

**For discussion
on 28 June 2011**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Proposed Amendments to the Construction Industry Council Ordinance
(CICO) and Construction Workers Registration Ordinance (CWRO)**

Purpose

This paper seeks Members' views on the proposed legislative amendments to facilitate the amalgamation of the Construction Industry Council (CIC) and the Construction Workers Registration Authority (CWRA) and other streamlining measures as a stage 1 exercise under a two-staged approach to amend the CICO and CWRO.

Background

2. On 23 November 2010, we sought Members' views on the proposal to amend the CICO and CWRO (i) to amalgamate the CIC and the CWRA; (ii) to streamline the operational efficiency of the two statutory bodies; (iii) to facilitate the consolidation of various construction-related cards; and (iv) to take forward the implementation of the Phase Two Prohibition under the CWRO.

3. Members generally supported the proposal but expressed concerns on the consultation with labour unions, transitional staff arrangements for the CWRA Secretariat and the division of work under the proposed amalgamated body.

Proposal

Two-stage Approach to Legislative Amendments

4. In anticipation of the difficulties encountered in taking forward the implementation of the Phase Two Prohibition under CWRO¹ and the time required for consultation with relevant industry stakeholders on the measures and associated legislative amendments, we propose to take forward the legislative amendments in **two stages** as follows –

- (a) **Stage 1** will involve legislative amendments for the amalgamation of the CIC and the CWRA, for streamlining operational efficiency of the amalgamated body, and for allowing the future construction workers registration card to store and display information of other construction-related cards/certificates issued by other authorities. The Stage 1 legislative amendments will enable early formation of an amalgamated body to achieve synergy for the construction industry's long term benefit.
- (b) **Stage 2** will deal mainly with legislative amendments to facilitate the implementation of Phase Two Prohibition under the CWRO. The Stage 2 legislative amendments will tackle the anticipated difficulties to this prohibition to enable registration of workers for the designated trades.

5. Subject to the availability of a legislative slot, we plan to introduce an Amendment Bill for **Stage 1** into the LegCo in the fourth quarter of 2011. Amendment Bill for **Stage 2** is planned to be introduced into the LegCo in the fourth quarter of 2013 after completion of the consultation with the stakeholders (which will proceed concurrently with Stage 1 legislative amendment procedures) and subsequent law drafting.

Stage 1 Legislative Amendments

¹ The anticipated difficulties under this Phase are for workers undertaking only limited scope of a specific trade to pass the trade test for registration and for workers undertaking minor works, maintenance works or small scale ancillary works to obtain registration for the relevant trades. Legislative amendments are required before implementing this Phase.

6. The key legislative proposal for Stage 1 Amendments to the CICO and CWRO are at **Annex A** with details highlighted and elaborated in the ensuing paragraphs.

(i) Amalgamation of CIC and CWRA

7. Upon amalgamation of the CIC and the CWRA, functions and powers of the CICO and CWRO will be conferred upon a new body. The new body will retain the existing name of CIC which was set up in February 2007 and had established popularity and recognition among the construction industry over the years. A separate new entity entitled “Construction Workers Registration Board” (CWRB) will be formed under the CIC to largely take over the functions and powers of the CWRA. The new body will be a statutory body to preserve its distinct identity. This will be analogous to the previous arrangement when CIC was amalgamated with the ex-CITA in 2008, whereby a standing Construction Industry Training Board (CITB) was created under CIC to take over the function and powers previously discharged by the ex-CITA. Membership of the proposed CWRB will be essentially the same as that of CWRA. A chart showing the organisational structure prior to and following the proposed amalgamation is at **Annex B**.

8. In considering legislative amendments to the CICO and CWRO to effect the amalgamation, opportunity is taken to tidy up a disparity between the two existing ordinances in respect of their application to the Government. Since the CICO is currently binding on the Government, we propose that the legislative provisions² in CWRO should also bind the Government for consistency purpose.

