

For discussion
on 24 April 2007

**LEGISLATIVE COUNCIL PANEL ON
PLANNING, LANDS AND WORKS**

**Construction Workers Registration Ordinance
Position of Registration and
Proposed Implementation of Phase One Prohibition**

Purpose

This paper reports to Members the latest position of registration of construction workers under the Construction Workers Registration Ordinance and seeks Members' advice on the proposal to proceed with the first phase of implementation in regard to the prohibition provisions under the Ordinance.

Background

2. All along there have been difficulties in Government formulating long term manpower planning and training strategy for the construction industry due to a lack of reliable data on the number, trade and skill level of construction workers. Moreover, there has been concern among the construction industry over the quality of construction works in the absence of a registration system to assess and certify the skill levels of construction workers. The problem has been deliberated at different forums including the then Construction Advisory Board (CAB), Construction Industry Review Committee (CIRC) and Provisional Construction Industry Co-ordination Board (PCICB). It has also been discussed in detail with various stakeholders of the construction industry. After detailed deliberation, it was concluded and recommended that a mandatory registration system for construction workers should be implemented by way of legislation.

3. The Construction Workers Registration Ordinance (CWRO) was enacted in July 2004 to provide for the registration of construction workers; the establishment of a Construction Workers Registration Authority (CWRA) (its membership as well as functions and powers are given at **Annex 1**); a levy to be paid by contractors in respect of construction operations; the regulation of construction workers personally carrying out construction work; and for related matters.

4. The implementation of the provisions as contained in the CWRO will bring about the following benefits to the construction industry:-

- (a) ensure the availability of site entry and exit records that may assist in resolving some of the wage disputes between contractors and workers. Such disputes frequently arise causing great hardship to workers as a result of wage-in-arrears. Often, the employers are willing to resolve the disputes but cannot follow up in the absence of reliable records. The CWRO, with provisions requiring principal contractors to install card reading devices on construction sites for identity verification and attendance record keeping, will be able to address this problem;
- (b) help the combating of hiring of illegal workers working on construction sites so as to protect the employment opportunities of local construction workers. This is, in particular, necessary at time when the unemployment problem persists in the construction industry. The introduction of the registration system will go a long way in assisting to tackle the problem. (Note : Unemployment rate in the construction industry stood at about 9.4% in the period from November 2006 to January 2007. Though this has recovered significantly from about 19% in 2003, it is still significant);
- (c) ensure the availability of more reliable data on labour supply to facilitate manpower planning and training. In this regard, the recently formed Construction Industry Council (CIC) has established a committee entitled “Manpower, Training and Development”. The availability of such data from the CWRA will assist the Committee to analyse the profiles of the local construction work force and to undertake its deliberation in formulating a long term manpower strategy to cope with the fluctuating demand and supply of manpower in the local market as well as developing markets outside Hong Kong;
- (d) ensure the quality of construction works through assessment and certification of the skill levels of construction workers. The CWRO thus requires that workers shall possess the requisite qualifications to qualify for the registration as skilled and semi-skilled workers for designated trades;

- (e) raise the status of construction workers by statutorily recognizing their skill levels so as to instil in them a sense of pride in their work. This will help resolve the difficulty of the industry in attracting new blood and in retaining those who have joined the work force; and
- (f) foster a quality culture in the construction industry by providing the workers with a clear career path, motivating them to aim for higher skill levels, thus higher positions and more income.

5. In the light of the complexity in bringing the CWRO into force, the CWRA proposes to proceed with the implementation in phases. The main reason is to ensure sufficient opportunities be given to all key stakeholders to discuss major issues in order to facilitate smooth implementation. This is also necessary to give construction workers, contractors and other parties concerned sufficient time to gradually adapt to a new series of arrangements.

