

立法會
Legislative Council

LC Paper No. CB(1)1065/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/10/2

Bills Committee on Lifts and Escalators Bill

Sixth meeting on
Tuesday, 1 November 2011, at 10:45 am
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 Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon IP Wai-ming, MH
Hon Alan LEONG Kah-kit, SC

Members absent : Hon James TO
Hon CHEUNG Hok-ming, GBS, JP
Hon IP Kwok-him, GBS, JP

Public officers : Mr Jimmy CHAN Pai-ming
Attending 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

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

I Meeting with the Administration

Follow-up to issues arising from previous meetings

(LC Paper No. CB(1)157/11-12(02) — The Administration's response to issues raised at the meeting on 11 October 2011

LC Paper No. CB(1)157/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 11 October 2011

LC Paper No. CB(1)205/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 25 October 2011)

Clauses-by-clause examination of the Bill (starting with clause 12)

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

LC Paper No. CB(1)182/11-12(01) — Administration's paper on "Corresponding provisions of Lifts and Escalators Bill and Lifts and Escalators (Safety) Ordinance (Cap. 327)"

Discussion

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

Admin

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide the following information:

- (a) regarding the registration renewal requirement imposed on registered lift and escalator engineers in the Bill, --
 - (i) consider revising clauses 79 and 91 to provide that the Registrar shall grant a renewal if the applicant satisfies the stipulated requirements;
 - (ii) check whether the above proposed alternative drafting approach is adopted in other legislation of Hong Kong; and
 - (iii) consult the industry on the above proposed alternative drafting approach.
- (b) regarding the registration of lift contractors, provide details of the requirements that an applicant must satisfy for the registration; and
- (c) update the Bills Committee in due course on the drafting of the codes of practice (CoPs) which would be issued after the passage of the Bill.

III Any other business

Date of next meeting

- 4. The Chairman reminded members that the next meeting would be held on 8 November 2011.
- 5. There being no other business, the meeting ended at 12:58 pm.

**Proceedings of the
Bills Committee on Lifts and Escalators Bill
Sixth meeting on Tuesday, 1 November 2011, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000349 – 000515	Chairman	Introductory remarks	
000516 – 001113	Administration Chairman	Briefing by the Administration on LC Paper No. CB(1)157/11-12(02) ("the paper")	
001114 – 002213	Ms LI Fung-ying Administration Chairman	<p>Ms LI made the following enquiries:</p> <p>(a) regarding the registration renewal requirement on registered lift and escalator engineers, whether there was any specific requirements regarding the 90 hours of relevant training and whether the one year's relevant working experience had to be accumulated under the same employer continuously; and</p> <p>(b) whether there was a concrete timetable for enhancing the registered contractors' performance rating system to dovetail the implementation of the new legislation.</p> <p>The Administration replied as follows:</p> <p>(a) registered lift and escalator engineers could fulfill the training requirement for registration renewal by various means like taking courses provided by the Vocational Training Council or attending suitable internal training courses provided by registered lift and escalator contractors;</p> <p>(b) the required one year's relevant working experience for registration renewal could be accumulated through intermittent employment periods under different employers; and</p> <p>(c) the Electrical and Mechanical Services Department (EMSD) kept on enhancing the registered contractors' performance rating scheme, and it was anticipated that the next round of enhancement could be conducted before the completion of the scrutiny of the Bill by the Bills Committee.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>For registered lift and escalator engineers, the Chairman enquired whether the relevant training amongst the 30 hours of continuing professional development per year as required by the Engineers Registration Board (ERB) for registered professional engineers could be used to satisfy the training requirement for registration renewal under the Bill. The Administration replied in the affirmative.</p> <p>Noting that the internal training provided by registered lift and escalator contractors could be used to fulfill the training requirement for registration renewal, Ms LI enquired whether EMSD had established any mechanism to monitor the quality of such training.</p> <p>The Administration replied as follows:</p> <ul style="list-style-type: none"> (a) the Task Force for Legislative Amendments to the Lifts and Escalators (Safety) Ordinance ("the Task Force") was currently liaising with the industry on the scope of relevant training; and (b) EMSD would conduct audit on the training provided by contractors if necessary. 	
002214 – 003807	Mr Alan LEONG Administration Chairman	<p>Regarding the registration renewal requirement imposed on registered lift and escalator engineers in the Bill, Mr LEONG said that to allay the concern expressed by relevant stakeholders, the Administration might consider revising clause 79 to provide that the Registrar shall grant a renewal if the applicant satisfied the stipulated requirements. Mr LEONG added that his proposed alternative drafting approach could also achieve the objective of ensuring that registered lift engineers maintained their knowledge and skills.</p> <p>The Administration remarked that in its consultation with the industry, there was no objection to the registration renewal mechanism as stipulated in clause 79.</p> <p>Mr LEONG expressed reservation about the Administration's reply, as his impression was that the industry had expressed concern about the registration renewal mechanism under the Bill.</p>	The Administration to take action as per paragraph 3 of the minutes.

