

**For discussion on
27 March 2012**

Legislative Council Panel on Development

Two Regulations to be made under the Lifts and Escalators Bill

PURPOSE

This paper outlines details of the proposals under two regulations to be made upon the passage of the Lifts and Escalators Bill (“the Bill”) into law for the better carrying out of the provisions of the Bill and for prescribing the fees payable under the Bill.

BACKGROUND

2. To further enhance lift and escalator safety in Hong Kong, we introduced the Bill into the Legislative Council on 11 May 2011 to replace the existing Lifts and Escalators (Safety) Ordinance (Cap. 327). The Bill introduces a series of enhanced control measures including strengthening the registration regime of personnel engaged in lift and escalator works, increasing the penalty levels of offences, extending the coverage of the legislative framework and enhancing the operational efficiency and enforcement effectiveness. Key features of the Bill are set out in the Legislative Council Brief issued on 14 April 2011. After 17 meetings, the Bills Committee on Lifts and Escalators Bill (“the Bills Committee”) completed the scrutiny of the Bill on 3 February 2012. The resumption of the Second Reading Debate, Committee Stage and Third Reading of the Bill is scheduled for 18 April 2012.

3. Pursuant to clause 154 and clause 155 of the Bill, the Secretary for Development may make regulations for the better carrying out of the provision of the Bill and for prescribing the fees payable under the Bill.

REGULATIONS PROPOSED TO BE MADE AFTER ENACTMENT OF THE BILL

4. We propose to make **two regulations** viz. the Lifts and Escalators (General) Regulation (“the General Regulation”) and the Lifts and Escalators (Fees) Regulation (“the Fees Regulation”) after the enactment of the Bill.

The General Regulation

5. The General Regulation will mainly set out the duties of responsible persons¹ and registered persons², the requirements relating to various applications to be made under the Bill and other miscellaneous requirements.

Duties of responsible persons and registered persons

6. The duties of responsible persons and registered persons set out in the General Regulation mainly include their duties to comply with the documentation and notification requirements.

Documentation requirements

7. Records of works and incidents in relation to a lift/escalator are required for the enforcement of the provisions under the Bill and the investigation of incidents. We therefore **propose** to stipulate suitable documentation requirements to be complied with by responsible persons and registered persons as appropriate. Among others, a log-book is required to be kept for each lift/escalator for recording information such as works carried out, incident and failure occurred. Other documents relating to the design, installation, maintenance and examination of a lift/escalator including design specifications, installation instructions, maintenance-related records and examination certificates are also required to be maintained.

¹ Under the Bill, a “responsible person” means (a) the owner of the lift/escalator; or (b) any other person who has the management or control of the lift/escalator.

² “Registered persons” are registered lift contractors, registered escalator contractors, registered lift engineers, registered escalator engineers, registered lift workers or registered escalator workers under the Bill.

Notification requirements

8. To facilitate enforcement of the provisions in the Bill by the Director of Electrical and Mechanical Services (“the Director”), we **propose** to include requirements in the General Regulation for registered persons to notify the Director of such matters as the undertaking or subcontracting of lift/escalator works, the repair of emergency devices and the change in the name or address of a registered person. Among the proposed notifications, two of them regarding the subcontracting of lift/escalator works and the repair of emergency devices are provided in response to the suggestions made by members of the Bills Committee.

9. Regarding subcontracting of lift/escalator works, we **propose** to include the requirement in the General Regulation for a registered lift/escalator contractor to notify the Director within a specified period in respect of the undertaking of any lift/escalator works as a subcontractor or subcontracting of any lift/escalator works to another registered lift/escalator contractor. Under normal circumstances, the specified period is proposed to be **seven days** before the commencement of the subcontract works concerned. We consider this notification requirement would enable the Director to effectively monitor the subcontracting of lift/escalator works by registered lift/escalator contractors and the respective subcontracting arrangements.

10. Regarding repair of emergency devices, we concur with the view of members of the Bills Committee that the proper functioning of emergency devices is vital at times of lift passenger entrapments. To enhance the existing control³ over emergency devices, we **propose** to introduce a requirement in the General Regulation for the registered lift contractor responsible for maintenance of a lift to attend to any reported failure of the alarm system, emergency lighting, intercom system and ventilation fan of a lift within **four hours**. If the registered lift contractor considers that a failed device cannot be reinstated within **24 hours** after the failure has come

³ Registered lift contractors are required to confirm the proper functioning of lift components, including the alarm, intercom and ventilation system during their monthly routine maintenance cycle. Separately, registered lift engineers are required to verify the functioning of these components when conducting periodic examination. These requirements have already been laid down in the relevant Code of Practice issued under the Lifts and Escalators (Safety) Ordinance (Cap. 327).

to his knowledge, the registered contractor is required to notify the Director. We consider that this notification requirement can enable the Director to effectively monitor the performance of registered lift contractors in reinstating the concerned emergency devices expeditiously. Furthermore, the Director may issue an order prohibiting the use of the lift if considered necessary.

