

立法會
Legislative Council

LC Paper No. CB(1)719/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/10/2

Bills Committee on Lifts and Escalators Bill

Fourth meeting on
Tuesday, 11 October 2011, at 10:45 pm
in Conference Room 2A of the Legislative Council Complex

Members present : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Chairman)
Hon James TO
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon IP Wai-ming, MH
Hon Alan LEONG Kah-kit, SC

Members absent : Hon Abraham SHEK Lai-him, SBS, JP
Hon IP Kwok-him, GBS, JP

Public officers : Mr Enoch LAM Tin-sing
Attending Deputy Secretary for Development (Works) 2

Mr Jimmy CHAN Pai-ming
Principle Assistant Secretary for Development (Works) 3

Mr Jacky WU Kwok-yuen
Assistant Secretary for Development (Works Policies) 7

Mr Alfred SIT Wing-hang
Deputy Director/Regulatory Services
Electrical and Mechanical Services Department

Mr Harry LAI Hon-chung
Assistant Director/Gas and General Legislation
Electrical and Mechanical Services Department

Mr CHUI Wai-sing
Chief Electrical and Mechanical Engineer/General Legislation
Electrical and Mechanical Services Department

Mr Leakey LAU Lik-kee
Senior Electrical and Mechanical Engineer /Lifts and Escalators 1
Electrical and Mechanical Services Department

Ms Frances HUI Hang-ka
Senior Government Counsel
Department of Justice

Ms Angie LI Sau-lee
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)5

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Mr Hugo CHIU
Council Secretary (1)5

The Chairman informed members that Mr CHAN Hak-kan had given notice of withdrawal from the Bills Committee's membership.

I Confirmation of minutes

(LC Paper No. CB(1)3002/10-11 — Minutes of meeting on
31 May 2011)

2. The minutes of the meeting held on 31 May 2011 were confirmed.

II Meeting with the Administration

Follow-up to issues arising from previous meetings

(LC Paper No. CB(1)3074/10-11(01) — The Administration's letter dated 4 October 2011 providing its response to issues raised at the Bills Committee meetings on 31 May 2011 and 20 June 2011

LC Paper No. CB(1)3074/10-11(02) — Administration's letter dated 4 October 2011 providing a summary of views of deputations and individuals given at the meeting on 17 July 2011 and the Administration's response

LC Paper No. CB(1)2483/10-11(01) — List of follow-up actions arising from the discussion at the meeting on 31 May 2011

LC Paper No. CB(1) 2724/10-11(13) — List of follow-up actions arising from the discussion at the meeting on 21 June 2011)

Other relevant papers previously issued

(LC Paper No. CB(3)684/10-11 — The Bill

File Ref: DEVB/(CR)(W)1-10/30 — Legislative Council Brief

LC Paper No. LS59/10-11 — Legal Service Division Report

LC paper No. CB(1) 2328/10-11(01) — Background brief on Lifts and Escalators Bill prepared by the Legislative Council Secretariat

LC Paper No. CB(1)2528/10-11(01) — Administration's response to issues raised at the meeting on 31 May 2011)

Discussion

3. The Committee deliberated (Index of proceedings attached at **Appendix**).

Admin Follow-up actions to be taken by the Administration

4. The Administration was requested to take the following follow-up actions:
- (a) provide the rationale for applying the requirement of registration renewal to existing lift and escalator registered engineers, and the basis for the specified training and practice requirements for registration renewal;
 - (b) whether a registered lift/escalator engineer will be granted a renewal so long as he has satisfied the specified training and practice requirements; if it is not necessarily the case, what other considerations/factors will affect his registration renewal;
 - (c) set out the factors taken into account in determining the expiry dates of the transitional arrangements for lift and escalator workers, and lay down a clear procedure/mechanism (such as prior consultation with relevant trade associations and labour unions as well as the Legislative Council Panel on Manpower etc.) for the termination of the transitional arrangements;
 - (d) review whether the proposed penalty levels under clauses 16(2) and 17(2) should be increased to a level not lower than the penalty level under clause 13(4);
 - (e) explain the contractors' performance rating system and review the system such that the occurrence of lift accidents would be appropriately reflected in the performance rating;
 - (f) provide the information that is currently available to the public on the performance of registered lift contractors and advise on the planned improvements to the relevant dissemination arrangements;
 - (g) supplement the "analysis of the causes of lift incidents involving equipment fault" in LC Paper No. CB(1)3074/10-11(01) to explain how the various factors covered in the analysis are related to the safety of lifts and escalators;
 - (h) examine the feasibility of providing benchmark prices for contracts of maintenance services for reference by owners of lifts and escalators; and

- (i) review and supplement the manpower projections provided in LC Paper No. CB(1)3074/10-11(01) for the entire lift and escalator industry, including the manpower demand and supply for installation and repairing of lifts and escalators, and advise on what concrete measures would be taken to enhance manpower training and publicity.

