

## **Construction Workers Registration Bill**

### **1<sup>st</sup> Report on Proposed Committee Stage Amendments**

This report aims to inform Members of the Bills Committee some of the Committee Stage Amendments (CSAs) that will be moved by the Administration. It covers the following amendments:

- 1.1 Amendments to address issues raised by the Legal Adviser of LegCo in her letter dated 21 May 2003 and at the previous Bills Committee meetings

Amendments are proposed to clause 2(1) on the definition of “sub-contractor” and to clause 20(3)(a) on the period for a revised rate of levy to come into effect. The details are given in table 1.

- 1.2 Amendments in response to comments and suggestions made by Members of the Bills Committee up to and including the 5<sup>th</sup> meeting held on 11 February 2004

Amendments are proposed to clauses 7(3)(b), 12(2)(b) and 16(2) on membership composition of the Authority, the Qualifications Committee and the Review Committee respectively, to clauses 37(4), (7) and 39(2) on qualifications for registration as well as clause 54(1) on membership composition of the Appeal Board Panel. The details are also included in table 1.

- 1.3 Amendments proposed by the Administration for the purposes of correcting errors, improving readability, refining content and/or making modifications to the Bill to take care of comments and proposals made by stakeholders of the construction industry.

Only amendments to Parts 1 and 2 of the Bill are included as amendments to other parts of the Bill may be necessary after clause-by-clause examination by the Bills Committee. These include amendments to clause 2(1) on the definitions of “construction work”, “registered general worker”, “registered semi-skilled worker”, “registered semi-skilled worker

(provisional)”, “registered skilled worker”, “registered skilled worker (provisional)” and “registered skilled worker (transitional)”, and also clauses 6(3), (5) to (8) on offences in relation to prohibitions under sections 3 and 5. Please find details of the proposed amendments in table 1.

- 1.4 Amendments to Part 4 of the Bill consequent on enactment of the Construction Industry Levy (Miscellaneous Amendments) Bill 2003 (i.e. amendments to the Industrial Training (Construction Industry) Ordinance, Cap. 317 and to the Pneumoconiosis (Compensation) Ordinance, Cap. 360) on 11 February 2004

Since the mechanism for imposition of levy under Part 4 of this Bill is essentially modeled on and makes reference to the relevant provisions in the Industrial Training (Construction Industry) Ordinance, Cap.317 and the Pneumoconiosis (Compensation) Ordinance, Cap. 360, amendments to bring this Part in line with the amendments made to Cap. 317 and Cap. 360 are therefore necessary subsequent to enactment of the Construction Industry Levy (Miscellaneous Amendments) Bill 2003. To facilitate Members in examining this Part clause-by-clause, details of the proposed amendments are summarized in table 2.

Attachment: Tables 1 to 2

25 February 2004

ETWB

### The Proposed CSAs under Construction Workers Registration Bill

**Table 1 : Proposed CSAs in respect of the issues raised by the Legal Adviser of LegCo, comments made by Members of the Bills Committee and items proposed by the Administration for Parts 1 and 2**

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
1.1	Part 1 Clause 2	<b>Interpretation</b>			
		Clause 2(1) (P. C297)	Definition of “construction work”	To delete “, except in relation to Part 4” in the definition of “construction work”	This phrase is no longer necessary. The expression “construction works” in Part 4 has been replaced by “construction operations” consequent on the enactment of the Construction Industry Levy (Miscellaneous Amendments) Bill 2003 (i.e. amendments to Cap.317).
		Clause 2(1) (P.C299, C301)	Definitions of the 6 types of registered construction worker	To delete “currently” in the definitions of “registered general worker”, “registered semi-skilled worker”, “registered semi-skilled worker (provisional)”, “registered skilled worker”, “registered skilled worker (provisional)” and “registered skilled worker (transitional)”	For refinement of the Bill. The word “currently” is redundant.