Applications to be made under the Bill

11. There are over 30 numbers of applications to be made under the Bill. They include application for use and resumption permits, duplicates of these permits, registration as registered persons, renewal of the respective registration, duplicates and replacements of respective registration certificates and cards. An application is generally required to be submitted in specified form including the pertaining information and accompanied with the prescribed fee. Furthermore, the applicants may be required to provide any information, particulars and documents that are reasonably necessary for processing the applications. We **propose** to stipulate the procedural requirements for making the applications in the General Regulation.

Miscellaneous requirements

12. We **propose** to include in the General Regulation other miscellaneous requirements such as the content of an incident investigation report to be submitted by the responsible registered lift/escalator contractor after the occurrence of a lift/escalator incident and the requirement for registered lift/escalator engineers and registered lift/escalator workers to carry registration cards or any other documentary proof recognized by the Director (such as the registration cards issued under the Construction Workers Registration Ordinance (Cap. 583) which are of the relevant trades).

13. Furthermore, in response to the suggestion of members of the Bills Committee, we **propose** to introduce a regulatory scheme in the General Regulation as an enhancement measure in relation to the incidents specified in schedule 7 of the Bill such as failure of a brake, overload device or safety equipment of a lift. Under the proposed regulatory scheme, if the service of a lift/escalator has been suspended due to any one of the above incidents and the responsible lift/escalator contractor considers that the service cannot

be resumed within **four hours** after the incident has come to his knowledge, the contractor is required to post a notice to alert users of the incident.

The Fees Regulation

14. The Fees Regulation is for prescribing the fees payable for applications for use and resumption permits or their duplicates, cancellation of prohibition or cessation orders, registration or renewal of registration, and duplicates or replacements of certificates of registration or registration cards.

15. It is an established Government policy that fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the goods or services. Such principle has been followed in determining the level of application fees.

16. The assessment of the applications stated in paragraph 14 above is regarded as a kind of government services and hence the fees will be set, similar to those of other Government services, in accordance with the “**user-pay**” principle to recover full cost of the services provided. The assessment fees will cover essentially staff cost incurred in processing the applications (e.g. staff receiving applications, preparing documents, verifying the qualifications stated in the applications, etc.), departmental expenses (e.g. computer facilities, office premises, etc.) and other associated expenditure such as consumable items.

17. A costing exercise at 2012-2013 price level has been carried out to estimate the costs of processing the applications under the Bill. The **proposed** fees to each chargeable item under the Bill are shown at **Annex A**. The proposed fees are comparable with the level of fees of similar nature. For instance, the proposed application fee of \$505 (for five years) for registration as a lift/escalator worker is comparable with the application fee of \$475 (for three years) for registration as a registered electrical worker under the Electrical (Registration) Regulations (Cap. 406D) as well as the application fee of \$436 (for three years) for becoming a competent person under the Electrical Supply Lines (Protection) Regulation (Cap. 406H). To reduce the financial burden of the applicants, we **propose** to provide for some single application items for concurrent applications. For registration application as both a registered lift engineer and a registered escalator engineer, or both as a registered lift contractor and a registered escalator

contractor, concurrently under a single application, a lower fee will be charged as compared with when two separate applications are made. With a proposed application fee of \$505 for registration as a registered lift worker or a registered escalator worker, eligible applicants can be given both registrations when the application is made concurrently. Furthermore, to facilitate the submission of registration by lift/escalator workers, we will liaise with the registered lift/escalator contractors to arrange staff to the contractors' premises convenience to lift/escalator workers to assist them to complete their application forms and receive the completed applications.

CONSULTATION

18. We consulted the Task Force for Legislative Amendments to the Lifts and Escalators (Safety) Ordinance which was established in August 2010 with industry stakeholders including representatives of worker union, trade associations, professional bodies and the Consumer Council. Members of the Task Force raised no objection to the above proposals in relation to the General Regulation and the Fees Regulation.

