立法會 Legislative Council

LC Paper No. CB(1)1974/13-14

(These minutes have been seen by the Administration)

Ref : CB1/BC/7/13/2

Bills Committee on Construction Workers Registration (Amendment) Bill 2014

Minutes of the second meeting held on Friday, 27 June 2014, at 9:30 am in Conference Room 2 of the Legislative Council Complex

Members present	: Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Chairman) Hon LEE Cheuk-yan Hon Cyd HO Sau-lan Hon CHAN Hak-kan, JP Hon IP Kwok-him, GBS, JP Hon KWOK Wai-keung Hon SIN Chung-kai, SBS, JP Hon POON Siu-ping, BBS, MH Hon TANG Ka-piu Hon CHUNG Kwok-pan Hon Tony TSE Wai-chuen
Members absent	: Hon Abraham SHEK Lai-him, GBS, JP Hon Alan LEONG Kah-kit, SC Hon LEUNG Kwok-hung Hon CHAN Yuen-han, SBS, JP
Public Officers attending	: <u>Agenda items I and II</u> Mr CHAN Chi-ming, JP Deputy Secretary for Development (Works)2

<u>ction</u>	 -2- Mr Ricky LAU Chun-kit Chief Assistant Secretary (Works)6 Development Bureau Mr George LAW Tak-chi Assistant Secretary (Works Policies)8 Development Bureau Mr Sunny CHAN Yuen-sun Senior Assistant Law Draftsman Department of Justice
<section-header></section-header>	 Agenda item I Mr CHOW Luen-kiu Chairman Hong Kong Construction Industry Employees General Union Mr Lawrence NG San-wa President Hong Kong Construction Sub-contractors Association Mr David LEUNG Assistant Secretary General Hong Kong Construction Association Mr CHAN Sam-choi Organiser Construction Site Workers General Union Mr SIN Kai-ming Vice-Chairman The Federation of Hong Kong Electrical and Mechanical Industries Trade Unions Mr LEE Kai-yuen Chairman Contractor's Authorised Signatory Association Mr MAK Tak-ching Representative Labour Party

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	Mr Alex LEUNG
	Deputy Director – Training & Development
	Construction Industry Council
Clerk in attendance	: Ms Sharon CHUNG
	Chief Council Secretary (1)6
Staff in attendance	: Ms Clara TAM
	Assistant Legal Adviser 9
	Mr Anthony CHU
	Senior Council Secretary (1)6
	Ms Christina CHIU
	Legislative Assistant (1)6

(LC Paper No. CB(1)1583/13-14(02)	Submission from The Real
	Estate Developers Association
	of Hong Kong dated
	4 June 2014
LC Paper No. CB(1)1622/13-14(01)	Submission from Mr YEUNG
	Wai-sing, Eastern District
	Council member dated
	12 June 2014

Welcoming remarks by the Chairman

The Chairman welcomed the attendance of the representatives of the deputations to the meeting. He reminded them that when addressing the Bills Committee, they would not be covered by the protection and immunity of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and their written submissions were also not covered by the said Ordinance.

Presentation by deputations

(Index of proceedings attached at the Appendix)

Admin 3. <u>The Administration</u> was requested to provide a written response to the views expressed by deputations at the meeting.

Π	Meeting with the Administration (LC Paper No. CB(1)1583/13-14(04) LC Paper No. CB(1)1583/13-14(05)	by the Administration for the meeting on 20 May 2014 Administration's response to
		issues raised by members at the meeting on 20 May 2014)
	Other relevant papers	
	(LC Paper No. CB(3)562/13-14	 The Bill
	File Ref.: DEVB(CR)(W)1-10/31	 Legislative Council Brief
	LC Paper No. LS46/13-14	 Legal Service Division Report
	LC Paper No. CB(1)1446/13-14(01)	 Marked-up copy of the Bill prepared by the Legal Service Division
	LC Paper No. CB(1)1446/13-14(02)	 PaperonConstructionWorkersRegistration(Amendment)Bill2014preparedby the LegislativeCouncilSecretariat(Background brief)
	LC Paper No. CB(1)1613/13-14(01)	 Letter from Assistant Legal Adviser to the Administration dated 12 June 2014
	LC Paper No. CB(1)1684/13-14(03)	 Administration's response to Assistant Legal Adviser's letter dated 12 June 2014 as set out in LC Paper No. CB(1)1613/13-14(01))

