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**Paper for the House Committee meeting
on 2 February 2007**

**Report of the Subcommittee on
Construction Workers Registration Ordinance
(Amendment of Schedule 1) Notice 2007 and
Construction Workers Registration Ordinance (Commencement) Notice 2007**

Purpose

This paper reports on the deliberations of the Subcommittee formed to study Construction Workers Registration Ordinance (Amendment of Schedule 1) Notice 2007 (the Amendment Notice) and Construction Workers Registration Ordinance (Commencement) Notice 2007 (the Commencement Notice).

Background

2. The Construction Workers Registration Ordinance (Cap. 583) (the Ordinance), enacted in July 2004, provides the legal framework for the implementation of a mandatory registration system for construction workers. Under the system, construction workers are registered for individual designated trades and at different skill levels. Under the Ordinance, it is an offence for an unregistered construction worker to personally carry out construction work on a construction site. It is also an offence to employ unregistered construction workers to carry out construction work on construction sites. The designated trades for which a person may be registered as a registered skilled worker or registered semi-skilled worker are set out in Schedule 1 to the Ordinance.

3. A number of provisions of the Ordinance are not yet in operation. These include provisions relating to prohibition against unregistered construction workers carrying out on construction sites construction work, prohibition against employing unregistered construction workers to carry out on construction sites construction work, the requirement for registered construction workers to carry registration cards on construction sites, the requirement for principal contractors and controllers to retrieve and record data of registered construction workers on construction sites,

as well as item 51 of Part 1 of Schedule 1 to the Ordinance relating to the registration for the trade "Structural Steel Welder".

The Amendment Notice and the Commencement Notice

4. The Amendment Notice (L.N. 3 of 2007) amends Part 1 of Schedule 1 to the Ordinance for the following purposes --

- (a) to amend the "Description of work" for the trades "Cable Jointer (Power)" and "Overhead Linesman" to include an upper voltage limit of 11kV for the jointing of dead cables in the former trade and for handling the overhead line systems specified in the latter trade;
- (b) to amend "Other qualifications" for the trade "Diver" to specify that diving certificates issued by National Association of Underwater Instructors of the United States of America shall be at the class of Advanced SCUBA Diver or above, and to remove the Department of Employment, Vocational Education, Training and Industrial Relations of Australia from the "Other qualifications" of this trade as one of the certifying bodies;
- (c) to amend "Other qualifications" for the trade "Structural Steel Welder" to specify a certificate of passing of a welder test which is in conformity with BS EN 287-1:1992 standard including its amendments issued by a welding inspection body accredited by the Hong Kong Accreditation Service under Hong Kong Laboratory Accreditation Scheme as the qualification requirement for this trade;
- (d) to amend "Description of work" for the trades "Truck Driver (Heavy goods vehicles)", "Truck Driver (Medium goods vehicles)" and "Truck Driver (Special purpose vehicles)" by making reference to specified types of vehicle body; and
- (e) to add a new designated trade "Truck Driver (Articulated vehicles)" for the reason that drivers of the types of vehicle body (i.e. pressure tanker and tipper) specified for this trade are commonly involved in construction work carried out on construction sites.

5. The Amendment Notice will come into operation on 28 February 2007.

6. By the Commencement Notice (L.N. 4 of 2007), the Secretary for the Environment, Transport and Works appoints 28 February 2007 as the day on which item 51 of Part 1 of Schedule 1 to the Ordinance will come into operation. The said item relates to the trade "Structural Steel Welder" for which a person may be registered as a registered skilled worker under the Ordinance.

The Subcommittee

7. At the meeting of the House Committee on 12 January 2007, Members agreed that a subcommittee should be formed to study the two Notices.

8. Under the chairmanship of Hon KWONG Chi-kin, the Subcommittee has held two meetings. The Subcommittee invited the relevant trade unions to attend one of its meetings and give views on the two Notices. The membership list of the Subcommittee is in **Appendix I**.

Deliberations of the Subcommittee

Consultation with the relevant trade unions

9. According to the Administration, in drawing up the two Notices, relevant trade unions have been directly consulted and views from representatives of the relevant trades unions sitting on the various committees of the Construction Workers Registration Authority (CWRA) have been duly incorporated in the Amendment Notice. For instance, the amendments to the existing "Description of work" for the truck driver trades are made having regard to the views of some trade unions that the existing "Description of work" for these trades may be interpreted to include truck drivers who are not carrying out construction work on construction sites while truck drivers of some vehicle body types that are directly involved in construction work on construction sites are not included. The Administration gathers that the relevant trade unions support the amendments.

10. The subcommittee has invited views from the relevant trade unions including those directly affected by the two Notices. Representatives of four trade unions attended a meeting of the Subcommittee and one other trade union provided a written submission. None of them have raised objection to the two Notices, but they raised a number of concerns over the registration arrangements. A list of the five trade unions is at **Appendix II**.

