

CONSTRUCTION WORKERS REGISTRATION BILL

《建造業工人註冊條例草案》

Committee Stage Amendments

Mark up for the newly proposed amendments in the English CSAs – 6th (revised) Draft

(compared to English CSAs – 2nd (2nd revised) draft)

[Note: amendments made to Long Title and clauses 2(1), 3(2), 3(3), 6(8), 17A, 17B, 17C, 18(1), 18C(5), 19(4), 19(5), 29(3), 30A, 36, 37, 38, 39, 40, 41, 42(2), 42(6), 42(6A), 42(9), 46(1), 52(1), 52(5), 52(6), 52(7), 53(1), 53(2), 53(3), 53(4), 54(3), 54(3A), 55(2), 57(3), 58(1), 60, heading of 61, 61(1), 61(3), 61A and Schedule 1]

A BILL

To

Provide for the registration of construction workers; the establishment of a Construction Workers Registration Authority; a levy to be paid by contractors in respect of ~~certain kinds of construction work~~ **construction operations**; the regulation of construction workers personally carrying out construction work; and for related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Construction Workers Registration Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment, Transport and Works by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires –

“Appeal Board” (上訴委員會) means a Construction Workers Appeal Board appointed under section 55(1);

“Appeal Board panel” (上訴委員團) means the Appeal Board panel appointed under section 54(1);

“Authority” (管理局) means the Construction Workers Registration Authority established by section 7(1);

“authorized officer” (獲授權人員) means a person who is appointed under section ~~17A(1)~~ **60(1)**;

~~“Complaints Committee” (投訴委員會) means the Construction Workers Complaints Committee established by section 14(1);~~

“construction site” (建造工地) means a place where construction work is, or is to be, carried out but, except in relation to sections **17B and 17C-49 and 60(2)(a) and (d)**, excludes such a place where –

- (a) in the case of construction work falling within paragraph (a) or (b) of the definition of “construction work” in this section –
 - (i) in respect of which the Buildings Ordinance (Cap. 123) applies; and
 - (ii) which may not, by virtue of section 41(3) or (3A) of that Ordinance, be carried out without application to or approval from the Building Authority,
a certificate, referred to in paragraph (2) or (3) of regulation 25, or in paragraph (2) of regulation 26, of the Building (Administration) Regulations (Cap. 123 sub. leg.), in respect of the construction work has been sent to the Building Authority in accordance with that paragraph, or a certificate, referred to in paragraph (4) of regulation 25 of those Regulations, in respect of the construction work has been made in accordance with that paragraph;
- (b) in the case of any other construction work falling within paragraph (a) or (b) of that definition, a certificate of substantial completion of contract has been issued in accordance with the terms of the contract under which the construction work is carried out;

Clause 2(1)

“construction work” (建造工程、建造工作), ~~except in relation to Part 4 –~~

- (a) means –
- (i) the construction, erection, installation or reconstruction of any specified structure;
 - (ii) the addition, renewal, alteration, repair, dismantling or demolition of any specified structure that involves the structure of the specified structure or any other specified structure;
 - (iii) any building operation involved in preparing for any operation referred to in subparagraph (i) or (ii), including laying of foundations, excavation of earth and rock prior to laying of foundations, site clearance, site investigation, site restoration, earthmoving, tunneling, boring, scaffolding and provision of access; or
 - (iv) any building operation, or building services work, forming an integral part of, or rendering complete, any operation referred to in subparagraph (i) or (ii), but excludes building works in respect of which a certificate of exemption is issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121);
- (b) means any building services work that involves the structure of any specified structure; or

Clause 2(1)

“designated trade” (指定工種) means a trade or an occupation set out in column 1 of Part 1, 2 or 3 of Schedule 1;

"domestic premises" (住用處所) means premises used or intended to be used solely or principally for residential purposes and constituting a separate household unit;

“extra low voltage” (特低壓) means voltage normally not exceeding –

- (a) 50V root mean square alternating current; or
- (b) 120V direct current,

between conductors or between a conductor and earth;

“further penalty” (附加罰款) means the further penalty payable under section 25(3);

“levy” (徵款) means the levy imposed under section 19;

~~“levy inspector” (徵款督察) means a person who is appointed under section 60(3);~~

“low voltage” (低壓) means voltage normally exceeding extra low voltage but normally not exceeding –

- (a) between conductors, 1 000V root mean square alternating current or 1 500V direct current; or
- (b) between a conductor and earth, 600V root mean square alternating current or 900V direct current;

“officer” (高級人員), in relation to a body corporate, includes a director, manager or secretary;

“penalty” (罰款) means the penalty payable under section 25(2);

designated trade, are additional to the provisions of any other Ordinances applicable to or in relation to the trade, or any part of the trade.

PART 2 PROHIBITIONS

3. Prohibition against unregistered construction workers carrying out on construction sites construction work

(1) A person shall not personally carry out on a construction site construction work unless the person is a registered construction worker.

