

**Bills Committee on Construction Industry Council (No.2) Bill**

**Administration's Responses to Follow-up Actions  
Arising from Discussions at the Meetings on 20 December 2005 & 5 January 2006**

	<b>Follow-up actions</b>	<b>Administration's responses</b>
(1)	<p>To consider the merits of disclosing by administrative means the names of contractors who failed to pay a levy, surcharge or penalty due and payable under the Bill.</p>	<p>Since the present regulatory system operated by the Construction Industry Training Authority (CITA) is running effectively, there is no pressing need for changes that must be preceded by industry consultation. However, we will invite the Construction Industry Council (CIC) to look into additional control measures.</p>
(2)	<ul style="list-style-type: none"> <li>- To provide a paper with flow charts to explain the existing operation of CITA in relation to levy matters including the imposition, determination and objection.</li> <li>- To review clause 56 to address the following concerns:               <ul style="list-style-type: none"> <li>(i) members responsible for determining levy and for handling objections should be different to avoid role conflict;</li> <li>(ii) there should be criteria for selecting members sitting on the Objections Committee; and</li> <li>(iii) objections should be determined by lay members.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- The paper has been provided under separate cover.</li> <li>- Clause 56 provides for the setting up of a committee specifically to handle objection cases rather than levy assessment. We will ensure that the representatives appointed by CIC to serve on this committee possess the requisite knowledge and expertise to discharge their duties.</li> </ul>

	<b>Follow-up actions</b>	<b>Administration's responses</b>
(3)	<ul style="list-style-type: none"> <li>- To provide an undertaking to report to relevant Panel of the Legislative Council (LegCo) before CITA was dissolved.</li> <li>- To provide a timetable for dissolving CITA.</li> </ul>	<ul style="list-style-type: none"> <li>- We are prepared to submit a report to LegCo before the amalgamation between CIC and CITA takes place but would like to reiterate our view that it is not advisable to stipulate a rigid timeframe on this exercise involving transitional arrangements and staffing issues.</li> </ul>
(4)	<ul style="list-style-type: none"> <li>- To explain the present operation of CITA and the future operation of CIC concerning disclosure of interests of members, including the consequences of failure to do so.</li> <li>- To relay to the Home Affairs Bureau (HAB) the concern of members on the need to standardize the practices concerning disclosure of interests of members serving on various advisory and statutory bodies. Some members consider that there should be a system and a centralized record in this respect.</li> </ul>	<ul style="list-style-type: none"> <li>- A register of interest declarations is being kept by the CITA secretariat. Apart from annual updating of this register, requirements are imposed on disclosure of conflicting interest regarding agenda items discussed at all meetings. Similar codes or guidelines could be developed by CIC, drawing reference from those adopted by other statutory bodies extracted at <b>Annex A</b>.</li> <li>- The concerns and suggestions have been conveyed to HAB.</li> </ul>
(5)	<ul style="list-style-type: none"> <li>- To advise the frequency of transaction of business by resolutions in writing without meetings of CITA.</li> <li>- To review clause 9 in schedule 2 to address the following concerns expressed by Members: <ul style="list-style-type: none"> <li>(i) the authority for deciding transaction of business by a</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Over the past three years, CITA has dealt with 163 discussion items at full meetings and 20 urgent papers by circulation.</li> <li>- We will examine whether clause 9 in schedule 2 could be revised broadly in line with section 2B(3) and (4) of the Town Planning Ordinance (Cap.131) at <b>Annex B</b>.</li> </ul>

	<b>Follow-up actions</b>	<b>Administration's responses</b>
	<p>resolution in writing without meetings should be clearly stated;</p> <p>(ii) there should be clear guidelines setting out the circumstances under which a resolution in writing without meetings are permitted; and</p> <p>(iii) any member may request the holding of a meeting to discuss the matter which is being transacted by circulation of papers.</p> <p>The Administration is requested to refer to the relevant provision in the Town Planning Ordinance.</p>	
(6)	<p>To review clause 2 in schedule 3 to address the following views expressed by Members:</p> <p>(i) if members of the Construction Industry Training Board (CITB) and CIC are intended to be different, the nominating system for members of CIC should also apply to CITB;</p> <p>(ii) if members of CITB are also members of CIC, this would avoid interface and communication problem; and</p> <p>(iii) under the scenario in (ii), other persons could be co-opted into CITB.</p>	<p>Whilst it appears unwieldy to extend the nominating mechanism for CIC to cover CITB, we will consult the key stakeholder groups and revert.</p>

