

GOVERNMENT OF GOA

LAW COMMISSION

**Proposal to enact an Bill for regulation of the Lifts and
Escalators Act 2012 in the State of Goa**

**Report No. 23
December 2012**

The 3rd Law Commission was constituted by Government Order No. 22-3-2009-LD-Estt/L.C./712 dated the 28th May, 2012 issued by the Law Department, Government of Goa.

The Law Commission consists of the Chairman and the two Members.

Chairman

Shri Narendra Sawaikar

Members

Shri Joaquim D'Souza

Shri Jayant P. Mulgaonkar

The Law Commission is located at **Cabin No. 019, Secretariat complex, Porvorim – Goa.**

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**Any enquiry relating to this Report should be addressed to
Chairman and sent either by post to the Law Commission,
Cabin No. 019, Secretariat Complex, Porvorim – Goa or email
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Report No. 23

In view of the increasing construction of multi-storeyed buildings with the lifts and escalators facilities, it is necessary that a Law regulating the construction, maintenance and safety of Lifts and escalators is required in the State of Goa. Therefore, the Commission recommends the Goa Lifts and Escalators Bill – 2012 for regulating the construction, maintenance and working of the Lifts and escalators in the State of Goa.

THE GOA LIFTS AND ESCALATORS ACT 2012

STATEMENT OF OBJECTS AND REASONS

A law regulating the installation, operation of the lifts and escalators and providing for safety devices and precautionary measures for ensuring the safety of the users of lifts and escalators throughout the State has become necessary with the proliferation of multi-storeyed buildings with lift and escalator facilities in the State. It is therefore proposed to enact a law to secure the aforestated object. Hence this Act.

THE GOA LIFTS AND ESCALATORS ACT 2012

An Act to provide for the regulation of the installation, maintenance and safe working of lifts and escalators and all machinery and apparatus pertaining thereto in the State of Goa.

WHEREAS it is expedient to provide for the regulation of the installation, maintenance and safe working of lifts and escalator and all machinery and apparatus pertaining thereto in the State of Goa;

Be it enacted by the Goa State Legislature in the _____ Year of the Republic of India as follows:-

1. Short title, extent and commencement.-

- (1) This Act may be called the Goa Lifts and Escalators Act 2012.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come in to force on such date as the Government may, by notification, appoint.

2. Definitions.-

In this Act, unless the context otherwise requires,-

- (a) “Baluster” means a short pillar slender above and bulging below;
- (b) “Balustrade” means a row of balusters meant for supporting moving handrails;
- (c) “Inspector” means the person or the person so appointed to be the Inspector of lifts and escalators under sub-section (1) of section 3;
- (d) “complete” means a pronged plate that forms part of an escalator Landing and engages with the cleats of the steps at the limits of travel;
- (e) “escalator” means a power driven inclined continuous stairway used for raising or lowering passengers;
- (f) “escalator installation” includes the escalator, the track, the trusses or girders, the balustrade, the step treads and landings and all chains, wires and plants directly connected with the operation of the escalator;
- (g) “licence” means a licence granted under section 6;
- (h) “lift” means an appliance designed to transport persons or materials between two or more levels in a vertical or substantially vertical direction by means of a guided car or platform;

- (i) "lift car" means the load carrying unit with its floor or platform
Car frame and enclosing body work;
- (j) "lift installation" includes the lift car, the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the lift;
- (k) "power" means any form of energy which is not generated by human or animal agency;
- (l) "prescribed" means prescribed by rules
- (m) "rated speed" means the speed at which the lift or escalator is designed to operate:
- (n) "rules" means rules made under this Act.