4. The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

III Any other business

5. <u>Members</u> noted that two alternative time-slots, namely, 10:45 am to 12:45 pm on 3 October and 2:30 pm to 4:30 pm on 6 October 2014, were proposed for the third meeting. At the instruction of the Chairman, <u>the Clerk</u> would consult members on their availability for the proposed time-slots for the Chairman to determine the date of the next meeting.

(*Post-meeting note*: Based on members' returns, the third meeting was scheduled for 3 October 2014, at 10:45 am. A notice of meeting and the agenda were sent to members vide LC Paper No. CB(1)1805/13-14 on 16 July 2014)

6. There being no other business, the meeting ended at 12:46 pm.

Council Business Division 1 Legislative Council Secretariat 4 September 2014

Proceedings of the second meeting of the Bills Committee on Construction Workers Registration (Amendment) Bill 2014 on Friday, 27 June 2014, at 9:30 am in Conference Room 2 of the Legislative Council Complex

Time marker	Speaker	Subject(s)	Action required
Agenda It	em I –Meeting with deput	ations and the Administration	
001140– 001415	Chairman	Opening remarks	
001416– 001649	Hong Kong Construction Industry Employees General Union ("HKCIEGU")	Presentation of views as detailed in its submission [LC Paper No. CB(1)1583/13-14(01)]	
001650– 001935	Hong Kong Construction Sub-contractors Association ("HKCSA")	 The deputation expressed support for the Construction Workers Registration (Amendment) Bill 2014 ("the Bill"). The Development Bureau had adopted an open mind in consulting various stakeholders on the proposed legislative amendments to implement the remaining phase of Prohibition. The designation of trade divisions in the Bill was in line with the current practice of the industry. 	
001936– 002142	Hong Kong Construction Association	Presentation of views as detailed in its submission [LC Paper No. CB(1)1684/13-14(01)]	
002143– 002452	Construction Site Workers General Union("CSWGU")	Presentation of views as detailed in its submission [LC Paper No. CB(1)1715/13-14(01)]	
002453- 002652	The Federation of Hong Kong Electrical and Mechanical Industries Trade Unions	Presentation of views as detailed in its submission [LC Paper No. CB(1)1715/13-14(02)]	
002653- 002827	Contractor's Authorised Signatory Association ("CASA")	 The deputation expressed support for the Bill. The deputation said that the Administration had taken into account their views in drafting the Bill. The deputation advised that they had expressed to the Administration the view that the implementation of the remaining phase of Prohibition might have an impact on the supply of construction workers, especially those for minor construction works. In response, the Administration had incorporated in the Bill that minor construction works would only be subject to the regulation of the remaining phase of Prohibition at a later stage. 	

Time marker	Speaker	Subject(s)	Action required
002828– 003251	Labour Party	After consulting some labour unions, the deputation had the following views	
		(a) It was necessary to set guidelines for trade-registered workers to provide "instruction and supervision" for other workers, including the maximum number of workers who could work under the "instruction and supervision" of a registered skilled/semi-skilled worker, for effective supervision and work safety.	
		(b) Only registered skilled workers should be allowed to provide "instruction and supervision", and all workers under "instruction and supervision" should work within the sight of the worker providing "instruction and supervision".	
		(c) A separate trade division should be added for drivers of dump trucks. Trade tests should be provided for this new trade division.	
		(d) The assessment under the one-off registration arrangement for senior workers should be vigorous.	
		(e) Wage levels should be commensurate with the experience and qualifications of the workers.	
003252– 003530	Construction Industry Council ("CIC")	Presentation of views as detailed in its submission [LC Paper No. CB(1)1684/13-14(02)]	
003531- 004245	Administration	Response of the Administration to the views of deputations as follows	
		(a) Provisions had been included in the Bill for the one-off arrangement for registration of senior workers. CIC was in the process of making the necessary preparation. The assessment under the arrangement would take into account both the fact that the relevant workers already had more than 10 years' relevant experience in the trade division and the purpose of verifying that the workers had attained the required skill level.	
		(b) Under the Construction Workers Registration Ordinance (Cap. 583) ("CWRO"), both skilled and semi-skilled workers could provide "instruction and supervision" for other registered workers. The Administration had no intention to amend the	

