

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

Administration's Responses to Outstanding Follow-up Actions

Arising from Discussions at Previous Meetings

(as at 17 February 2006)

	Follow-up actions	Administration's responses
(1)	To consider expressly providing in law that a register of interest declarations of members of the Construction Industry Council (CIC) be kept and made available to members of the public.	We intend to add a new section in schedule 2 of the Bill modeled upon the formulation at Annex A to establish a register of interest declarations available for public inspection.
(2)	To provide the proposed Committee Stage Amendments (CSAs) to section 9 of schedule 2 with reference to section 2B of the Town Planning Ordinance about transaction of business by circulation of papers.	The proposed CSAs are at Annex B .
(3)	<ul style="list-style-type: none"> - To revise section 2 of schedule 3 to address the following views expressed by members – <ul style="list-style-type: none"> (i) CIC should be given the flexibility to appoint members to the Construction Industry Training Board (CITB); (ii) members appointed should be representative of the relevant sectors of the construction industry. A member considered that nominations should be made by industry organizations; and (iii) persons other than CIC members might be appointed to CITB. 	<ul style="list-style-type: none"> - Since a nomination mechanism is already in place to ensure that CIC is representative of key stakeholder groups, we see no real benefit of introducing the same arrangements for CITB. - We agree that the terms of office for members of CITB should be properly aligned with that applicable to members of CIC and propose the amendments at Annex C.

	Follow-up actions	Administration's responses
	<ul style="list-style-type: none"> - To revise section 2 of schedule 3 in line with clause 10 to provide that appointed members of CITB should not be allowed to hold office for more than six consecutive years. 	
(4)	To advise the outcome of the voluntary exit scheme launched by the Construction Industry Training Authority (CITA) and the impact on its financial position.	<ul style="list-style-type: none"> - The voluntary exit scheme has completed with 109 applications approved, resulting in the updated financial position at Annex D. - Despite that a pool of reserves is sustainable in the next few years, CITA must grapple with an annual operating deficit and continue to revamp its training courses as well as to identify new sources of revenue.
(5)	To consider providing a written undertaking concerning smooth transition of CITA staff upon the amalgamation of CITA and CIC.	<ul style="list-style-type: none"> - We are working out a written undertaking to assure that no redundancy of serving staff in CITA will arise due to its amalgamation with CIC for a reasonable period upon enactment of the Bill, drawing reference from a similar exercise to disband the Hong Kong Sports Development Board^{Note 1}. - We have also taken on board the suggestion made by Members to recast clause 82 as shown at Annex E but without changing its legal effect.

^{Note 1} The staff concerned were offered re-employment by the Hong Kong Sports Institute with same conditions on two-year contract term.

	Follow-up actions	Administration's responses
(6)	<ul style="list-style-type: none"> - To advise which three public officers would be appointed by the Secretary to CIC under clause 9(1)(c) before the resumption of the Second Reading Debate on the bill. - To provide a written report outlining work of the task force to be formed by the Provisional Construction Industry Co-ordinating Board to tackle the issues relating to the transitional arrangements before the resumption of the Second Reading Debate on the bill. 	<ul style="list-style-type: none"> - Subject to further consultation with the relevant industry organizations and government departments, senior officials from the Environment, Transport & Works Bureau; the Housing, Planning & Lands Bureau and the Buildings Department will be appointed to sit on CIC. - A work plan drawn up by the Provisional Construction Industry Co-ordination Board will be made available in due course.

6A. Keeping of register by Council

(1) The Council is to establish and maintain a register for the purpose of keeping a record of any disclosure made by a member.

(2) The Council may determine the form of the register, including the manner of making entries in it.

(3) After a disclosure is made by a member, the Council is to cause the name of that member and the particulars of the disclosure to be recorded in the register; if a further disclosure is made, the Council is to cause those particulars to be recorded in the register after such disclosure is made.

(4) For the purpose of enabling any member of the public to ascertain the particulars of the disclosure made by a member, the Council is to make available the register for inspection by the public at any reasonable time.

(5) In this section, “disclosure” () means a disclosure of pecuniary interest required to be made under section 6.

9. Resolutions without meetings

(1) Subject to section 2(2) and this section, any business that may be transacted by a resolution of the Council in a meeting may be validly transacted, without a meeting, by a resolution in writing if –

(a) the resolution is signed and endorsed by more than half of the eligible members; and

(b) it is so signed and endorsed within the specified period.

