

File Ref: DEVB(CR)(W)1-10/39 Pt.2

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

**Administration's Response to
follow-up items arising from meeting on 13 April 2012**

(I) Extension of the validity period for provisional registration

Members expressed concern on whether construction workers were required to register as skilled or semi-skilled workers for many designated trades before they were allowed to carry out construction works of multiple-trades on construction sites. Members also asked if consideration could be given to extending the validity period of registration as skilled workers (provisional) / semi-skilled workers (provisional) for designated trades such that these workers would not be forced out of work.

Phase One Prohibition currently in force

2. At present, the Construction Workers Registration Authority (CWRA) has only implemented Phase One Prohibition¹ under the Construction Workers Registration Ordinance (Cap.583) (CWRO), whereby a construction worker needs only to be registered as a registered construction worker in order to carry out construction work on construction sites, including work of designated trade. Under section 40(1) of CWRO, the Registrar shall not register a person as a registered construction worker unless the Registrar is satisfied that –

- (a) the person holds a certificate² referred to in section 6BA(2) of the Factories and Industrial Undertakings Ordinance (Cap.59)

¹ Phase One Prohibition came into effect on 1 September 2007.

² It is a Construction Industry Safety Training Certificate (commonly known as “Green Card”) issued under the Factories and Industrial Undertakings Ordinance (Cap.59) of the Laws of Hong Kong.

in respect of that person's attendance at a safety training course that relates to construction work within the meaning of that Ordinance; and

- (b) the person –
 - (i) is a Hong Kong permanent resident; or
 - (ii) is not subject to any conditions of stay in Hong Kong that he shall not take up any paid or unpaid employment in Hong Kong.

In other words, registered construction workers with provisional registration³ for designated trades have no problem in carrying out construction work of the designated trades at construction sites at present, irrespective of whether their provisional registrations are still effective or have expired. The Construction Industry Legislation (Miscellaneous Amendments) Bill 2012 (the Bill) will not have the effect of forcing workers out of work.

Consultation on Phase Two Prohibition

3. The Administration intends to introduce into the Legislative Council legislative amendments for Phase Two Prohibition in the fourth quarter of 2013. Upon implementation of Phase Two Prohibition, a construction worker will be required to register either as a registered skilled worker or a registered semi-skilled worker of his designated trade before personally carrying out works of the designated trade. We are aware that some construction workers undertaking only a limited scope of work under a specific trade or minor scale construction works may have difficulties in passing trade tests for registration. Those with provisional registration but have not yet passed trade tests / assessments may also face similar problem. We are proposing to amend the CWRO to address the anticipated difficulties faced by these groups of workers ***before*** the implementation of Phase Two Prohibition. We are consulting industry stakeholders on the proposed amendments.

³ Under section 45 of CWRO, a worker may register as a skilled worker (provisional) or semi-skilled worker (provisional) if, as at 29 December 2005, he had six years' and two years' experience in the relevant trade. Such a provisional registration will expire on the third anniversary of the date of registration.

Extension of the validity of provisional registration

4. In the Bill, we propose, amongst others, to rationalise the existing arrangement for provisional registration by conferring authority to CWRA to extend the validity period of registered skilled worker (provisional) / semi-skilled worker (provisional) under circumstances beyond the control of the workers concerned such as illness or injury.

(II) Consolidation of construction-related cards

5. Noting that the Administration planned to consolidate all construction-related cards / certificates in order to reduce the number of cards that a worker would need to carry, Members enquired about the detailed design and durability of the card. Members also asked if electronic card-readers would be made readily available at construction sites so that sub-contractors could easily verify the registration status of construction workers they intended to employ. Further, Members suggested that the trades for which a worker was registered should be shown on the registration card.

6. To tie in with the proposed amalgamation of the Construction Industry Council (CIC) and CWRA, as well as with provisions for the proposed consolidation of the worker registration card and other construction-related cards, the registration card will be redesigned. The present worker registration card issued by CWRA is a smart card of a size of an octopus card. A sample of the currently used registration card is at *Annex A*. All trades for which a worker has registered are shown on the rear part of the present registration card which is made of polyvinyl chloride (commonly known as PVC), a durable material resistant to atmospheric gases, water and most chemicals. These characteristics will remain unchanged for the new design.

