

立法會
Legislative Council

LC Paper No. CB(1)2649/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/11

Bills Committee on Construction Industry Legislation
(Miscellaneous Amendments) Bill 2012

Minutes of the fourth meeting
held on Tuesday, 15 May 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex

Members present : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
(Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon CHEUNG Hok-ming, GBS, JP
Hon Cyd HO Sau-lan
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou

Public officers attending : Agenda Item I

Mr Enoch LAM Tin-sing
Deputy Secretary for Development (Works) 2

Miss Charmaine WONG Hoi-wan
Principal Assistant Secretary for Development
(Works)1

Mr LAU Chun-kit
Chief Assistant Secretary for Development
(Works)6

Mr NGAI Hon-wah
Assistant Secretary for Development (Works
Policies)8

Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice

Ms Lonnie NG Wah-chi
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Simon CHEUNG
Senior Council Secretary (1)9

Miss Iris CHEUNG
Legislative Assistant (1)7

Action

I. Meeting with the Administration

(LC Paper No. CB(3)510/11-12 -- The Bill

LC Paper No. LS39/11-12 -- Legal Service Division
Report

LC Paper No. CB(1)1556/11-12(01) -- Marked-up copy of the Bill
prepared by the Legal
Service Division

LC	Paper	Nos.	-- Letter dated 3 May 2012
CB(1) 1774/11-12(02)		and	from Legal Adviser to the
CB(1)1826/11-12(03)			Bills Committee to the
			Administration and the
			Administration's reply letter
			dated 10 May 2012)

The Bills Committee deliberated and conducted clause-by-clause examination of the Bill (Index of proceedings at **Appendix**).

2. After completion of the clause-by-clause examination of the Bill, the Chairman suggested and members agreed that since the Bills Committee had finished its work, the upcoming meetings scheduled for 17, 21 and 23 May 2012 were to be cancelled. Members agreed that the Bills Committee would report to the House Committee on 25 May 2012 recommending the resumption of the Second Reading debate of the Bill on 6 June 2012.

II. Any other business

3. There being no other business, the meeting ended at 3:51 pm.

Council Business Division 1
Legislative Council Secretariat
27 September 2012

**Proceedings of the fourth meeting of
Bills Committee on Construction Industry Legislation (Miscellaneous Amendments) Bill 2012
on Tuesday, 15 May 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration</i>			
000747 – 000810	Chairman	Opening remarks	
000811 – 001228	Administration	<p>The Administration's briefing on follow-up actions arising from the meeting on 14 May 2012 (LC Paper No. CB(1)1878/11-12(02) tabled at the meeting) that –</p> <p>(a) for the 23 staff serving in the Construction Workers Registration Authority ("CWRA") Secretariat, Construction Industry Council ("CIC") had agreed to <i>"respect and honour existing employment contracts and commit to extend the employment contracts of all serving CWRA Secretariat staff to until two years from the date of amalgamation in terms and conditions not less favourable than their prevailing contracts"</i>;</p> <p>(b) for the 14 CIC staff serving on 2-year contracts, their terms and conditions would not be affected by the amalgamation;</p> <p>(c) as regards the 29 staff serving on short-term contracts, these staff were engaged to meet the upsurge demand for worker registration at peak of registration renewal. These staff would continue to be employed on short-term contracts to meet varying operational needs;</p> <p>(d) at the request of the Administration and the Bills Committee, CIC management would meet its contract staff currently providing registration service and give them a written assurance that the amalgamation would cause no change to their existing terms of employment; and</p> <p>(e) as suggested by members, CIC was reminded to consult the industry stakeholders while formulating relevant administrative guidelines on the workers' application for extension of validity period of their provisional registration</p>	
001229 – 001641	Ms LI Fung-ying Administration Chairman	Expression of views by Ms LI Fung-ying that given that services related to construction worker registration were ongoing by nature, to nurture a sense of belonging among	

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		<p>its employees, CIC should consider offering longer or permanent terms of employment instead of short contract terms to its staff</p> <p>Response of the Administration that –</p> <p>(a) in a way similar to other statutory bodies, CIC offered contract-term employment to its staff since establishment, and the length of the contract period had been extended from one year to the present two years; and</p> <p>(b) the Administration would relay Ms LI's concerns to CIC for consideration</p> <p>Comment by the Chairman that it was worthwhile to relay the matter raised by Ms LI to CIC for consideration</p>	
001642 – 002314	Administration Chairman	<p>Briefing on proposed committee stage amendments (LC Paper No. CB(1)1878/11-12(03)) by the Administration –</p> <p><u>Clause 1(2)</u> (a) Amend "Secretary for Development" to "Secretary" (b) Define "Secretary" to have the same meaning as in Construction Workers Registration Ordinance ("CWRO")</p> <p><u>Clause 8, Section 8 of CWRO</u> Delete "and powers" from the heading of section 8 of CWRO</p> <p><u>Clause 18, Section 26(2) of CWRO</u> Replace Chinese text "管理局" by "議會"</p> <p><u>Clause 27, Section 46(5A) of CWRO</u> Use another Chinese expression to correspond with "return"</p> <p>Request of the Chairman that the Administration should inform members of its selected Chinese translation for the term "return"</p> <p><i>(Post-meeting notes: The Administration informed members of the selected Chinese translation via the Committee Stage Amendments circulated to members on 22 May 2012.)</i></p> <p><u>Clause 28, Section 46A(4) of CWRO</u> Use another Chinese expression to correspond with "return"</p>	

