

立法會
Legislative Council

LC Paper No. CB(1)311/14-15
(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 fourth meeting held on
Wednesday, 5 November 2014, at 9:00 am
in Conference Room 2A 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, JP
Hon CHAN Hak-kan, JP
Hon IP Kwok-him, GBS, JP
Hon CHAN Yuen-han, SBS, JP
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHUNG Kwok-pan
- Public Officers attending** : **Agenda item II**
Mr CHAN Chi-ming, JP
Deputy Secretary for Development (Works)2

Mr Dominic CHOW Wing-hang
Principal Assistant Secretary (Works)1

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

Miss Queenie WU Chung-yi
Government Counsel
Department of Justice

Clerk in attendance : Ms Sharon CHUNG
Chief Council Secretary (1)6

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Raymond CHOW
Council Secretary (1)6

Action

I Confirmation of minutes
(LC Paper No. CB(1)164/14-15 -- Minutes of the third meeting
on 20 October 2014)

The minutes of the third meeting held on 20 October 2014 were confirmed.

II Meeting with the Administration

Matters arising from the meeting on 20 October 2014

- (LC Paper No. CB(1)160/14-15(01) -- Follow-up actions to be taken by the Administration for the meeting on 20 October 2014
- LC Paper No. CB(1)160/14-15(02) -- Administration's response to issues raised by members at the meeting on 20 October 2014)

Draft Committee stage amendments

- (LC Paper No. CB(1)2036/13-14(02) -- Draft Committee stage amendments proposed by the Administration
- LC Paper No. CB(1)160/14-15(03) -- Draft Committee stage amendments proposed by the Administration (Second batch))

Other relevant papers

- (LC Paper No. CB(3)562/13-14 -- The Bill
- LC Paper No. CB(1)1446/13-14(01) -- Marked-up copy of the Bill prepared by the Legal Service Division
- 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(02) -- Paper on Construction Workers Registration (Amendment) Bill 2014 prepared by the Legislative Council Secretariat (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))

2. The Bills Committee deliberated (index of proceedings attached in the **Appendix**).

(Post-meeting note: A set of powerpoint presentation materials on the Committee Stage amendments ("CSAs") proposed by the Administration was issued to members vide LC Paper No. CB(1)172/14-15(01) on 5 November 2014.)

Legislative timetable

3. The Chairman concluded that the Bills Committee had completed the scrutiny of the Bill. The Bills Committee had no objection to the draft CSAs proposed by the Administration and would not propose any CSAs in its name.

4. The Bills Committee supported the resumption of the Second Reading debate on the Bill. The Administration advised that it would propose a date for the resumption of the Second Reading debate after the meeting.

(Post-meeting note: The Administration has proposed to resume the Second Reading debate on the Bill at the Council meeting of 17 December 2014. The Chairman will report the deliberations of the Bills Committee to the House Committee on 5 December 2014. The deadline for giving notice to move CSAs, if any, to the Bill is 8 December 2014. Members were informed of the above vide LC Paper No. CB(1)195/14-15 on 7 November 2014.)

Commencement of the Bill

5. The Administration advised that, if the Bill was passed by the Legislative Council ("LegCo") in December 2014, the commencement notice of the Bill would likely be gazetted in January 2015. The Bills Committee raised no objection to the proposed arrangement.

III Any other business

6. There being no other business, the meeting ended at 10: 24 am.

**Proceedings of the fourth meeting of the
Bills Committee on
Construction Workers Registration (Amendment) Bill 2014
on Wednesday, 5 November 2014, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I -- Confirmation of minutes			
000521 – 000609	Chairman	Confirmation of minutes of the meeting on 20 October 2014 [LC Paper No. CB(1)164/14-15]	
Agenda Item II -- Meeting with the Administration			
<u>Follow-up to meeting on 20 October 2014</u>			
000610 – 000939	Administration	The Administration's briefing on its response to issues raised by members at the meeting on 20 October 2014 [LC Paper No. CB(1)160/14-15(02)]	
000940 – 001411	Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai said that the registration fees collected by the then Construction Workers Registration Authority and the Construction Industry Council ("CIC") had all along been insufficient to cover the expenditures for workers registration while there had been a surge in the expenditures for workers registration over the past years. He was worried that the surge would increase the pressure for future registration fee increase.</p> <p>The Administration replied that the increase in the expenditures for workers registration was due to the additional costs incurred by CIC for --</p> <ul style="list-style-type: none"> (a) coping with a growing number of new registrations, including those made by the new entrants to the construction industry graduated from CIC training programmes; (b) enhancing the quality of registration services such as setting up a new service centre at Nam Cheong MTR Station; and (c) upgrading the computer system to streamline and expedite the registration process. 	
001412 – 001945	Mr POON Siu-ping Administration	<p>Mr POON Siu-ping enquired whether --</p> <ul style="list-style-type: none"> (a) a legislative amendment exercise would be required to revise the levels of registration fees and levies under the Construction Workers Registration Ordinance (Cap. 583) ("CWRO"); and 	

