

For discussion on 28 October 1999

Legislative Council Panel on Manpower

Industrial Training (Construction Industry) (Amendment) Bill 1999

INTRODUCTION

This paper informs Members of the Administration's proposal to –

- (a) amend the Industrial Training (Construction Industry) Ordinance (“Ordinance”) to provide a clear legal basis for the Construction Industry Training Authority (“CITA”) to continue to conduct voluntary skills assessment tests and the pilot subsidy scheme for employers of CITA graduates; and
- (b) raise the rate of the levy under the Ordinance from 0.25% to 0.4% on the value of all construction works over \$1 million.

BACKGROUND

Construction Industry Training Authority

2. CITA was established in 1975 as a statutory body to provide training for persons employed in the construction industry. Under section 5 of the Ordinance, CITA's primary functions are to provide training courses for the construction industry through its industrial training centres, and to assist in the placement of its trainees. CITA is funded by a levy payable by contractors on the value of all construction works undertaken in Hong Kong over the value of \$1 million. The current rate, prescribed by the Legislative Council in 1975 under section 22(1) of the Ordinance, is 0.25%.

3. CITA carries out a programme of full-time and part-time training courses for the construction industry. Among these, courses aimed at providing training to new entrants to the industry, such as the Basic Craft Course, the Construction Supervisor Course and full-time short courses, are offered free of charge. In addition, CITA has also carried out voluntary skills assessment tests since 1991. Following the Housing Department's and Works Bureau's decisions in 1995 and 1996 to introduce contractual requirements specifying that a certain percentage of workers in their construction sites for new projects should be qualified tradesmen who have passed the relevant trade tests offered by CITA, there has been a significant increase in demand for such tests. The number of workers taking such tests has increased from 50 per year in 1991 to approximately 6 000 per year currently.

4. Construction workers are usually paid on a daily rate basis. Newly trained CITA graduates working to individual sub-contractors are not guaranteed steady work or income and many of them leave the industry if and when they encounter a slack demand for workers during their first year of employment. To encourage employers to employ CITA graduates on a monthly salary basis at least for the initial period, CITA has, since late 1998, introduced a Pilot Subsidy Scheme. Under the scheme, each employer who employs a CITA graduate under a proper contract of apprenticeship lasting for 6 months to 2 years would receive a monthly subsidy at \$2,000 during the period of apprenticeship. The scheme serves to provide newcomers to the construction industry with a stable income thereby providing an incentive for them to stay in the industry. So far the Pilot Scheme has been well received with employers agreeing to engage some 500 CITA graduates on a monthly salary basis. CITA plans to expand the scheme so as to enable a larger number of graduates to benefit from it.

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5. The Department of Justice has raised doubt whether existing provisions of the Ordinance give adequate legal authorisation to CITA to carry out the following two activities:

- (i) to conduct skills assessment tests which are not part and parcel of the training courses provided by CITA; and
- (ii) to provide subsidies to employers of CITA graduates.

As it is important that CITA should continue to carry out these two activities, we therefore propose to amend the Ordinance so as to provide a clear legal basis to enable CITA to do so.

6. We also propose to take the opportunity to effect a minor amendment of the Ordinance. At present, the CITA consists of 13 members appointed by the Chief Executive. Under the Ordinance, one member shall be a person nominated by the Hong Kong branch of the Royal Institution of the Chartered Surveyors (“the RICS”). The RICS Hong Kong branch was however dissolved on 31 August 1997 and the Hong Kong Institute of Surveyors has since played exactly the same role as the former RICS Hong Kong branch. We therefore propose to amend the Ordinance to replace the Hong Kong branch of the Royal Institution of Chartered Surveyors by the Hong Kong Institute of Surveyors.

7. The Industrial Training (Construction Industry) (Amendment) Bill 1999, at Annex A, was introduced into the Legislative Council on 13 October 1999. A summary of the provisions of the Bill is at Annex B. Following discussion with the Legal Service Division of the Legislative Council and the Department of Justice, we propose to move a Committee Stage Amendment to add a validation provision to accord CITA with legal basis for carrying out the two activities mentioned in paragraph 5(i) and (ii) prior to the enactment of the Bill.