(2) Subject to section 4(1), a person shall not personally carry out on a construction site construction work that involves any work described in column 2 of Part 1 of Schedule 1 opposite a designated trade set out in that Part unless the person is –

- (a) a registered skilled worker for the trade; **or**
- (b) a registered skilled worker (provisional) for the trade; ~~**or**~~
- ~~**(c) — a registered skilled worker (transitional) for the trade.**~~

(3) Subject to section 4(2), a person shall not personally carry out on a construction site construction work that involves any work described in column 2 of Part 2 of Schedule 1 opposite a designated trade set out in that Part unless the person is –

- (a) a registered skilled worker for the trade;
- (b) a registered skilled worker (provisional) for the trade;
- ~~**(c) — a registered skilled worker (transitional) for the trade;**~~
- (d) a registered semi-skilled worker for the trade; or
- (e) a registered semi-skilled worker (provisional) for the trade.

6. Offences in relation to prohibitions under sections 3 and 5

(1) A person who contravenes section 3(1), (2), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.

(2) A person who contravenes section 5 commits an offence and is liable on conviction to a fine at level 5.

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(8) For the purposes of subsections (3), (5) and (6)(a), the relevant matter exists if~~The relevant matter referred to in subsections (3), (5) and (6)(a)~~
~~is~~ –

- (a) in the case of an offence in relation to a contravention of section 3(1), ~~that~~ the person who personally carried out construction work was a registered construction worker;
- (b) in the case of an offence in relation to a contravention of section 3(2), ~~that~~ the person who personally carried out construction work that ~~involves~~involved any work described in column 2 of Part 1 of Schedule 1 opposite a designated trade set out in that Part –
 - (i) was a registered skilled worker for the trade;
 - (ii) was a registered skilled worker (provisional) for the trade; or
 - ~~(iii) was a registered skilled worker (transitional) for the trade; or~~
 - (iv) was a registered construction worker who might do so under section 4(1);
- (c) in the case of an offence in relation to a contravention of section 3(3), ~~that~~ the person who personally carried out

construction work that ~~involves~~involved any work described in column 2 of Part 2 of Schedule 1 opposite a designated trade set out in that Part –

- (i) was a registered skilled worker for the trade;
 - (ii) was a registered skilled worker (provisional) for the trade;
 - ~~(iii) was a registered skilled worker (transitional) for the trade;~~
 - (iv) was a registered semi-skilled worker for the trade;
 - (v) was a registered semi-skilled worker (provisional) for the trade; or
 - (vi) was a registered construction worker who might do so under section 4(2);
- (d) in the case of an offence in relation to a contravention of section 3(4), ~~that~~ the person who personally carried out construction work that ~~involves~~involved any work described in column 2 of Part 3 of Schedule 1 opposite a designated trade set out in that Part –
- (i) was a registered semi-skilled worker for the trade;
 - (ii) was a registered semi-skilled worker (provisional) for the trade; or
 - (iii) was a registered construction worker who might do so under section 4(3).

PART 3A

AUTHORIZED OFFICERS

17A. Appointment of authorized officers

(1) The Authority may, subject to the approval of the Secretary, appoint in writing a person to be an authorized officer for the purposes of this Ordinance (other than Part 4).

(2) The Authority shall issue to each authorized officer a certificate of appointment that –

(a) gives the name of the authorized officer to whom it is issued; and

(b) states that it is issued by or on behalf of the Authority under this Ordinance.

(3) When performing or exercising a function or power under this Ordinance, an authorized officer shall, if requested to do so, produce for inspection his certificate of appointment.

(4) An authorized officer may perform or exercise any of his functions or powers under this Ordinance with the assistance of such **police officers or other persons, or both**, as the **authorized** officer thinks fit.

17B. Powers of authorized officers to enter construction site

(1) Where a warrant has been issued under subsection (2) in respect of a construction site, or where subsection (4) applies in respect of a construction site, an authorized officer may –

(a) at any time, using such force as may be necessary, enter and search the site;

(b) remove anything that obstructs the entry and search;

(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 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

(b) there is on the site anything that is or contains evidence of the commission of an offence under this Ordinance.

(3) A warrant issued under subsection (2) continues in force **until** –

(a) **the expiration of 1 month after the date of its issue; or**

(b) **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 –

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

(ii) there is on the site anything that is or contains evidence of the commission of an offence under this Ordinance; and

(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) on informing the person of the person's act or omission that *may constitute the offence*, require the person –
 - (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

(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;

(f) **subject to subsection (2)**, 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) *the employer of 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 shall not exercise the power under subsection (1)(f) unless he reasonably believes that the person has the information.

(3) 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.

(4) An authorized officer may –

(a) in order to make copies of records referred to in section 59(7)(a), remove the records from the construction site and retain them for such period as may be reasonably necessary; and

(b) if he reasonably believes that the records are evidence of the commission of an offence under this Ordinance, remove the records from the construction site and retain them until proceedings for the offence have been heard and finally determined.

