

立法會
Legislative Council

LC Paper No. CB(1)2169/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/10/2

Bills Committee on Lifts and Escalators Bill

Fourteenth meeting on
Tuesday, 13 December 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 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 IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon James TO
Hon Andrew CHENG Kar-foo
Hon CHEUNG Hok-ming, 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)603/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 2 December 2011

LC Paper No. CB(1)603/11-12(02) — Administration's response to issues raised at the meeting on 2 December 2011

LC Paper No. CB(1)603/11-12(03) — List of follow-up actions arising from the discussion at the meeting on 6 December 2011)

Clauses-by-clause examination of the Bill (starting with clause 160 – section 6 of Schedule 15)

(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)"

LC Paper No. CB(1)603/11-12(04) — Marked-up copy of the consequential and related amendments of the Bill prepared by the Legal Service Division)

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 proposed sections 9 and 11 of Schedule 15,
 - (i) clarify whether the sanctions specified under proposed sections 11(2) and 11(3) of Schedule 15 will apply if the relevant offence occurs before the Lifts and Escalators (Safety) Ordinance (Cap. 327) ("LESO") is repealed and continues after LESO is repealed; and
 - (ii) consider the alternative approach of drafting proposed section 9 of Schedule 15 such that the orders referred to in the provision are deemed to be orders made under the respective provisions under the future Lifts and Escalators Ordinance.
- (b) to take measures to ensure that the terms regarding the types of lifts and escalators used by other Government departments (particularly the Buildings Department) are consistent with those used in the future Lifts and Escalators Ordinance, and that the practitioners in relevant industries are well informed of the terminology.

II Any other business

Date of next meeting

4. The Chairman remarked that the meeting scheduled for 15 December 2011 would be cancelled and the next meeting would be held on 20 December 2011.

5. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 1
Legislative Council Secretariat
13 June 2012

**Proceedings of the
Bills Committee on Lifts and Escalators Bill
Fourteenth meeting on Tuesday, 13 December 2011, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000625 – 000753	Chairman	Introductory remarks	
000754 – 001730	Administration	Briefing by the Administration on LC Paper No. CB(1)603/11-12(02) ("the paper"), which was tabled at the meeting.	
001731 – 002000	Ms LI Fung-ying Chairman	Referring to relevant sections of the paper on refining the drafting of the Chinese version of the Bill, Ms LI remarked that while she did not oppose the arguments set out by the Administration in the paper, she hoped that the Administration could in the long-run consider drafting the Chinese version of legislation in a more comprehensible manner. The Chairman concurred with Ms LI.	
002001 – 002958	Administration	<u>Clause-by-clause examination of the Bill</u> <i>Schedule 15 – Transitional and Savings Provisions (Part 4)</i>	
002959 – 003053	Chairman Administration	The Chairman enquired (a) whether lifts and escalators of the Government's buildings were covered by the Bill; and (b) whether outdoor lifts and escalators, such as those installed in footbridges, were covered by the Bill. The Administration replied items (a) and (b) in the affirmative.	
003054 – 003629	Ms LI Fung-ying Administration	Ms LI sought clarification on the scope of the term "prescribed person" in section 6 of Schedule 15 of the Bill. In reply, the Administration advised that proposed section 6 of Schedule 15 was intended to provide a transitional arrangement so that certain certificates of a lift (or escalator) issued by a registered lift (or escalator) engineer in accordance with the relevant sections of the Lifts and Escalators (Safety) Ordinance (Cap. 327) (LESO) (prescribed certificates) would be regarded as a use permit of the lift (or escalator) for a certain period of time after the passage of the Bill. The responsible	

