compliance with the safety requirements. Moreover, it was important to ensure that the operation of a mechanized vehicle parking system would not affect the structural safety of the building within which it was located. The Administration was open-minded about the introduction of different kinds of mechanized vehicle parking systems provided that they complied with the safety requirements including those stipulated in the Buildings Ordinance, Cap 123. CE/EMSD informed that at present only three mechanized vehicle parking systems were operating in Hong Kong. More systems were expected to come into operation in future.

4. Addressing members' concern on the effect of the proposal on owners of existing mechanized vehicle parking systems, CE/EMSD advised that the provisions of the Ordinance should not apply to existing systems until the expiry of 90 days after the commencement of the Bill. Owners of existing systems were required to obtain, within the grace period, permission from DEMS for continued operation of the systems. PAS/PEL added that, where necessary, DEMS might exempt application of certain requirements but this would be considered on a case by case basis.

5. Members concurred that there was a need to include mechanized vehicle parking systems within the ambit of the Ordinance. They noted that a parking system with a platform which placed a vehicle above another but did not pass through any floor would not fall within the revised definition of lifts.

(b) *Service lifts*

6. On the meaning of service lifts, CE/EMSD explained that these referred to lifts having a rated load of not more than 250 kg and a platform area of not more than 1m² and the height of which was not more than 1.2 m. These lifts were not designed for carrying persons and were mostly used for carrying food in restaurants. CE/EMSD clarified that the provisions of the Ordinance did not apply to builders' lifts in construction sites which were under the control of another ordinance.

7. As regards the reasons for the proposal to apply stringent examination, testing and maintenance requirements to service lifts, CE/EMSD explained that under the existing provisions, it is not necessary for registered lift engineers to report to DEMS on the completion of installation works in respect of service lifts. Neither was regular maintenance mandatory except for the requirement on annual testing. In the light of a fatal accident at the China Resources Consortium Store involving a service lift which resulted in one death, the Administration considered it necessary to strengthen the control on service lifts. The Bill proposed to require owners of service lifts to engage registered lift

contractors to carry out monthly maintenance and periodic testing of service lifts, in line with the present requirements applicable to lifts and escalators. Members noted that there were presently over 200 service lifts.

Minimum qualifications for registration of lift engineers and escalator engineers - clause 4

8. CE/EMSD said that under the existing provisions, a person could apply for inclusion in the registers of lift or escalator engineers if he possessed the stipulated academic qualifications and had completed an apprenticeship of not less than two years and had at least three years' subsequent working experience. Where the person did not possess the required academic qualifications but had ten years' relevant experience, DEMS might include him in the registers under the existing section 5(2A). The Bill proposed to repeal section 5(2A).

9. Members were concerned about the repeal of section 5(2A) on serving apprentices in lift/escalator engineering. It was likely that these persons would apply for inclusion in the relevant registers upon acquiring 10 years' working experience under section 5(2A).

10. In response, CE/EMSD informed members of the background to the enactment of section 5(2A). He said that in mid-1980s, owing to the shortage of qualified lift/escalator engineers to meet the demand of the rapidly developing building industry, a significant number of persons were engaged in lift/escalator works without possessing the necessary academic qualifications. As an interim arrangement, the Administration reached an understanding with the trade and introduced in 1987 section 5 (2A) to enable persons who had the necessary experience but lacked the required academic qualifications to be registered as lift/escalator engineers. It was hoped that these persons would acquire the necessary academic qualifications in the course of time. Section 5(2A) had been in force for over 10 years and the Administration considered it the right time to repeal it to upgrade the minimum qualifications of registered lift/escalator engineers. CE/EMSD pointed out that given the present advances in lift/escalator technology, it would be difficult for a person who was not academically qualified to master the different computer programmes, the complicated engineering theories and the intricate electronic networking systems associated with the installation and maintenance of lift/escalator systems. He informed members that there were 14 persons in the registers of lift/escalator engineers who did not meet the academic requirements. The proposed repeal of section 5(2A) would not affect these persons because once they had been registered, it would be valid for life. CE/EMSD said that the Administration had considered amending the Ordinance such that registered lift/escalator engineers had to apply for renewal of registration every three years but dropped this proposal because of strong objection from the industry. He assured members that persons who had already submitted applications for

registration as lift/escalator engineers under section 5 (2A) would also not be affected by the proposed repeal. Moreover, after the repeal of section 5(2A), a person who was not academically qualified but had sufficient practical experience in lift/escalator works might still be considered for registration if DEMS considered it appropriate to do so under existing section 5 (2B) of the Ordinance.

11. Members noted the overlap of sections 5 (2A) and (2B) in that both provisions provided for DEMS's discretion in including non-academically qualified persons in the registers of lift/escalator engineers. Hon Howard YOUNG was concerned about the sufficiency of qualified lift/escalator engineers to meet market needs after the repeal. CE/EMSD said that there were at present 165 persons in the register of lift engineers and 166 in the register of escalator engineers. These two registers overlapped to a certain extent. Given the total number of 38,000 lifts and escalators in Hong Kong, the Administration considered the existing number of registered lift/escalator engineers adequate to meet market needs.