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
	Part 1 Clause 2	Clause 2(1) (P. C301)	Definition of “sub-contractor”	<p>To replace the definition of “sub-contractor” by “means any person who enters into a contract with another person (whether or not the principal contractor) to undertake all or any part of the construction work that the principal contractor has undertaken;”.</p> <p>The Chinese equivalent of “sub-contractor” is to be changed from “次承建商” to “分包商”.</p>	<p>Legal Adviser of LegCo observed that the original definition might limit its applicability to the first two layers of sub-contractors only. This is not the Administration’s intention.</p> <p>“分包商” is more commonly used in other legislation.</p>
1.2	Part 2 Clause 6	<p><b><u>Offences in relation to prohibitions under sections 3 and 5</u></b></p> <p>Clause 6(3) (P. C305)</p> <p>Clause 6(5) and (6)(a) (P. C305, C307)</p>	<p>Offence under subclause (2)</p> <p>Offence under subclause (4)</p>	<p>To delete “set out in subsection (8) is true” and substitute “exists”</p> <p>To delete “set out in subsection (8) is true” and substitute “exists”</p>	<p>For refinement and improving readability.</p> <p>For refinement and improving readability.</p>

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
		Clause 6(7) (P. C307)	Established a proper system	To delete “has” at the 2 <sup>nd</sup> line and substitute “had”.	To correct an error.
		Clause 6(8) (P. C307)	Relevant matter in relation to offences	To delete “The relevant matter referred to in subsections (3), (5) and (6)(a) is” and substitute “For the purposes of subsections (3), (5) and (6)(a), the relevant matter exists if”	For refinement and improving readability.
		Clause 6(8)(a) (P. C307)	Contravention of clause 3(1)	To add “an offence in relation to” before “a contravention”  To delete “that”	Clause 6(3), (5) or (6)(a) is applied when a person is charged for an offence in relation to a contravention.  The word “that” is redundant.
		Clause 6(8)(b) to (d) (P. 307)	Contravention of clauses 3(2) to (4)	To add “an offence in relation to” before “a contravention”  To delete the first “that”  To delete “involves” and substitute “involved”	Clause 6(3), (5) or (6)(a) is applied when a person is charged for an offence in relation to a contravention.  The word “that” is redundant.  To correct an error.

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
1.3	Part 3 Clause 7	<b><u>Authority</u></b> Clause 7(3)(b)(v) (P. C309)	No. of representatives from workers associations	To delete “2” and substitute “3”.	Members commented that composition of the Authority should be expanded in order to balance the interest of the trade associations and worker unions. After review, the Administration proposes to include an additional representative from the trade associations representing workers. As regards representation of the professional bodies, the 6 persons appointed under clause 7(3)(b)(vii) may include one or more representatives from the professional bodies.  Consequent to the above amendment, the total no. of members, excluding the Secretary or his representative, is now “18”.
		Clause 7(3)(b) (P. C309)	Total no. of members	To delete “17” and substitute “18”.	
1.4	Part 3 Clause 12	<b><u>Qualifications Committee</u></b> Clause 12(2)(b) (P.C315)	Representative from professional bodies	To introduce a new subparagraph “1 person who is, in the opinion of the Authority, a person from a professional	Members commented that composition of the Qualification Committee should be expanded to include representative

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
		Clause 12(2)(b)(ii) to (vii) (P. C315)	<p>Representatives from training institutes</p> <p>Representatives from contractors</p> <p>Representatives from workers associations</p>	<p>body connected with the construction industry in Hong Kong;”</p> <p>To delete (ii) and (iii) and substitute “(ii) 2 persons, each of whom is, in the opinion of the Authority, a person from a training institute in the construction industry in Hong Kong;”</p> <p>To delete (iv) and (v) and substitute “(iv) 2 persons, each of whom is, in the opinion of the Authority, a person from a contractor in the construction industry in Hong Kong;”</p> <p>To delete (vi) and (vii) and substitute “(v) 2 persons, each of whom is, in the opinion of the Authority, a person from a trade association representing workers in the construction industry in Hong Kong;”</p>	<p>from the professional bodies. As representation from the professional bodies would benefit the Committee, the inclusion of 1 person from the professional bodies is proposed.</p> <p>Members commented that composition of the Qualifications Committee, Review Committee and Appeal Board Panel should not make specific reference to the names of the trade associations or unions. Subparagraphs (ii) to (vii) are proposed to be revised to remove the specific references.</p>