3. Appointment of Inspector of Lifts and escalators:-

1. The State Government may by notification in the official Gazette, appoint person/s duly qualified as Electrical Inspector/s under the Indian Electricity Act, 1910 as the Inspector/s of lifts and escalators for each of the District.
2. Every Inspector so appointed shall exercise the powers and perform the functions of the Inspector under this Act within such areas subject to such restrictions as the State Government may direct.
3. The State Government may by notification in the Official Gazette, appoint persons duly qualified under the Indian Electricity Act, 1910 to assist the Inspector/s,

4. Authorisation to a person or persons for erection maintenance, inspection and test :-

1. The Inspector may, authorise the persons appointed under sub section(3) of Section 3 for the purpose of carrying out installation, maintenance, inspection and test of lift or escalator.
2. The manner, terms and conditions and the fees, if any, for authorisation under sub-section (1) shall be such as may be prescribed.

5. Installation of lift or escalator:

(1) Every owner of a place intending to install a lift or an escalator after the commencement of this Act, shall make an application in such form as may be prescribed, to the Inspector for permission to install such lift or escalator and such application shall specify-

- (a) the type of the lift or escalator;
- (b) the rated maximum speed of the lift or the speed at which the escalator is designed to operate;
- (c) the maker's or designer's rated capacity in weight;
- (d) the maximum number of passengers in addition to the lift operator which the lift can carry;
- (e) the total weight of the lift car carrying the maximum load;
- (f) the weight of the counter weight of the lift;
- (g) the number, description, weight and size of the supporting cables Of the lift or escalator;
- (h) the depth of the pit from the lowest part of the car when at the lowest floor of lift;
- (i) such details of the construction of the overhead arrangement with the weight and sizes of the beams for the lift as may be prescribed;

- (j) angle of inclination for escalator.
- (k) type of balustrading in escalator.
- (l) the width between balustrades in escalator;
- (m) details of handrails, steps, treads, landing, combplates, trusses or girders and step wheel tracks in escalator;
- (n) the rated load in Kilograms on escalator;
- (o) the factor of safety based on the static loads in the lift or escalator ; and
- (p) such other particulars as may be prescribed.

(2) On receipt of such application under sub- section (1), the Inspector after making such enquiry and requiring the applicant to furnish such information as may be necessary, may thereupon either grant or refuse the permission to Install lift or escalator. The permission so granted shall be valid for a period of three years from the date on which it is granted.

(3) On grant of permission under sub-section (2) the owner shall get his lift or escalator installed.

6. Licence to use a lift or escalator:-

(1)The owner who is permitted to install a lift or escalator under section 5 shall, within one month after the completion of the installation of such lift or escalator, make an application to the Inspector for a licence for operating the lift or an escalator.

(2) An application for a licence made under sub- section (1) shall be in such form and accompanied by such fees as may be prescribed.

(3) If the Inspector is satisfied that the applicant has complied with the requirements of the provisions of this Act, he may grant the licence to use lift or escalator in such form and on such terms and conditions as may be prescribed.

(4) Where the Inspector refuses to grant the licence, he shall not do so without giving the applicant a reasonable opportunity of being heard.

7. Application for licence in case of existing lifts and escalators:

(1) Within three months from the date of commencement of this Act, every owner shall apply for licence for operating such lift or escalator.

(2) The provisions of sub-sections (2) to (4) of section 6 shall, as far as may be, apply to such application.

8. Duration and renewal of licence:

(1) Every licence shall be valid for a period of three years from the date on which it is granted.

(2) A licence may be renewed on an application made in that behalf to the Inspector in such form and accompanied by such fee as may be prescribed along with the report made under section 16 and every such application shall be made not less than thirty days before the date on which the period of validity of the licence is due to expire.

9. Lift or escalator not to be operated without a licence:

No lift or escalator shall be operated except under and in conformity with the Lift or escalator terms and condition of the licence granted in respect of the same.

10. Suspension or cancellation of permission/ licence:

The Inspector may cancel permission/licence if the licensee contravenes any provisions of this Act or the Rules or may in appropriate cases suspend permission /licence for such period as he deems fit. In either case, he shall not do so, without giving the Licensee a reasonable opportunity of being heard.

