

立法會
Legislative Council

LC Paper No. LS82/02-03

**Paper for the House Committee Meeting
on 11 April 2003**

**Legal Service Division Report on
Construction Industry Levy (Miscellaneous Amendments) Bill 2003**

I. SUMMARY

- 1. Objects of the Bill**

 - (a) To amend the Industrial Training (Construction Industry) Ordinance (Cap. 317) ("ITCIO") to extend the application of the construction industry levy to electrical and mechanical ("E&M") works in the construction industry;
 - (b) To empower the Construction Industry Training Authority ("CITA") to engage outside bodies in providing training courses for the construction industry and in assessing the standards of skills of workers in the construction industry;
 - (c) To correspondingly extend the levy under the Pneumoconiosis Compensation Ordinance (Cap. 360) with respect to E&M works;
 - (d) To amend the composition of CITA to add to its membership a person nominated by the Hong Kong E&M Contractors' Association Limited, an academic staff member of a university in Hong Kong and 2 persons from the construction industry; and
 - (e) To adapt certain provisions of ITCIO and PCO to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China.
- 2. Comments**

The Bill involves significant policy changes in the basis on which levies on the construction industry is charged and in the training of E&M workers.
- 3. Public Consultation**

According to the LegCo Brief, the Administration has consulted representatives of major stakeholders in the construction industry and the Labour Advisory Board supported the proposed amendments to the PCO.
- 4. Consultation with LegCo Panel**

At the meeting of the LegCo Panel on Manpower held on 18 July 2002, the Administration consulted the Panel on the proposal to extend the construction industry levy to cover electrical and mechanical works in the construction industry. Some members have expressed concerns and raised questions about the proposal.
- 5. Conclusion**

In view of the concerns of and issues raised by some members, we recommend that a Bills Committee be formed to examine the Bill.

II. REPORT

Objects of the Bill

To amend the Industrial Training (Construction Industry) Ordinance (Cap. 317) ("ITCIO") and the Pneumoconiosis (Compensation) Ordinance (Cap. 360) ("PCO") to:-

- (a) extend the application of construction industry levy to electrical and mechanical ("E&M") works in the construction industry;
- (b) empower the Construction Industry Training Authority ("CITA") to engage outside bodies in providing training courses for the construction industry and in assessing the standards of skills of workers in the construction industry;
- (c) correspondingly extend the levy under PCO to E&M works;
- (d) amend the composition of CITA to add to its membership a person nominated by the Hong Kong E&M Contractors' Association Limited, an academic staff member of a university in Hong Kong and 2 persons from the construction industry; and
- (e) adapt certain provisions of ITCIO and PCO to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China.

LegCo Brief Reference

- 2. L/M in EMB 15/3231/75 Pt.10 issued by the Education and Manpower Bureau dated 18 March 2003.

Date of First Reading

- 3. 9 April 2003.

Comments

- 4. The CITA was established by ITCIO as a statutory body whose functions are to provide training courses for the construction industry, to establish and maintain industrial training centres, to assist in the placement of persons having completed training courses, to assess the standards of skills achieved by construction

workers, and to establish the standards to be achieved by workers in respect of construction works (section 5).

5. The CITA is financed by, inter alia, a levy on "construction works" (construction industry levy) as defined under section 2(2) and (3) of ITCIO. Under the section, "construction works" does not include the installation, repair and maintenance of any airconditioning plant, electricity supply system, lift, escalator or belt conveyor system and fire services installation or equipment, i.e. E&M works. As a result, the construction industry levy does not apply to E&M works.

6. At present, construction works exceeding a value of \$1,000,000 are subject to the construction industry levy of 0.4% of the value of the construction works.

7. One of the objects of the Bill is to include E&M works in the charge of the construction industry levy under ITCIO at the same rate of 0.4%. With a view to removing any ambiguity as to whether certain works such as design, compensation, attendancy, etc. should be covered, the Bill proposes to amend ITCIO to change the basis of the construction industry levy from "construction works" to "construction contracts".

8. The Bill also seeks to amend the powers of the CITA to enable the CITA to engage the services of other bodies to provide training courses for the construction industry, to assess the standards of skills achieved by construction workers and to establish the standards of workers in respect of construction works.

9. To tie in with the expanded scope of the CITA's functions, the Bill seeks to amend the composition of CITA to add to its membership a person nominated by the Hong Kong E&M Contractors' Association Limited, an academic staff member of a university in Hong Kong and 2 persons from the construction industry.

10. Corresponding amendments are sought to be made to PCO. The PCO was passed in 1980 to provide for the payment of compensation to those persons who were diagnosed to have suffered from pneumoconiosis. The compensation payable under PCO is financed by a levy which is also based on the value of "construction works", the definition of which is same as that under ITCIO. The current rate of the levy under PCO is 0.25% of the value of construction works with a value of more than \$1,000,000. The Bill seeks to amend PCO to similarly extend the levy charged under the PCO to E&M works.

11. The Bill involves a significant change in the existing policy in relation to the training of E&M workers and poses an extension of the construction industry levy and the levy payable under PCO to the relevant trades.

Public consultation

12. According to the LegCo Brief, the Administration has consulted representatives of major stakeholders in the construction industry. The Real Estate Developers Association of Hong Kong expressed some reservations about the timing of introducing the extended construction industry levy and the cost implications. Other major stakeholders welcomed the proposal and the Labour Advisory Board supported the proposed corresponding amendments to PCO (para. 16 and 17 of the LegCo Brief).

Consultation with LegCo Panel

13. At the meeting of the LegCo Panel on Manpower held on 18 July 2002, the Administration consulted the Panel on the proposal to extend the existing construction industry levy to cover electrical and mechanical works in the construction industry. A member said that the Real Estate Developers Association of Hong Kong had reservations about the proposal because of the consequential increase in construction costs. He and another member expressed the concern that the proposal might create a negative impact on the business environment. Other members also raised a number of issues relating to the provision of E&M training courses. Regarding the composition of the CITA Board, a member asked whether the proportion of trade union representation in the Board could be expanded so as to achieve a more balanced view.

Conclusion

14. In view of the concerns of and the issues raised by some members, we recommend that a Bills Committee be formed to examine the Bill.

Prepared by

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