9. As regards the transitional staff arrangements for the CWRA Secretariat³, CIC has agreed to the following arrangements to ensure continuity and smooth transition -

² The Government, when acting as a contractor, will then be obliged, inter alia, to employ registered workers to carry out construction works, provide card reading device on site, and submit workers daily attendance records. Public officers carrying out construction works under the ambit of the CWRO will also be required to register as registered construction workers.

³ There are 20 staff members in the CWRA Secretariat.

- (a) subject to the agreement of individual staff members, CIC would respect and honour their respective employment contracts until their natural expiry; and
- (b) CIC would commit to extend the employment contracts of all serving CWRA Secretariat staff, subject to the agreement of individual staff members, to until two years after the date of the amalgamation in terms and conditions not less favourable than their prevailing contracts.

CWRA staff is pleased to note CIC's pledge on the above transitional staff arrangement.

10. Separately, a Core Group chaired by the Permanent Secretary for Development (Works) and comprising the two chairmen of CIC and CWRA has been formed since mid-December 2010 to consider and examine strategic issues for the legislative amendments including organisational structure of the amalgamated CIC and CWRA, and functions and powers of the standing boards and committees. At the working level, the CIC's Executive Director and CWRA's Chief Executive Officer have also held regular meetings to discuss the preparatory work required for the amalgamation, including the staff matters, finance and accounting arrangements, office administration matters and future operational workflow. The transitional staff arrangement referred to in paragraph 9 above will continue to be scrutinized.

(ii) Streamline Operational Efficiency

11. Actual experience has revealed that the administrative procedures laid down in the CICO and CWRO are too restrictive and are hampering with the efficient operation of the legislations. We, therefore, propose to make the necessary amendments to streamline the operational efficiency of the amalgamated body with major highlights as follows –

- (a) to allow the new CIC to delegate to its employees and committees its power to enter into contracts or assignments of more minor or routine nature;

- (b) to remove an unduly restrictive requirement for CIC to seek the Financial Secretary's approval for arranging fixed deposits; and
- (c) to allow more lead time for renewal of worker registration by the CIC from 3 months to 6 months before expiry of registration.

(iii) Merge the Future Construction Workers Registration Card (CWR Card) with Other Construction-related Cards/ Certificates

12. We propose to introduce a legislative amendment to enable the CWR Card to store and display information of other construction-related cards and certificates issued by other authorities where feasible.

13. With the legislative amendment, the CWR cards could serve as a platform to consolidate the cards/certificates issued by the CIC with the sharing of workers' training and registration records. For example, we can consolidate the CWR cards with the silver cards issued upon completion of specific training courses. However, for cards/certificates issued by other authorities under various legislations, we have to consult relevant Bureaux and departments on the possible need to amend other relevant ordinances under their respective portfolio to allow the sharing of personal data across different cards/certificates issuing authorities. In this regard, we have made use of the opportunity when the Lifts and Escalators (Safety) Ordinance is amended (to introduce a worker registration system for the lift/escalator works) to include suitable provisions under the new legislation to recognize the CWR Card as an acceptable alternative of the registration card to be carried by a registered lift/escalator worker.

Consultation on Stage 1 Legislative Amendments

14. We consulted the CWRA and CIC on the legislative amendments and the two-stage approach in November 2010 and

December 2010 respectively, and received good support from both bodies. We subsequently consulted the labour unions and the trade associations in May 2011 on our proposed two-stage approach and the specific legislative amendments to be introduced under Stage 1. The attendees had no adverse comments on the proposals.

15. In regard to making the CWRO also bind on Government as the CICO, we consulted relevant Government Bureaux and departments as well as staff representatives in December 2010, March 2011 and April 2011. They confirmed that they had no problem in discharging the additional responsibilities in light of the legislative amendments.

Stage 2 Legislative Amendments

16. The CWRA has established a Committee on Review of the CWRO (the Committee) since November 2010 to review possible legislative amendments required under Stage 2 to facilitate the Phase Two Prohibition under CWRO. The Committee comprises representatives from CWRA, trade associations and labour unions as well as government official. The Committee has held several meetings and deliberated major issues to address concerns over creation of new trades and rationalization of trades to meet the latest need and situation of the construction industry and difficulties in registration by workers undertaking minor works, ancillary works and maintenance works. The Committee will draw up proposals to Stage 2 legislative amendments and seek wider public consultation with the industry stakeholders before finalizing the Stage 2 legislative amendments.

