

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 30 January 2004**

**Report of the Bills Committee on  
Construction Industry Levy (Miscellaneous Amendments) Bill 2003**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Construction Industry Levy (Miscellaneous Amendments) Bill 2003.

**The Bill**

2. The Bill seeks 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) correspondingly extend the levy under PCO to E&M works;
- (c) 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;
- (d) amend the composition of the CITA Board to add to its membership a person nominated by the Hong Kong E&M Contractors' Association Limited (HKEMCA), an academic staff member of a university in Hong Kong and two 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 (SAR) of the People's Republic of China (PRC).

### **The Bills Committee**

3. At the House Committee meeting on 11 April 2003, Members formed a Bills Committee to study the Bill. The Bills Committee was activated on 6 June 2003. The membership list of the Bills Committee is in **Appendix I**.

4. Under the chairmanship of Hon LAU Ping-cheung, the Bills Committee has held six meetings, including five meetings with the Administration. The Bill Committee has met with seven organisations, and has received written submission from one other organisation. The names of these eight organisations are listed in **Appendix II**.

### **Deliberations of the Bills Committee**

#### Justifications for the proposal to extend the levy imposed on construction operations to cover E&M works in the construction industry

5. Regarding the justifications for the proposal to extend the application of construction industry levy to E&M works under ITCIO, the Administration has explained that according to HKEMCA, E&M services have grown in importance in the construction industry in recent years, and now constitute up to 30% of the overall construction cost of a building. The skills required for these services have become more complex and specialised. As a result, the Administration believes that the spectrum and capacity of E&M training courses as well as the categories and capacity of E&M trade tests need to be expanded. To meet the cost of the training courses and trade tests, the Administration has recommended that a levy should be imposed on E&M works in the construction industry.

6. The Administration has further explained that the proposal will also facilitate the full implementation of the proposed Construction Workers Registration System (CWRS). Under the proposed CWRS, construction workers will be required to pass relevant trade tests or intermediate trade tests in order to be registered as skilled or semi-skilled workers respectively. As such, the extension of the construction industry levy will enable the requisite training and trade testing to be provided to E&M workers to tie in with the proposed CWRS.

7. As regards the proposal to extend the levy under PCO to E&M works, the Administration has explained that PCO was enacted in 1980 and has since adopted the same definition of "construction works" under ITCIO with a view to simplifying the administrative work for contractors in submitting levy assessment documents to Pneumoconiosis Compensation Fund Board (PCFB) and CITA. With the widened

scope of the definition of "construction operations" under ITCIO, it will be necessary to introduce corresponding amendments to PCO. As E&M works will fall under the definition of construction operations, it will, as with all other leviable construction activities, be subjected to the levy under PCO.

#### E&M trade tests fees and training

8. Some members and some deputations are concerned about the fees charged for the E&M trade testing. They have urged that the E&M trade tests fees should be maintained at a level not higher than the existing fees of \$150 charged by the Vocational Training Council. Hon LI Fung-ying has requested the Administration to provide an undertaking in the speech to be delivered by the Secretary for Education and Manpower during the resumption of the Second Reading debate on the Bill that the fee charging principle adopted by CITA for determining the fees for E&M trade tests would be the same as that for the fees for the construction trade tests.

9. In response to Hon LI Fung-ying's request, the Administration has explained that since CITA's establishment in 1975, its operation has been funded by the construction industry levy without Government subvention. As its source of funding is coming from the industry, CITA has full autonomy in determining the fees for its training courses and trade testing. The Government is therefore not in a position to provide any undertaking that the fee charging principle for determining the fees for E&M trade tests would be the same as that for the fees for the construction trade tests.

10. The Administration has further explained that at present, the fees for the construction trade tests are heavily subsidised by charging only the material costs. According to CITA, the same fee charging principle will likely be extended to the E&M trade tests. However, CITA is unable to finalise the testing fees for E&M tests at this stage as the actual test contents have not yet been finalised.