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
1.5	Part 3 Clause 16	<b><u>Review Committee</u></b> Clause 16(2)(e) to (h) (P. C321)	Representatives from contractors  Representatives from workers associations	To delete subparagraphs (e) and (f) and substitute “(e) 2 persons, each of whom is, in the opinion of the Authority, a person from a contractor in the construction industry in Hong Kong; and”  To delete subparagraphs (g) and (h) and substitute “(f) 2 persons, each of whom is, in the opinion of the Authority, a person from a trade association representing workers in the construction industry in Hong Kong.”	Members commented that composition of the Review Committee should not make specific reference to the names of the trade associations or unions. Amendments to subparagraphs (e) to (h) are therefore proposed.
1.6	Part 4 Clause 20	<b><u>Rate of Levy</u></b> Clause 20(3)(a) (P. C325)	Effective day of new rate of levy	To replace “30 days” by “45 days”.	Legal Adviser of LegCo commented that a period of 30 days might not allow sufficient time to lay an amendment to the rate of levy on the table of the LegCo at the next meeting after the amendment is gazetted.  This clause will become 19(5)(a) due to the amendments proposed to Part 4.

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
1.7	Part 5 Clauses 37 and 39	<b><u>Qualifications for registration</u></b>			
		Clause 37(4), (7) and 39(2) (P. C345, C347)	Qualifications for registration	To add “, as at the commencement of this subsection,” after “satisfied that”.	Members commented that there was no clear indication as to how the experience possessed by a worker is calculated. The relevant clauses are thus amended to give a clear indication.
		Clause 37(4) (P. C345)	Qualifications for registration	To delete "but less than 10 years"	This amendment is to cater for workers who possess not less than 10 years (8 years is now proposed) experience but wish to apply for registration as “registered skilled worker (provisional)”.
		Clause 39(2) (P. C349)	Registration as registered skilled worker (transitional)	To delete "10 years" and substitute "8 years"	In view of Members’ comments on the lack of a consensus view on the qualifying period for senior workers, several meetings were held with the stakeholders in the construction industry. Having considered the views expressed by the stakeholders, the Administration recommends that a

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
					<p>qualifying period of 8 years be adopted as it is a reasonable compromise between the proposals made by the workers unions and the trade associations, and is a minimum acceptable period to ensure skill level of exempted workers. The amendment is therefore proposed.</p>
1.8	Part 7 Clause 54	<p><b><u>Appeal Board Panel</u></b> Clause 54(1)(d) to (g) (P. C375)</p>	Members of Appeal Board Panel	<p>To delete subparagraphs (d) and (e) and substitute “(d) not less than 10 are persons, each of whom is, in the opinion of the Secretary, a person from a contractor in the construction industry in Hong Kong; and”</p> <p>To delete subparagraphs (f) and (g) and substitute “(e) not less than 10 persons, each of whom is, in the opinion of the Secretary, a person from a trade association representing workers in the construction industry in Hong Kong.”</p>	<p>Members commented that composition of the Appeal Board Panel should not make specific reference to the names of the trade associations or unions. Amendments to subparagraphs (d) to (g) are therefore proposed.</p>

### The Proposed CSAs under Construction Workers Registration Bill

**Table 2 : Proposed CSAs for Part 4 of this Bill consequent on enactment of the Construction Industry Levy (Miscellaneous Amendments) Bill 2003**

Item	Part / Clause	Subparagraph of the Bill	Subject	CSAs Proposed	Reasons
2.1	Part 4 Clause 18	<b><u>Interpretation and application</u></b>  Clause 18(1) (P. C323)	Section heading  Definition of “construction works”	In the section heading, to delete “and application”  To delete the definition of “construction works” and substitute ““construction operations” ( 建造工程 ), subject to section 18C, has the meaning assigned to it in Schedule 1 to the Industrial Training (Construction Industry) Ordinance (Cap. 317);”	Clause 18 now deals only with interpretation of Part 4.  Same as the amendments in the Construction Industry Levy (Miscellaneous Amendments) Bill 2003 (i.e. amendments to the Industrial Training (Construction Industry) Ordinance, Cap. 317 and the Pneumoconiosis (Compensation) Ordinance, Cap. 360). The definition of “construction operations” in s.2 of the amended Cap.317 and in s.2 of the amended Cap. 360 is adopted to replace the definition of “construction works”.

