

立法會
Legislative Council

LC Paper No. CB(1)2648/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/11

Bills Committee on Construction Industry Legislation
(Miscellaneous Amendments) Bill 2012

Minutes of the third meeting
held on Monday, 14 May 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex

- Members present** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
(Chairman)
Hon LI Fung-ying, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP
Hon Cyd HO Sau-lan
- Public officers attending** : Agenda Item I

Mr Enoch LAM Tin-sing
Deputy Secretary for Development (Works) 2

Miss Charmaine WONG Hoi-wan
Principal Assistant Secretary for Development
(Works)1

Mr LAU Chun-kit
Chief Assistant Secretary for Development
(Works)6

Mr NGAI Hon-wah
Assistant Secretary for Development (Works
Policies)8

Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice

Ms Lonnie NG Wah-chi
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Simon CHEUNG
Senior Council Secretary (1)9

Miss Iris CHEUNG
Legislative Assistant (1)7

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1826/11-12(01) -- List of follow-up actions
arising at the last meeting on
5 May 2012

LC Paper No. CB(1)1826/11-12(02) -- Administration's response to
issues raised at the last
meeting on 5 May 2012

LC Paper No. CB(3)510/11-12 -- The Bill

- File Ref: DEVB(CR)W1-10/31 -- Legislative Council Brief issued by Development Bureau
- LC Paper No. LS39/11-12 -- Legal Service Division Report
- LC Paper No. CB(1)1556/11-12(01) -- Marked-up copy of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)1774/11-12(02) -- Letter dated 3 May 2012 from Assistant Legal Adviser to the Administration
- LC Paper No. CB(1)1826/11-12(03) -- Administration's response to Assistant Legal Adviser's letter dated 3 May 2012)

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Clause-by-clause examination of the Bill

2. The Bills Committee completed scrutiny of the long title and clauses 1 to 39 of the Bill.

Follow-up actions required of the Administration

Admin 3. The Administration was requested to take follow-up actions as set out below in response to members' requests -

(a) Staffing arrangements upon amalgamation

- (i) To provide information on the actual staff-mix in Construction Workers Registration Authority ("CWRA"), including a table showing the respective numbers of employee categories; and
- (ii) To request the Construction Industry Council ("CIC") management to issue a letter assuring the affected employees that the amalgamation of the CIC and CWRA would cause no change to their existing terms and conditions of employment.

(Post-meeting note: Supplementary information provided by the

Administration was circulated to members vide LC Paper No. CB(1)1878/11-12(02) on 16 May 2012)

(b) Proposed new section 45A of Construction Workers Registration Ordinance on application to extend registration

In response to members' enquiry about the future modus operandi of handling of applications for extension of registration as registered skilled workers and whether these workers would have to pay any application fee, the Administration advised that no application fee was required, but that workers would need to comply with a set of administrative guidelines on the completion of prescribed forms and production of valid medical certificates, etc. The Bills Committee requested the Administration to consult relevant stakeholders on the administrative guidelines to be formulated in due course.

Date of next meeting

4. The Bills Committee agreed that the next meeting would be held on 15 May 2012 at 2:30 pm.

II. Any other business

5. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
27 September 2012

**Proceedings of the third meeting of
Bills Committee on Construction Industry Legislation (Miscellaneous Amendments) Bill 2012
on Monday, 14 May 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
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| <i>Agenda Item I – Meeting with the Administration</i> | | | |
| 000908 - 001021 | Chairman | Opening remarks | |
| 001022 - 002428 | Administration | <p>Briefing by the Administration on matters arising from the Bills Committee meetings on 5 May 2012 that –</p> <ul style="list-style-type: none"> (a) for the Construction Industry Council ("CIC") staff deployed to perform registration functions of CWRA, CIC's assurance was that the terms and conditions of these contract staff would not be affected by the amalgamation; (b) for temporary staff employed by CIC in coping with seasonal fluctuations in worker registrations, it was necessary to maintain the present employment arrangements; (c) CIC management was actively liaising with the CIC Staff General Union to follow up with its various concerns; (d) as regards construction workers' registration cards, at present, CWRA only collected essential personal information (such as Hong Kong Identity ("HKI/D") Card number, address and contact phone number). All data so collected had been handled in accordance with the provisions under the Personal Data (Privacy) Ordinance. Upon amalgamation, CIC would strictly comply with the statutory requirements; (e) to protect workers' privacy while ensuring that contractors have sufficient information for the verification requirement, contractors using card-reading device would have access only to part of the workers' data, viz. name, English prefix and the first three digits of the HKI/D Card number, and other key information. Access to card-reading devices installed at the construction sites were confined to principal contractors and designated persons who needed to handle these data; (f) amalgamation of CIC and CWRA would enhance | |