11. Hon LI Fung-ying considers that in the absence of an undertaking, the principle for determining the E&M tests fees could be revised later. She has urged the Administration to adopt remedial measures to ensure that the future fee charging principle for the E&M trade tests would be the same as that for the fees for the construction trade tests. The Administration has undertaken to convey to CITA Board members' concern about the E&M trade tests fees.

12. Some members and some deputations have urged that the E&M industry should be consulted in designing the training and trade testing.

13. According to the Administration, CITA will be responsible for the design of the training and testing contents. To do so, CITA will consult the industry and the trade union before finalising the training and testing contents. The future training and trade testing agents will only be required to deliver the training and testing in compliance with CITA's design and specification. For E&M trades, CITA has already established

four different working groups with representatives from respective E&M industry to formulate the training and testing contents.

#### Threshold for charging the construction industry levy

14. Under ITCIO, construction works undertaken in Hong Kong and exceeding a value of \$1,000,000 are subject to the construction industry levy which is currently fixed at a rate of 0.4%. Ir Hon Dr Raymond HO has queried whether the existing threshold of \$1,000,000 is reasonable having regard to the price movement of construction contracts over the years. Dr HO has also asked how the existing threshold is determined.

15. The Administration has advised that the existing threshold of \$1,000,000 in ITCIO and PCO was increased from \$250,000 on 1 June 1985. The revised threshold was recommended by PCFB and accepted by the Government. At that time, PCFB had assessed that the setting of the threshold at \$1,000,000 would only reduce the annual levy income by 2%. However, the adjustment would reduce considerable efforts and costs spent by both the contractors and PCFB in processing the assessment documents. It was considered that such an adjustment would bring about an overall improvement in efficiency while the loss of levy income would be minimal. CITA was informed of PCFB's recommendation and supported, for the same reason, a similar adjustment to the levy threshold set under ITCIO.

16. Regarding the reasonableness of the existing threshold of \$1,000,000 and whether there is a need to downwardly revise the threshold, the Administration has consulted CITA and come to the view that the existing threshold should be maintained for the following reasons -

- (a) the existing threshold has been in use for many years and is well understood by the industry. If it is linked to the price level, it would be subject to frequent changes and may cause confusion;
- (b) the lowering of the threshold would generate limited gain. On the other hand, CITA, the authorised persons and the contractors would need to incur additional administrative expenses in processing extra assessment documents under such an adjustment. According to CITA, the processing cost for the Authority on each leviable contract is about \$1,500. Overall, the downward adjustment of the threshold is not considered to be cost effective; and
- (c) representatives of CITA, the Hong Kong Construction Association Limited (HKCA) and HKEMCA who have been consulted favour the keeping of the existing threshold.

#### Composition of the CITA Board

17. The Bill proposes to amend the composition of the CITA Board to add to its membership a person nomination by HKEMCA, an academic member of a university in Hong Kong and two persons from the construction industry. These are provided in the proposed section 7(1)(f), (i) and (j) of ITCIO respectively. The Bill also proposes to reduce the number of representatives of the Hong Kong Institution of Engineers (HKIE) sitting on the CITA Board from two to one, exclude two representatives nominated by the Building and Civil Engineering Industry Training Board as provided in section 7(1)(b) and delete existing section 7(1)(i) which provides for a person not being a public officer or person connected with any of the organisations mentioned in section 7(1) to be appointed as member of the Board.

18. Members have suggested that one of the member under the proposed section 7(1)(j) should be specified as a representative of an E&M trade union in the construction industry. After consulting the CITA Board, HKCA and HKEMCA, the Administration will introduce an amendment to this effect.

19. Ir Dr Hon Raymond HO is gravely concerned about the proposed reduction of the HKIE representatives on the CITA Board. Dr HO has pointed out that HKIE has not been consulted on the proposal, and queried the basis for the proposed amendment.

20. Regarding the background of having two HKIE representatives sitting on the CITA Board, the Administration has explained that when CITA was set up in 1975, the Board comprised a total of 13 members, including one each from the Institution of Structural Engineers (Hong Kong Branch) and the Engineering Society of Hong Kong. In December 1975, the HKIE Ordinance was enacted and section 6 thereof provided, inter alia, that HKIE shall succeed to all rights of the Engineering Society of Hong Kong. In June 1978, the Institution of Structural Engineers (Hong Kong) was amalgamated with HKIE as its Structural Division. Section 7(1)(e) and (f) of ITCIO were amended in 1982 to reflect these changes, and HKIE has since had two seats on the CITA Board.