**Extract of Relevant Guidelines for Selected Organizations**

***(A) Construction Industry Training Authority***

10. If a member has a pecuniary interest, whether direct or indirect, in any contract or proposed contract or in any other matter, and is present at a meeting of the Authority at which the contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose to the Authority the fact and nature of his interest. Such member, shall, if so required by the meeting, withdraw from the meeting while the Authority is considering the contract or matter and in any case shall not vote thereon.

***(B) Construction Workers Registration Authority***

- (i) In accordance with Section 3, Part 1 of Schedule 4 of the Construction Workers Registration Ordinance, a member of the Construction Workers Registration Authority (the Authority) who is in any way directly or indirectly interested in a matter to be discussed by the Authority shall disclose his interest at a meeting of the Authority before the matter is put into discussion. The Authority shall record the disclosure in the minutes of its meeting. The member shall not, without the permission of the chairman of the Authority, take part in any deliberation of, or vote on that matter.

***(C) Housing Authority***

4. Registration of Interests

- (1) A Member should register his interests, pecuniary or otherwise, in writing to the Secretary of the Housing Authority within 30 days of his appointment, and thereafter between 1 to 30 April in every ensuing year. If there are changes to the particulars of a Member's registrable interests during the year, he should report such changes to the Secretary of the Housing Authority within 14 days of any changes.
- (2) A Member's registration of pecuniary interests should include –
  - (a) proprietorships, partnerships or remunerated directorships of companies, public or private;
  - (b) remunerated employments, offices, trades, professions or vocations;
  - (c) substantial shareholdings in companies (where the shares held are more than 1% of the company's issued share capital); and

- (d) land and property holdings with a substantial value or from which a substantial income is derived in Hong Kong.
- (3) A Member's registration of non-pecuniary interests should include membership of public bodies, boards and committees which focus of work is closely related to that of the Housing Authority.
- (4) A register of Member's interests should be kept by the Secretary of the Housing Authority and it should be made available for inspection on request by any member of the public.
- (5) Employment of Members in Professional Capacity –

No Member shall appear before the Authority, its committees, sub-committees/panels as a legal practitioner for or on behalf of a party or in a capacity for which he is to receive a fee or award.

#### 5. Declaration of Interests on Matters under Consideration by Members

- (1) If a Member has a pecuniary interest as that defined in Standing Order No. 4(2), non-pecuniary interest as defined in Standing Order No. 4(3) or direct personal interest including that defined in Standing Order No. 4(5) in any matter under consideration either by circulation of paper or by discussion at a meeting by the Authority, or by any of its committees, sub-committees or panels of which he is a Member, he must, as soon as practicable after he has become aware of it, disclose to the Authority, the committee, sub-committee or panel, as the case may be, the nature of that interest.
- (2) If a Member declares an interest at the meeting, the meeting chairman should decide whether the Member concerned may be present at that part of the meeting, and may speak or vote on the matter. If there is objection to such decision, Members other than the Member having an interest should decide by voting.
- (3) All cases of declaration of interests shall be recorded in the minutes of the meeting.

**Extract of the Town Planning Ordinance (Cap.131)**

***2B. Transaction of business by circulation of papers***

- (3) Any member of the Board or of a committee appointed under section 2(3) or 2A may require any business which is being transacted by the circulation of papers under subsection (1) to be transacted at a meeting of the Board or of the committee, as the case may be, by giving a notice in writing to the chairman of the Board or of the committee, as the case may be, within the period specified in the papers.
  
- (4) Where, in respect of any business being transacted by the circulation of papers, a notice is given under subsection (3) to the chairman of the Board or of a committee appointed under section 2(3) or 2A, any resolution approved in writing under subsection (2) in respect of the business shall be void.