

CONSTRUCTION INDUSTRY LEVY (MISCELLANEOUS AMENDMENTS) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary
for Education and Manpower

Clause

Amendment Proposed

3(a)(i)
(A)(II)

In the proposed paragraph (a)(i) and (ii) of the definition of "獲授權人", by deleting "獲授權人" and substituting "認可人士".

4

In the proposed section 2A -

- (a) in subsection (1)(a), by deleting ", or such part of the consideration as is attributable to such operations, that is" and substituting "attributable to such operations, as";
- (b) by adding -

"(1A) Notwithstanding subsection (1)(a), if the consideration described in that subsection does not reflect the reasonable consideration to be expected on the open market in respect of the carrying out of the construction operations concerned, that subsection shall be deemed to contain a reference to the reasonable consideration instead of

the consideration described in that subsection.";

(c) in subsection (2) -

- (i) by deleting "Without limiting the generality of subsection (1)" and substituting "For the purposes of subsections (1)(b) and (1A)";
- (ii) by deleting "value of any construction operations for the purposes of this Ordinance" and substituting "reasonable consideration as referred to in those subsections in respect of the carrying out of any construction operations".

5 In the proposed section 3A -

(a) in subsection (1) -

- (i) by deleting "Subject to subsection (2), this" and substituting "This";
- (ii) in paragraph (a) -
 - (A) by deleting "or owns";
 - (B) by adding "or part of any domestic premises" after "premises";
- (iii) in paragraph (b), by deleting "any part of the" and substituting "such part of such";

(b) by deleting subsection (2);

(c) in subsection (5)(b) -

(i) by deleting "or owns";

(ii) by deleting "or own".

7 By deleting paragraphs (a), (b), (c), (d) and (e) and substituting -

"(a) by repealing paragraph (b) and substituting -

"(b) 1 shall be a person nominated by the
Hong Kong Federation of Electrical
and Mechanical Contractors
Limited;"

(b) in paragraph (e), by repealing "person
nominated by the Structural Division of" and
substituting "structural engineer nominated by
the";

(c) by adding before paragraph (ga) -

"(gaa) 1 shall be a person who holds office
as an official of a trade union
representing electrical and
mechanical workers employed in the
construction industry;".

8 In the proposed section 21 -

(a) by deleting subsection (5)(b) and
substituting -

"(b) shall not apply to any construction
operations if, before the expiration

of the period referred to in
paragraph (a) -

- (i) the tender for the construction operations has been submitted to the employer concerned;
- (ii) no tender for the construction operations has been submitted to the employer concerned, but a construction contract in respect of the construction operations has been entered into; or
- (iii) no tender for the construction operations has been submitted to the employer concerned and no construction contract in respect of the construction operations has been entered into, but the construction operations have been commenced." ;

(b) by deleting subsection (6).

- 10 (a) In paragraph (b), in the proposed section 24(1A),
by deleting "by or on behalf of the contractor
concerned".
- (b) By deleting paragraph (c) and substituting -
"(c) in subsection (2), by repealing "value of
the construction works" and substituting
"total value of the construction
operations".".
- 11 (a) By adding -
"(aa) in subsection (1), by repealing "Where"
and substituting "Subject to subsection
(1A), where";
- (ab) by adding -
"(1A) Where any payment or
interim payment is made in any
calendar month to a contractor or
for his benefit in respect of any
construction operations that are
carried out under a term contract,
the contractor shall, within 14 days
after the last day of that month or
such further time as the Authority
may in any case allow, give notice
of it to the Authority in such form
as the Authority may specify.";".
- (b) In paragraph (c), in the proposed section 25(2A),

by deleting "by or on behalf of the contractor concerned".

(c) By adding -

"(d) in subsections (3) and (4), by repealing "or (2)" and substituting ", (1A) or (2)".".

12

(a) By deleting paragraph (j)(iii).

(b) In paragraph (k), in the proposed section 26(10)(c), by deleting ", the imposition of the surcharge or the giving of notice in respect of the assessment or surcharge, as the case may be, under subsection (8)," and substituting "or the imposition of the surcharge".

16

By deleting paragraph (b) and substituting -

"(b) by repealing subsection (2) and substituting -
"(2) Subject to subsection (1), every person for whom construction operations are to be undertaken shall, if no authorized person has been appointed under section 4 of the Buildings Ordinance (Cap. 123), appoint a person to be the authorized person under this Ordinance in respect of such construction operations."."

18

In the proposed Schedule 1 -

- (a) in section 1(c)(i)(C), by deleting "and installations" and substituting "or any industrial installations";
- (b) in section 1(c)(i)(D), by deleting "and" and substituting "or".

