

CSO/ADM CR 6/581/91(02)

Tel No.: 2810 3838

Fax No.: 2804 6870

27 February 2003

The Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Chairman of the House Committee
Legislative Council
8 Jackson Road
Central
Hong Kong

**Industrial Training
(Construction Industry) (Amendment) Bill 2001**

At the regular meeting on 24 February 2003, you conveyed to the Chief Secretary for Administration (the CS) the concerns expressed by Members at the House Committee meeting on 21 February 2003 on the lack of progress of the Industrial Training (Construction Industry) (Amendment) Bill 2001. The CS has asked me to give you a written response.

We have consulted the Economic Development and Labour Bureau and I set out below their current thinking on the Bill.

At present, under various subsidiary legislation to the Factories and Industrial Undertakings Ordinance (“FIUO”), employees engaged in four designated hazardous occupations are required to undergo pre-employment and periodic medical examinations. The proposal was to enact the Factories and Industrial Undertakings (Medical Examinations) Regulation (“the Regulation”) to extend the coverage of statutory medical examinations to a total of 17 occupations.

In the case of the construction industry, the Construction Industry

Training Authority (“CITA”) is intended to be the agent for proprietors in the industry to make administrative arrangements for the medical examinations of their workers. For CITA to undertake the new role and to meet the costs involved, amendments to the Industrial Training (Construction Industry) Ordinance are required and the related Industrial Training (Construction Industry) (Amendment) Bill was therefore introduced into LegCo in March 2001.

The Regulation was introduced into LegCo in June 1999 and the Sub-committee on the Regulation held a total of ten meetings in the period from July 1999 to June 2000. Whereas employers were concerned about the additional business costs incurred by the Regulation, employees were also worried that suspension from work due to medical unfitness would break the continuity of their employment, thereby adversely affecting their entitlement to employment benefits under the Employment Ordinance. In addition, they were afraid that their employment contracts would be frustrated as a result of suspension from work.

Subject to the views of the House Committee, the Administration proposes to hold the Regulation and the related Bill in abeyance for the time being. The reasons are -

- First, under the proposed Regulation, employees who are certified medically unfit will be suspended either temporarily or permanently from employment in their particular occupation. Those suspended temporarily would suffer loss of pay even if they were granted paid sick leave, whilst those suspended permanently may lose their jobs if their employers cannot arrange for re-deployment. In addition, the latter may have difficulties in securing another job because of the current high unemployment rate. For these reasons, it is unlikely that employees will welcome the re-introduction of the Regulation.
- Second, in the past few years, there has been a downturn in the local economy. This phenomenon had not been envisaged at the time when the Regulation was first proposed. The construction industry, in which more than 80% of the workers covered by the proposed Regulation are employed, has been

particularly hard hit. The latest unemployment and underemployment rates in the industry are 15.2% and 14.6% respectively, which are far higher than the corresponding rates of 7.2% and 3.1% for the total workforce. If employees in the industry are suspended from work under the proposed Regulation, the outlook for re-deployment and re-employment in the industry is rather bleak.

- Third, it has been estimated that implementation of the proposed Regulation would entail a 0.03% increase in the total operating cost of main contractors in the construction industry and a 0.01% increase for proprietors in the other affected industries. Because of the cost implications, re-introduction of the Regulation will not find favour with employers under the present economic climate.

The Administration would review the situation later this year and consult the trade unions and employer associations on the way forward. In the meantime, we would do our best to promote voluntary medical examinations of workers in the hazardous occupations.

I should be grateful if you could inform Members of the Administration's position as set out above.

(Andrew H Y Wong)
Director of Administration

c.c. SEDL
PSL
C for L