

立法會
Legislative Council

LC Paper No. CB(1)1269/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/6/02

**Bills Committee on
Construction Workers Registration Bill**

**Sixth meeting on
Monday, 1 March 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHAN Kwok-keung, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
Hon LAU Ping-cheung
- Members absent** : Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
- Public Officers attending** : Mr Helius K M NG
Principal Assistant Secretary for the Environment,
Transport and Works (Works)
- Mr S Y LAM
Acting Chief Assistant Secretary for the Environment,
Transport and Works (Works)
- Mr Lawrence S Y PENG
Deputy Principal Government Counsel
Department of Justice
- Ms Selina LAU
Government Counsel
Department of Justice

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Ms Alice AU
Senior Council Secretary (1)5

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I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)1100/03-04 - Minutes of meeting held on 11 February 2004)

The minutes of meeting held on 11 February 2004 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(3)464/02-03 - The Bill;
LC Paper No. CB(1)1126/03-04(01) - The Administration's first report on proposed Committee Stage amendments to the Bill;
LC Paper No. CB(1)1805/02-03(01) - Letter dated 21 May 2003 from Assistant Legal Adviser to the Administration; and
LC Paper No. CB(1)1805/02-03(02) - The Administration's reply dated 27 May 2003 to the Assistant Legal Adviser)

2. The Bills Committee noted the following papers which were tabled at the meeting (and subsequently issued to members vide LC Paper No. CB(1)1171/03-04):

- (a) Four replacement pages for the English version of Tables 1 and 2 to LC Paper No. CB(1)1126/03-04(01);
- (b) Revised Chinese version of LC Paper No. CB(1)1126/03-04(01); and
- (c) A set of mark-up copy of the proposed Committee Stage amendments (CSAs) to the Bill provided by the Administration (LC Paper No. CB(1)1171/03-04(01)).

3. The Bills Committee deliberated and continue clause-by-clause examination of the Bill (index of proceedings attached at **Annex A**).

4. The Bills Committee agreed that as the four replacement pages for the English version of Tables 1 and 2 to LC Paper No. CB(1)1126/03-04(01), the revised Chinese version of LC Paper No. CB(1)1126/03-04(01) and the mark-up copy of the Bill (LC

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Paper No. CB(1)1171/03-04(01)) were only provided by the Administration shortly before the meeting, the Assistant Legal Adviser would need some time to clarify certain points with the Administration. As such, the CSAs would be considered by the Bills Committee at a later meeting.

5. The Bills Committee also noted that Part 4 of the Bill on levy was closely related to certain provisions in the Construction Industry Council (CIC) Bill. As the Bills Committee on CIC Bill was currently on the waiting list and likely to be activated, members agreed that clause-by-clause examination of Part 4 of the Bill would be deferred until the very end so that any latest development of the CIC Bill could be taken into consideration.

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6. The Administration was requested to:

- (a) consider how best to incorporate members' suggestion that a specific number of members be appointed from professional bodies related to the construction industry to the Construction Workers Registration Authority under clause 7(3)(b)(vii);
- (b) further examine the need and drafting of the relevant provisions in relation to the Complaints Committee, i.e. clauses 14 and 15, by making reference to similar legislation;
- (c) improve the drafting of the Chinese version of clause 35(2)(1) which read "確定某名與他有往來的人是否註冊建造業工人", taking into account the legislative intent of allowing any member of the public to inspect the Register;
- (d) consider, in relation to clause 36, whether the prescribed fee for application for first registration under the Bill should be waived to facilitate smooth implementation, and whether the validity of the registration of "early birds" would be extended accordingly as applicants for initial registration under the system would be required to pay the prescribed fees immediately; and
- (e) provide further CSAs for clause 7(3)(b)(v) and other related provisions, as well as clause 7(3)(b)(vi) as agreed by the Bills Committee

III Any other business

7. Members agreed that the next meeting would be held on 22 March 2004, at 2:30 pm, to continue clause-by-clause examination of the Bill.