20

In the proposed section 2A -

- (a) in subsection (1)(a), by deleting ", or such part of the consideration as is attributable to such operations, that is" and substituting "attributable to such operations, as";
- (b) by adding -

"(1A) Notwithstanding subsection (1)(a), if the consideration described in that subsection does not reflect the reasonable consideration to be expected on the open market in respect of the carrying out of the construction operations concerned, that subsection shall be deemed to contain a reference to the reasonable consideration instead of the consideration described in that subsection.";

- (c) in subsection (2) -
 - (i) by deleting "Without limiting the generality of subsection (1)" and substituting "For the purposes of subsections (1)(b) and (1A)";

- (ii) by deleting "value of any construction operations for the purposes of this Ordinance" and substituting "reasonable consideration as referred to in those subsections in respect of the carrying out of any construction operations".

21 In the proposed section 3A -

(a) in subsection (1) -

- (i) by deleting "Subject to subsection (2), this" and substituting "This";
- (ii) in paragraph (a) -
 - (A) by deleting "or owns";
 - (B) by adding "or part of any domestic premises" after "premises";
- (iii) in paragraph (b), by deleting "any part of the" and substituting "such part of such";

(b) by deleting subsection (2);

(c) in subsection (5)(b) -

- (i) by deleting "or owns";
- (ii) by deleting "or own".

22 In the proposed section 35 -

(a) by deleting subsection (7)(b) and substituting -

"(b) shall not apply to any construction operations if, before the expiration of the period referred to in paragraph (a) -

- (i) the tender for the construction operations has been submitted to the construction employer concerned;
- (ii) no tender for the construction operations has been submitted to the construction employer concerned, but a construction contract in respect of the construction operations has been entered into; or
- (iii) no tender for the construction operations has been submitted to the construction employer concerned and no construction contract in respect of the construction operations

has been entered into,
but the construction
operations have been
commenced." ;

(b) by deleting subsection (8).

30

(a) In paragraph (a), by adding -

"(ia) by repealing "approved" and substituting
"specified";".

(b) In paragraph (b), in the proposed regulation 4(2),
by deleting "by or on behalf of the contractor
concerned".

(c) By deleting paragraph (c) and substituting -

"(c) in paragraph (3), by repealing "value of
the construction works" and substituting
"total value of the construction
operations".".

31

(a) By adding -

"(aa) in paragraph (1) -

(i) by repealing "Where" and
substituting "Subject to
paragraph (1A), where";

(ii) by repealing "approved" and
substituting "specified";

(ab) by adding -

"(1A) Where any payment or
interim payment is made in any

calendar month to a contractor or for his benefit in respect of any construction operations that are carried out under a term contract, the contractor shall, within 14 days after the last day of that month or such further time as the Board may in any case allow, give notice of it to the Board in a form specified by the Board.";

(ac) in paragraph (2), by repealing "approved" and substituting "specified";".

(b) In paragraph (c), in the proposed regulation 5(3), by deleting "by or on behalf of the contractor concerned".

(c) By adding -

"(d) in paragraphs (4) and (6), by repealing "or (2)" and substituting ", (1A) or (2)".".

32

(a) By deleting paragraph (j)(iii).

(b) In paragraph (k), in the proposed regulation 6(10)(c), by deleting ", the imposition of the surcharge or the giving of notice in respect of the assessment or surcharge, as the case may be, under paragraph (8)," and substituting "or the imposition of the surcharge".

36 By deleting paragraph (b) and substituting -

"(b) by repealing paragraph (2) and substituting -

"(2) Subject to paragraph (1), every person for whom construction operations are to be undertaken shall, if no authorized person has been appointed under section 4 of the Buildings Ordinance (Cap. 123), appoint a person to be the authorized person under these regulations in respect of such construction operations."."

39 (a) In subsection (1) -

- (i) by adding "if, before the commencement date" after "works";
- (ii) by deleting paragraphs (a) and (b) and substituting -

"(a) the tender for the construction works has been submitted to the employer concerned;

(b) no tender for the construction works has been submitted to the employer concerned, but a construction contract in respect of the construction works has been entered into; or

(c) no tender for the construction works has been submitted to the

employer concerned and no construction contract in respect of the construction works has been entered into, but the construction works have been commenced."

(b) By deleting subsection (2).

(c) In subsection (3), by deleting the definition of "Authority".

40 (a) In subsection (1) -

(i) by adding "if, before the commencement date" after "works";

(ii) by deleting paragraphs (a) and (b) and substituting -

"(a) the tender for the construction works has been submitted to the employer concerned;

(b) no tender for the construction works has been submitted to the employer concerned, but a construction contract in respect of the construction

works has been entered into; or

(c) no tender for the construction works has been submitted to the employer concerned and no construction contract in

respect of the construction works has been entered into, but the construction works have been commenced.".

(b) By deleting subsection (2).

(c) In subsection (3) -

- (i) by deleting the definition of "Board";
- (ii) in the definition of "pre-amended Ordinance", by deleting the semicolon at the end and substituting a full stop;
- (iii) by deleting the definition of "pre-amended Regulations".