WAY FORWARD

19. Subject to the passage of the Bill and Members' view on the proposals as described above, we plan to table the General Regulation and the Fees Regulation at the Legislative Council in the second quarter of 2012. To prepare for bringing the provisions of the Bill and the two regulations into operation, we further plan to launch a series of publicity and promotional activities aiming at giving members of the public and industry stakeholders a better understanding of the requirements under the new legislative framework. Preliminary activities include the issue of a guidebook for responsible persons, promoting key statutory requirements through the media and holding briefing sessions for the public and industry stakeholders. Considering the time required to complete the necessary preparation works, we tentatively estimate that the main provisions of the Bill and the regulations will come into operation in the fourth quarter of 2012.

ADVICE SOUGHT

20. Members' advice is sought in respect of the above proposals. Subject to Members' views, we will introduce the General Regulation and the Fees Regulation to the Legislative Council after the passage of the Bill into law.

Development Bureau
Electrical and Mechanical Services Department
March 2012

Annex A

Proposed Fees under the Lifts and Escalators (Fees) Regulation

The proposed fees under the Lifts and Escalators (Fees) Regulation include —

No.	Proposed Chargeable Item	Existing Fee¹	Proposed Fee
Applications relating to permits			
1.	Application for a use permit permitting a lift/escalator to be put into use and operation	\$710	\$755
2.	Application for a use permit permitting a lift/escalator to continue to be used and operation	\$265	\$290
3.	Application for a resumption permit permitting the use and operation of a lift/escalator to be resumed after a major alteration	\$740	\$800
4.	Single application for a use permit and a resumption permit in relation to a lift/escalator	see Note 1	\$940
5.	Application for a duplicate permit in relation to a lift/escalator	\$125	\$140
Application relating to cancellation of orders			
6.	Application for cancellation of a prohibition order or cessation order	\$270	\$300
Applications relating to registered lift/escalator contractors			
7.	Application for registration as a registered lift/escalator contractor	\$2,915	\$2,980
8.	Application for renewal of the registration of a registered lift/escalator contractor	see Note 2	\$515

¹ Existing fee means the fee now prescribed under the Lifts and Escalators (Safety) (Fees) Regulations (Cap. 327A).

No.	Proposed Chargeable Item	Existing Fee ¹	Proposed Fee
9.	Single application for registration as a registered lift contractor and a registered escalator contractor	see Note 1	\$3,300
10.	Single application for renewal of the registration of a registered lift contractor and a registered escalator contractor	see Note 2	\$550
Applications relating to registered lift/escalator engineers			
11.	Application for registration as a registered lift/escalator engineer	\$4,490	\$4,620
12.	Application for renewal of the registration of a registered lift/escalator engineer	see Note 2	\$515
13.	Single application for registration as a registered lift engineer and a registered escalator engineer	\$4,675	\$4,870
14.	Single application for renewal of the registration of a registered lift engineer and a registered escalator engineer	see Note 2	\$535
Applications relating to registered lift/escalator workers			
15.	Application for registration as a registered lift/escalator worker	see Note 2	\$505
16.	Application for renewal of the registration of a registered lift/escalator worker	see Note 2	\$485
17.	Single application for registration as a registered lift worker and a registered escalator worker	see Note 2	\$505
18.	Single application for renewal of the registration of a registered lift worker and a registered escalator worker	see Note 2	\$485
Applications relating to certificate or card of registration			
19.	Application for a replacement certificate of registration if there is a change in the name of a registered person	\$125	\$140

No.	Proposed Chargeable Item	Existing Fee¹	Proposed Fee
20.	Application for a replacement card of registration if there is a change in the name of a registered lift/escalator engineer or a registered lift/escalator worker	see Note 2	\$140
21.	Single application for a replacement certificate and a replacement card of registration if there is a change in the name of a registered lift/escalator engineer or a registered lift/escalator worker	see Note 2	\$140

Note:

1. The existing Lifts and Escalators (Safety)(Fees) Regulations (Cap. 327A) do not allow for single application for —
 - (i) a use permit and a resumption permit; and
 - (ii) registration as a registered lift contractor and a registered escalator contractor.

2. It is proposed to introduce some new chargeable items under the Lifts and Escalators (Fees) Regulation for implementing the following enhancement measures introduced under the Lifts and Escalators Bill —
 - (i) registered lift/escalator contractors are required to renew their registrations every five years;
 - (ii) registered lift/escalator engineers are required to renew their registrations every five years and to carry their registration cards or any other documentary proof recognized by the Director while they are carrying out lift/escalator works; and
 - (iii) a registration system for lift/escalator workers.