PART 4

LEVY

18. Interpretation

(1) In this Part, unless the context otherwise requires –

“authorized person” (獲授權人) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);

"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); ~~“construction works” (建造工程) means the construction works within the meaning of section 2(2), (3) and (4) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);~~

“contractor” (承建商) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);

“employer” (僱主) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap. 317);

“value” (價值), in relation to construction operations, has the meaning assigned to it in section 18A; ~~in relation to any construction works, means the value of the construction works assessed under this Part.~~

"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);

"contract of employment" (僱傭合約) has the meaning assigned to it in section 2(1) of the Employment Ordinance (Cap. 57);

“levy inspector” (徵款督察) means a person who is appointed under section 30A;

"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);

"total value" (總價值), in relation to construction operations, has the meaning assigned to it in section 18B;

"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).

~~(2) — This Part shall not apply to any construction works —~~

~~(a) — the tender for which was submitted before the commencement of this Part; or~~

~~(b) — that began before that commencement.~~

(3) For the purposes of this Part, any ~~construction work~~ construction operations that are building works, or street works, not carried out by or on behalf of the Government is deemed to begin on the date of the Building

(5) In this section, —

~~(a) "domestic premises" (住用處所) means premises used or intended to be used solely or principally for residential purposes and constituting a separate household unit;~~

(b) a person shall be regarded as a person who occupies a domestic premises if he intends to occupy the premises.

~~19. Imposition of levy~~

~~(1) Subject to subsection (2), a levy shall be imposed in accordance with this Part on the value of all the construction works undertaken in Hong Kong and shall be payable by every contractor who undertakes the construction works.~~

~~(2) The Secretary may by notice provide that any construction works the value of which does not exceed the amount specified in the notice shall not be liable to the levy.~~

19. Imposition of levy

(1) A levy at the prescribed rate shall be imposed on the value of all construction operations undertaken or carried out in Hong Kong.

(2) Notwithstanding subsection (1), construction operations the total value of which does not exceed the prescribed amount shall not be liable to the levy.

(3) Subject to section 24(8A), the levy shall be payable in accordance with this Part by every contractor who carries out the construction operations.

(4) The Secretary may by notice **published in the Gazette** -

(a) prescribe the rate for the purposes of subsection (1); and

(b) prescribe the amount for the purposes of subsection (2).

(5) Any rate prescribed under subsection (4)(a) -

(a) shall not come into effect before the expiration of **28 days after the last day of the period within which a resolution providing for the amendment of the notice may be passed in accordance with section 34 of the Interpretation and General Clauses Ordinance (Cap. 1)**; and

(b) shall not apply to any construction operations if, before the **date on which the rate comes into effect under** paragraph (a) -

Clause 29

(3) Subsection (2) shall not apply –

(aa) to the supply of a copy of personal data in compliance with a data access request under section 18 of the Personal Data (Privacy) Ordinance (Cap. 486);

(a) to the provision of information under –

(i) section 31 of the Industrial Training (Construction Industry) Ordinance (Cap. 317); or

(ii) regulation 14 of the Pneumoconiosis (Compensation) (Assessment of Levy) Regulations (Cap. 360 sub. leg.);

(b) to the disclosure of information in the form of a summary of similar information provided by or obtained from a number of employers, contractors or authorized persons if the summary is so framed as not to enable particulars relating to any particular contractor's business to be ascertained from it;

(c) to the disclosure of information by the Authority to any person authorized or employed by it for the purpose of checking or ascertaining the value of construction operationsworks;

(d) to the disclosure of information by the Authority to CITA, or to the Pneumoconiosis Compensation Fund Board established under the Pneumoconiosis (Compensation) Ordinance (Cap. 360); or

(e) to any disclosure of information made for the purpose of any legal proceedings brought under this Ordinance, or for the purpose of any report of any such proceedings.

(4) Any person who, without reasonable excuse, fails to comply with a requirement under subsection (1) when it is within his power to do so commits an offence and is liable on conviction to a fine at level 1.

30A. Levy inspector

_____ The Authority may, subject to the approval of the Secretary, appoint in writing a person to be a levy inspector for the purposes of this Part.

- (b) obliterates, defaces or otherwise alters an existing entry in the Register; or
 - (c) adds a new entry in the Register,
- commits an offence and is liable to a fine at level 3.

36. Application for registration

- (1) A person may apply to the Registrar for registration as –
 - (a) a registered skilled worker for one or more designated trades set out in Part 1 or 2 of Schedule 1;
 - (b) a registered skilled worker (provisional) for one or more designated trades set out in Part 1 or 2 of Schedule 1;
 - (c) a registered semi-skilled worker for one or more designated trades set out in Part 2 or 3 of Schedule 1;
 - (d) a registered semi-skilled worker (provisional) for one or more designated trades set out in Part 2 or 3 of Schedule 1;or
 - (e) a registered general worker.
- (2) An application under subsection (1) shall be –
 - (a) in the specified form; and
 - (b) accompanied by the prescribed fee.

~~(3) If a person applies for registration as a registered skilled worker for a designated trade set out in Part 1 or 2 of Schedule 1, the prescribed fee for the application may include the cost of an assessment interview referred to in section 41 unless the Registrar is satisfied that the person holds a certificate set out in column 3, or a qualification set out in column 4, of that Part opposite the trade.~~

(4) Paragraphs (b) and (d) of subsection (1), and subsection (3), each expires on a day or days to be appointed by the Secretary by notice published in the Gazette.

