

立法會 *Legislative Council*

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Background Brief on Construction Workers Registration Bill

Purpose

This paper sets out the background of the Construction Workers Registration Bill (the Bill), and summarizes the legislative proposal therein and views of Members expressed when the legislative proposal was deliberated at the meetings of the Panel on Planning, Lands and Works on 3 October 2002 and the Panel on Manpower on 23 January 2003.

Background

2. In response to requests from the construction industry, the then Construction Advisory Board¹ (CAB) decided in July 1999 to set up a Working Group on Registration of Construction Workers (the Working Group), which comprised stakeholders of the construction industry (a list of the members is given in **Annex A**), to study the proposal for implementing a workers registration system.

3. The Working Group concluded and recommended to the then CAB that a mandatory registration system for construction workers should be implemented by way of legislation.

4. The Construction Industry Review Committee² (CIRC) also recommended in its Report issued in January 2001 that a worker registration system should be implemented as soon as possible.

¹ The Construction Advisory Board is an advisory body set up under the Works Bureau. It is chaired by the then Secretary for Works and its membership comprises industry representatives and representatives from concerned Government bureaux and departments.

² In April 2000, the Chief Executive of the Hong Kong Special Administration Region appointed the Construction Industry Review Committee to comprehensively review the state of the industry and to recommend improvement measures. On 18 January 2001, the Construction Industry Review Committee submitted its report to the Chief Executive.

5. The Administration subsequently embarked on the detailed development of the System by further consulting the views of the construction industry for the purpose of law drafting. According to the Administration, the System will:

- (a) ensure the quality of construction works through assessment and certification of the skill levels of all construction site workers;
- (b) provide more reliable data on labour supply to facilitate manpower planning and training by the Government;
- (c) raise the status of the construction workers by recognizing their skill levels;
- (d) foster a quality culture in the construction industry as workers will try to improve their skill levels to attain higher status and earn more income;
- (e) help combat hiring of illegal workers working on construction sites; and
- (f) help eliminate some of the wage disputes between the contractors and the workers with the availability of site entry and exit records.

The Proposal

6. The proposed Registration System is set out in the following paragraphs.

Scope and skill levels

7. The proposed Registration System is targeted at construction site workers engaged in new construction site works and in major addition, alteration, improvement and term maintenance works. Based on the categorization of skill levels of workers widely accepted by the construction industry and agreed by the Working Group, construction site workers will be registered under one of the three categories according to their skill levels as a skilled worker or a semi-skilled worker of individual trades, or as a general worker. Skilled and semi-skilled workers are required to pass the relevant trade tests and intermediate trade tests respectively conducted by the Construction Industry Training Authority or the Vocational Training Council.

Requirements for registration

8. The criteria and requirements for obtaining registration under the proposed system is set out below:

Categorisation	Years of experience required	Pass in trade test
(A) Formal registration		
(i) Skilled worker	Not less than four years in the respective trade	Required
(ii) Semi-skilled worker	No specific requirement	Required
(iii) General worker	No specific requirement	Not required
Remarks : All workers will be allowed to take the respective trade tests repeatedly until they pass the tests.		
(B) Provisional registration		
(i) Skilled worker	Not less than six years in the respective trade	Not required
(ii) Semi-skilled worker	Not less than two years in the respective trade	Not required
Remarks : All applications for provisional registration should be made in the first eight months after the coming into effect of the proposed legislation, after which a period of three years would be allowed for these workers to pass the respective trade tests to formally register as skilled or semi-skilled workers.		
(C) Registration for "senior workers" without the requisite qualifications (i.e. the exemption mechanism)		
(i) Skilled worker	Not less than 10 years in the respective trade	Not required (but subject to passing an interview)
Remarks : All applications for exemption should be made in the first eight months after the coming into effect of the proposed legislation.		

9. Workers who are in possession of relevant qualifications under existing legislation such as registered electrical workers, registered gas installers and licensed plumbers etc. are allowed to register as skilled workers of the respective trades.

Review and appeal mechanism

10. A Review Committee will be established to allow workers to request for reviews of the decisions of the Registrar. In addition, an Appeal Board, comprising representatives from relevant trade unions, trade associations and professional institutions, and independent of the statutory Registration Authority will be appointed by the Administration to handle appeals from construction workers.

Establishment of a Construction Workers Registration Authority

11. A Construction Workers Registration Authority (the Authority) is proposed to be established to supervise the registration of construction workers, set the qualification requirements for registration or renewal of registration, make recommendations with respect to the rate of levy imposed under the Bill and deal with complaints.

12. A levy is to be imposed on the value of all the construction works undertaken in Hong Kong at the rate as may be prescribed by the Secretary for the Environment, Transport and Works by notice published in the Gazette and payable by every contractor who undertakes the construction works. The levy is the fund of the Authority.

Consultation with LegCo Panels

13. The system proposed under the Bill was discussed at the meeting of the Panel on Planning, Lands and Works (PLW Panel) on 3 October 2002 and the meeting of the Panel on Manpower on 23 January 2003.