Time marker	Speaker	Subject(s)	Action required
		 above existing arrangement. (c) As to the suggestion of setting the maximum number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker, this, as well as other implementation details in relation to the "instruction and supervision" arrangement, would be stipulated in the relevant guidelines and code of practice to be promulgated by CIC. (d) At present, dump truck drivers could register under CWRO as truck driver (medium goods vehicles) or truck driver (heavy goods vehicles). The registration requirements were the possession of the relevant driving licences only. However, for drivers of other vehicles who would also operate the mechanical devices equipped on the vehicles, such as crane lorry, their skills of operating the concerned mechanical devices could be assessed, and therefore separate trade divisions for operating the devices might be provided where appropriate. (e) Linking the wage level to the qualifications of the workers was outside the scope of CWRO. (f) Construction works with total value not exceeding \$10 million would only be subject to the remaining phase of Prohibition at a later stage. 	
004246- 005406	Ms Cyd HO CSWGU CIC Administration HKCIEGU CASA HKCSA	Ms Cyd HO sought the views of CSWGU and CIC on setting a maximum number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker, and enquired about the consideration of CIC in preparing the relevant guidelines. CSWGU said that under CWRO and the Bill, the number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker was not specified. This was a disincentive for workers to register as a skilled/semi-skilled worker since a registered general worker could still work in any trade/trade division under the "instruction and supervision" arrangement. There was also no requirement that the worker providing "instruction and supervision" had to be present in the vicinity of the work area of the workers under "instruction and supervision".	

Time marker	Speaker	Subject(s)	Action required
		CIC said that it had no preconceived position on the "instruction and supervision" arrangement. The relevant guidelines would be prepared in full consultation with the labour unions, contractors' associations and other stakeholders. Factors which would be taken into consideration would include safety issues as well as the nature and working environment of individual trade divisions, etc.	
		Ms HO considered that the provisions and the guidelines relating to "instruction and supervision" arrangement should be clear for easy reference of the worker providing "instruction and supervision" to other registered workers. As the workers providing "instruction and supervision" might have additional responsibilities without economic rewards, there would be no incentive for workers to provide "instruction and supervision". In response, the Administration said that neither CWRO nor the Bill placed any liability on the worker providing "instruction and supervision". Instead, the employers of the workers (e.g. the sub-contractors) and/or the principal contractor had the responsibility and liability for the "instruction and supervision" arrangement.	
		HKCIEGU said that it did not support specifying in the relevant guidelines the maximum number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker particularly at the initial stage of the implementation of the remaining phase of Prohibition, as it might affect the job opportunities of those workers yet to be registered as skilled/semi-skilled workers.	
		CASA said that at the construction sites, the works supervisors (instead of the workers) had the responsibility to ensure the quality of work.	
		HKCSA said that any liability arising from the "instruction and supervision" arrangement should vest with those at the management level but not the workers. As regards the maximum number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker, it considered that there was no need to specify a limit at the initial stage, as there were still quite a number of general workers possessing the relevant skills but not yet registered as skilled/semi-skilled workers. Setting such a limit would	
		affect the supply of these workers. The issue could be reviewed later when the number of registered	

