

Construction Workers Registration Bill

Responses to comments made by Members at the 10th Bills Committee meeting and other proposed amendments

At the 10th Bills Committee meeting held on 13 May 2004, the Bills Committee discussed the Administration's responses to issues raised by Members at the 9th Bills Committee meeting and the proposed amendments to empower the Authority to take up prosecution and investigation actions in relation to offences under the Bill. Having considered the comments and suggestions made by Members and the Legal Adviser of LegCo, the Administration would like to provide the following responses and other proposed amendments for Members' consideration:

1. Power of authorized officers to enter construction site (clause 17B)

In consideration of Members' concern about the need to provide adequate safeguard to authorized officers who were empowered to use force as might be necessary to enter and search a construction site, we have consulted the Police and proposes to amend clause 17A(4) such that an authorized officer may seek the assistance of such police officers or other persons, or both, as the authorized officer thinks fit.

2. Term of appointment for members of Appeal Board panel (clauses 54(3)(b))

To improve readability of the Chinese text of clause 54(3)(b), the Administration proposes to delete clause 54(3) and replace it by the revised clause 54(3) "An appointment under subsection (1) shall be notified in the Gazette." and a new clause 54(3A) "A member of the Appeal Board panel shall be appointed for a term of not more than 3 years."

3. Appointment of Members to an Appeal Board (clause 55(2))

In view of Members' comments that the five members of an Appeal Board should be selected from different groups of the Appeal Board panel, we propose to amend clause 55(2) so that not more than 2 members are selected in rotation from each of the 3 groups of Appeal Board panel members i.e. members from professional bodies (clauses 54(1)(a), (b) and (c)), from contractors (clause 54(1)(d) and from trade unions (clause 54(1)(e)) to make up the five members of an Appeal Board.

4. Appeal Board may require appellant to undergo test (clause 58(1)(b))

Members commented that the Appeal Board should have the flexibility of requiring an appellant to undergo a training course other than sitting for a test to ascertain his level of competence. We suggest that the current provision should be kept. While a test would be an appropriate way to assess an appellant's competence and skill level, a training course might not.

5. Issues to be reverted to the Bills Committee

Pending further discussions and consultations with the relevant trade associations and trade unions, the Administration will revert to the Bills Committee on the following issues:

- (a) whether a person who obtained the first registration through grandfathering arrangement should be allowed to apply for re-registration if he fails to renew his registration as required;
- (b) whether the registration of a registered skilled workers (transitional) should have a validity of 3 years to allow time for such workers to re-sit trade tests if required; and
- (c) the qualifying period for senior workers to be registered as registered skilled workers (transitional).

6. Amendments to the new clauses on the powers of the authorized officers (clauses 17B and 17C) and other proposed amendments

In consideration of the comments and suggestions made by the Legal Adviser of LegCo in her letters dated 10 and 11 May 2004, the Administration has made amendments to clauses 17B(1)(d), 17B(2)(b), 17B(4)(a)(ii), 17C(1)(e)(i), 17C(1)(f) and 17C(2). We have also made improvements to clause 17B(3). Details are given in the updated CSAs (5th (revised) draft).

We believe it is also necessary to clarify that the time for submitting an appeal should be calculated from the date on which the Review Committee has notified its recommendation. Hence, we propose to amend clauses 53(3) and (4) in the way shown in the updated CSAs (5th (revised) draft).

19 May 2004
ETWB