

立法會
Legislative Council

LC Paper No. CB(1) 580/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

**Minutes of special meeting
held on Thursday, 3 October 2002 at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP

Members absent : Hon LAU Ping-cheung (Deputy Chairman)
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP

Members attending : Hon CHAN Kwok-keung
Hon LEUNG Yiu-chung
Hon LI Fung-ying, JP

Public officers attending : Mr W S CHAN
Deputy Secretary for the Environment, Transport and Works
(Transport and Works) W2

Mr Helius K M NG
Principal Assistant Secretary (Transport and Works) W4
Environment, Transport and Works Bureau

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mrs Queenie YU
Senior Assistant Secretary (1)6

Action

- I. Legislative proposal on construction workers registration system**
(LC Paper No. CB(1)2591/01-02(01) — Paper provided by the Administration)

Meeting arrangement

In view of the absence of a quorum within 15 minutes of the time appointed for the meeting, members present agreed that an informal discussion be held with the Administration on the legislative proposal on the Construction Workers Registration System (CWRS) until a quorum was present.

2. When a quorum was present at 11:20 am, the Chairman declared that a formal meeting be convened.

Briefing by the Chairman

3. The Chairman advised that the purpose of the meeting was for the Administration to brief members on the proposed mandatory registration system for site workers in the construction industry. The Administration planned to introduce the relevant bill into the Legislative Council (LegCo) before the end of 2002.

4. The Chairman also drew members' attention to two submissions from the Mixer Truck Drivers Association and the Hong Kong Dumper Truck Drivers Association, which were tabled at the meeting.

(*Post-meeting note*: The two submissions tabled at the meeting were issued to members vide LC Paper No. CB(1)2635/01-02 on 4 October 2002.)

Briefing by the Administration

5. The Deputy Secretary for the Environment, Transport and Works (Transport and Works) W2 (DS/ETW(T&W)W2) briefed members on the background of the legislative proposal. To address the concerns about the quality of construction works, the lack of a registration system to assess and certify the skill levels of construction workers and the lack of reliable data on the number, trade and skill level of construction workers for manpower planning and training, the then Construction Advisory Board (CAB) decided in July 1999 to set up a Working Group on Registration of Construction Workers (the Working Group), which comprised stakeholders of the construction industry, to study the proposal for implementing a registration system for construction workers. The Working Group concluded and recommended to the then CAB in mid-2000 that given the merits of a mandatory registration system for construction workers, it should be implemented by way of legislation. The Construction Industry Review Committee (CIRC) also recommended in its Report issued in January 2001 that a registration system for construction workers should be implemented as soon as possible. Following the endorsement of the proposal by the Executive Council in June 2001, the Administration embarked on the development of the proposed registration system by further consulting the views of the industry.

6. DS/ETW(T&W)W2 then highlighted the main features of the proposed CWRS, as follows:

(a) Coverage

The proposed CWRS was targeted at the majority of construction site workers engaged in new construction site works and in major addition, alteration, improvement and term maintenance works.

(b) Categories of skill level

Workers would be registered for individual trade under one of the three categories according to their skill levels as a "skilled worker", or a "semi-skilled worker", or a "general worker". Workers with not less than four years' experience in the construction industry could apply for registration as "skilled worker". No such requirement on experience would be imposed on applicants for registration as "semi-skilled worker". Nevertheless, applicants for registration as "skilled worker" and "semi-skilled worker" were required to pass the relevant trade tests and intermediate trade tests respectively conducted by the Construction Industry Training Authority (CITA) and the Vocational Training Council (VTC), or possessed other equivalent qualification

eligible for registration. Applicants for registration as "general worker" were only required to possess simple job-related skills.

(c) Renewal

The registration would be renewed once every three years. Before applying for renewal, workers were required to complete prescribed short continuous development courses.

(d) Transitional arrangements

A transitional period of three years would be allowed for workers to pass the respective trade tests to register as "skilled worker" or "semi-skilled worker". During that period, workers with not less than six years' or two years' experience in the construction industry could apply for registration as "skilled worker (provisional)" and "semi-skilled worker (provisional)" respectively.