37. Qualifications for registration

(1) The Registrar shall not register a person as a registered construction worker unless the Registrar is satisfied that –

- (a) the person holds a certificate referred to in section 6BA(2) of the Factories and Industrial Undertakings Ordinance (Cap. 59) in respect of that person's attendance at a safety training course that relates to construction work within the meaning of that Ordinance; and
- (b) the person –
 - (i) is a Hong Kong permanent resident; or
 - (ii) is not subject to any conditions of stay in Hong Kong that he shall not take up any paid or unpaid employment in Hong Kong.

(2) Subject to section 40(4), the Registrar shall not register a person as a registered skilled worker for a designated trade set out in Part 1 of Schedule 1 unless the Registrar is satisfied that the person –

- (a) holds a certificate set out in column 3, or a qualification set out in column 4, of that Part opposite the trade; ~~or~~
- (aa) holds a certificate referred to in section 38(1)(b) –
 - (i) in respect of a training course applicable to the trade that the Authority specifies under section 38(1); and
 - (ii) issued to the person while a registered skilled worker (provisional) for the trade; or
- (b) holds a qualification that the Registrar, in consultation with the Qualifications Committee, considers as an equivalent qualification.

(3) Subject to section 40(5), the Registrar shall not register a person as a registered skilled worker for a designated trade set out in Part 2 of Schedule 1 unless the Registrar is satisfied that the person –

- (a) holds a certificate set out in column 3, or a qualification set out in column 4, of that Part opposite the trade; ~~or~~
- (aa) holds a certificate referred to in section 38(1)(b) –
- (i) in respect of a training course applicable to the trade that the Authority specifies under section 38(1); and
- (ii) issued to the person while a registered skilled worker (provisional) for the trade; or
- (b) holds a qualification that the Registrar, in consultation with the Qualifications Committee, considers as an equivalent qualification.

(4) Subject to section 40(1), (2) and (5), the Registrar shall not register a person as a registered skilled worker (provisional) for a designated trade set out in Part 1 or 2 of Schedule 1 unless the Registrar is satisfied that as at the commencement of this subsection, the person has, for a period, or an aggregate period, of not less than 6 years ~~but less than 10 years~~, personally carried out construction work that involves any work described in column 2 of that Part opposite the trade.

(5) Subject to section 40(5), the Registrar shall not register a person as a registered semi-skilled worker for a designated trade set out in Part 2 of Schedule 1 unless the Registrar is satisfied that the person –

- (a) holds an intermediate trade test certificate set out in column 5 of that Part opposite the trade; or
- (b) holds a qualification that the Registrar, in consultation with the Qualifications Committee, considers as an equivalent qualification.

(6) The Registrar shall not register a person as a registered semi-skilled worker for a designated trade set out in Part 3 of Schedule 1 unless the Registrar is satisfied that the person –

- (a) holds an intermediate trade test certificate set out in column 3, or a qualification set out in column 4, of that Part opposite the trade; or
- (b) holds a qualification that the Registrar, in consultation with the Qualifications Committee, considers as an equivalent qualification.

(7) Subject to section 40(2), (3) and (5), the Registrar shall not register a person as a registered semi-skilled worker (provisional) for a designated trade set out in Part 2 or 3 of Schedule 1 unless the Registrar is satisfied that, as at the commencement of this subsection, the person has, for a period, or an aggregate period, of not less than 2 years, personally carried out construction work that involves any work described in column 2 of that Part opposite the trade.

38. Training course for registered skilled worker (provisional)

(1) The Authority may, in relation to the registered skilled workers (provisional) for a designated trade, specify a training course –

- (a) which is, in the opinion of the Authority, a course of training for those workers on carrying out on a construction site construction work that involves any work described in column 2 of Part 1, 2 or 3 of Schedule 1 opposite the trade; and
- (b) in respect of which a certificate is issued to a person who –
 - (i) attends and completes the course;
 - (ii) attends and completes the assessment, conducted during or at the end of the course, of the person's competence in the area covered by the course; and
 - (iii) satisfies the assessor that the person is so competent.

(2) The Authority shall give notice in the Gazette of any training course that it specifies under subsection (1).

(3) A registered skilled worker (provisional) for a designated trade may, at his own cost, attend such training course applicable to the trade as the Authority specifies under subsection (1).

