

ETWB(IR) 310/9/03/(01)

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30 March 2005

Ms Kitty Cheng
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By Fax: 2877 5029

Dear Ms Cheng,

Construction Industry Council (No.2) Bill

I refer to your letter of 9 March 2005 seeking clarifications on the following aspects.

(1) Clause 5(e) – Chinese rendition of “stakeholders”

The term “stakeholders” and its Chinese rendition as “業內人士” in clause 5(e) of the Bill refer to persons or companies in relation to or connected with the construction industry. This interpretation has been well accepted within the industry and adopted widely in various contexts. Nonetheless, we note your concern on other meanings applied to this word in existing local legislation and would explore the scope of introducing suitable changes to the provision by way of Committee Stage Amendments (CSAs).

(2) Clause 5(f) – Meaning of “personnel”

The term “personnel” used in clauses 5(f) refers to persons taking part or engaging in any kind of construction operations as described in Schedule 1 of the Bill. This also applies to other references to the term under clause 7(2)(g) and (k) in respect of the powers of the proposed Construction Industry Council (CIC).

(3) Clause 5 and 6 – Functions and supplementary functions of CIC

While both clauses 5 and 6 provide for the functions of CIC, those to be performed by the Construction Industry Training Board have been purposely set out in the latter for the reason of clarity. We have reviewed the drafting of these two clauses and considered that their operation would not be subject to or limited by each other as far as the Bill is concerned.

(4) Clause 7(2)(t) – Objects of CIC

We agree with your observation that the reference to “objects” of CIC in clause 7(2)(t) should be reviewed. An amendment would be proposed in due course.

(5) Clause 9 – Composition of CIC

We have already clarified that the terms “professionals/consultants”, and “training institutes or academic or research institutes” are construed with their natural and ordinary meaning in relevant provisions of the Bill. Meanwhile, the proposed nominating mechanism would serve as a useful reference to the classifications adopted in clause 9. Assigning any interpretation to these words is hence unnecessary.

(6) Clause 13 – Casual vacancies

The “criteria” referred to in clause 13(2) are those specified in clause 9(2) and (3) of the Bill. We intend to maintain a balanced interest among key sectors of the industry by ensuring that persons appointed to fill the casual vacancies would comply with the same set of criteria governing the composition of CIC.

(7) Clause 29 – Submission of report to the Secretary

In clause 29(1)(a), CIC is expressly required to submit a general survey of the developments of matters falling within the scope of its functions within 6 months after the end of each financial year. Similar obligation has been imposed on statutory bodies including the Office of the Ombudsman, the Office of the Privacy Commissioner for Personal Data, the Social Workers Registration Board, the Equal Opportunities Commission, as well as the Construction Workers Registration Authority. In light of the considerable precedents available and given the detailed provisions already contained in the Bill in respect of the functions of CIC, it is not necessary to set out any other guidelines on this specific requirement by statute.

Yours sincerely,

(Miss Agnes Kwan)
for Secretary for the Environment,
Transport and Works