III Any other business

Future meetings

5. The Chairman reminded members that the next meeting would be held on 25 October 2011. He also informed members that in order to accelerate the scrutiny of the Bill, the Administration had suggested and he had agreed to schedule additional meetings to be held in the next few months. The Clerk would inform members of the revised meeting schedule in due course.

(Post-meeting note: The revised schedule of meetings was circulated to members vide LC Paper No. CB(1)122/11-12 on 20 October 2011.)

6. There being no other business, the meeting ended at 12:39 pm.

Council Business Division 1
Legislative Council Secretariat
28 December 2011

**Proceedings of the
Bills Committee on Lifts and Escalators Bill
Fourth meeting on Tuesday, 11 October 2011, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000510 – 000650	Chairman	Withdrawal of membership Confirmation of minutes	
000651 – 000926	Administration	Briefing by the Administration on LC Paper No. CB(1)3074/10-11(01) ("the 1 st paper").	
000927 – 001048	Chairman Administration	Upon the Chairman's enquiry, the Administration informed members of the following errors in the 1 st paper: (a) Under the section "Supply of registered engineers", the estimated number of examinations that registered engineers need to complete in 2016 should be 86 000 (the figure was wrongly stated as "8 600" in the Chinese version and "80 500" in the English version of the paper); and (b) Under the section "Supply of competent workers", the estimated number of periodic maintenance that competent workers are required to complete in 2016 should be 1 698 000 (the figure was wrongly stated as 1 674 500 in the English version of the paper).	
001049 – 001142	Administration	Briefing by the Administration on LC Paper No. CB(1)3074/10-11(02) ("the 2 nd paper").	
001143 – 002422	Mr IP Wai-ming Administration Chairman	Mr IP said that as raised by some deputations at the last meeting on 17 July 2011, there was currently no statutory requirement for existing registered lift and escalators engineers to renew their registration, but they were subject to the registration renewal requirement under the Bill. While he would agree to requiring existing registered engineers to attend courses, he had reservation on the necessity of imposing the registration renewal requirement on existing registered engineers. The Administration replied that according to the Bill, the registration renewal requirement would apply to both existing and new registered engineers	

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		<p>and the same arrangement was adopted in other comparable registration regimes. Given the continuous technological advancements of lifts and escalators, the Administration considered it appropriate to require all registered lift and escalator engineers to renew their registration every five years. The proposed registration renewal requirement had catered for the practical needs for registered engineers to keep abreast of technology development of lifts/escalators and to upkeep their skills and expertise, yet without creating unnecessary barriers to their registration renewal application. Basically, their registration would be renewed as long as they had fulfilled the continuous professional development and practice requirements. They would be required to make a new registration application if they had not practised in the field for the minimum time as stipulated in the Bill.</p> <p>Mr IP sought confirmation on whether existing registered engineers would be able to secure registration renewal in future so long as they could prove that they had satisfied the relevant professional development and practice requirements.</p> <p>The Chairman pointed out that, at present, an engineer in Hong Kong was not required to seek registration renewal from the Hong Kong Institution of Engineers, although there was a continuous professional development requirement. He considered that the Administration should explain the rationale for applying the requirement of registration renewal to existing registered engineers under the Bill.</p> <p>The Administration undertook to provide information on (i) the rationale for applying the requirement of registration renewal to existing registered lift and escalator engineers, and the basis for the specified training and practice requirements for registration renewal; and (ii) whether a registered lift/escalator engineer would be granted a renewal so long as he had satisfied the specified training and practice requirements; and, if it was not necessarily the case, what other considerations/factors would affect his registration renewal.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action Required
002423 – 004150	Ms LI Fung-ying Administration Chairman	<p>Ms LI referred to the section on "Supply of competent workers" of the 1st paper, and noted that the Administration had taken into account the retirement factor in the manpower forecast assessment. She remarked that the Administration should also take into account natural wastage in making the manpower forecast.</p> <p>Ms LI also remarked that the Administration should set out the factors taken into account in determining the expiry dates of the transitional arrangements for lift and escalator workers, and lay down a clear procedure/mechanism (such as prior consultation with relevant trade associations and labour unions as well as the Legislative Council Panel on Manpower etc.) for the termination of the transitional arrangements. She suggested that the Administration should affirm such procedure/mechanism during the scrutiny of the Bill by the Bills Committee and/or in the speech to be delivered by the relevant public officer upon the resumption of the Second Reading debate. Ms LI also enquired why eight years of relevant working experience was required for the registration of a lift and escalator worker without the requisite academic requirement.</p> <p>The Administration replied that:</p> <p>(a) The manpower forecast in the paper had taken into account other factors affecting the supply of the industry's workforce. An alert mechanism similar to the one adopted for steel reinforcement fixing and formwork carpentry trade would be used, and relevant measures to attract more people to work in the industry would be implemented as and when needed. The number of lifts and escalators in Hong Kong had increased by one to two percent per year only and it was anticipated that the manpower demand could be met by new workforce trained by the Vocational Training Council (VTC). Upon the enactment of the Bill, the employment-tied arrangement for competent lift and escalator workers would be replaced by a registration system as stipulated under the Bill. This would increase the autonomy of the workers and attract more people to work in the lift and escalator industry.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>