21. The Administration has further explained that following the need for enhancing the scope and content of courses run by CITA, the Construction Industry Review Committee recommended that the composition of the CITA Board should be reviewed with the objective of achieving an appropriately balanced membership to cope with its expanded responsibilities. The Working Group on Skills Development for Construction Workers subsequently formed by the Provisional Construction Industry Coordination Board (PCICB) suggested that a representative of E&M contractors should be appointed for this purpose. Since only one seat is allocated to each of the other professional bodies, i.e. the Hong Kong Institute of Architects and Hong Kong Institute of Surveyors, on the CITA Board, the Working Group also recommended that the number of seats allocated to HKIE should be reduced from two to one. This proposal received support from the CITA Board, which included representation from HKIE, at its meeting in May 2002.

22. Ir Dr Hon Raymond HO is strongly of the view that the number of seats allocated to HKIE on the CITA Board should not be reduced. Dr HO has pointed out that to his knowledge, the two HKIE representatives opposed the proposal at the CITA Board meeting in May 2002. Dr HO is of the view that discussion of the proposal by the CITA Board and PCICB was by no means consulting the stakeholders in the industry. HKIE, being stakeholder affected, should be formally consulted.

23. Members have also expressed concern about the way consultation was done. Some members consider that organisations and professional bodies affected by the proposed changes to the composition of CITA Board should be directly consulted, instead of indirectly through their respective representatives on the Board. As HKIE is directly affected by the proposal, it should be properly consulted. To address Dr HO's concern, members have requested the Administration to consider expanding the composition of the CITA Board from 13 members to 14 members so that the existing two seats for HKIE on the Board would be retained.

24. The Administration considers that the CITA Board, which is composed of representatives from all major stakeholders in the industry, is a proper channel through which consultation should be conducted. The Administration takes the view that the CITA Board has been operating smoothly with 13 members and the retention of the two seats for HKIE as suggested by members can be made without enlarging the size of the Board. Having considered members' views and to make minimal changes to the composition of the CITA Board, the Administration will introduce amendments to the Bill so that the existing two seats for HKIE on the CITA Board will be retained while maintaining the membership of the Board at 13 members. In this regard, amendments will also be made so that the only changes to the existing composition of the CITA Board are the deletion of the two representatives nominated by the Building and Civil Engineering Industry Training Board to be replaced by representatives of E&M contractors and workers, i.e. a representative nominated by the Hong Kong Federation of Electrical and Mechanical Contractors Limited and a representative of an E&M trade union in the construction industry.

25. Section 7(1)(g) of ITCIO provides for a person who holds office as an official of a trade union representing workers employed in the construction industry to be appointed as a member of the CITA Board. Some members have suggested that as not all trade union officials possess construction industry experience, the section be amended so that a construction workers' representative, instead of a trade union official be appointed.

26. The Administration has responded that as the trade union represents workers in the construction industry, officials of the union are in the best position to speak for the interest of workers. From a practical point of view, it would be difficult to identify an alternative way of selecting a suitable candidate to represent constructions workers. Therefore, the Administration does not consider that there is a need for amendment to this section.

### Value of construction operations

27. The proposed new section 2A(1)(a) of both ITCIO and PCO provides that in a case where construction operations are carried out under a construction contract, the value of such operations means the consideration of the construction contract. However, the section, as presently drafted, does not empower CITA or PCFB to re-assess the consideration for the purposes of ITCIO or PCO in case where such a consideration is undervalued.

28. To address the problem of undervalued contract, the Administration will amend the new section 2A(1)(a) of ITCIO and PCO respectively and add a new provision to enable CITA and PCFB to use the reasonable consideration in open market as the basis for assessing levy in such a case.