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Chairman asked the Administration whether it had discussed with the industry any alternative approach for the registration renewal mechanism. The Administration replied that the industry was more concerned about the details of the registration renewal requirements than the drafting of the legislative provisions. The Chairman suggested that the Administration should consult the industry on the alternative drafting approach proposed by Mr LEONG.</p> <p>The Administration advised that the existing drafting approach of clause 79 was commonly used in other legislation because it was clear and could be easily understood. Mr LEONG requested the Administration to check whether the alternative drafting approach proposed by him was adopted in other legislation of Hong Kong. The Administration agreed to conduct relevant research and revert to the Bills Committee afterwards.</p>	<p>The Administration to take action as per paragraph 3 of the minutes.</p> <p>The Administration to take action as per paragraph 3 of the minutes.</p>
003808 – 010501	Prof Patrick LAU Administration Chairman ALA1	<p>In reply to Prof LAU's enquiry, the Administration advised that the Registrar would be appointed by the Secretary for Development. Prof LAU expressed concern that this arrangement might contradict the established arrangement in Hong Kong that the registration of professionals was undertaken by the relevant professional organizations (e.g. ERB was responsible for the registration of professional engineers) rather than by the Government, and might violate Article 142 of the Basic Law. He asked whether the industry had agreed to the proposed "Registrar" arrangement in the Bill, and whether the Administration had considered the alternative of conferring the registration function under the Bill to ERB.</p> <p>The Administration clarified that the Bill would not affect the existing arrangement of the engineering profession in Hong Kong for assessing and conferring professional qualifications. The Registrar would only assess whether a registered professional engineer (who had already registered with the ERB) fulfilled the registration requirements stipulated in the Bill and</p>	

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		<p>this assessment was independent from the engineer's registration with ERB. The Registrar also would not judge the professional qualification of a registered professional engineer. Thus the Bill would not contradict the established registration arrangement of the engineering profession nor violate Article 142 of the Basic Law.</p> <p>The Chairman concurred that the Bill would not affect the existing arrangement for assessing and conferring professional qualifications of the engineering profession in Hong Kong. He clarified that "lift and escalator" was not one of the streams of the engineering professional qualification. At present, being a registered professional engineer was not a prerequisite qualification for registration as a lift/escalator engineer, and it would be the case under the Bill. He considered that the registration arrangement under the Bill was akin to licensing and the Registrar's functions were administrative in nature, not involving assessment of professional qualifications.</p> <p>The Administration added that representatives from relevant engineering professional bodies were present in the Task Force and they did not express any objection to the arrangements in the Bill regarding the role of the Registrar.</p> <p>At the request of Prof PAU, ALA1 advised that since clauses 72, 73 and schedule 9 of the Bill specified that an applicant should be a registered professional engineer, under the provisions of the Bill, the Registrar would not be involved in assessing the professional qualification of an applicant. Based on the above clauses, it appeared that the Registrar would mainly undertake administrative work assessing whether an applicant fulfilled the relevant requirements stipulated in the Bill.</p> <p>The Chairman sought confirmation from the Administration that the role of ERB would not be affected by the Bill and the Administration replied in the affirmative.</p> <p>Prof LAU considered that the creation of a separate registration authority for the purpose of</p>	

