

Construction Workers Registration Bill

Responses to comments made by Members at the 8th Bills Committee meeting

At the 8th Bills Committee meeting held on 7 April 2004, the Bills Committee discussed the Administration's responses to issues raised by Members at the 7th Bills Committee meeting and continued to examine the Bill clause-by-clause. The Administration has considered the comments and suggestions made by Members at the meeting and would like to furnish the following responses for Members' consideration:

1. Expiry and renewal of registration (clause 42(2))

1.1 In view of Members' comments that a consistent approach should be adopted in stipulating the longest validity period allowable for the registration of a Hong Kong permanent resident (clause 42(2)(a)) or a non Hong Kong permanent resident (clause 42(2)(b)), we propose to amend clause 42(2)(b) so that the expiry date of a registration for a person who is not a Hong Kong permanent resident will be "not more than 48 months" instead of "not more than 42 months".

1.2 It is also necessary to improve clause 42(2)(a) and (b) as to when the renewal of a registration takes effect. If a person applies for renewal of his registration according to clause 42(6)(c), the validity of the renewed registration should commence after the date of expiry of the registration instead of the date of renewal. In some other situations, the validity of the renewed registration should commence after the date of renewal. Thus, a new definition "relevant date" is introduced as an amendment to address this issue.

2. Application for renewal of registration (clause 42(6)(c))

The meaning of the expression "在該日期前" in the Chinese text of clause 42(6)(c) refers to the date of expiry of registration. The Administration will consider refining the Chinese text to avoid any ambiguity.

3. Requirement for renewal of a registration (clause 42)

3.1 Comparing the renewal requirement under clause 42(7) with that of “Green Card”

Under section 6BA of the Factories and Industrial Undertaking Ordinance (Cap. 59), a “Green Card” holder shall attend a training course (also called revalidation course) recognized by the Commissioner for Labour for the issue of another “Green Card”. If the holder fails to attend the revalidation course, the Commissioner for Labour may not extend the date of expiry of the existing “Green Card” or issue another “Green Card” to the holder.

On the other hand, under the Construction Workers Registration Bill (CWRB), the Registrar shall not renew the registration of a person unless the person has attended and completed the specified development courses during the period of 1 year immediately before the date of application for renewal. This is similar to the arrangement of the “Green Card” except the inclusion of a 1-year requirement to ensure that the course completed by the person is more up-to-date.

3.2 Persons who have not completed the required development courses by the time of submitting application for renewal of registration

According to clause 42(6)(c) of the CWRB, the application for renewal shall be submitted not later than 7 business days before the expiry date of the applicant’s registration. We now propose to add a new clause 42(6A) to clarify that a person may make an application within the 7 business days before his registration has expired if so allowed by the Registrar. Alternatively, the person may submit an application for renewal of his registration under clause 47(3)(b) within 14 days upon receipt of a cancellation notice from the Registrar. In both cases, the person shall complete the development courses before submitting his application.

3.3 Existing arrangements under other registration systems for handling application for re-registration from a person who obtained the first registration through grandfathering arrangement

Two existing registration systems are found to have grandfathering arrangements that are relevant:

(a) Electricity Ordinance (Cap. 406)

Under section 4(2)(c) of the Electricity (Registration) Regulations (Cap. 406D), if a person satisfies the Director of Electrical and Mechanical Services (DEMS) that he has been employed as an electrical worker for at least 6 years (including at least 1 year of practical experience in electrical work), the person is qualified to be registered for Grade A electrical work. The application for registration under this provision must be received by DEMS by 1 November 1996. The registration is valid for 3 years. A registered electrical worker has to submit to DEMS an application for renewal of registration at least 1 month before, and no earlier than 4 months, before the expiry date of the registration. A late applicant has to submit a fresh application for registration instead. The applicant may not rely on the grandfathering arrangement if his application for registration is submitted after 1 November 1996.

Similarly, the provisions under the CWRB whereby a senior worker may obtain registration as a registered skilled worker (transitional) will expire on a date to be appointed by the SETW (expected to be about eight months after commencement). If a worker registered by virtue of these provisions fails to renew his registration as required, he must submit a fresh application for registration. In that case, he can no longer rely on the grandfathering arrangement to obtain the registration.

