

## **Construction Workers Registration Bill**

### **Responses to comments made by Members at the 9<sup>th</sup> Bills Committee meeting and proposed new amendments on prosecution and investigation powers**

#### **A. Responses to comments made by Members at the 9<sup>th</sup> Bills Committee meeting**

At the 9<sup>th</sup> Bills Committee meeting held on 29 April 2004, the Bills Committee discussed the Administration's responses to issues raised by Members at the 8<sup>th</sup> Bills Committee meeting and the proposed amendments to clause 42 of the Bill. In consideration of the comments and suggestions made by Members at the meeting, the Administration would like to provide the following responses for Members' consideration:

##### **1. Expiry and renewal of registration (clause 42)**

In consideration of Members' comments that a registered construction worker should be allowed to apply for renewal of his registration after the expiry of the period referred to in clause 42(6)(c) and before the Registrar gives notice to the worker of the intention to cancel his registration according to clause 47(1)(b), we propose to modify the new clause 42(6A) and amend clause 42(6) so that application for renewal of registration is allowed within that period. Details are shown in the updated CSAs (4<sup>th</sup> (2nd revised) draft).

##### **2. Arrangements for handling application for re-registration from a person who obtained the first registration through grandfathering arrangement**

The present provisions under the Bill require a person registered by virtue of the grandfathering arrangement to submit a fresh application for registration if he fails to renew his registration as required. Similar to the arrangement under the Electricity Ordinance (Cap. 406), such persons can no longer rely on the grandfathering arrangement to obtain the registration. Members viewed that a person who obtained his registration through trade test could apply for re-registration if he still held a valid trade test certificate, the same should apply to

persons relying on the grandfathering arrangement to obtain their first registration, and that such persons should be allowed to apply for re-registration even if they failed to renew their registrations. The Administration is consulting the trade associations on the arrangement proposed by Members and will revert to the Bills Committee when a decision has been made.

**3. Expiry of registration as registered skilled worker (transitional)  
(clauses 41 and 43)**

Clause 43(2) of the Bill stipulates that the registration of a registered skilled worker (transitional) will expire if the person is registered as a registered skilled worker, or if he fails to sit or fails in the test referred to in clause 41(4). Members commented that similar to the provisions for registered skilled worker (provisional), the registration of registered skilled workers (transitional) should be valid for 3 years to allow time for such workers to re-sit the tests if so required.

The Administration is actively exploring other proposed transitional registration arrangements for the senior workers as mentioned in paragraph A.5 below. Pending the outcome which may have direct bearing on the expiry of the registration as a registered skilled worker (transitional), we will give further deliberation to Members' comments.

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

In response to Members' comments that there were no express provisions in the Bill allowing applicants to prove part of their experience by statutory declaration, the Administration would like to point out that this arrangement was discussed and agreed at previous meetings with parties concerned as shown in the notes of meeting (LC paper no. CB(1)1620/03-04(01)) provided to Members at the 9<sup>th</sup> meeting, which is a public document and can serve as a formal record. Besides, the agreed arrangement will be used as the basis for the Authority to develop the necessary guidelines for registration of workers in future. Hence, the Administration considers that it is not necessary to further clarify the arrangement.

## **5. Qualifying period for senior workers**

Pending further views from Members, the Administration will continue to consult the relevant trade associations and unions regarding the proposed transitional arrangements for senior workers to seek exemption from trade tests and obtain registration as registered skilled workers. The Bills Committee will be informed soonest when there is further progress.

## **B. Proposed new amendments on prosecution and investigation powers**

Members are requested to note that specific amendments to the Bill are included in the CSAs (4<sup>th</sup> (2<sup>nd</sup> revised) draft) to empower the Authority to take up prosecution and investigation actions in relation to offences under the Bill. These amendments are required as the Commission of Police has advised that they would not take up enforcement of the Ordinance. The amendments essentially cover the following:

- (a) The provisions (clauses 60(1) and (2)) on the appointment and power of the Authorized Officers have been expanded and are now placed under a new Part 3A (clauses 17A, 17B and 17C) immediately following Part 3 on the Authority and Standing Committees;
- (b) The appointment of the Levy Inspectors (clause 60(3)) is now placed in Part 4 as a new provision (clause 30A);
- (c) The offence provisions relevant to paragraph (a) above are incorporated into the existing clause 61 ; and
- (d) The provision on prosecution is placed immediately after clause 61 under a new clause 61A.

7 May 2004

ETWB