Time Marker	Speaker	Subject(s)	Action Required
		<p>person for the lift or escalator would have to apply for a use permit under the Bill (as enacted) for the lift or escalator within this period of time. The Administration also supplemented that the expression "prescribed person" in section 6 of Schedule 15 referred to a registered lift engineer or a registered escalator engineer as defined by the LESO and the prescribed certificates must contain a statement of the prescribed person to the effect that the person was satisfied that on the date of the examination, the lift or escalator was in safe working order.</p> <p>Ms LI enquired (a) whether the requirements of the Bill on use permits would be applicable to the Government; and (b) whether the Government would keep track of the prescribed certificates of its lifts and escalators and apply use permits for such lifts and escalators during the transitional period. The Administration advised that the Electrical and Mechanical Services Department (EMSD) maintained a database on the expiry dates of certificates of lifts and escalators in Hong Kong. The transitional arrangement stipulated in proposed section 6 of Schedule 15 was applicable to an existing lift or escalator only once. Therefore, a prescribed certificate of a lift (or escalator), upon its expiry, could no longer be regarded as a use permit of the lift (or escalator). The responsible person for the lift or escalator concerned must apply for a use permit in accordance with the relevant requirements of the Bill. Lifts and escalators of the Government were subject to the same requirements.</p>	
003630 – 004004	Chairman Administration	<p>The Chairman enquired about the length of the transitional period.</p> <p>The Administration advised that preparatory work had to be conducted in phases. The transitional period for the existing prescribed certificates of lifts and escalators would be one year and six months respectively. During the transitional period, the responsible persons for the lifts and escalators in Hong Kong were required to apply for the use permits.</p>	
004005 – 004707	Administration	<i>Schedule 15 – Transitional and Savings Provisions (Parts 5 and 6)</i>	