(b) Chinese Medicine Ordinance (Cap. 549)

Under section 93, if a listed Chinese medicine practitioner has been, immediately before 7 January 2000, practising Chinese medicine in Hong Kong for a continuous period of 15 years, he is exempted from the Licensing Examination. The Practitioners Board may determine that such a practitioner to be qualified to be registered as a registered Chinese medicine practitioner.

A registered Chinese medicine practitioner shall not practise without a practising certificate, though there is no need for him to renew his registration. A practising certificate is in force for 3 years or less and is renewable after the holder completes continuing education. This arrangement equally applies to a registered Chinese medicine practitioner who obtained his registration through grandfathering arrangement and to one who did not.

4. Documentary proof accepted by the Registrar for ascertaining the experience of a worker

At a special meeting held on 18.10.2002 (copy of the relevant paragraphs extracted from the meeting notes attached at appendix) with representatives from the relevant trade associations, trade unions, training institutes and this Bureau, participants agreed that the experience claimed by a worker in seeking registration should be certified by his employers, or the relevant trade association or trade union. It was also agreed that a certain part of his experience could be certified by statutory declaration. According to clause 63 of the CWRB, the Authority may require in the specified form a statutory declaration to be made by the person completing the form and as to whether the particulars contained in the form are true and correct to the best of that person's knowledge and belief.

5. Qualifying period for senior workers

The Administration had an initial discussion with the trade unions concerned on the issue. We are now consulting the relevant trade associations to ascertain their views on the issue and will report to the Bills Committee when there is further progress.

Encl.

23 April 2004
ETWB

建造業工人註冊制度
有關建造經驗證明的特別會議記錄

日期：2002年10月18日

時間：下午2時30分

地點：中環花園道美利大廈21樓2107室

出席者：

曹華富先生	環境運輸及工務局	(主席)
林舜源先生	環境運輸及工務局	(秘書)
陳永桐先生	香港建造商會	
鄧智輝先生	香港建造商會	
樂達航先生	香港機電工程商協會	(部份時間)
唐一柱先生	建造業訓練局	
蔡鎮華先生	香港建造業總工會	
鄭國樞先生	香港建造業總工會	
冼啟明先生	香港機電業工會聯合會	
朱育青先生	香港機電業工會聯合會	
宋治德先生	建築地盤職工總會	

跟進

4. 關於工人須具10年或以上有關工作經驗才可豁免技能測試，冼啟明先生指出他們的聯會認為時間過長，6年經驗已是足夠。至於提出經驗證明方面，若工人未能從過往的僱主或有關的工會或商會等方面取得證明，會否考慮接受工人在這方面的宣誓。

5. 樂達航先生表示不應接受工人的所有工作經驗皆

以宣誓方式證明，特別是較近期的經驗。此外，他認為土木工程及建築行業的工人與機電業工人的註冊應同一時間開始實施，而不應因缺乏資源而將兩者分期執行。有與會者提出可否由建訓局暫借所需資金以便擴大現有的機電業訓練和測試設施以配合註冊制度的推行。唐一柱先生指出基於該局現有的職能，建訓局須待《工業訓練(建造業)條例》通過修訂後才可考慮借出款項的要求。

(樂達航先生於此時離開會議室。)

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7. 鄧智輝先生亦認為工人以宣誓方式證明部份經驗不宜太寬鬆，應只限於約1至2年的經驗，而工人所申報的工作經驗亦須經過抽樣調查，以減少虛報。

8. 主席總結與會者就此事項的討論並歸納要點如下：

- (a) 工人應不難從過往的僱主或有關的工會或商會等方面取得工作經驗證明；
- (b) 若有確實理由，可考慮接受工人以宣誓方式證明當中的1至2年經驗，本局會和負責草擬條例的律師商討以確定此安排是否可行；
- (c) 為阻嚇工人企圖以虛假工作經驗提出註冊申請，有關的審核程序將包括抽查一定比例的申請以核證所遞交的工作經驗及相關的證明文件，違規者將依法處理；
- (d) 工人若憑經驗申請豁免技能測驗必須通過評審面試以作進一步核證，故面試內容須包括一些行內的技術問題；及
- (e) 本局稍後將會成立小組以討論評審面試的具體安排包括評審團成員資格要求及面試內容等。