Progress of Implementation

6. Since the enactment of the CWRO in July 2004, we have brought into effect relevant provisions in the CWRO in relation to the following:-

- (a) setting up of the CWRA and other related matters (details contained in the LegCo Brief dated 15 September 2004 - File Ref. : ETWB(CR)(W)150/101 and the Construction Workers Registration Ordinance (18 of 2004)(Commencement) Notice 2004 gazetted on 17 September 2004 – L.N. 147 of 2004);
- (b) commencement of the imposition of levy and prescribing the rate of levy (details contained in the Construction Workers Registration (Levy) Notice and the Construction Workers Registration Ordinance (Commencement) (No.2) Notice 2004 gazetted on 3 December 2004 – L.N. 195 and 196 of 2004);
- (c) commencement of registration on 29 December 2005 and prescribing the registration and other fees (details contained in the LegCo Brief dated 13 October 2005 - File Ref. : ETWB(CR)(W)1-10/8, the Construction Workers Registration Ordinance (Fees) Regulation and the Construction Workers Registration Ordinance (Commencement) Notice 2005 gazetted on

14 October 2005 – L.N. 166 and 167 of 2005 and the associated Resolution of the Legislative Council gazetted on 18 November 2005 – L.N. of 205 of 2005); and

- (d) amendment to Schedule 1 of the CWRO and associated commencement notice (details contained in the LegCo Brief dated 4 January 2007 – File Ref. : ETWB(CR)(W)1-10/8 Pt.19, the Construction Workers Registration Ordinance (Amendment of Schedule 1) Notice 2007 and the Construction Workers Registration Ordinance (Commencement) Notice 2007 gazetted on 5 January 2007 – L.N. 3 and 4 of 2007 and the associated Resolution of the Legislative Council gazetted on 9 February 2007 – L.N. 23 of 2007).

Latest Position of Registration

7. As regards the registration of construction workers, the CWRA commenced the registration on 29 December 2005. Under the CWRO, registered construction workers are categorized as:-

- (a) registered general workers;
- (b) registered semi-skilled workers; and
- (c) registered skilled workers.

As regards (a), a worker who holds a valid “Green Card”¹ is qualified for the registration as a general worker.

As regards (b), a worker who holds the qualification specified in Schedule 1 of the CWRO such as an intermediate trade test certificate or other equivalent qualifications is qualified for registration as a semi-skilled worker.

As regards (c), a worker who holds the qualification specified in Schedule 1 of the CWRO such as a trade test certificate or other equivalent qualifications is qualified for registration as a skilled worker.

8. In drafting the CWRO, the Administration has already noted that as regards (b) and (c), there are workers with considerable working experience but without the requisite qualification for registration. Hence, the CWRO has also

¹ “Green Card” refers to the certificate issued to a person who has attended a recognized safety training course as specified under section 6BA of the Factories and Industrial Undertakings Ordinance (Cap. 59).

provided for ‘provisional registration’ i.e. a worker with relevant working experience of six years or more in a designated trade can become a registered skilled worker (provisional) for that trade. Such a worker shall either acquire the respective trade test certificate (or equivalent qualification) or complete the specified training course within three years from the date of registration to become a registered skilled worker for the trade. Likewise, a worker with relevant experience of two years or more in a designated trade can become a registered semi-skilled worker (provisional) for that trade. Such a worker shall acquire the respective intermediate trade test certificate (or an equivalent qualification) within three years from the date of registration to become a registered semi-skilled worker for the trade.

9. The number of construction workers in Hong Kong is estimated to be 160,000. Up to 31 March 2007, 149,577 workers have applied for registration and 144,055 workers (90% of the 160,000 workers) have already successfully obtained registration. Statistics of registration of construction workers are shown in the graph at **Annex 2** and the breakdown of the different categories is as follows:-

Registration categories	No. of workers (%)
Registered general worker	72,258 (50.2%)
Registered skilled worker	59,454 (41.3%)
Registered semi-skilled worker	8,910 (6.2%)
Registered skilled worker (provisional)	2,624 (1.8%)
Registered semi-skilled worker (provisional)	809 (0.5%)
Total	144,055 (100%)

It can be seen from the graph that the number of construction workers registered is on a steadily rising trend. Based on the current rate of registration, it is anticipated that the total number of registered construction workers will likely move even closer to the target of 160,000 in the next three to four months.

Bringing into Effect Phase One Prohibition

10. With over 90% of the ‘target population’ already registered and more to come in the next few months, the CWRA considers it is timely to bring into effect ‘Phase One Prohibition’. With effect from the date appointed, unregistered construction workers will be prohibited from carrying out construction work on construction sites. Employers will also be prohibited against employing unregistered construction workers. Since all construction workers who are Hong Kong permanent residents (or not subject to any

conditions of stay regarding employment) and who hold a valid “Green Card” can obtain registration, it is considered unlikely that the proposed Phase One Prohibition will have any major impact on existing construction workers working on construction sites nor bring about any hardship. The CWRA now proposes the date to be **1 September 2007**.