12. To allay the concerns of apprentices in the trade, members suggested and PAS/PEL agreed that at the resumption of Second Reading debate on the Bill, the Secretary for Planning, Environment and Lands (SPEL) would indicate that DEMS would continue to exercise the discretion under section 5(2B). Members also requested the Administration to liaise with the Lift and Escalator Contractors Association regarding their objection to the proposed repeal of section 5(2A) and to ascertain the number of persons in apprenticeship who would likely be affected by the repeal.

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Disciplinary board and appeal board

13. On the proposed changes to disciplinary boards, CE/EMSD clarified that the Bill did not amend the criteria for appointment of disciplinary boards to conduct disciplinary proceedings in respect of registered lift/escalator engineers or contractors. The Bill proposed to transfer the power to appoint disciplinary boards from DEMS to SPEL. The Bill also proposed that DEMS or his representative should no longer be the Chairman of such boards. The proposed amendments were considered necessary to rectify the existing anomaly whereby DEMS assumed both the role of a prosecutor and the Chairman of a disciplinary board. These conflicting roles had been challenged in court for being inconsistent the Bill of Rights Ordinance.

14. As regards the proposed changes to the disciplinary board panel for registered lift/escalator engineers, CE/EMSD said that under the existing provision, members of the panel were recommended by DEMS after consultation with the appropriate institution. The Bill proposed that members of the panel should be nominated by institutions concerned such as the Hong Kong Institution of Engineers for appointment. In addition, public officers

would not be eligible for appointment to the disciplinary board panel or appeal board panel for registered lift/escalator engineers or contractors.

Difference in testing requirements on lifts - clause 20

15. Explaining the different standards in load weighing for lifts under testing, CE/EMSD said that, prior to the issue of British Standard BS5655, the car or platform of a lift was required to have a load weighing 110% of the rated load in accordance with British Standard BS 2655. In 1993, EMSD issued a new code of practice which provided for similar safety requirements as British Standard BS5655. This standard was more stringent and required a load weighing 125% of the rated load for the lift under testing. As the existing section 23 was unclear in this aspect, clause 20 sought to make it clear that a higher load weighing 125% of the rated load would be used except for lifts which were designed and constructed prior to the publication of British Standard BS 5655.

Codes of practice - clauses 27 - 29

16. CE/EMSD said that the existing section 27G empowered DEMS to establish codes of practice for lift works and escalator works. Clause 27 expanded DEMS's power and provided for the issue of codes of practice specifying safety requirements relating to the design and construction of lifts and escalators.

17. On the legal effect of non-compliance with the codes of practice established by DEMS under the revised section 27G, the Senior Government Counsel advised that codes of practice were not subsidiary legislation and need not be passed by the Legislative Council. Under the new section 27I, a registered lift/escalator engineer who wished to carry out lift/escalator works in relation to a lift/escalator the design or construction of which was not in accordance with the relevant codes of practice would have to obtain DEMS's approval. Where appropriate, DEMS might impose conditions for such approval to ensure the safe operation of lifts or escalators. Failure to obtain approval for deviation from the codes of practice, or failure to carry out works in accordance with approved details, or failure to comply with the conditions imposed were offences punishable by a fine of \$5,000 and 6 months' imprisonment.

18. Hon Ronald ARCULLI expressed reservations about imposing criminal sanction on persons for contravention of codes of practice. The Senior Government Counsel further explained that non-compliance with the codes of practice for lift or escalator works without DEMS's approval already attracted criminal sanction under the existing section 27H. The new section 27I was modelled on existing section 27H and provided for the same penalty. CE/EMSD added that EMSD would not issue a certificate in respect of a

lift/escalator the design and construction of which was not in accordance with the relevant codes of practice unless with the approval of DEMS.

19. Members noted in new section 27I that a fine at level 2 meant a fine of \$5,000. This was the current drafting in relation to fine for the purpose of simplifying the procedures for subsequent adjustment.

Restriction on subcontracting lift/escalator works - clause 32

20. Hon Howard YOUNG was concerned about any practicable difficulties in restricting subcontracting of lift/escalator works under the revised section 29B. CE/EMSD explained that clause 32 did not impose a new restriction. It only clarified the ambiguity of existing section 29B and put it beyond doubt that the restriction on subcontracting or assignment of lift/escalator works applied to maintenance works only, but not installation or demolition works. Subcontracting for the latter works were allowed as lifts and escalators subject to installation works would not be used to carry passengers until they had been certified to be in safe working order.

21. Members agreed to meet again on 30 November 1998 at 10:45 am to proceed with the clause-by-clause examination of the Bill.

II Any other business

22. There being no other business, the meeting ended at 5:30 pm.

Legislative Council Secretariat
12 January 1999