Time marker	Speaker	Subject(s)	Action required
		skilled/semi-skilled workers increased.	
005407– 005903	Mr POON Siu-ping Administration	Mr POON Siu-ping enquired about	
	CIC	(a) the preparatory work for the assessment for senior workers currently undertaken by CIC; and	
		(b) the creation of a new trade/trade division for dump truck drivers and the mechanism to add a new trade/trade division.	
		The Administration advised that there was an existing mechanism to add new trades under CWRO.	
		CIC advised that	
		(a) The Construction Workers Registration Board ("CWRB") established under CIC would consider the industry's requests for adding new trades according to six principles. CWRB had considered the case of dump truck drivers. Since it could not meet all the six principles, a separate trade/trade division would not be created.	
		(b) There was a subcommittee under CWRB to advise on matters relating to the proposed one-off registration arrangement for senior workers. The subcommittee would consider the views of various stakeholders to set the assessment at an appropriate level to facilitate senior workers to register as skilled workers. Close liaison would be maintained with labour unions.	
005904– 011059	Mr CHUNG Kwok-pan CASA	Mr CHUNG Kwok-pan enquired about	
011039	CIC CSWGU	 (a) the manpower situation in the construction industry and whether the training and publicity work should be strengthened to attract young people to join the industry; and 	
		(b) how the wage level of workers could be linked to their qualifications and experience.	
		CASA expressed the following views	
		 (a) There were only around 80 000 active workers working at construction sites. For a large-scale construction project, the demand for workers of different trade divisions changed with the progress of the project. If too many trade divisions were 	

Time marker	Speaker	Subject(s)	Action required
		designated under CWRO, the supply of workers would be affected.	
		(b) The Association did not support specifying the maximum number of workers allowed to work under the "instruction and supervision" of a registered skilled/semi-skilled worker as this would affect the supply of workers, especially during the initial stage of the implementation of the remaining stage of Prohibition.	
		(c) CIC provided manpower information to the industry regularly for reference.	
		CIC expressed the following views	
		 (a) Based on its estimate, there were around 240 000 active construction workers in the construction industry. CIC had a manpower forecast model for the industry taking into account the estimated construction output in the public and private sectors. 	
		(b) CIC provided both in-house training as well as training in collaboration with contractors and subcontractors to increase the supply of workers for the industry.	
		(c) Publicity activities, such as TV programmes and exhibitions, were organized to attract more young people to join the industry. CIC had endeavoured to enhance the image of construction workers and improve the work environment at construction sites.	
		CSWGU said that in order to ensure a sufficient supply of skilled/semi-skilled workers, the wage level of workers should be commensurate with their qualifications and experience.	
		In response to Mr CHUNG's enquiry on how to tap into the non-active registered construction workers, CIC said that some people obtained worker registration for the purpose of entering the construction sites but they only undertook clerical duties. Out of the 320 000 registered workers, around one-third were registered in specific trades, while the remaining two-thirds only registered as general workers. CIC understood that the purpose of the Bill was to encourage those general	

Time marker	Speaker	Subject(s)	Action required
		workers who were already undertaking skilled works to register as skilled/semi-skilled workers. It was hoped that the employers would pay a reasonable wage to registered skilled/semi-skilled workers. Given that the wage level was to be agreed between the employers and the workers, the Administration and CIC would not intervene in the matter.	
011100- 011418	Ms Cyd HO Sau-lan Administration	 Ms Cyd HO said that dump truck drivers might need special skills to operate the dump trucks at large construction sites or landfills. She urged the Administration to consider adding a new trade for dump truck drivers. The Administration advised that CWRB would discuss the industry's suggestions on the creation of new trades in accordance with the following six principles (a) The work in the trade fell within the definition of "construction work" of CWRO. (b) The work could be clearly defined and described. (c) The whole of the work in the trade was not part of the description of work of the existing designated trades. (d) There was a workmanship level of the trade recognized by the industry and the level could be clearly established and assessed. (e) The workmanship level of the trade would affect the quality of construction. (f) The relevant training/ trade testing body/bodies could establish an assessment system to assess the skill level for the trade. 	
011419-011926	Mr KWOK Wai-keung HKCIEGU Chairman	Mr KWOK Wai-keung was concerned that with the implementation of the remaining phase of Prohibition, eligible workers would prefer to work in trade divisions that offered higher wages. This would cause insufficient manpower supply for certain trade divisions. HKCIEGU responded that the wage level of a worker not only depended on his trade division, but some other factors such as age and/or productivity of the worker. The Chairman requested the Administration to provide a written response to the deputations' views expressed at	