			<p>Definition of "value"</p>	<p>To delete the definition of "value" and substitute "'value" (價值), in relation to construction operations, has the meaning assigned to it in section 18A;”</p>	<p>The same amendment in s.2 of Cap. 317 and s.2 of Cap. 360 to the definition of "value" is adopted.</p>
			<p>Definition of "construction contract"</p>	<p>To add "'construction contract" (建造合約) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);”</p>	<p>This is a new definition introduced in s.2 of the amended Cap. 317 and in s.2 of the amended Cap. 360.</p>
			<p>Definition of "contract of employment"</p>	<p>To add "'contract of employment" (僱傭合約) has the meaning assigned to it in section 2(1) of the Employment Ordinance (Cap. 57);”</p>	<p>This is a new definition introduced in s.2 the amended Cap. 317 and in s.2 of the amended Cap. 360.</p>
			<p>Definition of "term contract"</p>	<p>To add "'term contract" (固定期合約) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);”</p>	<p>This is a new definition introduced in s.2 of the amended Cap. 317 and in s.2 of the amended Cap. 360.</p>
			<p>Definition of "total value"</p>	<p>To add "'total value" (總價值), in relation to construction operations, has the meaning assigned to it in section 18B;”</p>	<p>This is a new definition introduced in s.2 of the amended Cap. 317 and in s.2 of the amended Cap. 360.</p>

			Definition of “works order”	To add ““works order" (施工通知) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317).”	This is a new definition introduced in s.2 of the amended Cap. 317 and in s.2 of the amended Cap. 360.
		Clause 18(2) (P. C323)	Construction works not subject to levy	To delete this subclause	As Clause 18(1) now covers only interpretation of Part 4. This subclause is deleted and a similar clause is appended under a new Clause 18C.
		Clause 18(3) (P. C323)	Commencement of the works	To delete “construction works” and substitute “construction operations”	Due to amendment of the definition of “construction works” to “construction operations” .
		Clause 18(4)	Person carries out construction operations	To add a new subclause “(4) For the purposes of this Part – (a) where a person carries out any construction operations for any other person under a contract of employment, the construction operations shall be regarded as carried out by – (i) subject to subparagraph (ii), that other person; or (ii) where the first-mentioned	The same amendment to Cap. 317 (s.2(2)) and to Cap. 360 (s.2(3)) is adopted. The new clause is to set out who is the person who carries out construction operations under certain circumstances.

				<p>person is a contractor by virtue of paragraph (a)(i) of the definition of “contractor” in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);</p> <p>(b) where a person carries out any construction operations for himself without arrangement (except under a contract of employment) for the carrying out of such operations by any other person, the first-mentioned person shall, apart from being the person who carries out the construction operations, also be regarded as the person for whom such operations are carried out, and the definitions of "contractor" and "employer" and the other provisions of this Part shall be construed accordingly.”</p>	
--	--	--	--	---	--

		Clause 18(5)	Undertaking or carrying out construction operations	<p>To add a new subclause</p> <p>“(5) For the purposes of this Part, a person shall be regarded as undertaking or carrying out construction operations if –</p> <p>(a) he manages, or arranges for, the carrying out of the construction operations by any other person for the employer concerned, whether by way of sub-contracting or otherwise; or</p> <p>(b) he provides his own labour or that of any other person for the carrying out of the construction operations.”.</p>	The same amendment to Cap. 317 (s.2(3)) and to Cap.360 (s.2(4)) is adopted. The purpose is to define the meaning of undertaking or carrying out construction operations.
2.2	Part 4 Clause 18A	<b><u>Value of construction operations</u></b> Clauses 18A(1) to (3)	Value of construction operations	<p>To add a new clause</p> <p>“(1) For the purposes of this Part, "value", in relation to construction operations, means –</p> <p>(a) where the construction operations are carried out under a construction contract, the consideration attributable to such operations as stated in, or ascertainable by</p>	The same amendment to Cap. 317 (s.2A) and to Cap.360 (s.2A) is adopted. This serves to define the value of construction operations. Clause 21 in Part 4 of this Bill for similar purposes is thus deleted.

