

立法會 *Legislative Council*

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

Background brief

Purpose

This paper provides background information on the Construction Industry Legislation (Miscellaneous Amendments) Bill 2012 ("the Bill") and summarizes the views and concerns expressed by members when the relevant legislative proposals were discussed by the Panel on Development ("the Panel").

Background

2. In January 2001, the Construction Industry Review Committee completed a comprehensive review of the state of the local construction industry and recommended, among others, the setting up of a statutory industry coordinating body to establish a better focus on pan-industry strategic issues in achieving continuous improvement across the industry. The Committee also supported in principle the implementation of a worker registration scheme through legislative means proposed by the then Construction Advisory Board. Subsequently, the Construction Workers Registration Ordinance (Cap. 583) ("CWRO") and the Construction Industry Council Ordinance (Cap. 587) ("CICO") were enacted in July 2004 and May 2006 respectively. Two statutory bodies, the Construction Workers Registration ("CWRA") and the Construction Industry Council ("CIC"), were established under the two ordinances on 18 September 2004 and 1 February 2007 respectively.

3. On training for construction personnel, CIC was amalgamated with the then Construction Industry Training Authority in January 2008. The main functions of CIC are to forge consensus on long-term strategic issues, convey the industry's needs and aspirations to the Administration, and to provide a communication channel for the Administration to solicit advice on all construction-related matters. To propagate improvements across the

entire industry, CIC is empowered to formulate codes of conduct, administer registration and rating schemes, steer forward research and manpower development, facilitate adoption of construction standards, promote good practices and compile performance indicators.

4. On construction workers registration, CWRA started the registration of workers in December 2005, and implemented the Phase One Prohibition under CWRO in September 2007, which barred unregistered construction workers from carrying out construction work at construction sites and prohibited employers from employing unregistered construction workers.

5. On 23 November 2010 and 28 June 2011, the Administration briefed the Panel on the legislative proposals to amend CICO and CWRO to --

- (a) amalgamate CIC and CWRA;
- (b) streamline the operational efficiency of the two statutory bodies;
- (c) facilitate the consolidation of various construction-related cards; and
- (d) take forward the implementation of the Phase Two Prohibition under CWRO, which will prohibit workers from undertaking construction works except for those trades they are registered for.

6. According to the Administration, the amalgamation of CIC and CWRA will improve the operational efficiency of CIC and the construction workers registration system in the following aspects --

- (a) establishment of a single statutory body for the industry;
- (b) ensuring consistent policy and priority setting for the industry;
- (c) enhancement of administrative and operational efficiency;
- (d) elimination of ambiguity in demarcation of responsibilities;
and

- (e) achieving more effective deployment of resources and sharing of information.

Two-stage approach to legislative amendments

7. The Administration proposed to take forward the legislative amendments in paragraph 5 above in two stages.

Stage 1 legislative amendments

8. Stage 1 involves legislative amendments for the amalgamation of CIC and CWRA, streamlining the operational efficiency of the amalgamated body, and allowing the future construction workers registration card to store and display information of other construction-related cards/certificates issued by other authorities.

Stage 2 legislative amendments

9. Stage 2 will deal mainly with legislative amendments to facilitate the implementation of the Phase Two Prohibition under CWRO. In anticipation of the difficulties encountered in taking forward Phase Two Prohibition and the time required for consultation with relevant industry stakeholders, the Administration intends to introduce Stage 2 legislative amendments into LegCo in the fourth quarter of 2013.

Major proposals in the Construction Industry Legislation (Miscellaneous Amendments) Bill 2012

10. The Bill was introduced into LegCo on 29 February 2012 to seek to amend CICO and CWRO to effect the aforesaid Stage 1 legislative amendments. The major legislative proposals contained in the Bill are summarized below.¹

Amalgamation of CIC and CWRA

11. CWRA will be dissolved and its functions will be conferred on CIC. In other words, CIC will administer CWRO in addition to CICO. A new

¹ Details of the Bill are available in the Legislative Council Brief on the Bill (DEVB(CR)W1-10/31) issued in February 2012.

body, to be named as the "Construction Workers Registration Board", will be established under CIC. This new body will be provided for under the amended CWRO to preserve its distinct identity.