11. It should be noted that even after the proposed ‘Phase One Prohibition date’ of 1 September 2007, workers who still have not attained the status of registered construction worker under the CWRO can continue to go to the CWRA to register. Upon registration, they can then immediately proceed to work. This arrangement is also necessary to cater for new entrants to the construction industry.

12. Before the prohibition is brought into effect, it is necessary to ensure the arrangements be promulgated extensively so that all parties concerned will be made aware of this. The CWRA has hence formulated a comprehensive promotion and publicity plan (including press conferences and releases, briefings, radio/TV APIs, advertisements, letters and leaflets) to promote the registration, publicize Phase One Prohibition and remind the workers concerned to apply for the registration and the contractors to make the necessary preparation.

13. When Phase One Prohibition comes into effect, all principal contractors of both public and private projects have to establish a proper system with card reading device to ensure no unregistered construction workers carrying out construction work on construction sites. We will then be able to have better control of the construction workers working on site, know exactly the identity and keep accurate site attendance records of construction workers. This will help reduce wage dispute and illegal worker problems. This may also facilitate parties concerned including construction workers and contractors to gradually adapt to the registration system. Should any problems arise in the course of implementation, the CWRA will quickly introduce improvement measures so that the system will run smoothly upon ‘full swing’ in due course.

14. There is just one point we would like to report to Members. The CWRA has received comments from a number of engineering institution/associations expressing concerns over the applicability of the registration requirements to the engineering professional and technical personnel (including engineers, site supervisory staff and technicians). They have requested for

exemption from registration under the CWRO. The CWRA has clarified that the intent of the CWRO is to target at construction workers, and hence if engineering professional and technical personnel carry out their duties and responsibilities within their respective professions or expertise fields (and are not personally carrying out construction work on construction sites as construction workers), they are not required to be registered under the CWRO. Against this, the CWRA is prepared to promulgate clear administrative guidelines and will explain the case in detail to parties concerned where necessary.

Way Forward as Regards the Remaining Phase of Prohibition

15. The bringing into effect of Phase One Prohibition will be an important step in the implementation of the registration system. Further down the road, it will be necessary to consider the implementation details and timing for the remaining phase in relation to:-

- (a) prohibition against construction workers not being registered as skilled or semi-skilled workers (including provisional registration) for a designated trade to carry out construction work of that trade on construction sites; and
- (b) prohibition against employers employing such workers.

16. For the implementation of the remaining phase of prohibition, there are complex issues which require detailed deliberation with various stakeholders. In the past year or so, we have had initial discussion with parties concerned including relevant trade unions and associations. They have offered useful views on how implementation should proceed, striking a balance between the need to take into regard circumstances surrounding very experienced workers and the need to maintain/enhance quality of works. A list of the concerns is given at **Annex 3** for Members' reference.

17. The CWRA originally hoped that the remaining phase of prohibition could be implemented in mid-2008. However, in the light of the concerns expressed, it is in active discussion with stakeholders to sort out the outstanding issues. It is of the view that until such issues have been thoroughly deliberated, it will be undesirable to appoint the date for the remaining phase of prohibition as well as the deadline for applications for provisional registration or else implementation would not be smooth. Notwithstanding the above, it is considered that these concerns should not affect the proposed commencement of

Phase One Prohibition.

Advice Sought

18. Members' advice is sought on the overall proposal of implementing the CWRO, in particular, in regard to the bringing into effect Phase One Prohibition. Subject to Members having no objection to the latter, we will proceed to gazette the relevant commencement notice on 18 May 2007 and table it in LegCo for negative vetting starting from 23 May 2007.