Way Forward

17. We aim to introduce the Amendment Bill for Stage 1 Amendments into LegCo before the end of 2011, subject to the availability of a legislative slot. We will continue the consultation on the Stage 2 with a view to introducing the Amendment Bill before the end of 2013.

Advice sought

18. Members are invited to give views, if any, on the proposed Stage 1 legislative amendments to the CICO and CWRO.

**Works Branch
Development Bureau
June 2011**

Annex A

Summary of Key Legislative Amendments to CICO and CWRO

Amendments to the CICO

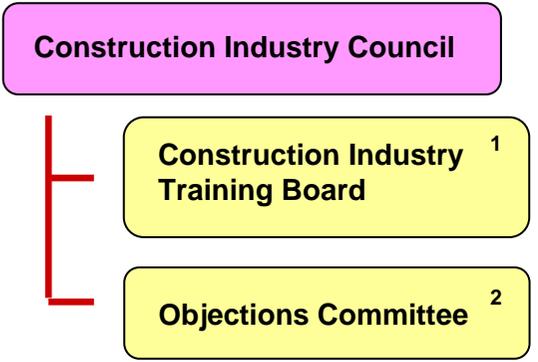
- (i) to enable the new CIC after amalgamation to perform the functions imposed on it and exercise the powers conferred on it under CWRO;
- (ii) to widen CIC's power of delegation to its committees and employees, e.g. CIC may delegate approval of contracts of certain values to its Committee on Administration and Finance;
- (iii) to remove an unduly restrictive requirement to seek the Financial Secretary's approval for arranging fixed deposits;
- (iv) to change the name of "Objections Committee" to "Objections Board"; and
- (v) to increase the trade union representative in the Construction Industry Training Board from 2 persons to 3 persons.

Amendments to the CWRO

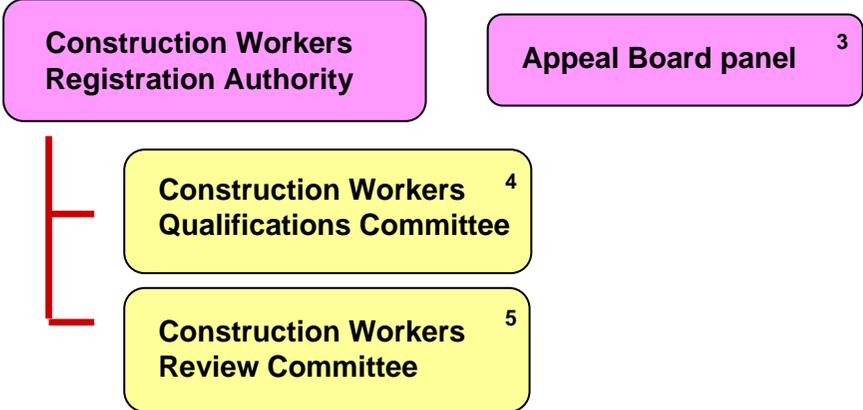
- (i) to establish a new board known as the CWRB to perform largely the same functions as the CWRA which is to be dissolved after amalgamation.
- (ii) to allow more lead time for renewal of registration from 3 months to 6 months before expiry of registration;
- (iii) to extend the period of provisional registration, which should expire in 3 years after registration, for specific justifiable reasons such as illness or injury of workers rendering them unable to attend specified training courses/trade tests;

- (iv) to change the names of “Construction Workers Qualifications Committee” and “Construction Workers Review Committee” to “Construction Workers Qualifications Board” and “Construction Workers Review Board” respectively;
- (v) to increase the labour union representatives in the Construction Workers Qualifications Board and Construction Workers Review Board under CWRO each from 2 persons to 3 persons;
- (vi) to include a new provision for the Workers Registration Card to store and display information of other construction-related cards/certificates issued by other authorities;
- (vii) to make the CWRO bind on the Government to be consistent with the CICO which is already binding on the Government; and
- (viii) to allow transaction of business of Construction Workers Qualifications Board by circulation when appropriate.