7. As regards card reading devices, the principal contractor for a construction site is currently required under section 58 of CWRO to provide electronic card-readers on the site to retrieve electronic form data of construction workers stored in the registration card.

(III) Job security for staff of the Construction Workers Registration Authority

8. Members noted that the Bill provided for the continuation of the employment contracts for staff of the CWRA Secretariat upon the amalgamation of CIC and CWRA. Yet, Members relayed the concern of some CWRA staff members on the long-term job security as some of their duties overlapped with those of their counterparts in CIC. Members called upon the Administration to conduct a briefing for the staff of CWRA and to listen to their concerns.

9. The Administration is fully aware of the importance of maintaining close communication with the affected staff in the amalgamation exercise. Since 23 November 2010 when the Legislative Council Panel on Development supported in principle the Administration's proposal to amalgamate CIC and CWRA, we have taken the following actions on the transitional arrangements for CWRA staff –

(a) Meeting with CWRA Secretariat staff on 3 December 2010

Representatives from the Development Bureau (DEVB) and CWRA met staff of CWRA Secretariat on 3 December 2010 to gauge their views and concerns on the proposed amalgamation of CIC and CWRA, which mainly involve continuance of employment and job security.

(b) Consulted CIC on transitional arrangements at meeting on 17 December 2010

The Administration consulted CIC at its meeting held on 17 December 2010 on the transitional arrangements for CWRA staff. CIC members approved the proposal “to respect and honour existing employment contracts and commit to extend the employment contracts of all serving CWRA Secretariat staff to until two years after the date of amalgamation in terms and conditions not less favourable than their prevailing

contracts”. Relevant extracts of the discussion paper and minutes of meeting are at *Annexes B and C*.

(c) Informed CWRA of approved transitional arrangements at CWRA meeting on 19 January 2011

The Administration reported to the CWRA at its meeting on 19 January 2011 the transitional arrangements for CWRA approved by CIC. The Chief Executive Officer of CWRA Secretariat (CEO/CWRA) confirmed at the meeting that all CWRA staff had been duly informed of the transitional arrangements. Extracts of the relevant discussion paper and minutes of meeting are at *Annexes D and E*.

(d) Formation of Joint Working Group for Preparation for Amalgamation of CIC and CWRA since early 2011

A Joint Working Group headed by the Executive Director of CIC Secretariat (ED/CIC) and CEO/CWRA had also been formed since early 2011 to discuss regularly different issues relating to the amalgamation of CIC and CWRA.

(e) Meeting with CWRA Secretariat staff on 25 April 2012

Subsequent to the Bills Committee meeting on 13 April 2012, representatives from DEVB, CWRA and CIC Secretariat met all staff⁴ of the CWRA Secretariat on 25 April 2012. Representative from DEVB reiterated that CIC had agreed “to respect and honour existing employment contracts and commit to extend the employment contracts of all serving CWRA Secretariat staff to until two years after the date of amalgamation in terms and conditions not less favourable than their prevailing contracts”. All staff present at the meeting were invited to sound out their concerns. Their main concerns include CWRA staff’s positions under the organizational structure of the amalgamated body and their