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| | | <p>operational efficiency in the following aspects: (i) consistent policy and priority setting – on amalgamation, procedures would be streamlined and only CIC would formulate policies and set priorities for the whole industry; (ii) enhancement of administrative and operational efficiency – on amalgamation, only one single body would be responsible for formulating, promoting, implementing and reviewing all relevant functions, and this would enhance operational efficiency, achieve synergy and facilitate the nurturing of a high quality workforce; (iii) more effective resources deployment and sharing of information; (iv) legislative amendments to cater for extension of provisional registration period of workers, consolidation of construction-related registration cards, delegation of power by CIC and greater flexibility for CIC to handle fixed term or call deposits, etc</p> | |
| 002419 - 003924 | Chairman Mr IP Wai-ming Administration | <p>The Chairman's query about the Chinese translation of the term "operational efficiency" in paragraph 11(2) of the Administration's paper</p> <p>Enquiry/views raised by Mr IP Wai-ming about –</p> <ul style="list-style-type: none"> (a) the staff-mix and terms of employment of CIC staff who were deployed to perform workers registration duties under CWRA; (b) the possibility for CIC management to issue a formal letter to the 14 contract staff assuring them of job security upon amalgamation of CIC and CWRA so as to alleviate staff unions' concerns; (c) worries that the amalgamation could lead to a "single and huge" organization in the construction industry characterized by inefficiency, rigidity and structural inflation. It was necessary for the Administration to effectively regulate the operation of CIC; (d) whether members of the public and the Legislative Council ("LegCo") or any relevant bodies would be able to monitor the operation and performance of CIC in future; and (e) the Administration should learn from bitter experiences of the amalgamation of CIC with the former Construction Industry Training Authority ("CITA") some years ago which had led to numerous complaints from the staff unions even up to this date | |

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| | | <p>Response of the Administration that –</p> <p>(a) there were two categories of CIC staff currently performing registration functions for CWRA and they included 14 contract staff and some temporary staff. The latter were employed to cope with peak seasons of worker registrations. According to CIC, amalgamation would not cause any change to the employment terms of these two categories of staff;</p> <p>(b) the Administration would liaise with CIC on Mr IP's suggestion urging the latter to issue a formal letter duly informing the 14 contract staff that there would be no change to their terms of employment upon amalgamation;</p> <p>(c) amalgamation of CIC and CWRA and related changes were based on a comprehensive review completed in January 2001 which suggested that a single statutory body should be set up to spearhead reforms and continuous improvements for the construction industry. In fact, when the CIC Bill was introduced into the LegCo in 2004, the Administration made it clear that its legislative intent was for CIC to undertake training and registration of construction personnel as well as other self-regulatory regimes;</p> <p>(d) as for the monitoring of CIC's operation, it should be noted that the number of workers unions' representatives on the statutory boards would increase from two persons to three persons. Public access to meeting minutes of CIC was allowed over the Internet, and progress reports would be submitted to LegCo from time to time. Where necessary, Chairman and members of senior management of CIC would also be invited to attend meetings in LegCo to respond directly to queries raised by LegCo Members. DEVB would keep the operation of CIC under close surveillance</p> | |
| 003925 - 004510 | Ms LI Fung-ying Administration Chairman | <p>Expression of views of Ms LI Fung-ying that –</p> <p>(a) she welcomed the Administration and CIC management's decision to meet with the CIC Staff General Union to listen to the concerns of the staff side, and enquired whether the meeting had been lined up;</p> <p>(b) to give the Bills Committee a clearer picture of the staff-mix currently serving in CWRA, the</p> | |