Time marker	Speaker	Subject(s)	Action required	
		the meeting.		
Agenda It	Agenda Item II – Meeting with the Administration			
011927– 013259	Administration	Briefing by the Administration on its response to issues raised by members at the meeting on 20 May 2014 [LC Paper No. CB(1)1583/13-14(05)]		
013300– 013617	Mr POON Siu-ping Administration	In response to Mr POON Siu-ping's enquiry about the exemption of works with a value not exceeding \$50,000 from the remaining phase of Prohibition, the Administration advised that the concerned work must be a discrete work item, isolated from other construction works by location, and not physically connected with other construction works.		
		The Administration also confirmed that the Secretary for Development would amend Schedule 1 as necessary, i.e. the list of trades/trade divisions, by notice published in the Gazette, which would be subject to negative vetting by the Legislative Council ("LegCo").		
013618– 015508	Administration	Briefing by the Administration on its response to Assistant Legal Adviser 9's letter dated 12 June 2014 [LC Paper No. CB(1)1684/13-14(03)]		
015509– 020009	Assistant Legal Adviser 9 ("ALA9") Administration Ms Cyd HO	Taking in view that the proposed trade divisions in the revised Schedule 1 were listed according to the number of strokes of the Chinese characters (except those "Master Trade Divisions", which would be listed on top of the relevant trade divisions), ALA9 asked about the measures to facilitate non-Chinese speaking workers to search a trade division from the list.		
		Ms Cyd HO enquired about the measures to assist the ethnic minorities who spoke English or a third language which was neither Chinese nor English. She suggested that the Administration and CIC should liaise with the Labour Department and the Equal Opportunities Commission to share their experience in the provision of information to the ethnic minorities.		
		The Administration said that		
		(a) Trade divisions were grouped under 37 trades by works nature. The relevant workers could first make a search among the trades to locate the related trade divisions.		
		(b) CWRO, the Bill and the related codes of practice		

Time marker	Speaker	Subject(s)	Action required
		would be available in bilingual versions. As regards other languages used by the ethnic minorities, the Administration would discuss with the working group on publicity established under CIC the measures to assist these workers, e.g. by providing relevant information in other languages.	
020010– 020213	Mr TANG Ka-piu Administration	In response to Mr TANG Ka-piu's enquiry about the one-off arrangement for registration of senior workers, the Administration advised that the registration work would be undertaken by CWRB. CWRB would seek the assistance of labour unions, etc., to verify the experience of senior workers.	
Clause-by	v-clause examination of the	e Bill	
020214-	Administration Ms Cyd HO	Clause 1 Short title and commencement	
021259		Clause 2 Enactments amended	
		The Administration's briefing on the above clauses	
		In response to Ms Cyd HO's enquiry, the Administration confirmed that the notices published under Clauses 1(2) and 1(4) were subject to negative vetting of LegCo.	
021300– 022334	Administration	Clause 3 Section 2 amended (interpretation)	
		The Administration's briefing on the above clause	
022335– 023109	ALA9 Administration	Clause 4 Section 2B added	
025109	Administration	The Administration's briefing on the above clause In response to ALA9's enquiry, the Administration confirmed that the commencement notice for Section 2B (issued under subsection 1) was subject to negative vetting of LegCo.	
023110– 023810	Administration	Clause 5 Section 3 amended (prohibition against unregistered construction workers carrying out on construction sites construction work)	
		Clause 6 Section 3A added	
		Clause 7 Section 4 substituted	
		The Administration's briefing on the above clauses	
023811-	Administration	Clause 8 Section 4A added	

