



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處 法律事務部
LEGISLATIVE COUNCIL SECRETARIAT
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Secretary for Environment,
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Environment, Transport and Works Bureau
(Attn: Mr S Y LAM, AS (E&T)3)
Rm 1224, 12/F
Murray Building
Garden Road
Hong Kong

By Fax (2521 9682) and By Post

10 May 2004

Dear Mr LAM

Construction Workers Registration Bill

I refer to your Committee Stage amendments to the above Bill received by me today and enclose my comments in manuscript.

Yours sincerely

(Monna LAI)
Assistant Legal Adviser

Encl

c.c. Mr Lawrence PENG
Deputy Principal Government Counsel
Department of Justice

Section 17B

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(c) detain any person found on the site, during such period as is reasonably required to permit the search to be carried out, where that person might prejudice the purpose of the search if he were not so detained; and

(d) inspect, seize, detain and remove from the site anything that is or contains, or appears to the officer to be or to contain, or to be likely to be or to contain, evidence of the commission of an offence under this Ordinance.

(2) A magistrate may issue a warrant authorizing an authorized officer to enter and search a construction site if the magistrate is satisfied by information on oath that there are reasonable grounds to suspect that -

(a) an offence under this Ordinance is being or has been committed on the site; or

Power too wide?

(b) there is or may be on the site anything that is or contains, or is likely to be or to contain, evidence of the commission of an offence under this Ordinance.

(3) A warrant issued under subsection (2) continues in force for 1 month or until the purpose for which entry is required has been fulfilled, whichever first occurs.

(4) An authorized officer may, without a warrant issued under subsection (2), exercise any of the powers referred to in subsection (1) in respect of a construction site (other than domestic premises) if -

(a) he reasonably suspects that -

Power too wide?

(i) an offence under this Ordinance is being or has been committed on the site; or

(ii) there is or may be on the site anything that is or contains, or is likely to be or to contain, evidence of the commission of an offence under this Ordinance;

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(b) it is not practicable to obtain such a warrant in respect of the site before exercising those powers.

(5) For the purposes of ascertaining whether the provisions of this Ordinance have been or are being complied with, an authorized officer may enter a construction site at all reasonable times.

(6) This section does not prejudice any power of entry and search conferred on police officers under any other law.

17C. Other powers of authorized officers

(1) An authorized officer who has entered a construction site under section 17B(1) or (5) may –

- (a) inspect and examine the site;
- (b) inspect and examine any plant, equipment or substance found on the site;
- (c) take photographs of the site or of any plant, equipment or substance found on the site;
- (d) require any person found on the site –
 - (i) to state whether he is a registered construction worker; and
 - (ii) if the person states that he is a registered construction worker, to produce his registration card;
- (e) in relation to any person found on the site whom the officer reasonably suspects of committing, or having committed, an offence under this Ordinance –
 - (i) require the person –

*Authorized Officers
to inform the person
The suspected offence?*

(A) to give to the officer the person's name, address and telephone number and such other personal particulars as the officer may reasonably require; and



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Section 17c

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(B) to produce to the officer for inspection the person's identity card issued under the Registration of Persons Ordinance (Cap. 177) or the person's other documentary evidence of identity; and

(ii) detain the person for a reasonable period while the officer inquires about the suspected commission of the offence;

only if the authorized officer reasonably believes that the person has the information and cannot reasonably obtain the information from another source?

(f) require any person found on the site to provide information that may enable the officer to identify -

(i) the principal contractor for the site; or

(ii) any person who personally carries out on the site construction work or the employer of such person;

(g) examine the records referred to in section 59(7)(a) and make copies of all or any part of those records; and

(h) require the principal contractor for the site, or any person who is apparently an employee or agent of that contractor, to provide the officer with such assistance and facilities as are reasonably necessary to enable the officer to perform or exercise his functions or powers.

