

立法會

Legislative Council

LC Paper No. CB(1)428/16-17

Ref.: CB1/SS/4/16

Paper for the House Committee meeting on 20 January 2017

Report of the Subcommittee on Construction Workers Registration (Exemption) Regulation and Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016

Purpose

This paper reports on the deliberations of the Subcommittee on Construction Workers Registration (Exemption) Regulation and Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016 ("the Subcommittee").

Background

2. Enacted in July 2004, the Construction Workers Registration Ordinance (Cap. 583) ("CWRO") provides for the registration of construction workers and the regulation of construction workers personally carrying out construction work on construction sites. CWRO prohibits construction workers from carrying out construction work on construction sites without proper registration ("the Prohibition"). The Prohibition requirements are implemented in phases. On 1 September 2007, the first phase of the Prohibition was implemented, i.e. forbidding unregistered construction workers from carrying out construction work on construction sites. The remaining phase of the Prohibition, i.e. forbidding workers from carrying out construction work involving skills required by designated trade divisions unless they are registered for the relevant trade divisions or under the "instruction and supervision" of a relevant trade division-registered worker (commonly known as the "designated workers for designated skills" requirement or the "DWDS requirement" in short), has yet to be implemented.

3. CWRO was amended by the Construction Workers Registration (Amendment) Ordinance 2014 ("CWR(A)O"), which was enacted in December 2014 and took effect on 1 April 2015 (except the DWDS requirement which will come into operation on 1 April 2017). Under CWR(A)O, section 63A has been added to CWRO, where the Secretary for Development ("SDEV") is empowered to make a regulation to exempt specified construction work and persons from the DWDS requirement. CWR(A)O has also revamped the construction workers registration system to, inter alia, change the registration basis from "trade" to "trade division" and create new "trade division(s)" as necessary.¹

Construction Workers Registration (Exemption) Regulation

4. Pursuant to section 63A of CWRO, SDEV has made the Construction Workers Registration (Exemption) Regulation ("the Exemption Regulation") to provide exemption from the DWDS requirement in the following three aspects:

(a) Emergency construction work

Emergency construction work is exempted from the DWDS requirement for a period of 72 hours counting from the time at which the responsible contractor becomes aware of the emergency. The work to be exempted is limited to the ones involving the skills of the 47 designated trade divisions specified at Schedule 1 to the Exemption Regulation. Upon being aware of the emergency, the contractor must notify the Construction Industry Council ("CIC") the commencement of the emergency work within 48 hours, and must submit a record of the emergency work to CIC within 96 hours.

(b) Small-scale construction work

Similar to the exemption for emergency construction work, the small-scale construction work to be exempted is limited to the ones involving the skills of the said 47 designated trade

¹ Please refer to the Report of the Bills Committee on Construction Workers Registration (Amendment) Bill 2014 (LC Paper No. CB(1)334/14-15) for the details of the Bill/CWR(A)O.

divisions. Details of the exemption are at Schedules 2 and 3 to the Exemption Regulation.

(c) Persons already exempted under other specified ordinances

Persons are exempted from the DWDS requirement as and when these persons are already exempted from similar requirements under the Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51D), the Electricity Ordinance (Cap. 406) and the Lifts and Escalators Ordinance (Cap. 618).

Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016

5. SDEV has made Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016 ("the Amendment Notice") pursuant to section 65 of CWRO to amend Schedule 1 to CWRO by adding three trade divisions, namely, false ceiling installer, partition (metal frame) installer and cable jointer (dead cable), amend Schedule 1A to CWRO to provide for the relevant work across arrangements², and provide relevant transitional provisions.

6. The Exemption Regulation and the Amendment Notice were gazetted on 9 December 2016 and tabled before the Legislative Council at its meeting of 14 December 2016 for negative vetting. Most of the provisions will come into operation on 1 April 2017.

The Subcommittee

7. At the House Committee meeting on 16 December 2016, Members agreed to form a subcommittee to study the two items of subsidiary legislation. The membership list of the Subcommittee is in the **Appendix**.

² The work across arrangements allow registered skilled workers of certain trade divisions to carry out the skilled work of other specified trade division(s) of similar work nature, but not to provide instruction and supervision to other workers for such work.

8. Under the chairmanship of Ir Dr Hon LO Wai-kwok, the Subcommittee held one meeting with the Administration on 22 December 2016 to scrutinize the two items of subsidiary legislation.

9. To enable the Subcommittee to report its deliberations to the House Committee before the deadline for giving notice of amendment of the two items of subsidiary legislation, a resolution was passed at the Council meeting of 11 January 2017 to extend the scrutiny period to 8 February 2017.

Deliberations of the Subcommittee

10. The Subcommittee's deliberations are summarized in the ensuing paragraphs.

New trade divisions

11. Regarding the three new trade divisions proposed in Schedule 1 to the Amendment Notice, Dr YIU Chung-yim has enquired why CIC, but not other organizations such as the Vocational Training Council ("VTC") and the Construction Industry Training Authority, takes up the responsibilities for developing the trade tests for the three new trade divisions. Dr YIU has also enquired whether there is a definition of the skills of the new trade division of "False Ceiling Installer".

12. The Administration has advised that since its establishment, CIC has taken over from the former Construction Industry Training Authority the responsibilities in relation to construction training and trade testing. The Administration has further advised that the construction-related training courses and trade tests provided by VTC are mainly on electrical and mechanical works.

13. Regarding the definition of "False Ceiling Installer", the Administration has advised that a description of the skills of the trade division, i.e. installing false ceilings, is set out in Schedule 1. The Administration considers the description appropriate after due discussion and consultation with industry stakeholders. The Administration has advised that where appropriate, CIC may issue guidelines to facilitate the understanding of the skills involved in the new trade divisions by the industry.

Exemption for small value construction work

14. Mr HO Kai-ming has enquired whether the proposed threshold of \$100,000 for exempting small value construction work from the DWDS requirement as set out in section 8 of the Exemption Regulation will be subject to review.

15. The Administration has advised that it will from time to time review the implementation of the two items of subsidiary legislation after their commencement, and where appropriate, propose amendments to them, including the exemption threshold. As far as the exemption threshold is concerned, CIC will be the main platform for consulting the industry stakeholders.

Timetable for review

16. Dr YIU Chung-yim has suggested that the Administration should stipulate in the relevant legislation a timetable for conducting a review on the implementation of the new legislative requirements after commencement of the two items of subsidiary legislation in order to examine the progress of adaptation to the requirements by the industry and to explore room for further improvement.

17. The Administration has advised that it has adopted a phase-by-phase approach to implementing the Prohibition requirements, including the DWDS requirement, to facilitate a gradual adaptation to the changes by the industry. After commencement of the proposed items of subsidiary legislation, the Administration, in collaboration with CIC, will from time to time review the implementation of the new requirements, and obtain feedback from relevant industry stakeholders with a view to planning the way forward. As such, the Administration does not consider it necessary to specify a review timetable in the subsidiary legislation.

Recommendation

18. The Subcommittee has raised no objection to the two items of subsidiary legislation. The Subcommittee will not propose any amendment.

Advice sought

19. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
18 January 2017

**Subcommittee on Construction Workers Registration (Exemption)
Regulation and Construction Workers Registration Ordinance
(Amendment of Schedules 1 and 1A) Notice 2016**

Membership list

Chairman Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Members Hon Abraham SHEK Lai-him, GBS, JP
Hon HO Kai-ming
Dr Hon YIU Chung-yim

(Total : 4 members)

Clerk Mr Derek LO

Legal Adviser Miss Winnie LO