Amendment relating to the "Structural Steel Welder" trade

11. The registration of the trade "Structural Steel Welder" has not commenced due to the absence of a specified qualification. The present amendment to "Other qualifications" for the trade is to facilitate the commencement of the registration of the trade.

12. According to the Administration, the "Structural Steel Welder" trade is a specialized trade. The established practice in the construction industry is to require a person to be tested for his/her welding skill before he/she is employed to carry out structural steel welding work. Hence, any competent worker in the trade should have passed a relevant welder test and obtained the required

certificate. The Administration has also informed the Subcommittee that in specifying the qualification for the trade, consideration has been given to the situation where workers of this trade do not normally renew their certificates until they have been offered an employment. To facilitate the workers' registration, the qualification specified in the Amendment Notice allows flexibility in that an expired certificate would also be accepted for registration.

13. The Welding Industry Employees Association has raised questions on which types of welding skills are required to be tested in conformity with the BS EN 287-1:1992 standard, which is the standard specified in the present amendment to "Other qualifications" for the trade, and whether a relevant trade test certificate jointly issued by the Vocational Training Council and Construction Industry Training Authority would be considered as in conformity with the standard. According to the Administration, the aforementioned standard covers various welding methods that may be used in structural steel welding work. A person who has passed a welder test of any structural steel welding method would be issued a certificate certifying the passing of a welder test which is in conformity with BS EN 287-1:1992 standard. The relevant structural steel welding method for which the person's welding skill has been tested would also be stated in the certificate. As regards the steel welder trade test certificate jointly issued by the Vocational Training Council and Construction Industry Training Authority, the Administration has advised that the trade test does not cover testing of the welding work by an accredited welding inspection body and thus the certificate can only be accepted for registration for the trade "General Welder" but not the trade "Structural Steel Welder".

Amendments relating to the truck driver trades

14. The amendments to the "Description of work" for the trades "Truck Driver (Heavy goods vehicles)", "Truck Driver (Medium goods vehicles)" and "Truck Driver (Special purpose vehicles)", made by way of referring to the specified types of vehicle body, are intended to clearly define the scope of construction workers covered by these trades for the purpose of the Ordinance, as the existing "Description of work" for these trades may be interpreted to include truck drivers who are not directly involved in construction work on construction sites. The "Description of work" for the new designated trade "Truck Driver (Articulated vehicles)" is worded in the same manner.

15. Concern has been raised as to whether the amended descriptions can reflect the legislative intent as the descriptions only make reference to the driving of specified types of vehicle body within, into or out of construction sites and do not refer to any act concerning or forming an integral part of building operation or maintenance work within the definition of "construction work" under section 2 of the Ordinance. The Administration is of the view that the wording of the amended descriptions should suffice to reflect the intention. However, for the avoidance of doubt, the Administration will move a motion to amend the

Amendment Notice by including the wording "for the purpose of carrying out construction work" in the "Description of work" for the four designated truck driver trades. The relevant draft resolution that the Administration has presented to the Subcommittee is in **Appendix III**.

16. The Subcommittee has sought clarification on the qualification required for registration for the designated truck driver trades in the Ordinance. According to the Administration, a person who has been issued by the Transport Department a valid driving licence relevant to the truck driver trade concerned is already qualified for registration.

Amendments relating to the trades "Cable Jointer (Power)" and "Overhead Linesman"

17. The amendments to the "Description of work" for the trades "Cable Jointer (Power)" and "Overhead Linesman" are to include an upper voltage limit of 11kV for the jointing of dead cables in the former trade and for handling the overhead line systems specified in the latter trade. According to the Administration, these amendments are necessary as the skills and training required in carrying out such work above 11kV are beyond those required for a skilled worker, hence falling outside the purview of the Ordinance. The amendments are also in line with the voltage limits set in the relevant apprenticeship training programmes, the completion certificates of which are the qualifications for the registrations of these trades.

Amendments relating to the trade "Diver"

18. The "Other qualifications" for this trade is amended to specify that diving certificates issued by National Association of Underwater Instructors of the United States of America shall be at the class of Advanced SCUBA Diver or above. According to the Administration, this amendment is necessary as local divers may be required to carry out diving work at greater depth.

19. The other amendment to the "Other qualifications" of this trade is to remove the Department of Employment, Vocational Education, Training and Industrial Relations of Australia as one of the certifying bodies, as the organization no longer exists after re-organization of the Australian Government. The Administration has informed the Subcommittee that so far, no divers have used qualifications granted by this organization for the purpose of registration under the Ordinance.