Time marker	Speaker	Subject(s)	Action required
024923	Chairman Mr Tony TSE	The Administration's briefing on the above clause and discussion on the need to ensure consistency for the reasonable measures to identify the relevant skilled workers under the "instruction and supervision" arrangement ("the reasonable measures")	
		The Chairman asked if the Administration had discussed with the industry and CIC the reasonable measures to be taken by sub-contractors and the principal contractor for the above purpose at the construction sites.	
		The Administration replied that details of the reasonable measures would be stipulated in the relevant code of practice to be issued by CIC. CIC was currently discussing with the relevant stakeholders on the possible measures, such as specifying the colour of the safety helmet for the workers providing "instruction and supervision", or requiring the wearing of badges.	
		Mr Tony TSE asked whether the principal contractor or sub-contractors would be held responsible if new section 4A(2) or 4A(3) (i.e. implementation of reasonable measures and the reasonable measures should be brought to the attention of registered workers) was contravened. He expressed concern that there would be confusion on the reasonable measures if the principal contractor and sub-contractors used different identification systems. It would be preferable to achieve consistency on the identification mechanism even among different sub-contractors/principal contractors so as to reduce any chance of confusion. He asked if the Administration or CIC would set out a few identification systems for the reference of the principal contractor or sub-contractors.	
		 The Administration's reply that (a) Any decision to prosecute the principal contractor and/or the sub-contractors for contravening new section 4A(2) or 4A(3) would depend on the circumstances of individual cases. 	
		 (b) The code of practice would set out a few reasonable measures for reference of the principal contractors and sub-contractors. However, unifying the identification measures amongst the whole industry would be subject to the feasibility and practicability of doing so. The principal contractor and the sub-contractors might adopt 	

Time marker	Speaker	Subject(s)	Action required
		different identification measures where appropriate. CIC would discuss with the industry stakeholders in finalizing the code of practice.	
024924- 025316	Mr LEE Cheuk-yan Administration	Mr LEE Cheuk-yan enquired how the experience and skill levels of imported workers who had to work at construction sites could be verified.	
		The Administration advised that CIC was considering ways to address this issue. Imported workers had to be registered under CWRO if they had to work at construction sites.	
		Responding to Mr LEE's further enquiry about the liabilities of subcontractors/principal contractors in case their employed workers used forged documents to prove their registrations, the Administration advised that there were defence provisions for the sub-contractors/principal contractor under CWRO in this respect.	
025317-	Mr KWOK Wai-keung	Clause 8 Section 4A added (continued)	
025859	Ms Cyd HO Administration	As regards the requirement that the employer of workers or the principal contractor must implement reasonable measures to ensure that the registered worker can identify the relevant skilled worker as a registered skilled/semi-skilled worker, for the trade division, Mr KWOK Wai-keung suggested that the Administration and CIC should set out clear guidelines on possible reasonable measures in the relevant code of practice for easy reference of the contractors as well as the workers.	
		Ms Cyd HO supported that clear guidelines on the reasonable measures should be set out. In addition, the principal contractor and the sub-contractors should be reminded that when they notified the registered workers of the reasonable measures, they should cater for the need of those ethnic minority workers who were not conversant with English or Chinese.	
		The Administration replied that CIC would issue a relevant code of practice on the reasonable measures and members' views were noted.	
		As regards importation of construction workers into Hong Kong, Mr KWOK said that the employers had the responsibility to verify their skills and suitability. There was no need for the Administration to render assistance to the employers in this respect. He held the	

Time marker	Speaker	Subject(s)	Action required
		view that the verification of experience should be carried out in Hong Kong.	
025900- 031400	Administration	Clause 9 Section 5 amended (prohibition against employing unregistered construction workers to carry out on construction sites construction work)	
		Clause 10 Section 6 amended (offences in relation to prohibitions under sections 3 and 5)	
		Clause 11 Section 13 amended (functions and powers of Qualifications Board)	
		Clause 12 Section 18 amended (other powers of authorized officers)	
		Clause 13 Section 18A added	
		Clause 14 Section 28A added	
		<u>Clause 15 Section 38 amended (Register of</u> <u>Construction Workers)</u>	
		Clause 16 Section 39 amended (application for registration)	
		The Administration's briefing on the above clauses	
031401- 031610	Chairman	Date for next meeting	

Council Business Division 1 Legislative Council Secretariat 4 September 2014