8. There being no other business, the meeting ended at 10:40 am.

**Proceedings of the sixth meeting of the Bills Committee on
Construction Workers Registration Bill
Monday, 1 March 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes of meeting and matters arising</i>			
000000 – 000152	Chairman	Confirmation of minutes of the meeting held on 11 February 2004 [LC Paper No. CB(1)1100/03-04]	
<i>Agenda Item II – Meeting with the Administration</i>			
000153-003340	Chairman Administration Ms LI Fung-ying Mr Abraham SHEK Mr LAU Ping-cheung Ir Dr Raymond HO Mr LEUNG Fu-wah	<p>The Bills Committee will consider the Committee Stage amendments (CSAs) provided by the Administration at a later meeting. [LC Paper Nos. CB(1)1126/03-04(01) and CB(1)1171/03-04(01)]</p> <p><u>Clause 7 - Authority</u></p> <ul style="list-style-type: none"> - Membership size and composition of the Construction Workers Registration Authority (the Authority) <p><i>Clause 7(3)(b)(v)</i></p> <ul style="list-style-type: none"> - Suggestion from Ms LI Fung-ying, Mr LEUNG Fu-wah and the Chairman to replace the term "trade association representing workers" by "trade union" <p><i>Clause 7(3)(b)(vi)</i></p> <ul style="list-style-type: none"> - Suggestion from Mr Abraham SHEK to make specific reference to the Real Estate Developers Association of Hong Kong for the purpose of clause 7(3)(b)(vi) <p><i>Clause 7(3)(b)(vii)</i></p> <ul style="list-style-type: none"> - Suggestion from Mr LAU Ping-cheung and Ir Dr Raymond HO that an express provision shall be provided in the Bill to include a specified number of members from professional bodies related to the construction industry in the Authority, as is the case in the Construction Industry Training Authority under the Industrial Training (Construction Industry) Ordinance (Cap. 317) where four members are appointed from specific professional bodies related to the construction industry. - The Administration's explanation that unlike Cap. 317 which relates to 	<p>The Administration to provide CSAs for this clause and other related provisions</p> <p>The Administration to provide CSAs</p> <p>The Administration to consider</p>

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		<p>the general issues of industrial training, the Bill's specific objective is to establish a construction workers registration system and hence, the Authority should be constituted accordingly to maintain a right balance among the major stakeholders. Nonetheless, it is the Administration's intention to appoint one or more representatives from the professional bodies to the Authority.</p>	
003341-003543	Administration	<p><u>Clause 8 - Functions and powers of Authority</u></p> <p><u>Clause 9 - Delegations</u></p> <p><u>Clause 10 - Funds and property of Authority</u></p> <p><u>Clause 11 - Statements of accounts of Authority and auditor's report on them</u></p>	
003644-004057	Administration Chairman Mr LEUNG Fu-wah Mr LAU Ping-cheung	<p><u>Clause 12 - Qualifications Committee</u></p> <p>- Having considered members' view, the composition of the Qualifications Committee will be revised to include a person from a professional body connected with the construction industry in Hong Kong.</p>	
004058-004322	Administration Chairman	<p><u>Clause 13 - Functions and powers of Qualifications Committee</u></p> <p>- The Administration's undertaking that to ensure fairness for all existing construction workers, the prevailing qualifications requirements for various designated trades and occupations would be maintained as far as practicable, i.e. they would not be tightened arbitrarily except to cater for new demand or development in the construction industry</p>	
004323-005809	Administration Chairman Mr LEUNG Fu-wah Ms LI Fung-ying	<p><u>Clause 14 - Complaints Committee</u></p> <p><u>Clause 15 - Functions and powers of Complaints Committee</u></p> <p>- Members' concern that the proposal to set up a committee to deal with complaints about the level of competence of registered workers is</p>	