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| | | <p>Administration should provide a table showing respective numbers of the employee categories together with relevant information; and</p> <p>(c) she agreed that in order to allay worries of the various categories of employees, the Administration should liaise with CIC management with a view to issuing a letter assuring these employees that the amalgamation would cause no change to their existing terms of employment</p> <p>Response by the Administration that –</p> <p>(a) it had all along been liaising with the staff side on the need to maintain their existing terms of employment upon amalgamation, and had given due attention to the provision of a safe and healthy working environment for the staff;</p> <p>(b) further to a meeting on 16 May 2012 during which Executive Director of CIC discussed and exchanged views with the 23 staff members from CWRA Secretariat on amalgamation-related arrangements, a meeting with CIC Staff General Union had been lined up by the Administration for 25 May 2012;</p> <p>(c) the Administration realized the aspiration of serving staff in obtaining something written as solid assurance of the protection of their terms of employment and would take appropriate actions with CIC Management to this end. In this connection, the Administration would request the CIC management to issue a letter assuring the affected employees that the amalgamation of the CIC and CWRA would cause no change to their existing terms and conditions of employment; and</p> <p>(d) as requested by the Bills Committee, the Administration would provide supplementary information on the staff-mix of those serving in CWRA after the meeting</p> | <p>Administration to take follow-up action (para. 3 of minutes)</p> <p>Administration to take follow-up action (para. 3 of minutes)</p> |
| 004511 - 004609 | Mr IP Wai Ming Chairman Administration | <p>Enquiry and expression of views by Mr IP Wai-ming that –</p> <p>(a) whether the card-reading device installed at the construction sites would be provided by the Government or the contractor; and</p> <p>(b) he cautioned that due care should be exercised by the</p> | |

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| | | <p>Administration so that personal information captured by these devices would not be divulged on to unauthorized parties</p> <p>Response of the Administration that –</p> <p>(a) under section 58 of the Construction Workers Registration Ordinance, it would be a responsibility for the principal contractor to install card-reading device; and</p> <p>(b) various measures had been taken to protect privacy of the construction workers stored in the registration card</p> | |
| 004610 - 005149 | Chairman Administration | <p><u>Clause-by-clause examination of the Bill</u></p> <p>The Administration led members through the Chinese version of the marked-up copy of the Bill (LC Paper No. CB(1)1556/11-12(01)) from Page 0001 to Page 0035.</p> <p>Briefing by the Administration that –</p> <p>(a) the main proposals in the Bill would be to: (i) amend CWRO and CICO to dissolve CWRA and transfer its functions to CIC; (ii) provide for miscellaneous matters; and (iii) make incidental, consequential and related amendments;</p> <p>(b) the Bill sought to amend Construction Workers Registration Ordinance ("CWRO"), Construction Industry Council Ordinance ("CICO"), Prevention of Bribery Ordinance (Cap. 201) and Pneumoconiosis and Mesothelioma (Compensation) (Assessment of Levy) Regulations (Cap. 360A); and</p> <p>(c) as a result of the amalgamation of CIC and CWRA, major changes brought by the Bill would include the change of "CWRA" to "CIC" and to "Registration Board" (註冊委員會) under some circumstances. Other significant changes included making CWRO binding the Government, increase of trade union representatives on boards, enabling worker registration card to store and display information of other construction-related registration cards and extension of the validity of provisional registration under specified circumstances</p> | |
| 005150 - 012729 | Administration Assistant Legal Adviser 8 | <p><u>Clause 8</u></p> <p>Advice by ALA that the new section (1)(d) had failed to</p> | |