				<p>reference to, the contract; or</p> <p>(b) where the construction operations are not carried out under a construction contract, the reasonable consideration to be expected on the open market in respect of the carrying out of such operations.</p> <p>(2) Notwithstanding subsection (1)(a), if in a particular case the consideration attributable to the construction operations concerned as determined in accordance with that subsection is below the reasonable consideration to be expected on the open market in respect of the carrying out of such operations, that subsection shall be deemed to contain a reference to the reasonable consideration described in this subsection instead of the consideration described in that subsection.</p>	
--	--	--	--	--	--

				<p>(3) For the purposes of subsections (1)(b) and (2), the Authority may, when ascertaining the reasonable consideration as referred to in those subsections in respect of the carrying out of any construction operations, have regard to all or any of the following matters –</p> <ul style="list-style-type: none"> <li>(a) the cost or value of materials used in the construction operations;</li> <li>(b) the cost or value of time, work and labour involved in the construction operations;</li> <li>(c) the equipment used in the construction operations;</li> <li>(d) such overhead costs incurred in relation to the construction operations as the Authority considers reasonable;</li> <li>(e) the reasonable profit to be expected on the open market in respect of the carrying out of the construction operations;</li> <li>(f) any other factors that the Authority considers appropriate.”</li> </ul>	
--	--	--	--	---	--

2.3	Part 4 Clause 18B	<b><u>Total value of construction operations</u></b> Clause 18B	Total value of construction operations	<p>To add a new clause</p> <p>“For the purposes of this Part, "total value", in relation to construction operations, means –</p> <p>(a) where the construction operations are carried out under a construction contract –</p> <p>(i) in the case the construction contract is a term contract, the aggregate of the respective values of all construction operations carried out as required by works orders issued under the contract;</p> <p>(ii) in the case the construction operations are or form part of any construction operations that are carried out in stages, the aggregate of the respective values of all stages of the operations so carried out; or</p> <p>(iii) in any other case, the value of the construction operations; or</p> <p>(b) where the construction operations are not carried out under a construction contract –</p> <p>(i) in the case the construction</p>	<p>The same amendment to Cap. 317 (s.2B) and to Cap. 360 (s.2B) is adopted. This serves to define the total value of construction operations relevant to term contract or construction operations carried out in stages or others.</p>
-----	-------------------------	--	--	---	--

				<p>operations are or form part of any construction operations that are carried out in stages, the aggregate of the respective values of all stages of the operations so carried out; or</p> <p>(ii) in any other case, the value of the construction operations.”</p>	
2.4	Part 4 Clause 18C	<b><u>Application to construction operations</u></b> Clauses 18C(1) to (5)	Application to construction operations	<p>To add a new clause</p> <p>“(1) This Part shall not apply to any construction operations –</p> <p>(a) the tender for which was submitted before the commencement of this Part; or</p> <p>(b) that began before that commencement.</p> <p>(2) This Part shall not apply to any construction operations –</p> <p>(a) which are carried out for a person who occupies any domestic premises or part of any domestic premises; and</p> <p>(b) the sole or principal purpose of which is to decorate, alter, repair,</p>	<p>Subclause (1) [formerly clause 18(2)] is now appended under clause 18C for clarity.</p> <p>Subclauses (2) to (5) are adopted from the same amendment made to Cap. 317 (s.3A) and to Cap. 360 (s.3A) to deal with construction operations to which Part 4 of this Bill is not applicable.</p>

				<p>maintain or renovate the premises or such part of such premises.</p> <p>(3) This Part shall not apply to any construction operations, or any type or description of construction operations, which are or is excluded from the application of this Part by the Chief Executive in Council by order published in the Gazette.</p> <p>(4) Without limiting the generality of subsection (3), an order made under that subsection may specify the circumstances under which or the purposes for which any construction operations, or any type or description of construction operations, referred to in the order are or is to be excluded from the application of this Part.</p> <p>(5) In this section –</p> <p>(a) "domestic premises" means premises used or intended to be used solely or principally for</p>	
--	--	--	--	---	--