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		<p>the Bill might render the registration regime for the engineering profession cumbersome, but remarked that he had no strong view on the issue so long as the proposed arrangement in the Bill was agreeable to the relevant professional bodies in Hong Kong.</p>	
010502 – 011451	Prof Patrick LAU Administration	<p>Prof LAU referred to the section on "ages of lifts" in the paper and enquired whether there was any requirement in the Bill that major alteration works must be conducted for a lift after it had been used for a certain period.</p> <p>The Administration advised that the expected life span of parts and components of different brands of lifts varied and it would be difficult to set a single timetable on major alteration works to be applicable to all lifts. However, the original manufacturers of lifts should provide relevant guidelines (which would cover the expected life span) in respect of the parts and components manufactured by them, and registered lift contractors were required to make reference to such guidelines. The Administration added that the intensity of usage was also a factor to consider in determining the need for repair and maintenance. To ensure that lifts would be in good working order, it was stipulated in the Bill that annual examinations of lifts by registered lift engineers were required.</p> <p>Prof LAU remarked that based on his past experience in the Housing Authority, a lift would be more prone to accidents if its maintenance service was provided by a non-original contractor. As such, he suggested that a logbook recording the replacement history of parts and components should be kept for a lift so that the owner of the lift could demonstrate whether appropriate repair and maintenance works had been conducted for the lift should an accident occur.</p> <p>The Administration agreed that keeping a logbook was a useful measure and was a requirement of the legislation. A logbook would be required for each lift and there were further requirements on reporting irregularities as follows:</p> <p>(a) if problems were found in the annual examination of a lift, a report had to be sent</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>to the responsible person for the lift concerned who employs or arranges the engineer to carry out the examination and the Director of Electrical and Mechanical Services; and</p> <p>(b) major alteration work of the safety components and equipment of a lift required prior approval.</p>	
011452 – 012251	Mr IP Wai-ming Administration	<p>Mr IP referred to the paper and made the following remarks:</p> <p>(a) regarding the section on "Practice of awarding tenders to the lowest bid", what measures the Administration would take to maintain the quality of a registered lift contractor formed by existing trade practitioners, and whether the Administration planned to require owners of lifts to submit tender price information to it to facilitate its monitoring of the industry; and</p> <p>(b) whether the manpower resource situation set out in paragraph 7 was based on the assumption that lift works were to be carried out by two lift workers together.</p> <p>The Administration replied as follows:</p> <p>(a) the Bill set out the registration requirements for registered lift contractors like whether it was capable of obtaining technical assistance or other support from the relevant lift manufacturer. Once the registration was granted, the registered lift contractor could undertake lift works; and</p> <p>(b) the manpower resource situation set out in paragraph 7 of the paper was based on the assumption that lift works were to be carried out by two lift workers together.</p> <p>Mr IP requested the Administration to provide details of the requirements that an applicant must satisfy for being able to be registered as a registered lift contractor.</p>	<p>The Administration to take action as per paragraph 3 of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action Required
012252 – 012609	Administration	<p><u>Clause-by-clause examination of the Bill</u></p> <p>Division 2 – Duties of Responsible Persons and Registered Persons</p> <p>Subdivision 1 – Responsible Persons for Lifts</p> <p><u>Clause 12 – Duties of responsible persons to ensure that lifts are in proper state of repair and in safe working order</u></p> <p><u>Clause 13 – Duties of responsible persons in respect of use and operation of lifts</u></p> <p><u>Clause 14 – Additional duties of responsible persons regarding lifts specified in Schedule 4</u></p> <p><u>Schedule 4 – Lifts to Which Sections 10 and 11 Apply</u></p> <p>Members raised no question on clauses 12 to 14 and schedule 4.</p>	