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| | ("ALA") Ms LI Fung-ying Mr IP Wai-ming | <p>include <i>"any other enactment"</i> in line with the deleted section (1)(d)</p> <p>Response of the Administration that <i>"any other enactment"</i> was not necessary due to the presence of the CICO which already provided CIC with such functions</p> <p><u>Clause 9</u></p> <p>Ms LI Fung-ying's enquiry about numbering of the clauses in the event of deletion</p> <p>Response of the Administration that any deletion would cause no change to the numbering of the sections of an ordinance and that editorial notes giving details of the deletion would be inserted in the Loose-leaf Edition of the Ordinance</p> <p>The Administration's elaboration on the meaning of <i>"registration function"</i> and response to the queries raised by Mr IP Wai-ming</p> <p><u>Clause 12</u></p> <p>The Administration's advice that the number of trade union representatives on the Qualifications Board would be increased from two persons to three persons</p> <p><u>Clause 14</u></p> <p>The Administration's advice that the number of trade union representatives on the Review Board would be increased from two persons to three persons</p> <p><u>Clause 18 (Section 26 of CWRO)</u></p> <p>The Administration's advice that as rightly pointed out by ALA, the term "管理局" in section 26(2) of CWRO should be changed to "議會"</p> | |
| 012730 - 013619 | Administration Ms LI Fung-ying | <p><u>Clause 24 (Section 44 of CWRO)</u></p> <p>Extension of the period allowed for registration renewal from 3 months to 6 months under section 44(7)(a)</p> <p><u>Clauses 25 and 26 (Sections 45 and 45A of CWRO)</u></p> <p>The Administration's explanation that subsection (8) of new section 45A of CWRO provided that the Registrar</p> | |

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| | | <p>might approve an application for extension as a registered skilled worker (provisional) on the ground of illness or injury of the applicant</p> <p>Enquiry by Ms LI Fung-ying on the modus operandi in future of the processing of workers' applications for extension of registration as registered skilled workers (provisional) and whether these workers would be required to contribute any application fee</p> <p>Response by the Administration that while workers applying for registration extension up to a maximum of 12 months would not be required to contribute any fee for their applications, they would be required to comply with a set of administrative guidelines governing the completion of prescribed forms and production of valid medical certificates etc. to be formulated</p> <p>Response of Ms LI Fung-ying that –</p> <p>(a) she agreed in general with the proposed arrangements for the application for provisional registration extension; and</p> <p>(b) she requested the Administration to consult relevant stakeholders when it and CIC came to formulate the guidelines</p> | |
| 013620 - 020140 | Administration Chairman ALA | <p><u>Clauses 27 and 28 (Sections 46 and 46A of CWRO)</u></p> <p>The Administration's explanation that sections 46 and 46A of CWRO dealt with the issue of registration card and the proposed improvement measure to enable the registration card to store and display information of other construction-related registration cards</p> <p>Exchange of views of the Chairman, ALA and the Administration with regard to the Chinese terms of "攸關" and "關乎" in subsection (1)(a)(i) and (ii) of new section 46A</p> <p>Expression of views by ALA on the use of the term "獲發" where it secondly appears in subsection (5) of new section 46A and agreement of the Administration to review the Chinese text of this section</p> <p><u>Clause 29 (Section 49 of CWRO)</u></p> <p>Upon the comment made bt ALA, the Administration's</p> | |

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| | | <p>undertaking to review the use of the terms "交予" and "交還" in relation to "return" and "surrender" in section 49 of CWRO</p> <p><u>Clauses 30 and 31 (Sections 51 and 52 of CWRO)</u></p> <p>The Administration's explanation that new section 45A(7) of CWRO was not a basis on which the Registrar might reject an application under new section 45A(1). Section 45A(7) provided for the Registrar's duty to notify the applicant if such an application was rejected. A reference to new section 45A(7) therefore did not appear in amended sections 51(1) and 52(1) of CWRO.</p> | |
| 020141 - 020356 | Chairman | Meeting arrangements | |