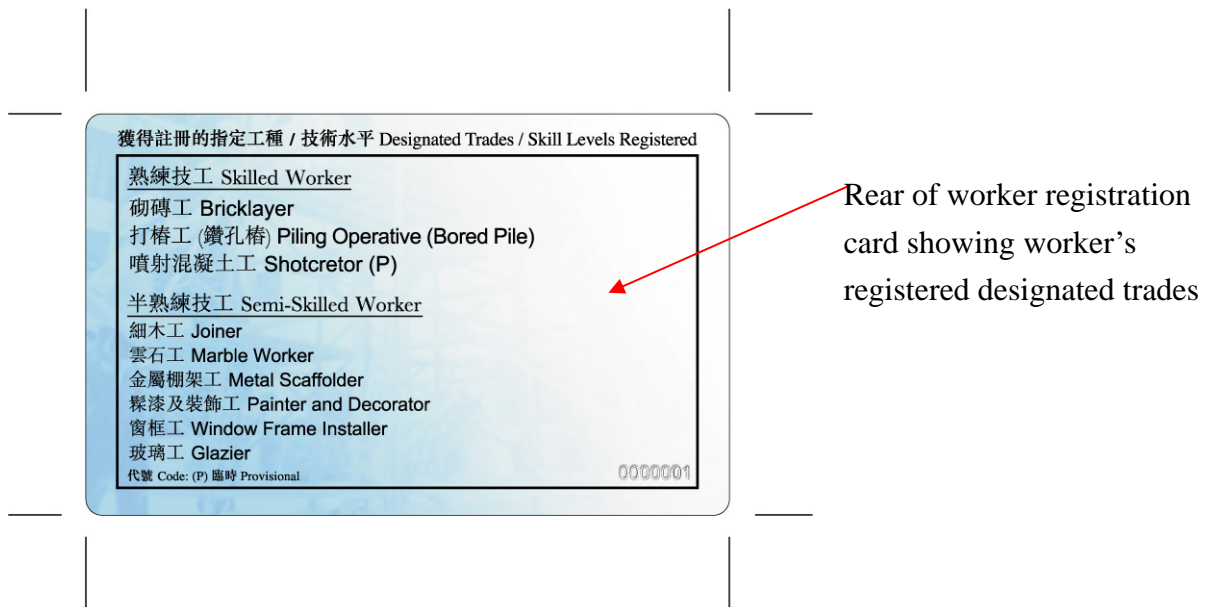
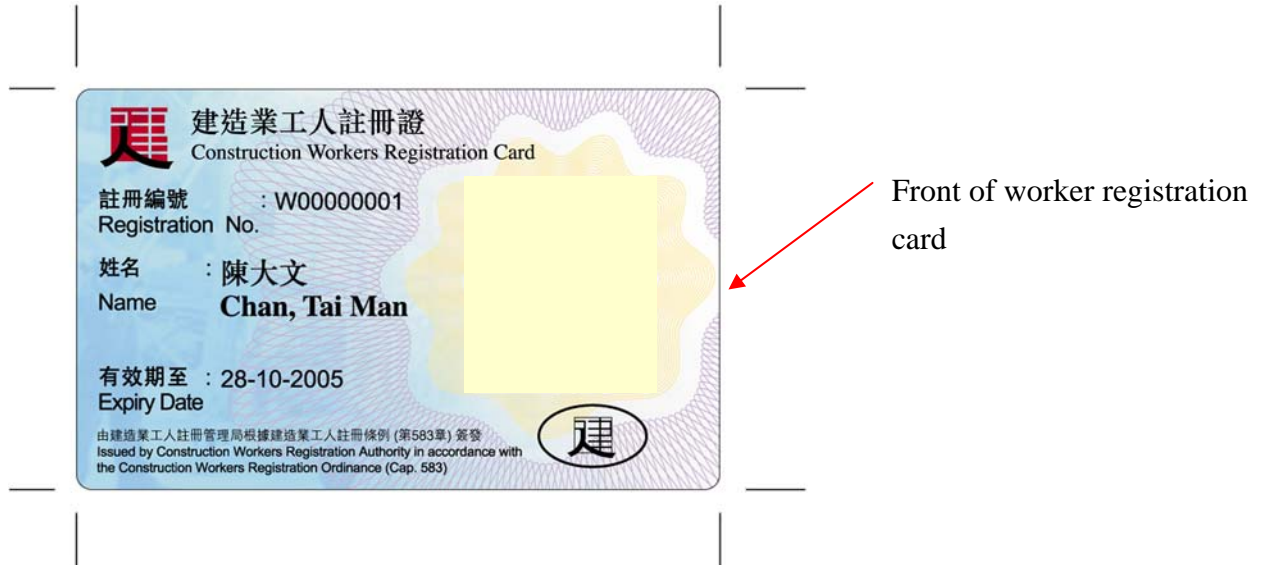
⁴ 21 out of a total of 23 CWRA staff attended the meeting. The remaining two staff submitted their written questions to the meeting although they were on vacation leave that day.