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		<p>inconsistent with the purpose of the registration system as the workers are registered through objective assessment and certification of their skill levels. This can also lead to vexatious complaints by an employer who may use this as an excuse to withhold payment of wages to the workers. Many labour disputes may arise easily. They further ask whether similar complaint mechanisms are adopted in existing legislation for other registration systems, say for electrical workers.</p> <ul style="list-style-type: none"> - Ms LI Fung-ying's concern about the rights and obligations of the construction workers under the complaint mechanism and its impact on the livelihood of workers - The Administration's explanation on the justifications of the complaint mechanism, the safeguards against vexatious complaints and the way in which complaints are to be dealt with by the Committee under clause 50 - The Administration's undertaking to further examine the relevant provisions by making reference to similar legislation 	<p>The Administration to consider</p>
005810-010814	<p>Administration Mr LAU Ping-cheung Mr LEUNG Fu-wah Ms LI Fung-ying</p>	<p><u>Clause 16 - Review Committee</u> <u>Clause 17 - Functions and powers of Review Committee</u></p> <ul style="list-style-type: none"> - The Administration's explanation that if any change to the Complaints Committee is necessary, consequential amendments would be made to clauses 16 and 17 - Mr LEUNG Fu-wah's preference for the original drafting of clause 16 which makes specific reference to the two most representative trade unions of construction workers - The Administration's explanation that in order to achieve consistency in drafting, specific reference to a particular trade association or union will be avoided. 	
010815-012854	<p>Administration Chairman</p>	<p><u>Part 4 - Levy</u></p> <ul style="list-style-type: none"> - The Administration's explanation on 	

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	Mr LEUNG Fu-wah ALA7	<p>the need to amend certain provisions under Part 4 of the Bill on levy as a result of the recent enactment of the Construction Industry Levy (Miscellaneous Amendments) Bill 2003 which seeks to amend Cap. 317 and the Pneumoconiosis (Compensation) Ordinance (Cap. 360)</p> <ul style="list-style-type: none"> - Members' decision to defer clause-by-clause examination on Part 4 of the Bill until the very end so that any latest development on the related Construction Industry Council Bill could be taken into consideration 	
012855-013445	Chairman Administration Mr LEUNG Fu-wah	<p><u>Clause 33 - Appointment of Registrar</u> <u>Clause 34 - Functions and powers of Registrar</u></p>	
013446-013944	Administration Ms LI Fung-ying Chairman	<p><u>Clause 35 - Register of Construction Workers</u></p> <ul style="list-style-type: none"> - The Administration to improve the drafting of the Chinese version of clause 35(2)(1) which reads "確定某名與他有往來的人是否註冊建造業工人", taking into account the legislative intent of allowing any member of the public to inspect the Register - The Administration's explanation that no privacy issues would be raised even if the Register is to be uploaded onto the Internet in future as only the name and registration number of the registered workers, etc. would be displayed 	The Administration to consider
013945-020144	Administration Chairman ALA7 Mr LEUNG Fu-wah Ms LI Fung-ying	<p><u>Clause 36 - Application for registration</u></p> <ul style="list-style-type: none"> - The Administration's explanation that the registration fee for three years is \$100, while the fee of an assessment interview for registered workers (transitional) is \$150 regardless of the number of trades or occupations applied for registration. For workers who possessed recognized registration/certificate/license under other relevant ordinances, the registration fee would be reduced by 	

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		<p>half.</p> <ul style="list-style-type: none"> - Members' grave concern about the financial burden placed on the construction workers as they will be required to pay additional fees for registration under the proposed registration system in addition to fees for trade tests and training courses - Mr LEUNG Fu-wah suggested that in order to alleviate the impact on workers, the Administration should consider waiving the registration fee during the initial operation of the registration system to facilitate smooth implementation. - The Administration's explanation on the principles and consideration in determining the fees under the registration system - The Chairman's suggestion that as applications for initial registration under the system would be invited in phases over eight months, the validity period of the initial registration of different batches of workers should be suitably adjusted to ensure fairness, bearing in mind that they are required to pay the prescribed fee once they are registered. 	<p>The Administration to consider</p> <p>The Administration to consider</p>
<i>Agenda Item III – Any other business</i>			
020145-020626	Chairman Mr LEUNG Fu-wah	- Next meeting to be held on 22 March 2004, at 2:30 pm to continue clause-by-clause examination of the Bill	