Enhancement of operational efficiency

12. There will be amendments in CICO and CWRO to enhance the operational efficiency of the amalgamated body and the construction workers registration system, including --

- (a) To allow CIC to delegate to its employees and committees the power to enter into contracts or assignment of minor or routine nature;
- (b) To allow more lead time for renewal of worker registration from 3 months to 6 months before expiry of registration; and
- (c) To allow extension of the validity period of registration as skilled worker (provisional) and semi-skilled worker (provisional) so that the concerned workers can have some flexibility in respect of the time limit for them to take a test/assessment for registration as skilled worker or semi-skilled worker.

Merging of construction-related cards

13. At present, construction workers need to carry with them different types of construction-related cards/certificates to meet statutory and/or administrative requirements. A new provision is proposed to be included in CWRO to enable a construction worker registration card issued under CWRO to store and display information of other construction-related cards/certificates issued by other authorities. This arrangement paves the way for the registration card to serve as valid proof of possession of the other cards.

Application of CICO and CWRO to the Government

14. At present, CICO is binding on the Government while CWRO is not. The amended CWRO will apply to the Government, being one of the major clients of construction projects, to make it consistent with CICO.

Increase of workers' representation in statutory boards

15. Upon the amalgamation of CIC and CWRA, the number of workers union's representatives in each of the statutory boards under the amended

CICO and CWRO, namely the Construction Industry Training Board, the Construction Workers Qualifications Board and the Construction Workers Review Board, will increase from two to three.

Transitional staffing arrangements for CWRA

16. There will be provisions in the Bill to ensure the continuance of existing employments of CWRA staff until their natural expiry.

Major views and concerns expressed by Panel members

17. The Panel on Development was briefed on the legislative proposals contained in the Bill on 23 November 2010 and 28 June 2011. Panel members were generally supportive to streamlining the organization of the two statutory bodies to improve their operational efficiency and service performance in principle. Their views and concerns on the legislative proposals are summarized below.

Enhancing the interest of construction workers

18. Panel members held the view that the Administration should fully consult the relevant labour unions when drafting the legislative amendments, and the number of representatives from labour unions and workers at CIC should be increased after the amalgamation. Moreover, the amalgamated organization should provide one-stop services for construction workers' registration, merge the various construction-related cards into one, waive or greatly reduce the registration and card fees, and reduce the fees of training courses and trade tests.

Organizational structure and staffing arrangements

19. Some Panel members considered that under the new organization, there should be distinct functions for the units and clear division of work. The Administration should also carefully handle the staffing arrangements for the amalgamation and ensure adequate communication between the management and the staff. There should be transitional arrangements for the affected staff and the statutory rights of existing employees should be duly protected during the amalgamation.

Monitoring of the work of the amalgamated organization and further legislative amendments

20. As the amalgamated organization would be the single regulatory body for the construction industry with centralised power for licensing,

enforcement, registration, testing and training, Panel members stressed that there should be a proper mechanism to monitor the work of the organization and to handle complaints against the organization. Some members opined that future legislative amendments on workers' registration for different categories of works should be included in the principal legislation, instead of the subsidiary legislation, so as to facilitate LegCo in monitoring these changes.

Relevant papers

21. A list of the relevant papers with their hyperlinks to the LegCo website is at the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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List of relevant papers

Council/ Committee	Date of meeting	Paper
Panel on Development	23 November 2010	<p>Administration's paper -- An update on the work of the Construction Industry Council and the Construction Workers Registration Authority and the way ahead (LC Paper No. CB(1)467/10-11(03)) http://www.legco.gov.hk/yr10-11/english/panels/dev/papers/dev1123cb1-467-3-e.pdf</p> <p>Minutes http://www.legco.gov.hk/yr10-11/english/panels/dev/minutes/dev20101123.pdf</p>
Panel on Development	28 June 2011	<p>Administration's paper -- Proposed amendments to the Construction Industry Council Ordinance and Construction Workers Registration Ordinance (LC Paper No. CB(1)2530/10-11(08)) http://legco.gov.hk/yr10-11/english/panels/dev/papers/dev0628cb1-2530-8-e.pdf</p> <p>Minutes http://legco.gov.hk/yr10-11/english/panels/dev/minutes/dev20110628.pdf</p>