Environment, Transport and Works Bureau
April 2007

Annex 1

Construction Workers Registration Authority Membership and Functions and Powers

A. Membership (Current term: 25 October 2006 to 24 October 2008)

Constitution in accordance with section 7 of the CWRO	Name
Chairman	Ir Dr CHOW Ming-kuen, Joseph
Secretary for the Environment, Transport and Works (SETW) or his representative	Ir CHEONG Siu-yau, Ambrose (representing SETW)
3 public officers	Mr CHAN Nap-ming
	Mr TSO Sing-hin
	Ir WOO Kin-ming
2 persons from training institutes in the construction industry in Hong Kong	Ir FU Siu-pun
	Ir TAM King-leung
3 persons from professional bodies connected with the construction industry in Hong Kong	Mr CHEUNG Tat-tong
	Ms KWONG Sum-yea, Anna
	Ir WONG Nai-keung, Philco
2 persons from contractors in the construction industry in Hong Kong	Ir LEE Wing-kee, Stephen
	Ir TSANG Chiu-kwan
3 persons from registered trade unions, registered under the Trade Unions Ordinance (Cap 332), which represent workers in the construction industry in Hong Kong	Mr CHO Kai
	Mr NG Koon-kwan
	Mr SIN Kai-ming
1 person from a real estate developers association in Hong Kong	Mr TSOI Siu-ho, Robert
3 persons connected with the construction industry in Hong Kong	Ir Dr KWAN Wai-kwok, Peter
	Ir LEE Kin-wah
	Mr TSE Lai-leung, Jimmy

B. Functions and Powers of the CWRA
(as extracted from section 8 of the CWRO)

(1) The Authority shall—

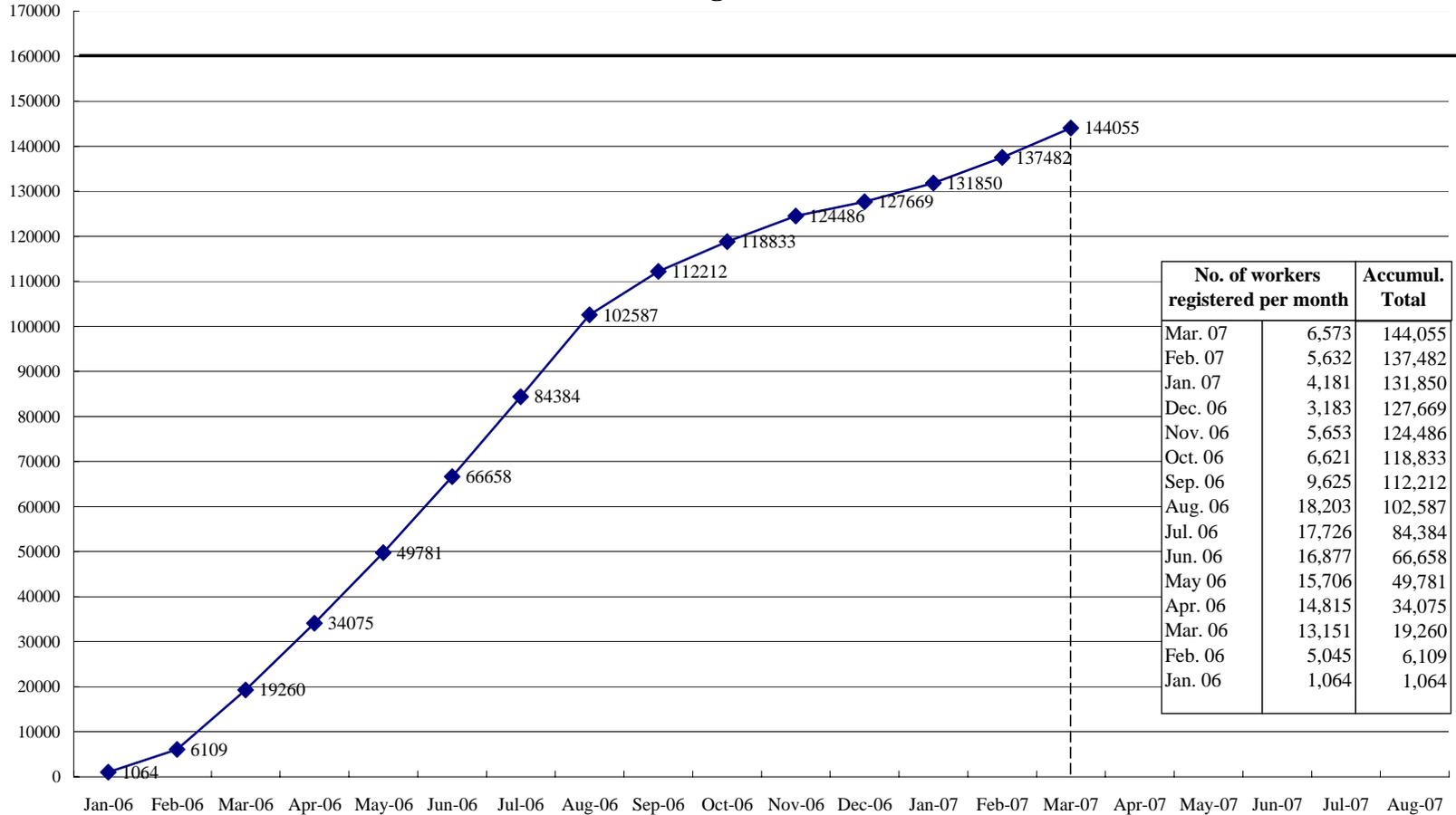
- (a) be responsible for the administration of this Ordinance and the supervision of the registration of persons;
- (b) set the qualification requirements for registration or renewal of registration;
- (c) make recommendations with respect to the rate of levy; and
- (d) perform such other functions as are imposed on it under this Ordinance or any other enactment.