38. Acceptance and rejection of registration

~~(1) The Registrar shall accept or reject an application for registration or renewal of registration in accordance with this Ordinance.~~

~~(2) Where the Registrar rejects an application for registration or renewal of registration, the Registrar shall notify in writing the applicant of the rejection and the reasons for the rejection.~~

39. Registration as registered skilled worker (transitional)

~~(1) The Registrar shall, in relation to a person applying for registration as a registered skilled worker for a designated trade who—~~

~~(a) may not be registered as a registered skilled worker for the trade under section 37(2) or (3); but~~

~~(b) may be registered as a registered construction worker under section 37(1);~~

~~decide whether the person may be registered as a registered skilled worker (transitional) for the trade.~~

~~(2) Subject to section 40(1), (2) and (5), the Registrar shall not register a person as a registered skilled worker (transitional) for a designated trade set out in Part 1 or 2 of Schedule 1 unless the Registrar is satisfied that the person has, for a period, or an aggregate period, of not less than 10 years, personally carried out construction work that involves any work described in column 2 of that Part opposite the trade.~~

~~(3) If the Registrar decides not to register a person as a registered skilled worker (transitional) for a designated trade in accordance with this section, the Registrar shall notify in writing the person of the decision and the reasons for the decision.~~

~~(4) This section expires on a day to be appointed by the Secretary by notice published in the Gazette.~~

40. Special provision on registration for certain trades

(1) The Registrar shall not register a person as a registered skilled worker (provisional), ~~or a registered skilled worker (transitional)~~, for a designated trade set out in Part 1 of Schedule 1 if a qualification is set out in column 4 of that Part opposite the trade.

(2) The Registrar shall not register a person as a registered skilled worker (provisional), ~~a registered skilled worker (transitional)~~, or a registered semi-skilled worker (provisional), for a designated trade set out in Part 2 of Schedule 1 if a qualification is set out in column 4 of that Part opposite the trade.

(3) The Registrar shall not register a person as a registered semi-skilled worker (provisional) for a designated trade set out in Part 3 of Schedule 1 if a qualification is set out in column 4 of that Part opposite the trade.

(4) The Registrar shall not register a person as a registered skilled worker for the designated trade of diver unless the Registrar is satisfied that the person is certified by a registered medical practitioner that the person is medically fit to dive.

(5) The Registrar shall not register a person as a registered skilled worker, a registered skilled worker (provisional), ~~a registered skilled worker (transitional)~~, a registered semi-skilled worker, or a registered semi-skilled worker (provisional), for the designated trade of Building Security System Mechanic unless the Registrar is satisfied that the person holds a permit in

relation to the activities within paragraph (c) or (d) of the definition of “security work” in section 2 of the Security and Guarding Services Ordinance (Cap. 460).

41. Acceptance and rejection of registration

(1) The Registrar shall accept or reject an application for registration or renewal of registration in accordance with this Ordinance.

(2) Where the Registrar rejects an application for registration or renewal of registration, the Registrar shall notify in writing the applicant of the rejection and the reasons for the rejection.

~~41. Assessment interview and trade test for registered skilled workers (transitional)~~

~~(1) As soon as practicable after registering a person as a registered skilled worker (transitional) for a designated trade, the Registrar—~~

~~(a) shall decide, after an assessment interview with the person arranged by the Registrar, whether the person is of such a level of competence that the person may, notwithstanding section 37(2) or (3), be registered as a registered skilled worker for the trade; and~~

~~(b) if satisfied that the person is of such a level of competence that the person may be so registered, shall, notwithstanding section 37(2) or (3), register the person as a registered skilled worker for the trade.~~

~~(2) If the Registrar decides that the person is not of such a level of competence that the person may be so registered, the Registrar shall notify in writing the person of the decision and the reasons for the decision.~~

~~(3) If—~~

~~(a) the Registrar arranges an assessment interview with a person to assess whether the person may be registered as a registered skilled worker for a designated trade; and~~
~~(b) in the opinion of the Registrar, the person fails, without reasonable excuse, to attend the assessment interview,~~
 the Registrar is no longer required to assess whether the person may be registered as a registered skilled worker for the trade.

~~(4) The Registrar shall arrange a date for a person who—~~

~~(a) in the opinion of the Registrar, fails, without reasonable excuse, to attend an assessment interview that is arranged to assess whether the person may be registered as a registered skilled worker for a designated trade; or~~

~~(b) fails to satisfy the Registrar at an assessment interview that the person may be registered as a registered skilled worker for a designated trade,~~

~~to sit for a test for the relevant certificate, if any, set out in column 3 of Part 1 or 2 of Schedule 1 opposite the trade.~~

~~(5) If the person passes the test, the Registrar shall register the person as a registered skilled worker for the designated trade in accordance with section 37.~~

~~(6) If—~~

~~(a) the Registrar arranges a date for a person to sit for a test for a trade test certificate; and~~

~~(b) in the opinion of the Registrar, the person fails, without reasonable excuse, to sit for the test,~~

~~the Registrar is no longer required to arrange another date for the person to sit for the test.~~

~~(7) In this section, “relevant certificate” (有關證書) means a trade test certificate, or a trade certificate, for a designated trade that is issued by CITA or VTC.~~

42. Expiry and renewal of registration

(1) Subject to subsection (5), the registration of a person shall expire on a day that is specified by the Registrar in accordance with subsection (2).

(2) The date so specified shall –

(a) if the person is a Hong Kong permanent resident, subject to subsection (3), be not less than 12 months, and not more than 48 months, after the ~~date of registration or renewal of registration~~ **relevant date**;

(b) if the person is not a Hong Kong permanent resident, subject to subsections (3) and (4), be not more than ~~42 months after the date of registration or renewal of registration~~ **48 months after the relevant date**.