(e) Exemption

Workers with ten years or more experience in the construction industry but without a trade test certificate or equivalent could, subject to their passing an assessment interview, be registered as "skilled worker".

(f) Enforcement

Each worker should only perform the kind of work he was allowed to do under his registration and should carry his smart registration card for working on construction site. The employers should ensure that the workers employed by them for carrying out construction works on site possessed a valid registration. An enforcement team would be set up to perform random compliance checks.

(g) Registration Authority and Registrar

A statutory Registration Authority would be established to administer the registration ordinance and oversee the registration of workers. The Registration Authority would appoint CITA as the Registrar to carry out the day-to-day registration and related work, such as the issue of the smart registration card.

(h) Complaint and review mechanisms

A mechanism would be put in place to handle any complaints about the level of competency of registered workers. Review and appeal mechanisms would also be put in place to handle any grievances that the workers might have against the decisions of the Registrar or the Registration Authority.

(i) Funding

The proposed CWRS would be self-financing and supported by a small registration fee and renewal fee which the workers could afford. The balance of the operating costs was to be met by a proposed levy collected from the construction industry.

7. DS/ETW(T&W)W2 pointed out that the proposed CWRS was expected to achieve a number of benefits. It would not only ensure the quality of work, but would also raise the status of construction workers and foster a quality culture in the construction industry. Moreover, more reliable data from the register of the proposed registration system would be available for manpower planning and training. The smart card system installed at construction sites would help combat hiring of illegal workers on construction sites. The site entry and exit records of each worker logged by the smart card system might also help eliminate some of the wage disputes between contractors and workers.

8. DS/ETW(T&W)W2 pointed out that representatives of the construction industry had been fully consulted on the proposed CWRS through the Working Group and the Subgroup on the Registration of Construction Workers since July 1999. They were all in support of the proposed system. The Administration was finalizing the drafting of the relevant bill, with a view to introducing it into LegCo before the end of 2002.

Timetable for registration

9. Ir Dr Raymond HO expressed support for the proposed CWRS to enhance the quality of construction work, address the wage dispute problems and combat hiring of illegal workers at construction sites. In view of the Working Group's recommendation in mid-2000 that a mandatory registration system for construction workers should be implemented by way of legislation and CIRC's recommendation in January 2001 that a registration system for construction workers should be implemented as soon as possible, Ir Dr HO considered that the Administration should have put forward the legislative proposal earlier. Being in support of the early implementation of the proposal, Ir Dr HO enquired about the timetable for the registration of all construction workers.

10. DS/ETW(T&W)W2 advised that a period of about eight months would be provided after the enactment of the legislation for construction workers to apply for registration as a "skilled worker", "semi-skilled worker", "general worker", "skilled worker (provisional)" or "semi-skilled worker (provisional)". A three-year transitional period would be allowed for "skilled worker (provisional)" or "semi-skilled worker (provisional)" to pass the relevant trade tests to register as "skilled worker" or "semi-skilled worker".

11. In view of the substantial number of construction workers to be registered, Ir Dr Raymond HO considered it important for the Administration to ensure that the

whole registration process would be completed smoothly and efficiently. To enhance the construction workers' awareness of the new registration system, Ir Dr HO suggested the Administration to widely publicize the new registration system and the categorization of skill levels under the system. The workers concerned should be made aware of the registration requirements and encouraged to take the relevant trade tests. On registration requirements, Ir Dr HO was of the view that only workers with relevant experience should be allowed to take part in large-scale and complex demolition works so as to ensure public safety. Consideration should therefore be given to the requirement on experience for undertaking such type of demolition works.

12. In response, DS/ETW(T&W)W2 said that a publicity programme would be launched before the implementation of the new registration system. Workers would be informed of the different categories of skill levels and the registration requirements. It was estimated that about 50 000 workers would take the relevant trade tests within the three-year transitional period. CITA and VTC would make the necessary preparatory arrangements for the tests.