### Exemption in respect of certain construction operations in domestic premises

29. The proposed new section 3A(1) of ITCIO provides that the Bill does not apply to construction operations which are carried out for a person who occupies or owns any domestic premises and the sole or principal purpose of which is to decorate, alter repair, maintain or renovate the premises or any part thereof. Under the proposed new section 3A(2), where a person occupies or owns more than one domestic premises in the same building and at the same time such construction operations are carried out in respect of more than one of those premises or parts of more than one of those premises, and the aggregate of the respective values of the construction operations so carried out exceeds the specified amount, i.e. \$1 million, the provisions of the Bill will apply.

30. Members have asked whether these provisions apply in the case of sole as well as joint owners of domestic premises. Members have pointed out a situation where, for example, a person who owns or jointly owns with his wife one flat as the matrimonial home and who also owns or jointly owns with his parents another flat in the same building as his parents' residence. Members have also asked whether the Bill would apply if this person chooses to renovate both flats at the same time at a total price exceeding \$1 million.

31. The Administration has advised that these provisions apply to sole and joint ownership. The situations referred to by members will be subject to the proposed section 3A(2).

32. However, the Administration has informed members that the policy intent of the proposed new section 3A of ITCIO and PCO is to provide exemption under the two Ordinances for construction operations the sole or principal purpose of which is to decorate, alter repair, maintain or renovate domestic premises for use by the occupiers themselves. The new sections 3A(1) and (2) have introduced the concept of ownership and various safeguards to ensure that only construction operations of domestic premises without commercial motives shall be exempted from ITCIO and PCO. This will unnecessarily complicate the issue and create considerable implementation difficulties.

The Administration therefore proposes that new section 3A should be amended by deleting the reference to ownership and the various safeguards in the new section 3A(2). The relevant amendments will be made by the Administration.

#### Payment notice by contractors

33. Section 25(1) of ITCIO and regulation 5(1) of Pneumoconiosis (Compensation) (Assessment of Levy) (PCA) Regulations provide that payment notice should be given by a contractor to CITA or PCFB respectively within 14 days after the payment in respect of construction operations is made to the contractor. The Administration has advised members that such a practice will create considerable administrative inconvenience to both the contractors and CITA or PCFB in the case of term contracts as their payments are frequent. The Administration has therefore proposed to amend the Bill to provide for a separate treatment for term contract. Under the proposed amendments, where a payment is made to a contractor in any calendar month under a term contract, the contractor shall, within 14 days after the last day of that month, give notice of such payment to CITA or PCFB.

#### Time limit for assessment of levy

34. Section 26(9) and the proposed new section 26(10) of ITCIO and regulation 6(9) and new regulation 6(10) of PCA Regulations set out the time limit within which assessment of levy or surcharge will be imposed on construction operations carried out under term contracts or otherwise respectively. One of the time limits is that the imposition of assessment or surcharge will be within one year after evidence of facts, sufficient in the opinion of CITA to justify the making of the assessment or the imposition of the surcharge, or the giving of notice in respect of the assessment or surcharge, as the case may be, comes to its knowledge. The Administration has informed members that the justification for the giving of notice is considered not necessary given that considerations behind the making of assessment should predominantly be the same as those behind the giving of notices. The Administration will introduce the amendments accordingly.

#### Transitional arrangements in relation to imposition of construction industry levy

35. The proposed new section 21(5) and (6) of ITCIO and new section 35(7) and (8) of PCO provide for the transitional arrangements in relation to changes to the specified levy rate and/or amount in the relevant Schedule under the two Ordinances. Clauses 39 and 40 are the transitional provisions relating to the amendments of ITCIO and PCO respectively under the Bill.

36. The Administration has informed members that when determining the transitional arrangements, the underlying principle is that any impact on levy arising from the legislative amendments should not affect those construction operations the price quotation for which could not have taken account of those impacts. Against this principle, under the Bill, for construction operations without a tender, the changes in the



specified levy rate and/or amount will not apply to construction operations if a commencement notice has been given under section 24(1) of ITCIO of regulation 4(1) of PCA Regulations before the date on which Bill comes into operation.