PROPOSED INCREASE OF LEVY RATE

8. To meet the manpower needs of the construction industry, the CITA has expanded its training capacity in recent years. Between 1995 and 1999, the number of training places catering for new entrants has increased from 3 400 to 7 600 or 123%. Together with the introduction of the voluntary skills assessment and the Pilot Subsidy Scheme, CITA's recurrent expenditure has risen from \$159 million in 1995 to an estimate of \$377 million in 1999, as compared with an estimated income of \$292 million in 1999. This has resulted in a steady depletion of CITA's reserve from \$262 million as at the beginning of 1995 to \$220 million at the end of 1998. As CITA has planned to expand further its activities (including training capacity, places for voluntary skills assessment and the Pilot Subsidy Scheme) to meet the demand of the construction industry, it estimates that this amount will only be sufficient to last up to 2001.

9. With the support of the Hong Kong Construction Association and the Real Estate Developers Association, CITA has proposed to raise the levy rate from 0.25% to 0.4% of the value of construction works. This will bring in an additional \$145 million per annum which should be sufficient to sustain the planned activities of CITA.

10. With the many major infrastructural projects about to be launched in the next few years, we will be increasingly relying on CITA to step up training and skills assessment tests so as to ensure that the manpower needs of the construction industry are met. There appears to be a strong case for the proposed increase in levy. Given that CITA's activities are funded by the levy and that its proposal has the endorsement of the industry, the Administration supports the proposed increase.

11. According to section 22(1) of the Ordinance, the rate of levy may be prescribed by a resolution of the Legislative Council. Upon the enactment of the Bill by the Legislative Council, we will move a motion

in the Legislative Council to effect the levy increase.

PUBLIC CONSULTATION

12. The proposed amendments and the levy increase have direct impact on the construction industry only. The above proposals have the support of the Construction Advisory Board, the Hong Kong Construction Association and the Real Estate Developers Association of Hong Kong.

Education and Manpower Bureau
October 1999

A BILL

To

Amend the Industrial Training (Construction Industry) Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Industrial Training (Construction Industry) (Amendment) Ordinance 1999.

2. Long title substituted

The long title to the Industrial Training (Construction Industry) Ordinance (Cap. 317) is repealed and the following substituted -

“To provide for the establishment, functions and management of the Construction Industry Training Authority, for a levy to be paid by contractors in respect of construction works, and for connected purposes.”.

3. Interpretation and application

Section 2(1) is amended, in the definition of “levy”, by repealing “training”.

4. Functions of the Authority

Section 5 is amended -

- (a) in paragraph (c), by adding”, including to assist by way of financial provision,” after “assist”;
- (b) in paragraph (d), by repealing the full stop and substituting a semicolon;

(c) by adding -

“(e) to assess the standards of skills achieved by anyone in any kind of work involving or in connection with the construction industry, conduct examinations or tests, issue or award certificate of competence and establish the standards to be achieved in respect of such work.”.

5. Constitution of Authority

Section 7(1) (d) is amended by repealing “Hong Kong branch of the Royal Institution of Chartered Surveyors” and substituting “Hong Kong Institute of Surveyors”.

6. Imposition of construction industry levy

Section 21 is amended by repealing “training”.

Explanatory Memorandum

This Bill aims at -

- (a) expanding the functions of the Construction Industry Training Authority (the “Authority”) so as to cover the assessment and establishment of standards of skills in respect of work in connection with the construction industry, and to assist in the placement of persons completing training courses by way of financial provision;
- (b) changing the constitution of the Authority by replacing the Hong Kong branch of the Royal

Institution of Chartered Surveyors which was dissolved on 31 August 1997
with the Hong Kong Institute of Surveyors.

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- **Clause 2** of the Bill at Annex A amends the long title of the Ordinance so that it can provide for matters in connection with the training of persons employed in the construction industry and the payment of levy.
- **Clauses 3 and 6** change the name of the levy from “industry training levy” to “industry levy”.
- **Clause 4** expands the scope of CITA’s functions to cover the provision of a financial provision for the purpose of assisting the placement of its graduates and the holding of skills assessment tests.
- **Clause 5** changes the constitution of the CITA by replacing “Hong Kong branch of the Royal Institute of Chartered Surveyors” with “Hong Kong Institute of Surveyors”.