13. Responding to the Chairman, DS/ETW(T&W)W2 advised that workers who had failed the relevant trade tests might re-take the tests within or after the three-year transitional period. Workers who failed to pass the relevant trade tests for "skilled worker" or "semi-skilled worker" but possessed simple job-related skills could apply for registration as "general worker", and would be required to work under the supervision of the former two categories of workers at construction sites.

14. Referring to paragraph 7(1) of the paper provided by the Administration, Ir Dr Raymond HO noted that the registration of electrical and mechanical (E&M) workers would commence on a separate date. He asked for the timetable for the registration of E&M workers. DS/ETW(T&W)W2 explained that pending the introduction of a levy on construction-related E&M works to support the expansion of E&M training and trade testing to meet the registration requirement, only workers of the building and civil engineering disciplines would be registered initially. The proposed levy would be introduced through amendments to the Industrial Training (Construction Industry) Ordinance (Cap. 317). The Education and Manpower Bureau aimed to introduce the relevant amendment bill into LegCo in the first quarter of 2003. Given that the requisite training and trade test provisions would not be ready by the end of 2003, the registration of E&M workers would commence on a separate date.

Registration fees, other fees and training courses

15. Responding to Ms LI Fung-ying, DS/ETW(T&W)W2 informed members that the registration fees for construction workers would be \$100 for three years. For the construction workers who had been registered under other relevant ordinances, the registration fees would be reduced by half. The reduction would also apply to renewal of registration.

16. Responding to Mr IP Kwok-him, DS/ETW(T&W)W2 confirmed that the registration fees would cover the cost for the smart registration card for workers.

17. Mr CHAN Kwok-keung sought clarification on whether the registration fees would cover the fees for taking the relevant trade tests for registration and the prescribed short continuous development courses for renewal of registration. DS/ETW(T&W)W2 advised that the registration fees would not cover these two types of fees. He pointed out that CITA and VTC had been conducting the relevant trade tests on an on-going basis. On average, the total cost per test per candidate was around \$2,000, and each candidate was required to pay around \$500 per test to cover part of the total cost, such as the cost of the materials used in the test. As regards the prescribed short continuous development courses, DS/ETW(T&W)W2 advised that the fees required for taking the one-and-a-half-day courses would be small in amount.

18. Responding to Mr CHAN Kwok-keung, DS/ETW(T&W)W2 confirmed that registration would be renewed after the workers concerned had completed the prescribed short continuous development courses. In view of the fact that the short courses only last one and a half days, Mr IP Kwok-him enquired about the purpose of requiring the workers to complete such short courses before applying for renewal of registration. In response, the Principal Assistant Secretary (Training and Works) W4 of ETWB (PAS(T&W)W4/ETWB) pointed out the need to remind site workers of the importance of safety at work from time to time. Moreover, the short courses aimed to brief the workers on the up-to-date development of the construction industry, such as new materials available for painting, new method in steel-scaffolding, new legislation relating to the construction industry including fire and safety regulations, etc. Responding to Mr IP, PAS(T&W)W4/ETWB said that both CITA and VTC would take account of the construction workers' educational background in working out the course programme to achieve effective results.

Impact on construction workers

19. Mr IP Kwok-him said that the Members of the Democratic Alliance for Betterment of Hong Kong considered that the proposed CWRS was a positive means to enhance the status of construction workers and combat illegal hiring of construction workers. They were however concerned whether the registration system would have any adverse impact on the job security and salary levels of serving construction

workers. Ir Dr Raymond HO stressed that the impact on earnings of serving workers should be minimized.

20. Mr Albert CHAN said that in principle, he saw no reason to object to a mandatory CWRS to enhance the quality of construction works. He however considered it not the opportune time to implement the proposed registration system. Given that the present economic downturn had seriously hit the construction industry and that a number of construction workers had remained unemployed for quite a long period, Mr CHAN was concerned that the registration system would aggravate the situation and would have adverse impact on the job security and salary levels of construction workers. In response, DS/ETW(T&W)W2 reiterated that following the endorsement of the proposal by ExCo in June 2001, the Administration embarked on the development of the proposed registration system by further consulting the views of the industry. As the consultation had been completed, the Administration therefore put forward the proposed registration system for Members' consideration. He also pointed out that the proposed system aimed to bring about long-term improvements to the construction industry, which would be in the interest of the workers concerned and the community as a whole. The Administration did not envisage that the proposed CWRS would have any adverse impact on serving construction workers, as all of them should be able to register under the system.