(3) If, on the date of registration or renewal of registration, the person holds another registration that is in effect, the date so specified shall be the day on which that other registration expires.

(4) If, on the date of registration or renewal of registration, the person is subject to a condition of stay in Hong Kong limiting the period during which the person may remain in Hong Kong, the date so specified shall be a day within that period.

(5) A person may apply to the Registrar for the renewal of his registration.

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

(a) in the specified form; **and**

(b) accompanied by the prescribed fee; **and**

~~(c) made not earlier than 3 months before and not later than 7 business days before the date of expiry of the applicant's registration.~~

~~(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 40(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;~~

Clause 42

(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,

and "registered" (註冊) shall be construed accordingly;

"relevant date" (有關日期) means -

- (a) the date of registration;
- (b) in the case of an application for renewal of registration made in accordance with subsection (6A)(a), the date on which the registration would have expired but for the renewal;
- (c) in the case of an application for renewal of registration made in accordance with subsection (6A)(b) -
 - (i) the date on which the registration would have expired but for the renewal; or
 - (ii) the date of renewal of registration, whichever is the later; or
- (d) in the case of an application for renewal of registration made in accordance with subsection (6A)(c), the date of renewal of registration.

46. Registered construction worker to carry registration card

(1) A registered construction worker shall comply with subsections (2), (3), (4) and (5) if he –

- (a) personally carries out on a construction site construction work;
- (b) personally carries out on a construction site construction work that involves any work described in column 2 of Part 1 of Schedule 1 opposite a designated trade set out in that Part as –
 - (i) a registered skilled worker for the trade; **or**
 - (ii) a registered skilled worker (provisional) for the trade; **or**
 - ~~(iii) a registered skilled worker (transitional) for the trade;~~
- (c) personally carries out on a construction site construction work that involves any work described in column 2 of Part 2 of Schedule 1 opposite a designated trade set out in that Part as –
 - (i) a registered skilled worker for the trade;
 - (ii) a registered skilled worker (provisional) for the trade;
 - ~~(iii) a registered skilled worker (transitional) for the trade;~~
 - (iv) a registered semi-skilled worker for the trade; or
 - (v) a registered semi-skilled worker (provisional) for the trade; or

PART 7

REVIEWS AND APPEALS

52. Review of decisions

(1) A person who is the subject of a decision of the Registrar under section ~~41(1)~~~~38(1)~~, ~~39(1)~~, ~~41(1)(a)~~, 42(1) or 47(1) may request the Review Committee to review the decision by serving on the Committee, within 2 weeks after the decision, a notice of request for review stating the substance of the matter and reasons for the request.

(2) A notice of request for review shall be in the specified form.

(3) A request under this section for review of a decision does not suspend the decision unless the Authority decides otherwise.

(4) As soon as practicable after receiving a notice of request for review, the Review Committee shall consider the request.

(5) On consideration of a request for review of a decision, the Review Committee may recommend the Registrar –

- (a) to confirm, vary or reverse the decision; or
- (b) to substitute the decision with such other decision as the Review Committee thinks fit.

(6) On making a recommendation, the Review Committee shall notify in writing the person who requests for the review of its recommendation and the reasons for the recommendation.

(7) As soon as practicable after receiving the recommendation of the Review Committee in respect of a person’s request for review of a decision, the Registrar shall –

- (a) having regard to the recommendation –
 - (i) confirm, vary or reverse the decision; or
 - (ii) substitute the decision with such other decision as the Registrar thinks fit; and

- (b) notify in writing the person of –
 - (i) if the Registrar confirms the decision, the confirmation;
 - (ii) if the Registrar varies the decision, the decision as varied;
 - (iii) if the Registrar reverses the decision, the reversal; or
 - (iv) if the Registrar substitutes the decision with another decision, that other decision,and the reasons for doing so.

53. Notice of appeal

(1) A person who is the subject of a decision under section 41(1), 42(1) or 47(1) may, after being notified under section 52(7)(b) of the confirmation, variation or substitution of the decision, appeal against –

- (a) if the Registrar confirms the decision, the decision;
- (b) if the Registrar varies the decision, the decision as varied; or
- (c) if the Registrar substitutes the decision with another decision, that other decision,

by serving on the Authority a notice of appeal stating the substance of the matter and reasons for the appeal.

~~(1) Subject to subsection (2), a person who is –~~

- ~~(a) the complainant of a complaint in relation to which the Authority decides under section 50(4) that the matter complained of has not been substantiated; or~~
- ~~(b) the subject of an order under section 50(6)(a) or a decision under section 38(1), 39(1), 41(1)(a), 42(1), 47(1) or 50(4);~~

~~may appeal against the decision or order by serving the Authority, within 4 weeks after the decision or order, a notice of appeal stating the substance of the matter and reasons for the appeal.~~

(2) For the purpose of an appeal under this Part –

(a) if the Registrar varies a decision, the decision as varied; or

(b) if the Registrar substitutes a decision with another decision, that other decision,

is also a decision of the Registrar.