				<p>residential purposes and constituting a separate household unit;</p> <p>(b) a person shall be regarded as a person who occupies a domestic premises if he intends to occupy the premises."</p>	
2.5	Part 4 Clause 19	<b><u>Imposition of Levy</u></b> Clauses 19(1) to (5) (P. C325)	Imposition of levy	<p>To delete clause 19 and substitute</p> <p>“(1) A levy at the prescribed rate shall be imposed on the value of all construction operations undertaken or carried out in Hong Kong.</p> <p>(2) Notwithstanding subsection (1), construction operations the total value of which does not exceed the prescribed amount shall not be liable to the levy.</p> <p>(3) Subject to section 24(8A), the levy shall be payable in accordance with this Part by every contractor who carries</p>	<p>This clause is based on similar provisions in the amended Cap. 317 (s.21) and the amended Cap. 360 (s.35) except that the rate of levy is prescribed by the Secretary under subclause (4) and comes into effect 45 days after publication of notice in the Gazette under subclause 5(a).</p>

				<p>out construction operations.</p> <p>(4) The Secretary may by notice –</p> <ul style="list-style-type: none"><li>(a) prescribe the rate for the purposes of subsection (1); and</li><li>(b) prescribe the amount for the purposes of subsection (2).</li></ul> <p>(5) Any rate prescribed under subsection (4)(a) –</p> <ul style="list-style-type: none"><li>(a) shall come into effect on the expiration of the period of 45 days after the publication of the notice in the Gazette; and</li><li>(b) shall not apply to any construction operations if, before the expiration of the period referred to in paragraph (a) –<ul style="list-style-type: none"><li>(i) the tender for the construction operations has been submitted to the employer concerned;</li><li>(ii) no tender for the construction operations has been submitted to the employer concerned, but a construction contract in</li></ul></li></ul>	
--	--	--	--	---	--

				<p>respect of the construction operations has been entered into; or</p> <p>(iii) no tender for the construction operations has been submitted to the employer concerned and no construction contract in respect of the construction operations has been entered into, but the construction operations have begun.".</p>	
2.6	Part 4 Clauses 20 and 21	<p><b><u>Rate of Levy</u></b> Clause 20 (P. C325)</p> <p><b><u>Value of construction works</u></b> Clause 21 (P. C325)</p>	<p>Rate of levy</p> <p>Value of construction works</p>	To delete these 2 clauses	Based on similar amendments in Cap. 317 (s.21 and s.2A respectively) and in Cap. 360 (s.36 and s.2A respectively), Clause 20 is deleted and replaced by Clauses 19(4) and (5). Clause 21 is deleted and replaced by the Clause 18A.
2.7	Part 4 Clause 22	<p><b><u>Contractor and authorized person to notify Authority when undertaking construction</u></b></p>	Section heading	In the heading, to delete "works" and substitute "operations"	Due to the amendment from "construction works" to "construction operations".

		<p><b>works</b></p> <p>Clause 22(1) (P. C327)</p>	<p>Give notice to the Authority when works have begun</p>	<p>To delete "any construction works" and substitute "any construction operations";</p> <p>In paragraph (a), to delete "undertaking the construction works" and substituting "in respect of the construction operations";</p> <p>In paragraph (b), to delete "works" and substitute "operations"; to delete "such a contractor undertaking the construction works or such an" and substitute "the contractor in respect of the construction operations or the"; to delete "works, as" and substitute "operations, as".</p>	<p>Due to the amendment from "construction works" to "construction operations".</p> <p>Other amendments are refinements in line with amendments made to Cap. 317 (s.24) and to Cap. 360A (reg.4).</p>
		<p>Clause 22(2)</p>	<p>Total value not liable to levy</p>	<p>To delete subclause (2) and substitute "(2) Except in the case of a term contract, subsection (1) shall not apply in respect of any construction operations if it is reasonably estimated that the total value of such operations does not exceed the</p>	<p>Amendments made to Cap. 317 (s.24) and to Cap. 360 (reg.4) are adopted to place emphasis on aggregate value of construction operations.</p>