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		<p>(b) There should be flexibility regarding the expiry dates of the transitional arrangements to cater for varying situation in the industry. The Administration had reached consensus with the stakeholders of the trade that the transitional arrangement would last for five years in principle. The Administration would maintain liaison with the stakeholders on this issue, and would ensure that any future agreed arrangement regarding the termination of the transitional arrangements would be effectively communicated to the stakeholder groups and workers.</p> <p>(c) It was proposed in the Bill that a lift and escalator worker without the requisite academic qualification must possess eight years' relevant working experience and pass the trade test for registration. This was considered appropriate because for a person applying for registration through the alternative route, he was required to have received three years' relevant academic training and not less than four years' relevant working experience. In fact, the industry concurred with the Administration's current proposal that a stringent approach should be adopted for the registration regime for the lift and escalator industry, given the high technicality of the works concerned.</p> <p>Ms LI remarked that the experience of existing workers should be recognized under the proposed registration regime, and that the registration requirements for existing and new lift and escalator workers should be different so that the employment of existing lift and escalator workers would not be adversely affected.</p> <p>The Chairman enquired whether the Administration and the industry had consensus on the requirement of eight years' working experience for the registration of lift and escalator workers without the requisite academic qualification. The Administration replied in the affirmative.</p> <p>Ms LI reiterated her request that the Administration should lay down a clear procedure/mechanism for the termination of the</p>	

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		transitional arrangements. The Administration undertook to consider the request.	
004151 – 010228	Mr Andrew CHENG Administration	<p>Mr CHENG made the following comments:</p> <ul style="list-style-type: none"> (a) Many lift owners like Owners' Corporations (OCs) relied on the "Performance Rating for Registered Lift Contractors" in choosing their lift contractors. According to Table 2 in the 1st paper, a contractor with a higher performance rating might involve in more equipment faults than a contractor with a lower performance rating. The Administration should review the performance rating system to appropriately reflect the number and severity of incidents related to equipment faults; (b) Certain important safety-related arrangements (e.g. works should be carried out by two or more lift workers) should be specified in legislation rather than in a code of practice, as a failure to observe the latter would not result in any civil or criminal proceedings according to clause 142(1) of the Bill; and (c) The proposed penalty levels for offences committed by various stakeholders might not be appropriate. For instance, the penalty level for a registered lift contractor under clause 16(2) was lower than that of a responsible person for a lift under clause 13(4). <p>The Administration replied as follows:</p> <ul style="list-style-type: none"> (a) The reason for the apparent lack of association between contractors' performance ratings and the number of equipment fault related incidents was that Hong Kong had around 58,000 lifts, yet the number of incidents in each year was rather small (around 20 to 30 cases). Besides, in order to allow lift owners to know the overall service level of registered lift contractors, the performance rating was determined by a host of factors and not just incident-related ones. The public could look up information on whether a particular registered lift contractor had been involved in equipment fault related 	