~~(2) A person shall not appeal against a decision of the Registrar under subsection (1)(b) unless –~~

~~(a) the person has requested the Review Committee to review the decision under section 52; and~~

~~(b) the Review Committee has notified the person of its recommendation in respect of the request.~~

(3) A person who is the subject of a decision under section 59(4)(b) may appeal against the decision by serving on the Authority ~~the Authority, within 3 business days after the decision,~~ a notice of appeal stating the substance of the matter and reasons for the appeal.

(4) A notice of appeal shall be –

(a) in the specified form; ~~and~~

(b) accompanied by the prescribed fee; ~~and~~

(c) served on the Authority –

(i) in the case of an appeal against a decision under subsection (1), within 2 weeks after the Registrar notifies the person under section 52(7)(b) ; or

(ii) in the case of an appeal against a decision under subsection (3), within 3 business days after the decision.

(5) An appeal under subsection (1) against a decision does not suspend the decision unless the Authority decides otherwise.

(6) As soon as practicable after receiving a notice of appeal, the Authority shall forward a copy of the notice to the Secretary.

54. Appeal Board panel

(1) Subject to subsection (2), the Secretary~~The Secretary~~ shall appoint an Appeal Board panel of not less than 49 members, of whom –

- (a) not less than 16 are members of The Hong Kong Institution of Engineers nominated by the Institution;
- (b) not less than 8 are members of The Hong Kong Institute of Architects nominated by the Institute;
- (c) not less than 5 are members of The Hong Kong Institute of Surveyors nominated by the Institute;
- ~~(d) not less than 5 are nominated by The Hong Kong Construction Association, Limited;~~
- ~~(e) not less than 5 are nominated by The Hong Kong E&M Contractors' Association Limited;~~
- ~~(f) not less than 5 are nominated by Hong Kong Construction Industry Employees General Union; and~~
- ~~(g) not less than 5 are nominated by The Federation of Hong Kong Electrical and Mechanical Industries Trade Unions.~~
- (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
- (e) not less than 10 are persons, each of whom is, in the opinion of the Secretary, a person from a trade union, registered under the Trade Unions Ordinance (Cap. 332), that represents workers in the construction industry in Hong Kong.

(2) A person is not eligible for appointment under subsection (1) if he is –

- (a) a public officer;
- (b) a member of the Authority;
- (c) a member of the Qualifications Committee;
- ~~(d) a member of the Complaints Committee;~~
- (e) a member of the Review Committee; or
- (f) the Registrar, or, where the Registrar is a body corporate, a member, officer or employee of the Registrar.

~~(3) An appointment under subsection (1) shall be notified in the Gazette.~~

~~(3A) A member of the Appeal Board panel shall be appointed for a term of not more than 3 years.~~

~~(3) An appointment under subsection (1) shall be –~~
~~(a) notified in the Gazette; and~~
~~(b) for a term of not more than 3 years.~~

(4) A person appointed under subsection (1) may be reappointed, and may resign by notice in writing to the Secretary.

(5) If the Secretary is satisfied that a member of the Appeal Board panel –

- (a) has become a public officer, a member of the Authority, a member of the Qualifications Committee, ~~a member of the Complaints Committee~~ or a member of the Review Committee;
- (b) has become the Registrar, or, where the Registrar is a body corporate, a member, officer or employee of the Registrar;
- (c) has become bankrupt or made an arrangement with his creditors;
- (d) is incapacitated by physical or mental illness;

- (e) has ceased to be of the capacity by virtue of which he was appointed; or
- (f) is otherwise unable or unfit to perform the functions of a member,

the Secretary may declare his office as a member of the Appeal Board panel to be vacant, and shall notify the fact in such manner as the Secretary thinks fit; and upon such declaration the office shall become vacant.

55. Appeal Board

- (1) The Secretary shall within –
 - (a) 30 days after receipt of a notice of appeal under section 53(1); or
 - (b) 7 business days after receipt of a notice of appeal under section 53(3),

appoint a Construction Workers Appeal Board to hear the appeal.

- (2) An Appeal Board shall consist of 5 ~~members selected in rotation from the Appeal Board panel.~~ members, of whom –

- (a) not more than 2 are selected in rotation from the members of the Appeal Board panel specified in section 54(1)(a), (b) and (c);
- (b) not more than 2 are selected in rotation from the members of the Appeal Board panel specified in section 54(1)(d); and
- (c) not more than 2 are selected in rotation from the members of the Appeal Board panel specified in section 54(1)(e).

- (3) The members of an Appeal Board shall elect a chairman from amongst themselves.

- (4) The quorum of an Appeal Board is 4 members.

57. Legal adviser

(1) The Secretary may appoint a legal practitioner to advise an Appeal Board on any points of law and procedure that arise before, during or after a hearing of an appeal.

(2) A legal practitioner appointed under subsection (1) shall be remunerated for his services out of the funds of the Authority at a rate determined by the Secretary.

(3) In this section, "legal practitioner" (法律執業者) means counsel or a solicitor who holds a current practising certificate.