		Clause 22(3)	Total value of construction operations	<p>amount prescribed under section 19(4)(b)."</p> <p>To delete "value of the construction works" and substitute "total value of the construction operations"</p>	<p>Amendments made to Cap. 317 (s.24) and to Cap. 360A (reg.4) are adopted to place emphasis on aggregate value of construction operations.</p>
		Clause 22(4)	Time to give notice to the Authority	<p>To delete subclause (4) and substitute</p> <p>"(4) A contractor or authorized person complies with subsection (1) if he –</p> <p>(a) had given a notice to CITA under section 24 of the Industrial Training (Construction Industry) Ordinance in respect of the construction operations; and</p> <p>(b) sent a copy of that notice to the Authority within the period of 14 days, or such further time as the Authority may have allowed, within which he shall give notice under that subsection."</p>	<p>The amendment is to clearly indicate the timing the contractor or authorized person shall send a copy of the notice to the Authority.</p>



		Clause 23(2)	Time to give notice	To delete "works" wherever it appears and substitute "operations";  To delete "being".	Due to the amendment from "construction works" to "construction operations".  The word "being" is redundant.
		Clause 23(3) (P. C329)	construction operations to which notice is not applicable	To delete subclause (3) and substitute "(3) Except in the case of a term contract, subsections (1) and (2) shall not apply in respect of any construction operations if it is reasonably estimated that the total value of such operations does not exceed the amount prescribed under section 19(4)(b)."	The same amendment to Cap. 317 (s.25(2A)) and to Cap. 360A (reg.5(3)) are adopted to place emphasis on the aggregate value of construction operations.
		Clause 23(4)	State value of construction operations	To add ", (1A)" before "or (2)"; To delete "works" where it twice appears and substitute "operations".	Due to the addition of subclause (1A). Due to the amendment from "construction works" to "construction operations".
		Clause 23(5)	Time to give notice to the Authority	To delete subclause (5) and substitute "(5) A contractor or authorized person complies with subsection (1), (1A) or (3) if he –  (a) had given a notice to CITA under	The amendment is to clearly indicate the timing the contractor or authorized person shall send a copy of the notice to the Authority.

		Clause 23(6)	Failure to give a notice	<p>section 24 of the Industrial Training (Construction Industry) Ordinance in respect of the relevant payment or completion; and</p> <p>(b) sent a copy of that notice to the Authority within the period of 14 days, or such further time as the Authority may have allowed, within which he shall give notice under that subsection."</p>	To add “, (1A)” before “or (2)”.	The amendment is due to the addition of the new subclause (1A).
2.9	Part 4 Clause 24	<b><u>Assessment</u></b> Clause 24(1) (P. C329)  Clause 24(2)  Clause 24(3)	Assessment on receipt of payment notice  Provisional assessment after payment  Assessment on	To delete "from the contractor"; To delete "works" where it twice appears and substitute "operations".  To delete "to the contractor"; To delete "works" wherever it appears and substitute "operations".  To delete "works" wherever it appears and	To delete "from the contractor"; To delete "works" where it twice appears and substitute "operations".  To delete "to the contractor"; To delete "works" wherever it appears and substitute "operations".  To delete "works" wherever it appears and	The same amendments made to Cap. 317 (s.26) and to Cap. 360A (reg.6) are adopted. The deletion of “from/to the contractor” from the subclauses is to avoid confusion as there can be more than one contractor. Amendments from “construction works” to “construction operations” are also necessary under this clause.

			receipt of completion notice	substitute "operations"; To delete "from the contractor".	
		Clause 24(4)	Provisional assessment after completion	To delete "works" wherever it appears and substitute "operations".	
		Clause 24(4A)	Assessment for term contract	To add a new subclause "(4A) Notwithstanding subsections (1), (2) and (3), where construction operations are carried out under a term contract, the Authority may defer the making of any assessment under subsection (1), (2) or (3) until such time as the Authority considers appropriate."	The same amendment to Cap. 317 (s.26(4A)) and to Cap. 360A (reg.6(4A)) is adopted so that the Authority may make assessment when the works orders under a term contract hit a threshold.
		Clause 24(5) and (6) (P. C331)	Assessment of levy	To delete "from the contractor"; To delete "works" wherever it appears and substitute "operations".	
		Clause 24(7)	Imposition of surcharge	To delete "subsection (5)" and substitute "this section and payable by the contractor".	The same amendment to Cap. 317 (s.26(7)) and to Cap. 360A (reg.6(7)) is adopted as a surcharge may be laid on the levy assessed under subclauses (5)