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		<p>(b) the additional expenses to be incurred by CIC on the promotional activities to raise awareness among construction workers on the new registration requirements would be covered by its own funding and would not need additional financial support from the Administration.</p> <p>The Administration explained that --</p> <p>(a) Any revision of the levels of registration fees and levies under CWRO would be made by way of subsidiary legislation which was subject to negative vetting by LegCo.</p> <p>(b) When determining the level of registration fees, CIC would take into account (i) the levy collected under CWRO; (ii) the burden of construction workers in paying the fees; and (iii) views of the industry stakeholders. The current registration fee of construction workers was \$100 for three years, which had not been revised since commencement of registration in 2005. The validity period of registration would be extended to five years after the Bill was passed, while the fees would be maintained at \$100. The Administration considered the level of registration fees reasonable.</p> <p>(c) The cost of the relevant promotional activities would be covered by CIC's own funding.</p>	
001946 – 002434	Mr SIN Chung-kai Administration Chairman	<p>In response to Mr SIN Chung-kai's enquiry, the Administration advised that --</p> <p>(a) The levies collected from contractors undertaking construction operations under both CWRO and the Construction Industry Council Ordinance (Cap. 587) ("CICO") were the major sources of income of CIC. They were used, among others, to meet the shortfalls between the registration fees and expenditures for workers registration.</p> <p>(b) Under the existing regime, contractors had to pay 0.5% and 0.03% of the value of the construction operations concerned as levies in accordance with the CICO and CWRO respectively. In 2013, the two types of levies collected amounted to about \$660 million.</p> <p>(c) CIC, comprising representatives of the relevant labour unions, trade associations, etc., would ensure</p>	

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		<p>the effective performance of CIC in, among others, managing its resources.</p> <p>The Chairman said that the construction workers registration system had been financially supported by CIC's income other than registration fees.</p>	
002435 – 002629	Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan considered that CIC should streamline the registration process and reduce the number of cards that construction workers were required to carry. He welcomed CIC's efforts in reducing the time for issuing a registration card from seven days to within the same day of the application.</p> <p>The Administration advised that it was intended that the registration card could be recognized as a proof of possession of other construction-related cards in order to reduce the number of cards a worker needed to carry while at work, and Part 3 of the Bill covered the proposed consequential amendments to other relevant ordinances for this purpose.</p>	
<u>Examination of the draft Committee Stage amendments proposed by the Administration</u>			
002630 – 003426	Administration	<p><u>Proposed amendments to Clauses 5(1), 6, 7, 8, 23(2) and 26(2)</u></p> <p>The Administration's briefing on the proposed amendments.</p> <p>Members raised no queries.</p>	
003427 – 005913	Chairman Mr SIN Chung-kai Mr IP Kwok-him Miss CHAN Yuen-han Assistant Legal Adviser 9 ("ALA9") Administration	<p><u>Proposed amendments to Clause 33</u></p> <p>The Administration's briefing on the proposed amendments.</p> <p>Mr SIN Chung-kai opined that the word "obligations" in the new section 63A(4)(ba) might not be the appropriate word to reflect the mandatory nature of the relevant requirements. The Chairman and Mr IP Kwok-him said that the word "義務" in the Chinese version might not be a precise word to reflect the intended meaning.</p> <p>Mr SIN Chung-kai further suggested that the Administration should consider whether "conditions" or "instructions" were the more appropriate options.</p> <p>The Administration replied that the word "obligations" in a legal document normally referred to mandatory</p>	