58. Powers of Appeal Board

(1) An Appeal Board may, by notice under the signature of its chairman –

(a) summon any person to attend the hearing to give evidence or produce any document or other thing in his possession;

~~(b) require the appellant to undergo such tests as the Board considers appropriate to assess whether the appellant is of a level of competence reasonably expected of a registered skilled worker, or a registered semi-skilled worker, for the designated trade; and~~

(c) authorize a person to inspect the construction work, if any, to which the appeal relates.

(1) An Appeal Board may –

(a) examine a person summoned under subsection (1)(a) as a witness or require him to produce any document or other thing in his possession;

(b) hear and consider representations made by or on behalf of the parties to the appeal; and

- (c) hear, receive and examine evidence on oath.
- (3) An Appeal Board may –
- (a) in an appeal against a decision ~~or order~~ of the Authority –
 - (i) confirm or revoke the decision ~~or order~~; or
 - (ii) make any decision ~~or order~~ that the Authority could have made;
 - (b) in an appeal against a decision of the Registrar –
 - (i) confirm or revoke the decision; or
 - (ii) make any decision that the Registrar could have made.
- (4) An Appeal Board may make any order as it thinks fit with regard to the payment of the costs of the parties to an appeal in the appeal.
- (5) Costs awarded or imposed under this section are recoverable as a civil debt.

60. Authorized officers and levy inspectors

~~(1) The Authority may, subject to the approval of the Secretary, appoint in writing a person to be an authorized officer for the purposes of this Ordinance (except Part 4).~~

~~(2) An authorized officer may—~~

~~(a) enter and inspect a construction site at all reasonable times;~~

~~(b) require any person found on the construction site to state whether or not he is a registered construction worker;~~

~~(c) require any person who states that he is a registered construction worker to produce his registration card; and~~

~~(d) examine the record referred to in section 59(7)(a).~~

~~(3) The Authority may, subject to the approval of the Secretary, appoint in writing a person to be a levy inspector for the purposes of Part 4.~~

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 –

~~(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~~ 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.

(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), (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 -

(i) an authorized officer in the performance or exercise of the officer's functions or powers under this Ordinance; or

(ii) a person assisting such an officer in the performance or exercise of those functions or powers,

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.

SCHEDULE 1

[ss. 2, 3, 4, 6, 36, 37,
~~38, 40, 46 & 66~~ ~~39, 40, 41,~~
~~46,~~
~~49 & 66~~]

DESIGNATED TRADES

PART 1

DESIGNATED TRADES FOR WHICH A PERSON MAY BE REGISTERED ONLY AS A REGISTERED SKILLED WORKER ~~OR REGISTERED SKILLED WORKER (PROVISIONAL), REGISTERED SKILLED WORKER (PROVISIONAL) OR REGISTERED SKILLED WORKER (TRANSITIONAL)~~, AS THE CASE MAY BE

Column 1	Column 2	Column 3	Column 4
Name of trade or occupation	Description of work	Certificate	Other qualifications
1. Asbestos Abatement Worker	To carry out asbestos abatement works	Trade test certificate for Asbestos Abatement Worker issued by CITA	Not applicable
2. Asphalter (Road Construction)	(a) To mix, place and compact bituminous materials using vibrating machines (b) To level and smoothen bituminous materials according to specified level marks	Trade test certificate for Asphalter (Road Construction) issued by CITA	Not applicable

Schedule 1, Part 1

14. Fire Service Portable Equipment Fitter	To maintain, inspect and repair portable fire services equipment	Not applicable	Fire service installation contractor class 3 registered under the Fire Service (Installation Contractors) Regulations (Cap. 95 sub. leg.)
15. Gas Installer	To install, commission, maintain and repair domestic and non-domestic gas appliances, gas fittings supply systems, and gas flow control and meters connected to gas cylinders or gas supply points	Not applicable	Gas installer registered to carry out gas installation work under regulation 7(1)(a) of the Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51 sub. leg.)
16. Grouting Worker	To mix cement or other materials to carry out underground grouting work	Trade test certificate for Grouting Worker issued by CITA	Not applicable

3.	Tunnel Worker	To carry out general construction work inside tunnels, including installing of temporary supports and working platforms, ventilation ducts, packers and protective fencings	Trade test certificate for Tunnel Worker issued by CITA	Not applicable
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PART 2

DESIGNATED TRADES FOR WHICH A PERSON MAY BE REGISTERED AS A REGISTERED SKILLED WORKERS, REGISTERED SKILLED WORKER (PROVISIONAL), ~~REGISTERED SKILLED WORKER (TRANSITIONAL)~~, REGISTERED SEMI-SKILLED WORKER OR REGISTERED SEMI-SKILLED WORKER (PROVISIONAL), AS THE CASE MAY BE

	Column 1	Column 2	Column 3	Column 4	Column 5
	Name of trade or occupation	Description of work	Certificate	Other qualifications	Intermediate trade test certificate
1.	Bamboo Scaffolder	To erect and dismantle bamboo scaffolding required in construction, repair or decoration work, and other forms of structures	Either one of the following – (a) trade test certificate for Bamboo Scaffolder issued by CITA; or (b) certificate of completion of an apprenticeship in the	Not applicable	Intermediate trade test certificate for Bamboo Scaffolder issued by CITA