Time Marker	Speaker	Subject(s)	Action Required
004708 – 004747	Ms LI Fung-ying Administration	Ms LI referred to proposed section 8 of Schedule 15 and enquired whether pending applications made under section 6 and 11C of LESO had to be re-submitted in accordance with the requirements of the Bill. The Administration replied that there was no need to re-submit the applications.	
004748 – 005404	Administration	<i>Schedule 15 – Transitional and Savings Provisions (Part 7)</i>	
005405 – 005705	ALA1 Administration Department of Justice (DoJ)	<p>ALA1 referred to proposed section 11 of Schedule 15 which provided for the transitional arrangement in relation to, among other things, the enforcement of orders made by the Director of the Electrical and Mechanical Services prior under the LESO which was breached after the passing of the Bill. ALA1 pointed out that the sanctions set out in proposed section 11(2) and (3) were more severe than those stipulated in LESO. ALA1 requested the Administration to clarify the applicable sanctions for a breach of an order in the circumstances.</p> <p>DoJ clarified that proposed section 11 of Schedule 15 was applicable to the case where there was a contravention, after the repeal of the LESO, of an order under section 27(1) of the LESO. Whether the sanctions of the LESO or the Bill were applicable in relation to an order made under section 27(1) of the LESO depended on whether the contravention of the prohibition order was committed before or after clause 157 came into operation.</p>	
005706 – 010651	Mr IP Wai-ming DoJ Administration ALA1	<p>Mr IP remarked that a person might contravene a prohibition order made by the Director under section 27(1) of LESO over a certain period of time and enquired whether the sanctions of LESO or the Bill would apply if LESO was repealed during such period.</p> <p>DoJ advised that whether the sanctions of the Bill or those of the LESO were to apply would depend on the date on which the offence was committed. Regarding the scenario mentioned by Mr IP, DoJ advised that relevant facts had to be considered and advice of the Prosecutions Division of DoJ might have to be sought.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>ALA1 advised that section 29(4) of LESO and clause 30 of the Bill only specified the sanctions for contravention of a prohibition order without specifying the arrangements for continuous contravention of the order over a certain period of time. His understanding was that whether the sanctions of LESO or the Bill were to apply would depend on whether the date on which the person started to contravene the prohibition order was before or after the repeal of LESO.</p>	
010652 – 010710	Chairman ALA1	<p>The Chairman referred to proposed section 11(1) of Schedule 15 and enquired whether the term "subject" was commonly translated as "標的". The Administration replied in the affirmative.</p>	
010711 – 011545	Mr Alan LEONG DoJ Chairman	<p>Mr LEONG enquired whether proposed section 9 of Schedule 15 meant that the prohibition orders issued under LESO, after the repeal of LESO, were equivalent to prohibition orders issued under the Bill, and if the answer was in the positive, whether proposed sections 11(2) and 11(3) of Schedule 15 would be unnecessary.</p> <p>DoJ advised that proposed section 9 of Schedule 15 specified that certain orders, including prohibition orders, issued under LESO would continue to be in force after the repeal of LESO. Proposed section 11 of Schedule 15 was needed because the operation of sections 29(3) to 29(5) of LESO in certain aspects were impossible after the repeal of LESO.</p> <p>Pointing out that proposed section 9 of Schedule 15 was a deeming provision, Mr LEONG enquired about the effect of amending the phrase "as if that Ordinance had not been repealed by section 157" in the last sentence of the section to "as if such orders were orders made under section 30".</p> <p>DoJ responded that proposed section 11 of Schedule 15 was concerned with prohibition orders only, while proposed section 9 of Schedule 15 covered, apart from prohibition orders, certain other orders made by the Director.</p> <p>Mr LEONG requested the Administration to consider whether it would be feasible to specify that the orders issued under LESO were deemed to be orders issued under the respective sections of the future Lifts and Escalators Ordinance.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Regarding the proposed sections 9 and 11 of Schedule 15, the Administration was requested to (a) clarify whether the sanctions specified under proposed sections 11(2) and 11(3) of Schedule 15 would apply if the relevant offence occurred before LESO was repealed and continued after LESO was repealed; and (b) consider the alternative approach of drafting proposed section 9 of Schedule 15 such that the orders referred to in the provision were deemed to be orders made under the respective provisions under the future Lifts and Escalators Ordinance.</p>	<p>The Administration to take action as per paragraph 3 of the minutes.</p>
011546 – 011645	Administration	<i>Schedule 15 – Transitional and Savings Provisions (Part 7)</i>	
011646 – 011709	Chairman Mr IP Wai-ming Administration	<p>Mr IP referred to proposed section 12 of Schedule 15 and enquired whether the term "section 31(3) and (4)" referred to clause 31(3) and (4) of the Bill. The Administration replied in the affirmative.</p>	
011710 – 013107	Administration	<p><i>Schedule 15 – Transitional and Savings Provisions (Parts 8 and 9)</i></p> <p><i>Schedule 16 – Consequential and Related Amendments (Parts 1 and 2)</i></p>	
013108 – 013527	Prof Patrick LAU Administration	<p>Prof LAU enquired whether the term "service lift" defined under the Bill was different from the following lift: a service lift built beside a building and to be used by workers for loading goods. The Administration replied in the affirmative and pointed out that the Buildings Ordinance (Cap. 123) did not define the term "service lift". The Administration added that the lift mentioned by Prof LAU was regarded as an ordinary lift carrying passengers and the relevant requirements of the Bill were applicable.</p> <p>Prof LAU pointed out that different departments of the Government used different terms for the same item (like service lifts and dump waiters) and might cause confusion to the practitioners in the industry. Given that the terms like "goods lift" and "service lift" were clearly defined in the Bill, Prof LAU requested the Administration to take measures to ensure that the terms regarding the types of lifts and escalators used by other Government departments (particularly the</p>	<p>The Administration to take action as per paragraph 3 of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action Required
		Buildings Department) were consistent with those used in the future Lifts and Escalators Ordinance, and that the practitioners in relevant industries were well informed of the terminology.	
013528 – 015837	Administration	<i>Schedule 16 – Consequential and Related Amendments</i>	
015838 – 020057	Mr IP Wai-ming Administration Chairman	Mr IP enquired about the duration of the transitional arrangements for lift and escalator workers. The Administration replied that the purpose of the transitional arrangements was to enable the existing lift and escalator workers to register as registered lift and escalator workers under the new registration regime. The Administration planned to end the transitional arrangements when relevant workers had completed registration. However, there was no concrete timeframe yet.	
020058 – 020158	Prof Patrick LAU Administration	Prof LAU enquired about the number of existing lift or escalator engineers and workers. The Administration advised that (a) there were around 200 lift or escalator engineers; and (b) there were around 4000 lift workers and 4000 escalator workers, and some of these workers might belong to both categories.	
020159 – 020309	Chairman Administration	The Chairman remarked that the meeting scheduled for 15 December 2011 would be cancelled and the next meeting would be held on 20 December 2011.	