11. Additions and alterations to the lift or escalator installation:

No addition or alterations other than those required to be made under sub-section (2) of section 12, shall be made to any lift or escalator installation except with the previous permission in writing of the Inspector.

12. Right to enter any building for inspection of lift or escalator or the installation etc.:

(1) The Inspector may at any time after giving reasonable notice to the occupant enter upon any building in which a lift or an escalator is installed or is being installed or in connection with which an application has been made for licence, for the purpose of inspecting the lift or escalator or lift or escalator installation or the site thereof.

(2) The Inspector, on such inspection or on the basis of report made under section 16 is of the opinion that any lift or escalator in any building is in unsafe condition, he may direct by an order to the owner of the building or his agent appointed under sub-section (2) of section 15 to make such repairs or alterations to be made to such lift or escalator as he may deem necessary, within the time specified therein and may also discontinue its use until such repairs or alterations are made. The owner, or as the case may be, his agent shall thereupon comply with the order within the period specified therein and shall forthwith report in writing to the Inspector regarding the compliance.

13. Appeal:

(1) Any person aggrieved by an order of the Inspector made under sub-section (4) of section 6 or under section 10 of this act may within thirty days from the date of such order, appeal to the Chief Electrical Engineer of the State of Goa.

(2) The Chief Electrical Engineer may condone the delay in filing the appeal beyond the period of thirty days prescribed in sub-section (1) above, upon sufficient cause being shown for delay to his satisfaction.

(3) The decision of the Chief Electrical Engineer in appeal shall be final and shall not be called in question in any court.

14. Owner to give facilities for inspection:

The owner of a building in which a lift or an escalator is installed or his agent so appointed under sub-section (2) of section 15 shall afford all reasonable facilities to the Inspector or a person authorised by the Inspector under sub-section (2) of section 4 for inspecting a lift or an Escalator.

15. Report of accident and inquiries:

(1) Where any accident occurs in the operation of any lift or escalator which results or was likely to have resulted in loss of human life or injury to any person, the owner of the building in which the lift or escalator is working or if such owner not being resident of such building has appointed an agent (who shall be a resident of the town or village in which building is situate) and has communicated his name to the Inspector under sub-section (2) of this section such agent shall, as soon as may be, after such accident give notice in such form and in such manner as may be prescribed with full details of the accident to the Inspector and also to the Police Station, within whose jurisdiction the accident has occurred and the working of such lift or escalator shall not be resumed except with the written permission of the Inspector.

(2) The name of every agent appointed under sub-section (2) above shall be communicated in writing to the Inspector.

- (3) The State Government may authorise the Inspector or any other competent person appointed in this behalf, to inquire and report as to the cause of any accident and whether the accident was caused by non-compliance with any of the provision of this Act or the Rules made there under and recommending remedial measures.
- (4) Every Inspector holding an inquiry under sub-section (4) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of Witnesses and compelling the production of documents and material objects and every person required by an Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal code.

16. Inspection of lifts and escalators and charging of fees:

1. Every lift or escalator-
 - (a) shall be inspected by the Inspector and before the grant of a licence under section 6, and
 - (b) in every three years from the date of grant of licence.
2. The fees as may be prescribed shall be paid by the owner of the building in which the lift or escalator is installed for each inspection under sub-section (1) and such fee shall be inclusive of the fee for the inspection of electrical installation attached to the lift or escalator installation. The fee shall be paid within such period and in such manner as may be prescribed.
3. Where the owner or any person liable to pay fee under this section does not pay the same within the prescribed period, then such owner shall pay for the period commencing immediately after the prescribed period and ending on the date of payment of fees, simple interest at the rate charged by the Banks for loans, on the amount of fees due.

17. Recovery of fees:

All sums payable as fees under this Act shall be recoverable as arrears of land revenue.