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		<p>incidents on the website of the Electrical and Mechanical Services Department (EMSD);</p> <p>(b) When an equipment fault related incident happened, a registered lift contractor not following the relevant code of practice had to prove that it had taken sufficient alternative safety measures. Otherwise, the Government could take necessary disciplinary and/or enforcement actions against it; and</p> <p>(c) In setting the penalty level of an offence under the Bill, the Administration had taken into account a host of factors, including the nature and seriousness of the offence. The Administration would explain the penalty provisions in detail during the clause-by-clause examination of the Bill.</p> <p>Mr CHENG made the following remarks:</p> <p>(a) The performance rating system should be reviewed so that the occurrence of equipment fault related accidents would have a significant impact on the performance rating of the registered lift contractor concerned;</p> <p>(b) Important manpower arrangements should be stipulated in legislation so as to create sufficient deterrent effects; and</p> <p>(c) The penalty levels for different offences involved policy issues. The Bills Committee should examine the proposed penalty levels having regard to the general merits and principles of the Bill instead of postponing the scrutiny to the clause-by-clause examination stage. Given the grave concern of the public over the safety of lifts, a stringent approach should be adopted in determining the penalty levels for registered lift contractors which should not be lower than those imposed on lift owners.</p> <p>The Administration replied as follows:</p> <p>(a) The Administration would review the registered contractors' performance rating system having regard to Mr CHENG's views.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>

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		<p>(b) According to clause 147(2) of the Bill, contravention of a code of practice by a registered lift contractor would be taken into account by the court in a legal proceeding if the code of practice was relevant to the matter in issue; and</p> <p>(c) The Administration would review whether the proposed penalty levels under clauses 16(2) of the Bill should be increased to a level not lower than the penalty level under clause 13(4).</p>	
010229 – 011549	Prof Patrick LAU Administration	<p>Referring to the section "Analysis of the causes of lift incidents involving equipment fault" of the 1st paper, Prof LAU considered that the findings in respect of maintenance provided by non-original contractors, the practice of awarding tenders for maintenance service to the lowest bidder and the ages of lifts defied common sense and sought explanation from the Administration.</p> <p>Prof LAU also remarked that the maintenance fees of lifts would likely increase after the passage of the Bill, as the costs of registered lift contractors would increase. Prof LAU considered that the Government should convey this potential consequence to the public.</p> <p>The Administration replied as follows:</p> <p>(a) The analysis in the paper was constrained by the fact that the number of equipment fault related incidents occurring each year was small. The Administration would take a holistic approach in assessing the performance of a registered lift contractor by considering, apart from safety which was a basic requirement, a number of relevant factors such as whether the supply of relevant parts and components was stable and whether sufficient training had been provided by the contractor to its staff.</p> <p>(b) The Administration was aware of the potential increase in the maintenance fees of lifts upon the passage of the Bill and would work with the industry in conveying such possible change to the public.</p>	

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		<p>Prof LAU requested the Administration to supplement the "analysis of the causes of lift incidents involving equipment fault" in the 1st paper to explain how the various factors covered in the analysis were related to the safety of lifts and escalators. The Administration undertook to provide supplementary information.</p> <p>Prof LAU also enquired whether regular replacement of a lift's parts and components was compulsory under the Bill. The Administration replied in the negative and added that the Bill required a lift to be regularly maintained by a registered lift contractor and thoroughly examined by a registered lift engineer per year. During the specified periodic maintenance and examination, parts and components would be replaced as and when necessary so as to keep the lift in a proper state of repair and in safe working order.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>
<p>011550 – 012807</p>	<p>Chairman Administration</p>	<p>The Chairman made the following remarks:</p> <p>(a) He concurred with other members' observations regarding the Administration's "analysis of the causes of lift incidents involving equipment fault". In particular, he considered the Administration's finding regarding the "practice of awarding tenders for maintenance service to the lowest bidder" unacceptable and the analysis did not provide useful reference for lift owners;</p> <p>(b) The Administration should explain the contractors' performance rating system and review the system such that the occurrence of lift accidents would be appropriately reflected in the performance rating. Other scoring methods like grading might also be considered;</p> <p>(c) The Practice Notes issued by the Buildings Department were largely followed by the industry and the Administration should make reference to Buildings Department's experience in drawing up and enforcing the codes of practice for the proposed regulatory regime for lifts and escalators; and</p> <p>(d) While the short-term labour supply of the lift and escalator industry might be sufficient, the</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>