Other concerns raised by trade unions

20. The Subcommittee has noted that various trade unions have raised concerns over the registration arrangements that have been implemented. They in particular have pointed out that the "Description of work" of some of the

designated trades cannot cater for the needs of the practical work circumstances. Moreover, owing to the rigidity and the slow progress of the Construction Workers Qualifications Committee in assessing qualifications other than those specified for the designated trades, many experienced construction workers have yet to be registered as "registered skilled workers", and may only be registered as "registered skilled workers (provisional)" or even "registered general workers" if they have difficulty in obtaining evidence to prove their experience in the relevant trade. Some trade unions have also expressed dissatisfaction over the arrangement for processing equivalent qualifications and conveyed the difficulty of "registered skilled workers (provisional)" in finding time to attend specified training courses for obtaining full registration.

21. According to the Administration, while the qualifications commonly accepted in Hong Kong are specified in the Ordinance for workers' registration, there are mechanisms provided under the Ordinance to handle various situations. Apart from having the Construction Workers Qualifications Committee to consider equivalent qualifications held by workers, workers without any acceptable qualifications but meeting the experience requirements may register as a "registered skilled worker (provisional)" in the first instance and obtain the specified qualification by passing the relevant trade test or attending the specified training course for registration as a "registered skilled worker" within three years. Moreover, the CWRA has been actively pursuing various measures to assist workers to obtain registration.

22. The Subcommittee is of the view that the Administration has the responsibility to ensure that no "competent" workers should be adversely affected by the implementation of the mandatory registration system, and most importantly, the livelihood of construction workers must be safeguarded. Members have urged the Administration and CWRA to actively identify improvement measures in consultation with trade unions and work in collaboration with other local vocational and accreditation bodies to provide coordinated training programmes, expedite the qualification assessment process and remove any anomalies on registration and accreditation matters. Where the problems are found attributable to inadequacies of the Ordinance, the Administration should not hesitate to take the matter to the Legislative Council to rectify the situation. The Subcommittee has also emphasized that the Administration should report to the Panel on Manpower, apart from the Panel on Planning, Lands and Works to which the Administration already plans to report, on the progress of workers registration before the provisions relating to prohibition against unregistered construction workers carrying out on construction sites construction work are brought into operation.

Recommendation

23. The Subcommittee supports the Amendment Notice, the Commencement Notice and the amendments proposed by the Administration to the Amendment Notice as set out in Appendix III.

Advice sought

24. Members are requested to note the deliberations and recommendation of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
31 January 2007

**Subcommittee on
Construction Workers Registration Ordinance
(Amendment of Schedule 1) Notice 2007 and
Construction Workers Registration Ordinance (Commencement) Notice 2007**

Membership list

Chairman	Hon KWONG Chi-kin
Members	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Hon LEE Cheuk-yan Hon TAM Yiu-chung, GBS, JP Hon Abraham SHEK Lai-him, JP Hon LI Fung-ying, BBS, JP Hon WONG Kwok-hing, MH Prof Hon Patrick LAU Sau-shing, SBS, JP
	(Total: 8 members)
Clerk	Ms Anita SIT
Legal Adviser	Ms Connie FUNG
Date	19 January 2007

**Subcommittee on
Construction Workers Registration Ordinance
(Amendment of Schedule 1) Notice 2007 and
Construction Workers Registration Ordinance (Commencement) Notice 2007**

**List of trade unions which have made
oral presentation/written submissions to the Subcommittee**

Oral presentation

1. Electronic Communication Technical Staff Union
2. Hong Kong Air-conditioning and Refrigerating Trades Workers General Union
3. Kowloon Canton Railway Workers Union
4. The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions

Written submissions

1. Kowloon Canton Railway Workers Union
2. Welding Industry Employees Association

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INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

CONSTRUCTION WORKERS REGISTRATION ORDINANCE (AMENDMENT OF SCHEDULE 1) NOTICE 2007

RESOLVED that the Construction Workers Registration Ordinance (Amendment of Schedule 1) Notice 2007, published in the Gazette as Legal Notice No. 3 of 2007 and laid on the table of the Legislative Council on 10 January 2007, be amended –

- (a) in section 2(5), in column 2 of the new item 52A of Part 1 of Schedule 1, by repealing “To drive, within, into or out of construction sites, articulated vehicles which –” and substituting “To drive, within, into or out of construction sites, for the purpose of carrying out construction work, articulated vehicles which –”;
- (b) in section 2(6), in the new column 2 of item 53 of Part 1 of Schedule 1, by repealing “To drive, within, into or out of construction sites, heavy goods vehicles which –” and substituting “To drive, within, into or out of construction sites, for the purpose of carrying out construction work, heavy goods vehicles which –”;

- (c) in section 2(7), in the new column 2 of item 54 of Part 1 of Schedule 1, by repealing “To drive, within, into or out of construction sites, medium goods vehicles which –” and substituting “To drive, within, into or out of construction sites, for the purpose of carrying out construction work, medium goods vehicles which –”;
- (d) in section 2(8), in the new column 2 of item 55 of Part 1 of Schedule 1, by repealing “To drive, within, into or out of construction sites, special purpose vehicles which –” and substituting “To drive, within, into or out of construction sites, for the purpose of carrying out construction work, special purpose vehicles which –”.