37. The Administration has pointed out that using the commencement date of the Bill as a cut-off point in the case of the construction operations without a tender may unfairly treat those construction operations which have a late commencement date long after the contract is signed, i.e., the contract could not have included the impact on the changes in levy. To address the problem, the Administration therefore proposes to use the contract date as the cut-off date. For construction operations that are not carried out under a construction contract, the Administration proposes to use the work commencement date. The relevant amendments will be made by the Administration.

#### Adaptation of laws

38. Part 3 of the Bill, i.e. clauses 37 and 38 and Schedules 1 and 2, seeks to adapt the references to "Governor" by "Chief Executive", "Governor in Council" by "Chief Executive in Council" and "立法局" to "立法會" under the corresponding provisions of ITCIO and PCO with the view to bringing them into conformity with the Basic Law and with Hong Kong's status as a SAR of the PRC. Members have noted that the reference to "the Crown" in various sections of ITCIO and PCO are not proposed to be adapted in the Bill, and have queried the reason for not doing so.

39. The Administration has explained that the adaptation of the references to "Governor", "Governor in Council" and "立法局" is pure adaptation. The amendments are straightforward and should therefore be dealt with in the current exercise. However, the adaptation of the reference to "the Crown" under ITCIO and PCO does not involve pure adaptation. As it requires legislative amendments pending policy deliberations, the adaptation will be dealt with separately.

#### **Committee Stage amendments**

40. Apart from the Committee Stage amendments (CSAs) in paragraphs 18, 24, 28, 32, 33, 34 and 37 above, the Administration has agreed to move other amendments to the Bill for the purpose of clarity and consistency. A copy of the draft CSAs is in **Appendix III**.

#### **Recommendation**

41. The Bills Committee supports that the Second Reading debate on the Bill be resumed at the Council meeting on 11 February 2004, subject to the CSAs to be moved by the Administration.

### **Follow-up action by the Administration**

42. The Administration has undertaken to convey to CITA Board members' concern about the E&M trade tests fees (paragraph 11 above refers).

### **Advice Sought**

43. Members are invited to note the deliberations of the Bills Committee and the recommendation of the Bills Committee in paragraphs 41 above.

Council Business Division 2  
Legislative Council Secretariat  
29 January 2004

**Bills Committee on Construction Industry Levy  
(Miscellaneous Amendments) Bill 2003**

**Membership List**

Chairman	Hon LAU Ping-cheung
Members	Hon Cyd HO Sau-lan
	Ir Dr Hon Raymond HO Chung-tai, JP
	Hon LEE Cheuk-yan
	Hon CHAN Kwok-keung
	Hon Andrew CHENG Kar-foo
	Hon Abraham SHEK Lai-him, JP
	Hon LI Fung-ying, JP
	Hon LEUNG Fu-wah, MH, JP
	(Total : 9 Members)
Clerk	Ms Doris CHAN
Legal Adviser	Miss Kitty CHENG
Date	20 June 2003

**Bills Committee on Construction Industry Levy  
(Miscellaneous Amendments) Bill 2003**

A. Organisations which have given oral representations to the Bills Committee

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1. The Hong Kong Construction Association
2. Hong Kong & Kowloon Electrical Engineering & Appliances Trade Workers Union
3. Hong Kong Air-Conditioning and Refrigerating Trades Workers General Union
4. Neosign Advertising Employees' Association
5. Hong Kong Electrical and Mechanical Management and Professional Association
6. Union of Hong Kong Electrical Engineering Assistants
7. The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions

B. Organisation which has provided written submission only

1. The Real Estate Developers Association of Hong Kong

**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 in a particular case the consideration attributable to the construction operations concerned as determined in accordance with that subsection is below the reasonable consideration to be expected on the open market in respect of the carrying out of such operations, that subsection shall be deemed to contain a reference to the

reasonable consideration described in this subsection 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 in a particular case the consideration attributable to the construction operations concerned as determined in accordance with that subsection is below the reasonable consideration to be expected on the open market in respect of the carrying out of such operations, that subsection shall be deemed to contain a reference to the reasonable consideration described in this subsection 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.";

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

"(b) in paragraph (2) -

(i) by repealing "being";

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

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

(d) 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".

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(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".