(2) If a resolution is in the form of more than one document, the requirements of subsection (1)(a) are to be regarded as satisfied if each document is in the like form and the documents together bear the signatures of, and have been endorsed by, more than half of the eligible members.

(3) A telex, cable or facsimile, or an electronically transmitted document, that bears the signature of an eligible member is to be regarded as signed by that member.

(4) A resolution in the form of more than one document is to be regarded as made on the date on which the resolution is signed by the last member to sign and endorse it within the specified period.

(5) A member may, within the specified period, give notice in writing to the chairman requiring that the business to which the resolution relates be transacted at a meeting of the Council.

(6) Where a notice is given under subsection (5), the following applies –

(a) the business to which the resolution relates may not be transacted in the manner described in subsection (1);

(b) a resolution for the purposes of subsection (1) may not be made or regarded as having been made.

(7) For the purposes of this section –

“eligible member” () means a member who, on the date on which the resolution is made, is entitled to attend and vote at a meeting of the Council in respect of the business;

“endorse” (), in relation to a resolution, includes to endorse the transaction of the business by a resolution without a meeting of the Council;

“specified period” (), in relation to any business referred to in subsection (1), means a period –

(a) that is determined by the chairman and specified in the documents circulated for the purposes of transacting the business; and

(b) within which a member may indicate to the Council as to whether he endorses the resolution.

~~9. Resolutions without meetings~~

~~(1) Anything which may be done by resolution of the Council in a meeting may be validly done, without a meeting, by a resolution in writing if the resolution is signed by more than half of the members who, on the date on which the resolution is made, would be entitled to attend and vote at a meeting of the Council.~~

~~(2) If a resolution is in the form of more than one document, the requirement under subsection (1) is to be regarded as satisfied if each document is in the like form and the documents together bear the signatures of more than half of the members.~~

~~(3) — A telex, cable or facsimile, or an electronically transmitted document, that bears the signature of a member is to be regarded as having been signed by that member.~~

~~(4) — A resolution in the form of more than one document is to be regarded as made on the date on which the resolution is signed by the last member to sign it.~~

3. Term of office of Board member who is not public officer

(1) Subject to subsection (2), a Board member who is not a public officer –

(a) holds office for a period determined by the Council; and

(b) is eligible for reappointment on the expiry of his term of office.

(2) A Board member who is not a public officer may not serve as such a member continuously for more than 6 years.

~~**3. Term of office of Board member who is not public officer**~~

~~(1) A Board member who is not a public officer holds office for a period determined by the Council.~~

~~(2) A Board member who is not a public officer is eligible for reappointment on the expiry of his term of office.~~

**Projected Financial Position of
the Construction Industry Training Authority from 2005 to 2010**

Year	Value of construction works commenced (\$ billion)	Value of construction works subject to levy assessment (\$ billion)	Levy income (\$ million)	Operating Surplus / (Deficits) (\$ million)	Accumulated Reserves (excluding fixed assets) (\$ million)
2005	40 – 45	60	210	(22)	208
2006	40 – 45	51	180	0	208
2007	40 – 45	42 – 43	161 – 166	(24) – (20)	184 – 188
2008	40 – 45	40 – 43	158 – 171	(41) – (28)	143 – 160
2009	40 – 45	40 – 44	160 – 178	(32) – (13)	111 – 147
2010	40 – 45	40 – 45	160 – 180	(15) - 7	96 – 154

* Based on the assumption that the value of construction works commencing each year will be \$40 – 45 billion and take into account savings derived from the voluntary exit scheme launched for eligible staff in 2005.

82. Continuance of employment

(1A) The employment of an employee of the CITA is not to be terminated by reason of the dissolution of the CITA.

(1) As from the appointed day, a person who, immediately before that day, is an employee of the CITA under a valid contract of employment and who, if not for the dissolution ~~of the CITA~~, would have been its employee under the contract on that day, becomes an employee of the Council on the same terms and conditions that applied immediately before that day to his employment with the CITA.

(2) There is no break or interruption in the employment of a person referred to in subsection (1) ~~such a person~~ by reason of the commencement of this Part.

(3) This section applies notwithstanding sections 19 and 20.