21. Mr Albert CHAN was not convinced that the registration system would not have any adverse impact on serving construction workers. He was particularly worried that employers would make use of the opportunity to lay off or reduce the prevailing salary level and employment-related benefits of construction workers who failed the relevant trade tests. Mr LEUNG Yiu-chung shared his concerns. Pointing out that construction workers had demonstrated their abilities and contributions by constructing various large-scale infrastructure facilities throughout the years, Mr LEUNG urged the Administration to ensure that the registration system would not have any adverse impact on construction workers, in particular on their job security and salary levels. Mr CHAN and Mr LEUNG also considered it misleading for the Administration to say that all serving construction workers should be able to register under the CWRS.

22. DS/ETW(T&W)W2 explained that under the proposed registration system, workers would be registered for individual trade under one of the three categories according to their skill levels as a "skilled worker", "semi-skilled worker", "general worker". Workers who had not yet passed the relevant trade tests required for registration as "skilled worker" or "semi-skilled worker" could first apply for registration as "skilled worker (provisional)" or "semi-skilled worker (provisional)". A three-year transitional period would be allowed for them to pass the relevant trade tests. If they were eventually unable to pass the relevant trade tests, they could apply for registration as "general worker". DS/ETW(T&W)W2 further pointed out that the standard for passing the relevant tests was to be determined by a statutory authority, not by employers. The prevailing standard for different skill levels of construction

works would be adopted as the basis for assessment in the trade tests. It was expected that a serving construction worker who was performing duties at the level of "skilled worker" should be able to pass the relevant trade tests for registration as "skilled worker". The Administration believed that the implementation of the registration system would not force any serving worker out of job or affect their wages. Being not convinced, Mr Albert CHAN asked whether the Administration could guarantee that all serving skilled workers would be able to pass the relevant trade tests for registration as "skilled worker". DS/ETW(T&W)W2 said that the Administration could not provide such a guarantee, as it was not sure whether all serving skilled workers were performing duties at the level of "skilled worker".

23. To address Members' concern about the impact of the proposed registration system on serving construction workers in the industry, Mr Albert CHAN requested the Administration to provide an impact assessment, including the impact on the job security, salary levels and employment-related benefits of construction workers, and the measures to safeguard their interests.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)238/02-03 on 6 November 2002.)

Exemption provision

24. Referring to the proposal to exempt workers with ten years or more experience in the construction industry from the registration requirement for "skilled worker", Ms LI Fung-ying enquired about the rationale for selecting "ten years" as the qualifying period for exemption. DS/ETW(T&W)W2 advised that the proposed exemption, which aimed to show respect to the experienced workers, had been discussed for several years by the Working Group comprising representatives of employers associations and workers unions. Consideration had been given to various options under which "six years", "seven years", and so on to "15 years" were selected as the qualifying period for exemption. "Ten years" was a compromise finally reached by the parties concerned.

25. Whilst appreciating that the proposed exemption aimed to show respect to the experienced workers, Ms LI Fung-ying considered that it should also serve as a recognition of the skill level that they had attained. For some of the trades within the construction industry, an experienced worker with less than ten years' experience might have already attained the skill level of a "skilled worker" for that trade. To be fair to the workers, Ms LI urged the Administration to work out some objective criteria for determining the qualifying period for exemption for individual trade of the construction industry. Mr LEUNG Yiu-chung supported her view. In the absence of objective criteria, he queried why "10 years", not "nine years" nor "eight years", was selected as the qualifying period for exemption.