		Clause 24(8)	Notice of levy or surcharge	<p>To delete subclause (8) and substitute</p> <p>"(8) Any assessment of levy or imposition of surcharge under this section shall be notified in writing by the Authority.</p> <p>(8A) A levy or surcharge shall not be payable by a contractor –</p> <p>(a) if he has not been notified by the Authority of an assessment of such levy or imposition of such surcharge, as the case may be, under subsection (8); or</p> <p>(b) to the extent that the levy or surcharge, as the case may be, has been paid by any other contractor unless the levy or surcharge, as the case may be, may be required or ordered to be repaid to that other contractor</p>	<p>and (6) and payable by the contractor defined under subclauses (8) and (8A).</p> <p>The same amendment to Cap. 317 (s.26(8) and (8A)) and to Cap. 360A (reg.6(8) and (8A)) is adopted to clearly indicate the responsibility of the Authority to issue notice.</p> <p>It clearly indicates the responsibility of the contractor on receipt of the notification.</p> <p>The levy will only be paid once.</p>
--	--	--------------	-----------------------------	--	--

		Clause 24(9)	Time for assessment or surcharge	<p>under section 25(4), 27(4) or 28(4).".</p> <p>To delete "An" and substitute "Subject to subsection (10), an";</p> <p>In paragraph (a), to delete "works" and substitute "operations".</p> <p>In paragraph (b), to add a comma after "surcharge".</p>	<p>The same amendment to Cap. 317 (s.26(9)) and to Cap. 360A (reg.6(9)) is adopted to take care also of term contract.</p>
		Clause 24(10)	Time for assessment or surcharge for term contract	<p>To add a new clause</p> <p>"(10) If construction operations are carried out under a term contract, an assessment or surcharge under this section shall be made or imposed within –</p> <p>(a) 2 years after the completion of all construction operations to which the contract relates;</p> <p>(b) 2 years after the expiration of the period within which all construction operations to which the contract relates have to be completed as provided for by the contract; or</p>	<p>The same amendments to Cap. 317 (s.26(10)) and to Cap. 360A (reg.6(10)) are adopted to deal with term contract.</p>

		Clause 24(11)	Assessment of levy for a stage of construction operations	<p>(c) 1 year after evidence of facts, sufficient in the opinion of the Authority to justify the making of the assessment or the imposition of the surcharge comes to its knowledge, whichever is the last to occur.”</p> <p>To add a new clause “(11) For the purposes of this section, where the amount of levy due in respect of a stage of any construction operations is assessed under this section, the amount of levy shall be assessed as if such stage of the construction operations separately constitutes construction operations subject to payment of levy under this Ordinance.”.</p>	The same amendment to Cap. 317 (s.26(11)) and to Cap. 360A (reg.6(11)) is adopted to cater for a stage of construction operations.
2.10	Part 4 Clause 25	<b><u>Payment of levy</u></b> Clause 25(4) (P. C331)	Remission of penalty, levy or surcharge	<p>To add "any levy or surcharge payable under subsection (1) or," after "part of". To add a comma after "(3)".</p>	The same amendment to Cap. 317 (s.27(1C)) and to Cap. 360 (s.37(1C)) is adopted. Remission will also include levy or surcharge if the Authority thinks fair and reasonable.

2.11	Part 4 Clause 29	<p><b><u>Provision of information and production of documents</u></b></p> <p>Clause 29(1) (P. C335)</p> <p>Clause 29(3)(c)</p>	<p>Provision of information</p> <p>Exceptions for provision of information</p>	<p>To delete "any construction works" and substitute "any construction operations";</p> <p>In paragraph (a), to delete "works" wherever it appears and substituting "operations"; and to delete "being";</p> <p>In paragraph (b), to delete "works" where it twice appears and substitute "operations".</p> <p>To delete "works" and substitute "operations".</p>	<p>Due to the amendment from “construction works” to “construction operations”. The word “being” is redundant.</p> <p>Due to the amendment from “construction works” to “construction operations”.</p>
------	---------------------	--	--	---	--