18. Penalty:

Whoever contravenes any of the provisions of this Act, rules or conditions of a licence or a direction given by the Inspector under this Act or the rules hereunder shall, on conviction, be punished with fine not exceeding five thousand rupees and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

19. Offences by the companies:

(1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed, was in-charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,-

(a) 'company' means a body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

20. Cognizance of offences:-

No court shall take cognizance of any offence under this Act except with the previous sanction of the State Government.

21. Service of notices, orders or documents.-

(1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left-

(a) where a local authority is the addressee, at the office of the local authority

(b) where a company is the addressee at the registered office of the company or in the event of the registered office of the company not being in India, at the head office of the company in India

(c) where any other person is the addressee, at the usual or last known place of abode or business of the person

(2) Every notice, order or document by or under this Act required to be authorised to be addressed to the owner or the agent of the owner, or the occupant of any premises shall be deemed to be properly addressed if addressed by the description of the 'owner' or 'agent of the owner' or 'occupant of the premises' (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered by affixing it on some conspicuous part of the premises.

22. Protection for acts done in good faith:-

No suit, prosecution or other legal proceedings shall be instituted against any officer for anything which is done in good faith or intended to be done under this Act or the rules or orders made thereunder.

23. Application of Act to lifts or escalators belonging to Government:

In the application of the provisions of this Act to lifts or escalators installed by the Government, the provisions of this Act shall be deemed to have been adopted or modified to the extent specified in the Schedule.

24. Power to make rules:

(1) The State Government may, by notification in the Official Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) specifications for lifts and escalators

(b) the manner in which erection plans of lifts and escalators shall be submitted;

(c) the manner in which the lifts and escalators may be tested;

(d) the form of application for permission to erect a lift or escalator under sub-section (7) of section 3;

(e) details of the construction of the overhead arrangement with the weights and sizes of the beams under item (i) of sub-section (1) of section 3

(f) other particulars which the application for permission to erect a lift or an escalator shall specify under item (u) of sub-section (i) of section 3;

(g) the form in which an application for licence shall be made and the fee which shall accompany such application under sub-section (2) of section 5.

- (h) the form in which and the terms and conditions on which the licence may be granted for the working of a lift or an escalator under sub-section (4) of section 5:
 - (i) the form in which an application for renewal of licence shall be made and the fee which shall accompany such application under sub-section (2) of section 6;
 - (j) the form of notice to be given under sub-section (1) of section 10
 - (k) the form in which an application for obtaining authorisation shall be made and the fee and the particulars which shall accompany such application under sub-section (2) of section 4
 - (l) the qualifications and other requirements for obtaining authorisation under sub-section (3) of section 4
 - (m) the form and the manner in which notice of accident shall be given under sub-section (l) of section 14;
 - (n) the rate of fee and the period and the manner in which such fee shall be paid;
 - (o) any other matter which is to be or may be prescribed.
- (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

25. Provisions of Indian Electricity Act not affected:-

Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910 or any rules made thereunder

26. Repeal and savings:

The commencement of this Act shall not affect the previous operation of anything done or action taken (including any appointment or delegation made notification or notice issued rule made, proceeding instituted fees recovered or penalty imposed) by or under the provisions of any Act shall, in so far as it is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

SCHEDULE

(See section 23)

(1) In section 5, in sub-section (1), for the words "every owner", the words "every Government Officer-in-charge" shall be substituted,

(2) In section 15, in sub-section (2),-

(i) for the words beginning with the words "the owner of a building" and ending with the words "in such building", the following shall be substituted, namely :-

"for a building in which a lift or an escalator has been installed by Government, the Government or";

(ii) for the words "appointed by the owner" the words "appointed by the Government" shall be substituted.

(3) In section 21, in sub-section (1), for clause (a), the following shall be substituted, namely :-

"(a) where Government is the addressee, at the office of the agent appointed by Government under sub-section (2) of section 15".

(Narendra K. Sawaikar)

Chairman

(Jayant P. Mulgaonkar)

Member

(Joaquim D'souza)

Member