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		<p>Administration should devise measures to attract more people to work in the industry to ensure sufficient manpower supply in the long term.</p> <p>The Administration replied as follows:</p> <ul style="list-style-type: none"> (a) The experience of government tenders revealed that the performance of the lowest price bidder might not necessarily be poor if the tender price was not unreasonably low. The Administration would provide further information on the issue; (b) Contractors were motivated to follow codes of practice because they wished to raise or maintain their reputation; (c) The Administration would keep monitoring the manpower situation of the industry and would stay alert of any signs that the manpower supply might be insufficient. The Administration would also maintain liaison with stakeholders on relevant issues such as implementing measures to attract more people to work in the industry and providing suitable training. <p>The Chairman agreed that the Administration should monitor the manpower situation by maintaining contacts with the industry and make early manpower planning.</p>	
012808 – 013442	Ms LI Fung-ying Administration	<p>Ms LI remarked that the registered contractors' performance rating system was an important reference for the public. The Administration should improve the system so that it could appropriately reflect the performance, service level and compliance of relevant safety requirements of registered contractors. The Administration should assist the public in assessing the actual performance of contractors by providing relevant supplementary information such as the respective market shares of individual registered contractors.</p> <p>The Administration remarked that, at present, information about registered lift contractors (such as the number of complaints made against a specific registered lift contractor) for the past 12 months had already been published on EMSD's</p>	

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		<p>website. The Administration would review the registered contractors' performance rating system, and see how it could further assist lift owners in the procurement of maintenance services.</p> <p>Ms LI requested and the Administration agreed to provide the information that was currently available to the public on the performance of registered lift contractors and advise on the planned improvements to the relevant dissemination arrangements.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>
013443 – 013916	Prof Patrick LAU Chairman Administration	<p>Prof LAU remarked that the Housing Authority (HA) had spent a lot of efforts in establishing a system for assessing contractors. For each tender exercise, HA would estimate a benchmark price to avoid awarding tender to a contractor offering an unreasonably low price. The Administration might make reference to HA's experience and examine the feasibility of providing benchmark prices for contracts of maintenance services for reference by owners of lifts and escalators. The Chairman added that in estimating the benchmark price of a tender, reference might be made to the bidding prices of relevant tenders conducted recently.</p> <p>The Administration agreed to study the feasibility of providing benchmark prices for contracts of maintenance services as suggested by Prof. LAU for reference by owners of lifts and escalators but remarked that such information would be difficult to obtain.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>
013917 – 015354	Mr IP Wai-ming Administration	<p>Mr IP made the following remarks:</p> <ul style="list-style-type: none"> (a) Certain owners of lifts and escalators like OCs usually did not possess the expertise to estimate the benchmark prices for tenders; (b) There was a rising trend for the tender price of lift maintenance services because lift owners were willing to pay more for better services; (c) The Administration should provide more relevant information about registered lift contractors for the public; 	

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		<p>(d) The Administration should provide information on how it conducted manpower forecast and the projected figures on the labour demand for the lift and escalator industry in the longer term (preferably covering the next 10 years).</p> <p>In reply, the Administration advised that it had, in making manpower forecast, estimated both the demand and supply of manpower for the next five years (with the assumption that 65% of registered workers would actually practice in periodic maintenance works) and forecasted that there would be a net increase in the number of workforce in the industry. Owing to the rapid development of Hong Kong, it was difficult to conduct manpower forecast for periods beyond 2016 at present. The Administration would instead review the manpower situation from time to time.</p> <p>Mr IP requested the Administration to review and supplement the manpower projections provided in the 1st paper for the entire lift and escalator industry, including the manpower demand and supply for installation and repairing of lifts and escalators, and advise on what concrete measures would be taken to enhance manpower training and publicity.</p>	<p>The Administration to take action as per paragraph 4 of the minutes.</p>
015355 – 015622	Chairman	<p>The Chairman said that the scheduled meeting on 18 October 2011 would be cancelled and the next meeting would be held on 25 October 2011. The Bills Committee would commence clause-by-clause examination at the next meeting. To accelerate the scrutiny of the Bill, the Bills Committee would increase the number of meetings in the coming few months. The revised schedule of meetings would be issued to members in due course.</p>	