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		<p>duties or obligations, rather than obligations taken voluntarily. Neither the words "conditions" nor "instructions" could precisely reflect the meaning of "obligations" in the context of the new section 63A(4). Besides, the word "obligation" was used in section 77 of the same Ordinance, under which "liability or obligation" were referred to as "法律責任或義務".</p> <p>ALA9 said that, based on her research, "obligation" was rendered as "義務" in quite a number of provisions.</p> <p>Miss CHAN Yuen-han was concerned that the words "any person concerned in any construction work exempted" in the new section 63A(4)(ba) could include the workers other than principal contractors and employers of workers, thus obligations might also be imposed on workers. She suggested that the Administration should consider amending "person concerned" to "principal contractors or employers of workers" to exclude workers from the ambit of the relevant requirements.</p> <p>The Administration advised that --</p> <p>(a) While at the present stage, it intended to impose the relevant obligations on principal contractors and employers of workers only, the Administration preferred to maintain some flexibility in the regulation by keeping the phrase "any person concerned in any construction work exempted" unchanged, so that the provision could cater for changes in the future.</p> <p>(b) The details of the obligations and the responsible parties would be given in the Exemption Regulation to be made. The Administration would consult industry stakeholders (including labour unions) before making the Regulation, which would be subject to negative vetting by LegCo.</p> <p>The Chairman said that given that the expression "obligations"/"義務" had a precise and well-established meaning in legal documents, he found the use of the expression in the new section 63A(4)(ba) acceptable.</p>	

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005914 – 005932	Administration	<p><u>Proposed amendment to Clause 36</u></p> <p>The Administration's briefing on the proposed amendment.</p> <p>Members raised no queries.</p>	
005933 – 011350	Mr SIN Chung-kai ALA9 Administration	<p><u>Proposed amendments to Clause 37</u></p> <p>The Administration's briefing on the proposed amendments.</p> <p>In response to ALA9's enquiry, the Administration confirmed that the existing decisions pending review or appeal would be subject to the arrangements set out in the existing sections 51 and 52 of Cap. 583.</p> <p>Mr SIN Chung-kai drew the Administration's attention to the inconsistency between the English and Chinese versions of a term in the new section 6(4) of Schedule 5, i.e. the use of "request" in the English version vis-a-vis "覆核要求" in the Chinese version. He also queried the use of the abbreviated reference (i.e. "the request") in that provision, and opined that the reference might be unclear.</p> <p>The Administration explained that from the plain language drafting perspective, since there existed a full description of a "request for review" in the new section 6(2) of Schedule 5, it was desirable to refer to it as "the request" in the new section 6(4) of that Schedule where no ambiguity could arise from the use of the abbreviated reference. As regards the inconsistency between the two texts, the Administration would review the wording of the new section 6 of Schedule 5 and submit revised draft CSAs to address members' concerns as appropriate.</p>	
011351 – 012051	The Chairman Mr LEE Cheuk-yan Administration	<p>In response to Mr LEE Cheuk-yan's enquiry, the Administration advised that --</p> <p>(a) Drivers of dump trucks and concrete mixers had been registered under the "trades" (or "trade divisions" after enactment of the Bill) "Truck driver (medium goods vehicles)" and "Truck driver (heavy goods vehicles)" in Schedule 1.</p> <p>(b) Regarding the suggestion of adding separate "trade divisions" for operation of the equipment on dump trucks and concrete mixers, the Construction</p>	

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		<p>Workers Registration Board ("CWRB") under CIC had discussed the suggestions with the labour unions and trade associations concerned but no consensus had been reached for dump trucks as there were divergent views on the skills involved and assessments required. For concrete mixers, the suggestion was being considered by CWRB.</p> <p>The Chairman said that the list of designated "trade divisions" under the new Schedule 1 could be revised when necessary by negative vetting, subject to the consensus of the industry stakeholders.</p>	
<u>Legislative timetable</u>			
012052 – 012439	Chairman ALA9 Administration	<p>The Chairman concluded that the Bills Committee had completed the scrutiny of the Bill and the meeting originally scheduled at 10:45 am on 14 November 2014 was therefore not required.</p> <p>ALA9 said that she would further study the CSAs proposed by the Administration during the meeting and would alert members if there was any issue on which members' attention was required.</p> <p>Legislative timetable</p>	