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		<p><u>Clause 28, Section 46A(5) of CWRO</u> (a) Amend the Chinese text to reflect "not later than 14 days after the date on which the notice is given" (b) Use another Chinese expression to correspond with "return"</p> <p><u>Clause 29, Section 49(7) of CWRO</u> Use another Chinese expression to correspond with "return"</p> <p><u>Clause 42(21), Section 6 of Schedule 4 of CWRO</u> Delete sub-clause (21) and substitute as follows –</p> <p>(21) 附表 4 – (a) 第 6(a)條 – 廢除 "擔任委員會" 代以 "擔任小組委員會"</p> <p>Presentation by the Administration that as a result of Clause 42(20) of the Bill, "管理局" in section 6(a) of Schedule 4 would be changed to "註冊委員會". According to the existing Clause 42(21), "註冊委員會" would then be amended as "註冊小組委員會"</p> <p><u>Clause 64(2)</u> Amend "122"</p>	
002315 – 011014	Administration	<p><u>Clause-by-clause examination of the Bill</u></p> <p>The Administration led the Bills Committee through the Chinese version of the Bill from Page 0036 to Page 0079.</p> <p>Part 10 – Dissolution of Construction Workers Registration Authority</p> <p>Briefing by the Administration that this part of the Bill mainly dealt with the dissolution of CWRA</p> <p>Clause 40 of the Bill adding the following sections under CWRO</p> <p><u>Section 70 – Interpretation of this Part</u></p> <p><u>Section 71 – Dissolution of the Authority</u></p>	

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		<p><u>Section 72 – Vetting of rights, etc. of Authority in Council and saving of validity of Authority's acts</u></p> <p><u>Section 73 – Completion of acts started before commencement date</u></p> <p><u>Section 74 – Rights of action</u></p> <p><u>Section 75 – Legal claims and pending legal proceedings, etc.</u></p> <p><u>Section 76 – Effect of existing agreements, etc.</u></p> <p><u>Section 77 – References to Authority</u></p> <p><u>Section 78 – Delivery of books, etc.</u></p> <p><u>Section 79 – Record of property</u></p> <p><u>Section 80 – Continuance of employment</u></p> <p>Remarks by the Administration that this clause provided that the employment of CWRA's employees was not to be terminated by the dissolution of CWRA and that they would become employees of CIC from the commencement date onwards on terms and conditions no less favourable than those offered by CWRA, and there would be no break to their employment</p> <p><u>Section 81 – Submission of reports on activities of Authority</u></p> <p><u>Section 82 – Council to appoint auditor for purpose of section 81</u></p> <p><u>Section 83 – Change of Registrar</u></p> <p><u>Clause 41, SCHEDULE 1 of CWRO</u></p> <p>Part 1 Designated trades for which a person may be registered only as a registered skilled worker or registered skilled worker (provisional), as the case may be</p> <p>51. Structural Steel Welder</p> <p>Explanation by the Administration that it was necessary to change "Hong Kong Laboratory Accreditation Scheme" to "Hong Kong Inspection Body Accreditation Scheme"</p>	

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		<p><u>Clause 42, SCHEDULE 4 of CWRO Registration Board, its subcommittees and Other Boards</u></p> <p>Part 1 Registration Board</p> <ol style="list-style-type: none"> 1. Composition of Registration Board 1A. Tenure of office 2. Proceedings of Registration Board 3. Members of Registration Board to disclose interests 3A. Estimates of Registration Board 3B. Accounts of Registration Board and submission of reports etc. to Council 3C. Delegation of Registration Board's functions and powers <p>Part 2 Subcommittees Appointed by Registration Board and Members of the Subcommittees</p> <ol style="list-style-type: none"> 6. Members of subcommittees 7. Functions and powers of subcommittees <p>Part 3 Qualifications Boards and its Members</p> <ol style="list-style-type: none"> 8. Tenure of office 9. Proceedings of Qualifications Board 10. Members of Qualifications Board to disclose interests <p>Part 4 Review Board and its Members</p> <ol style="list-style-type: none"> 11. Tenure of office 12. Proceedings of Review Board 13. Members of Review Board to disclose interests <p>Clause 43 amending the following sections of CWRO</p> <ol style="list-style-type: none"> 16. Appointment of authorized officers 20. Value of construction operations 27. Payment of levy 28. Recovery of levy 33. Levy inspector 35. Authentication, and production in evidence of documents 36. Appointment of Registrar 41. Training course for registered skilled worker (provisional) 47. Registration card 56. Legal adviser 58. Principal contractors and controllers to retrieve and record data of registered construction workers on construction sites 	