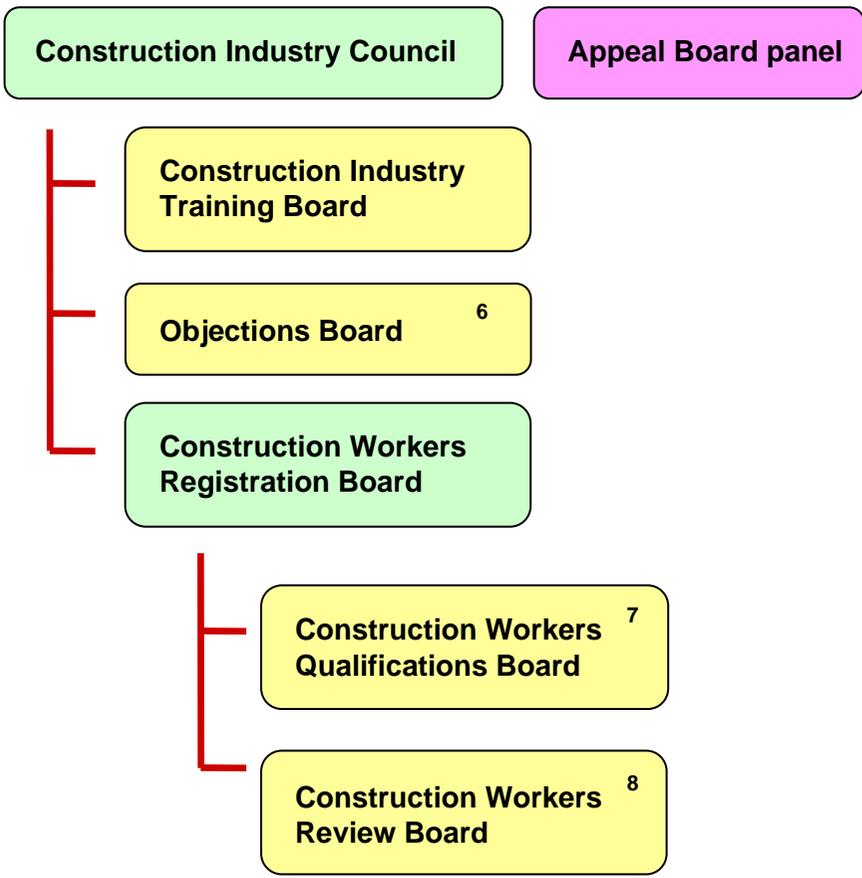
A. Existing Organizational Structure of the CIC under CICO



B. Existing Organizational Structure of the CWRA under CWRO



C. New Organizational Structure of the CIC amalgamated with the CWRA



- Members appointed by SDEV under respective ordinances
- Statutory bodies established by CIC and CWRA/CWRB under respective ordinances
- New statutory bodies formed after amalgamation of CIC with CWRA

Footnotes

1. Construction Industry Training Board is established under CICO to perform CIC's supplementary functions of providing training and trade tests for construction workers. Its labour representative is increased from 2 to 3.
2. Objections Committee is established under CICO to deal with objections to levy submitted.
3. Members of the Appeal Board panel will be appointed by SDEV under CWRO to form an Appeal Board to hear appeals lodged under CWRO.
4. Construction Workers Qualifications Committee is established under CWRO to review/assess qualification requirements for registration and make the recommendations.
5. Construction Workers Review Committee is established under CWRO to conduct review of any decision of the Registrar as request lodged under CWRO.
6. Objections Committee is proposed to be renamed as Objections Board for consistency that all committees with functions imposed under the ordinances are named "board".
7. Construction Workers Qualifications Committee is proposed to be renamed as Construction Workers Qualifications Board with the same functions as imposed. Its labour representative is increased from 2 to 3.
8. Construction Workers Review Committee is proposed to be renamed as Construction Workers Review Board with the same functions as imposed. Its labour representative is increased from 2 to 3.