14. At the PLW Panel meeting on 3 October 2002, members were briefed on the background and main features of the proposed system. While members supported the introduction of the system to enhance the quality of construction works, some members considered it not the opportune time to implement the system as the proposed system might aggravate the unemployment situation in the construction industry at a time of economic recession. Members also expressed concern over the following points:

- (a) impact of the system on the job security, salary levels and employment-related benefits of construction workers;
- (b) timetable for registration of the substantial number of construction workers;
- (c) registration fees and other fees;
- (d) registration requirements and the trade tests involved;
- (e) criteria for determining the qualifying period (ten years or more experience) for exemption from registration as "skilled worker", and how the construction workers concerned could prove their years of experience;
- (f) requirement for construction workers to complete prescribed short continuous development courses before applying for

renewal of registration; and

(g) appeal mechanism.

15. Members may wish to refer to the minutes of the PLW Panel meeting on 3 October 2002 (LC Paper No. CB(1)580/02-03) for details.

16. In response to members' concern about the impact of the proposal on serving construction workers, the Administration has provided a supplementary information paper to the PLW Panel in November 2002, a copy of which is in **Annex B**.

17. The Panel on Manpower discussed the registration requirements under the proposed system and listened to the views of employers' associations and labour unions in the construction industry on the registration requirements under the proposed system at its meeting on 23 January 2003. Although members in general supported the objective of the proposed system, some members and labour unions expressed concern about the proposed registration requirements, in particular the proposal to grant exemption for "senior workers" with 10 years' or more relevant experience in the specific trade but without the requisite qualifications to be registered as skilled workers. The labour unions considered that the minimum number years of experience for granting such exemption should be reduced to five.

18. Members may wish to refer to the minutes of the Manpower Panel meeting on 23 January 2003 (LC Paper No. CB(2)1462/02-03) for details.

Council Business Division 1
Legislative Council Secretariat
30 May 2003

Annex A

List of Members **Working Group on the Registration of Construction Workers**

The then Works Bureau

Education and Manpower Bureau

Buildings Department

Housing Bureau

Housing Department

Labour Department

ICAC

The Real Estates Developers Association of Hong Kong

The Hong Kong E&M Contractors' Association Ltd.

The Hong Kong Construction Association, Ltd.

Employees Retraining Board

Construction Industry Training Authority

Vocational Training Council

KCRC

MTR Corporation

Hong Kong Construction Industry Employees General Union

Hong Kong and Kowloon Electrical Engineering and Appliances Trade
Workers' Union

Impact Assessment of the proposed Construction Workers Registration System on serving construction workers in the industry

The Proposal

1. To recapitulate the proposal, a mandatory Registration System for construction site workers is proposed to be implemented by way of legislation. Based on the categorization of skill levels of workers widely accepted by the construction industry, workers would be registered for individual trade under one of the three categories according to their skill levels as a skilled worker or a semi-skilled worker, or as a general worker. Skilled and semi-skilled workers are required to pass the relevant trade tests and intermediate trade tests respectively conducted by the Construction Industry Training Authority (CITA) and the Vocational Training Council (VTC), or possess other equivalent qualification eligible for registration. As a pre-requisite for registration, all workers should hold a valid certificate of completion of basic safety training (green card).

Possible Impacts

2. Prior to law drafting, the possible impacts on serving construction workers were examined and it was considered that there would be no adverse impacts on the workers. Most importantly, implementation of the Registration would not force any existing worker out of job or affect their wages. In response to the concerns raised by some LegCo members at the Panel meeting held on 3 October 2002, a special meeting was convened on 18 October 2002 with key players of the construction industry including representatives from the relevant trade associations (Hong Kong Construction Association and Hong Kong E&M Contractors' Association), trade unions (Hong Kong Construction Industry Employees General Union, Federation of Hong Kong Electrical & Mechanical Industries Trade Unions and Construction Site Workers General Union) and training institute (CITA) to further assess the possible impacts on serving workers. The conclusions drawn at the meeting further substantiate our previous observations as follows:

(a) Job Security

The mandatory Registration System would only provide registered construction workers an objective certification of their skill levels and thus, would not affect their present employment if they are engaged to carry out construction work relevant to the skill levels and trades they are registered. This is in fact the intent of implementing the proposed Registration System to ensure the quality of construction works. Those who have yet to attain the skill level expected from their work could still be engaged as provisional skilled/semi-skilled workers or general workers.

(b) Salary Level

The proposed Registration would not affect the wages of construction workers as wage level is essentially market driven and affected by the supply and demand of workers in the construction industry. With the Registration in place, registered workers would have their skill levels certified, which could be an objective reference for the employers to pay them market wages corresponding to their skill levels and trades.

(c) Employment Related Benefits

Not only the existing employment related benefits of the workers would be unaffected, the proposed Registration would help protect the interests of workers. Since more reliable site attendance records would be available with the implementation of the proposed Registration System, such records would be useful in confirming the attendance of a registered worker in case of insurance claims or wage disputes.

Measures to safeguard their interests

3. Since some existing workers may not have the requisite qualifications to register as skilled or semi-skilled workers when the Registration comes into operation, there would be one-off transitional and exemption arrangements for the workers to continue to work on site. A transitional period of 3 years would be allowed for the provisionally registered workers to upgrade and prepare themselves for passing the respective trade tests. Moreover, to reduce the burden of the workers in paying various fees pertinent to working on construction site, registration and renewal fees would be charged at a level which the workers can afford.

4. As regards the concern on the difficulty that would face the workers in obtaining certification on their past experience, members at the above meeting considered that it should not be a real problem if they had genuinely been working in the construction industry for such a period as they could obtain the requisite certification from their past employers, the relevant trade associations or trade unions. ETWB is exploring with the Law Draftsman further viable means to facilitate the workers in having their past experience certified.