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		<p>60. Prosecution may be brought in Council's name 62. Power of Council to specify forms</p> <p>Part 3 – Amendments to Construction Council Ordinance (Cap. 587)</p> <p>Clause 44, Section 2. Interpretation Clause 45, Section 5. Functions of Council Clause 46, Section 6. Supplementary functions of Council Clause 47, Section 7. Powers of Council Clause 48, Section 9. Composition of Council Clause 49, Section 15. Council may establish committees Clause 50, Section 16. Delegation of Council's functions and appointment of subcommittee Clause 51, Section 19. Protection of members of Council, etc Clause 52, Section 24. Investment of funds Clause 53, Section 29. Establishment of Construction Industry Training Board Clause 54, Section 30. Composition, meetings and proceedings of Board, etc. Clause 55, Section 35. Notice of payment made in respect of construction operations Clause 56, Section 36. Notice of completion of construction operations Clause 57, Section 54. Establishment of Objections Committee Clause 58, Section 56. Decision of Objections Committee Clause 59, Section 57. Appeals against decision of Objections Committee Clause 60, Section 61. Protection of information given under sections 59 and 60 Clause 61, Section 67. Offences of fraudulent evasion of levy and giving false documents or information</p> <p>Clause 62, SCHEDULE 3 – Meetings and Proceeding of Council</p> <p>1. Interpretation 5. Proceedings of Council</p> <p>Clause 63, SCHEDULE 4 – Composition, Meetings and Proceedings of Training Board, etc</p> <p>1. Interpretation 2. Composition of Training Board 7. Proceedings of Training Board</p>	

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		<p>Part 4 – Consequential and Related Amendments</p> <p>Division 1 – Amendments to Prevention of Bribery Ordinance (Cap. 201)</p> <p>Clause 64, SCHEDULE 1 Public Bodies</p> <p>Division 2 – Amendments to Pneumoconiosis and Mesothelioma (Compensation) (Assessment of Levy) Regulations (Cap. 360 sub. leg. A)</p> <p>Clause 65, Regulation 15. Protection of information given under regulation 14</p> <p>Completion of the clause-by-clause examination of the Bill</p>	
011015 – 011447	Chairman Assistant Legal Adviser 9 ("ALA") Administration	<p>The Chairman's enquiry whether members and ALA had any views on the English version of the Bill</p> <p>Expression of views by ALA that she had noticed that while some amendments in the English text of the Bill were made in line with the Administration's effort to phase out gender specific words (for instance the change from "chairman" to "chairperson"), the amendments of this kind, however, did not seem to cover other gender-specific terms used in the other parts of principal ordinances</p> <p>Response by the Administration that –</p> <p>(a) To avoid including too many amendments which were not directly related to the main purposes of the Bill , the substitution of "non-gender specific" terms was basically confined to references to certain offices of new bodies or organizations mentioned in the Bill; and</p> <p>(b) the Administration would continue to review and amend gender specific terms, where appropriate, in future amendments</p> <p>Comments by the Chairman that he did not see a real need for the changes cited by the Administration</p>	
011448 – 011947	Ms LI Fung-ying Administration	<p>Expression of view by Ms LI Fung-ying that –</p> <p>(a) she considered the use of "小組委員會", "委員會", and "專責委員會" in the Chinese version of the Bill confusing and cumbersome; and</p> <p>(b) it was necessary for the Administration to go through</p>	

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		<p>the Bill carefully to ensure all necessary changes to these two terms were made</p> <p>Response of the Administration that –</p> <p>(a) in order to minimize confusion and to show the different levels of the concerned bodies, it was necessary to standardize the Chinese translation of these terms in the Bill as follows:</p> <ul style="list-style-type: none"> ● Board – 委員會 ● Committee – 專責委員會 ● Subcommittee – 小組委員會 <p>(b) effort would be made to ensure the accuracy in the use of these terms in the Chinese text of the Bill</p>	
011948 – 012112	Chairman Administration	<p>The Chairman's enquiry on when the Administration could provide Committee Stage Amendments ("CSAs") to the Bills Committee for vetting</p> <p>The Administration's response that –</p> <p>(a) it would be able to provide CSAs to the Bills Committee by the end of the week, i.e. 18 May 2012; and</p> <p>(b) it was intended to report to the House Committee on 25 May 2012 supporting the resumption of Second Reading debate at the Council meeting on 6 June 2012</p> <p><i>(Post-meeting note: The Committee Stage Amendments proposed by the Administration was circulated to members vide LC Paper No. CB(1)1941/11-12(02) on 22 May 2012.)</i></p>	
<i>Agenda Item II – Any other business</i>			
012113 – 012216	Chairman	Decision to cancel scheduled meetings and ending remarks	