(2) An authorized officer may, in relation to anything that the officer seizes, detains or removes from a construction site under section 17B(1)(d) -

(a) retain the thing for such period as may be reasonably necessary; and

(b) if he reasonably believes that the thing is evidence of the commission of an offence under this Ordinance, retain the thing until proceedings for the offence have been heard and finally determined.

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Clause 42

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(6A) An application under subsection (5) shall be made –

- (a) not earlier than 3 months before and not later than 7 business days before the date of expiry of the person's registration;
- (b) after the expiry of the period referred to in paragraph (a) but before the date on which the Registrar gives notice to the person that the Registrar intends to cancel the person's registration under section 47(1)(b); or
- (c) in the case where the Registrar has given notice to the person that the Registrar intends to cancel the person's registration under section 47(1)(b), before the expiry of the period of 14 days referred to in section 47(2)(b).

(7) The Registrar shall not renew the registration of a person unless the Registrar is satisfied that –

- (a) the person complies with the applicable requirements for registration set out in sections 37 and 4(4) and (5); and
- (b) if the registration will, on the date of its expiry, have been in effect for not less than 2 years, the person has attended and completed, during the period of 1 year immediately before the date of application for renewal of the registration, such development courses applicable to his registration as the Authority may specify.

(8) The Authority shall give notice in the Gazette of the development courses that it specifies for the purposes of subsection (7)(b).

(9) ~~In this section, "registration" (註冊) means registration under this Ordinance as –~~

- ~~(a) a registered skilled worker for a designated trade;~~
- ~~(b) a registered semi-skilled worker for a designated trade; or~~
- ~~(c) a registered general worker;~~

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61. Offences of making false or misleading statements, of failure to attend as witness and of obstructing authorized officers, etc. and of failure to attend inquiries or hearings as witness, etc.

(1) A person who, without reasonable excuse, makes any statement or furnishes any information, which is false or misleading in a material particular, in connection with -

- X T (aa) ~~a requirement made to the person under section 17C(1)(d)(i), (e)(i)(A) or (f);~~
- (a) an application for registration or renewal of registration;
- (b) ~~a complaint under Part 6;~~
- (c) a request for review under Part 7;
- (d) an appeal under Part 7; or
- (e) an application under section 59(2),

commits an offence and is liable on conviction to a fine at level 3.

(2) If a person who -

- (a) having been summoned by the ~~Complaints Committee to attend an inquiry or~~ by an Appeal Board to attend a hearing, without reasonable excuse, refuses or fails to do so;
- (b) attends an ~~inquiry before the Complaints Committee, or a hearing before an Appeal Board,~~ as a witness and, without reasonable excuse, refuses or fails to answer any question put to him by the ~~Committee or Board;~~ or
- (c) having been required to produce any document or other thing in his possession, without reasonable excuse, refuses or fails to do so,

commits an offence and is liable on conviction to a fine at level 3.

Section 61

C387

(3) A person who -

- (a) without reasonable excuse, resists, obstructs or delays an authorized officer who is performing or exercising, or attempting to perform or exercise, a function or power under this Ordinance;
- (b) without reasonable excuse, fails to comply with a requirement made to the person under section 17C(1)(d)(i), ⁽¹⁾(e)(i) or (f);
- (c) without reasonable excuse, prevents, or attempts to prevent, another person from assisting an authorized officer in the performance or exercise of the officer's functions or powers under this Ordinance; or
- (d) directly or indirectly, intimidates or threatens an authorized officer or person assisting such an officer in the performance or exercise of the officer's functions or powers under this Ordinance.

commits an offence and is liable on conviction to a fine at level 3.

61A. Prosecution may be brought in Authority's name

Without prejudice to any Ordinance relating to the prosecution of criminal offences or to the powers of the Secretary for Justice in relation to the prosecution of criminal offences, a prosecution for an offence under this Ordinance may be -

- (a) brought in the name of the Authority; and
- (b) commenced and conducted by a member or employee of the Authority authorized in that behalf in writing by the Authority.

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