26. DS/ETW(T&W)W2 reiterated that "ten years" was a compromise reached by the parties concerned after several years' discussion. It was estimated that about one-third of the serving construction workers had ten years or more experience in the industry. He also pointed out that workers who were not eligible for exemption could apply for registration through two other channels. For workers with not less than six years' experience, they could apply for registration as "skilled worker (provisional)". After they had passed the relevant trade tests, they could apply for registration as "skilled worker". For workers with not less than four years' experience and passed the relevant trade tests, they could apply for registration as "skilled worker". Mr LEUNG Yiu-chung was concerned that it would not be easy for construction workers to pass the relevant trade tests. DS/ETW(T&W)W2 said that workers would mainly be tested on day-to-day works performed at construction sites. In fact, the trade tests for some of the trades were conducted at work sites. It should not be difficult for an experienced worker to pass such tests.

27. Mr CHAN Kwok-keung did not object to the adoption of "ten years" as the qualifying period for exemption. Given the high mobility of construction workers, however, he was concerned how they could prove their years of experience in the industry. Mr LEUNG Yiu-chung shared Mr CHAN's concern. DS/ETW(T&W)W2 advised that certification of years of experience by relevant employers and workers unions would be accepted. In view of the multi-layered subcontracting system, Mr LEUNG considered it difficult for construction workers to locate their previous employers to certify their years of experience in the industry. Moreover, as far as he knew, it was not common for construction workers to join unions. He therefore queried how the Administration could work out the estimate that about one-third of the serving construction workers had ten years or more experience in the industry. Mr LEUNG also suggested the Administration to make reference to the practice adopted by other industries in the certification of years of experience, such as that for the medical practitioners practising Chinese medicine.

28. DS/ETW(T&W)W2 informed members that the Working Group, in discussing the means for certification of years of experience, had taken account of the mode of operation of the construction industry and made reference to the practice adopted by other industries. The workers unions represented on the Working Group were satisfied with the arrangement that certification of years of experience by workers unions would be accepted by the Registration Authority. Moreover, the Working Group was aware that in general, construction workers worked as a team in which the junior workers were trained by the experienced workers. For workers who had not joined a union, they might request the experienced workers, who had provided training to them, to certify their years of experience. If a worker could not find any union or person to certify his experience, the case would be considered by the Registration Authority on its own merits.

29. Mr James TO Kun-sun also considered it very difficult for construction workers to prove that they had ten years' experience in the industry. He pointed out the following possible situations:

- (a) If workers requested their employers to certify their years of experience, the employers might certify a shorter period so that the workers concerned would not be registered as "skilled worker" and would therefore be remunerated at a lower salary level. There might also be a situation where the employers concerned had closed their business and could not be located;
- (b) If workers requested their unions to certify their years of experience, the unions needed to provide documentary proof to substantiate that the workers concerned had ten years' experience in the industry. If the relevant documentary proof was not available, the unions would not be able to make the certification;
- (c) While workers might request the experienced workers, who had provided training to them, to certify their years of experience, they might not be able to locate the experienced workers who might have already passed away or changed their jobs.

30. Mr James TO suggested the Administration to consider relaxing the registration requirements for serving construction workers. For example, workers who had been working in the construction industry for a continuous period of not less than five years would be allowed for registration under the CWRS. The impact of this suggestion on the quality of construction works should also be considered. DS/ETW(T&W)W2 reiterated that "ten years" was a compromise reached by the parties concerned after several years' discussion. He undertook to reflect Mr TO's views to the Working Group for reconsideration.

Admin

Appeal mechanism

31. Responding to the Chairman and Mr CHAN Kwok-keung, DS/ETW(T&W)W2 advised that under the proposed CWRS, an Appeal Board independent of the statutory Registration Authority would be appointed by the Secretary for the Environment, Transport and Works to handle appeals from construction workers. The Appeal Board would comprise representatives of workers unions in the construction industry.

II. Any other business

32. The Chairman reminded members that the first Panel meeting for 2002-03 session originally scheduled for 10 October 2002 at 3:30 pm had been rescheduled to 8:20 am on the same day. Election of Chairman and Deputy Chairman of the Panel for the new session would be held at that meeting.

33. There being no other business, the meeting ended at 12:20 pm.

Legislative Council Secretariat
19 December 2002