012610 – 012908	Ms LI Fung-ying Administration	<p><u>Clause 15 – Duties of responsible persons to ensure that registered lift contractors undertake maintenance works and certain other lift works</u></p> <p>Ms LI enquired whether EMSD would provide through its website or other channels a list of registered lift contractors for lift owners' information. The Administration advised that a register of registered lift contractors was already available on the website of EMSD.</p>	
012909 – 014729	Administration Ms LI Fung-ying Chairman Mr IP Wai-ming	<p>Subdivision 2 –Registered Lift Contractors</p> <p><u>Clause 16 – Duties of registered lift contractors to carry out lift works properly and safely, etc.</u></p> <p>Noting that contravention of the requirements set out in clause 16(1) would give rise to criminal liabilities, Ms LI expressed concern whether there were objective standards for those requirements so that registered lift contractors fully understood their duties and knew how to fulfill them. Ms LI asked whether the industry was aware of the drafting of clause 16(1) and whether it had expressed concern about it.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration replied that the Task Force had discussed the duties of registered lift contractors under the Bill and raised no objection to the provisions of clause 16. The Administration added that the details for satisfying the requirements would be set out in the codes of practice (CoPs).</p> <p>The Chairman enquired whether there would be an appeal mechanism and the Administration replied in the affirmative.</p> <p>Ms LI suggested that the Administration provide both the existing and the future CoPs which were relevant to the issues raised by members. The Administration replied that the Task Force was currently updating the CoPs and the draft versions were not yet available. For the existing arrangements, members might refer to the CoPs uploaded to the website of EMSD. The Chairman requested the Administration to update the Bills Committee in due course on the drafting of the CoPs which would be issued after the passage of the Bill.</p> <p>Ms LI considered that the industry might not be well informed of the Bill and considered that it would be desirable for the Bills Committee to examine the CoPs in conjunction with the Bill. Pointing out that lift owners would bear criminal liabilities, Mr IP suggested that the Administration consult the relevant Panel(s) on the first edition of the revised CoPs to be issued after passage of the Bill so that the public would be informed of important changes/requirements of the revised CoPs.</p> <p>The Administration responded that it would maintain close liaison and have thorough discussions with the Task Force in the drafting of the CoPs. Since the new set of CoPs would be prepared with reference to the provisions under the Bill, the Administration advised that they could not be available at the moment but undertook to upload the draft CoPs onto EMSD's website for public information and comments.</p>	<p>The Administration to take action as per paragraph 3 of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action Required
014730 – 020445	Administration Chairman	<p>Subdivision 3 – Registered Lift Engineers</p> <p><u>Clause 17 – Duties of registered lift engineers to carry out lift works properly and safely, etc.</u></p> <p>Subdivision 4 –Registered Lift Workers</p> <p><u>Clause 18 – Duties of registered lift workers to carry out lift works properly and safely, etc.</u></p> <p>Division 3 – Examination of Lifts</p> <p><u>Clause 19 – Interpretation</u></p> <p><u>Clause 20 – Examination of lifts before putting into use and operation</u></p> <p><u>Clause 21 – Examination of lifts after major alterations</u></p> <p><u>Schedule 1 – Major Alterations</u></p> <p><u>Schedule 2 – Safety Components for Lifts and Escalators</u></p> <p><u>Schedule 3 – Safety Equipment for Lifts and Escalators</u></p> <p>Members raised no question on clauses 17 to 21 and schedules 1 to 3.</p>	
020446 – 021325	Administration Ms LI Fung-ying Chairman	<p><u>Clause 22 – Periodic examination of lifts</u></p> <p><u>Schedule 5 – Periodic Examination and Maintenance of Lifts and Escalators (Part 1 to Part 3)</u></p> <p>Ms LI enquired whether the due date for the next examination of a lift had to be displayed in the lift. The Administration replied that the use permit, which had to be displayed in the lift concerned, would set out the expiry date of the last examination.</p>	
021326 – 021430	Administration Chairman	<p><u>Clause 23 – Examination of lifts with load</u></p> <p>Members raised no question on clause 23.</p>	

Time Marker	Speaker	Subject(s)	Action Required
021431 – 021439	Chairman	The Chairman said that the next meeting would be held on 8 November 2011.	

Council Business Division 1
Legislative Council Secretariat
14 February 2012