terms and conditions of service. CIC representative undertook to give CWRA staff an interim reply on the questions raised within two weeks. We have also duly reflected concerns raised by CWRA staff to CIC's senior management separately and will follow up with CIC on the progress in addressing their concerns.

Development Bureau
30 April 2012

Annex A

Sample of Construction Worker Registration Card



EXTRACT

CIC/CMT/P/066/10
(For discussion)

Construction Industry Council

**Amalgamation of Construction Industry Council and
Construction Workers Registration Authority**

1. Purpose

- 1.1 This paper informs Members of the work of the Construction Workers Registration Authority (CWRA) and the time frame for the proposed amalgamation of the Construction Industry Council and the CWRA as well as seeks Members' endorsement of the proposed transitional arrangements for the amalgamation.

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4. Preparatory Work for the Amalgamation

- 4.5 To facilitate a smooth transition of CWRA Secretariat staff, Members are invited to consider the following proposals –

- (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.

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EXTRACT

CIC/CMT/M/007/10

Construction Industry Council

Meeting No. 007/10 of the Construction Industry Council for 2010 was held on Friday, 17 December 2010 at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong.

MINUTES

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7.9.1 Amalgamation of Construction Industry Council and Construction Workers Registration Authority

Members took note of Paper CIC/CMT/P/066/10.

Subject to the conditions stated in the Paper, Members approved the following proposals as detailed in paragraphs 4.5 and 4.6 of the Paper:

- (a) To respect and honour existing employment contracts and commit to extend the employment contracts of all serving CWRA Secretariat Staff to until two years after the date of the amalgamation in terms and conditions not less favourable than their prevailing contracts;

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EXTRACT

CA/2011/2

(For discussion)

Construction Workers Registration Authority

**Amalgamation of
Construction Workers Registration Authority and
Construction Industry Council
(Translation)**

Purpose

This paper reports to Members the proposed transitional arrangements for the amalgamation of the Construction Workers Registration Authority (CWRA) and the Construction Industry Council (CIC).

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Transitional Arrangements for amalgamation

6. At the meeting of the Construction Industry Council (CIC) held on 17 December 2010, Development Bureau reported to Members the work of CWRA and the proposed timeframe for amalgamation of CWRA and CIC. Members were consulted and they had agreed on the transitional arrangements for staff of CWRA Secretariat as follows -

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

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Extract

**Minutes of the 57th meeting of
Construction Workers Registration Authority
(Translation)**

Date : 19 January 2011 (Wednesday)
Time : 2:35pm to 4:40pm
Place : Room 1804, 18/F, Murray Building, Garden Road, Central, Hong Kong

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57.3 Matters arising (Agenda item 2)

Amalgamation of Construction Workers Registration Authority and Construction Industry Council
(Agenda item 2.1)(Paper No. CA/2011/02)

57.3.3 In addition, Ir Helen KWAN Po-jen and Mr Paul CHONG Kin-lit met staff of the CWRA Secretariat on 3 December 2010 concerning transitional arrangements for staff upon amalgamation of the two organizations. The Construction Industry Council approved at its meeting held on 17 December 2010 the transitional arrangements for staff, transfer of assets, liabilities and service contracts. For detail, please see paragraphs 6 and 7 of the paper mentioned above.

57.3.4 In response to the Chairman's enquiry on whether staff were aware of the transitional arrangements, the Chief Executive Officer replied that he had already informed all staff of the approved transitional arrangements. He also thanked Mr CHONG and Ir KWAM for taking the time to meet the staff and to listen to their views.

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