(2) The Authority may do all such things as are necessary for, or incidental or conducive to, the performance of its functions and, in particular but without prejudice to the generality of the foregoing, may—

- (a) establish committees for the performance of its functions and the exercise of its powers;
- (b) employ persons to assist the Authority with the performance of its functions and the exercise of its powers;
- (c) acquire, hold or dispose of property of any description;
- (d) enter into, carry out, assign or accept the assignment of, vary or rescind, any contract, agreement or other obligation;
- (e) borrow money on such security as may be necessary and for that purpose, charge all or any of the property of the Authority; and
- (f) exercise such other powers as are conferred on the Authority under this Ordinance or any other enactment.

No. of Construction Workers Registered

Registration of Construction Workers Progress Chart



	No. of workers registered per month	Accumul. Total
Mar. 07	6,573	144,055
Feb. 07	5,632	137,482
Jan. 07	4,181	131,850
Dec. 06	3,183	127,669
Nov. 06	5,653	124,486
Oct. 06	6,621	118,833
Sep. 06	9,625	112,212
Aug. 06	18,203	102,587
Jul. 06	17,726	84,384
Jun. 06	16,877	66,658
May 06	15,706	49,781
Apr. 06	14,815	34,075
Mar. 06	13,151	19,260
Feb. 06	5,045	6,109
Jan. 06	1,064	1,064

Concerns on Registration of Construction Workers

During consultation with various stakeholders of the construction industry, we are aware that they have the following concerns in implementing the CWRO:

- (a) There is only a small number of registered skilled and semi-skilled workers (including provisional registration) for some designated trades. These include floor layer, mason, window frame/curtain wall installer, glazier and joiner. Some stakeholders are concerned that the lack of sufficient registered workers in these trades could impact on the industry (mainly on building construction works).
- (b) There are worries that single-skilled workers are having difficulties in obtaining the requisite qualification for registration as skilled or semi-skilled workers in designated trades with multiple skills.
- (c) Some of the very experienced workers in the Kowloon Canton Railway Corporation (KCRC) are without the requisite qualification and have difficulty in registering as skilled workers under the CWRO.
- (d) Lift/escalator workers who are not employed by registered lift/escalator contractors and without undergoing formal academic training or craft apprenticeship are currently not regarded as “competent lift/escalator workers” within the meaning of section 29A(4) of the Lifts and Escalators (Safety) Ordinance (cap 327), and hence they are not qualified for registration as skilled workers for relevant trades under the CWRO.
- (e) There is a recent concern that the practical assessment element in the specified training courses is considered too harsh for the registered skilled workers (provisional) to obtain the relevant registration, and hence deletion of such assessment is requested.

2. We need to highlight that notwithstanding the above, it is considered that these concerns should not affect the proposed commencement of Phase One Prohibition. The CWRA and the Administration are fully aware of the concerns and will continue to work in collaboration with the construction industry to resolve these issues.