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**Bills Committee on
Construction Workers Registration (Amendment) Bill 2014**

**Background brief
prepared by the Legislative Council Secretariat**

Purpose

This paper provides background information on the Construction Workers Registration (Amendment) Bill 2014 ("the Bill") and a summary of major views and concerns expressed by members at the meeting of the Panel on Development ("DEV Panel") on the legislative proposal.

Background

2. The Construction Workers Registration Ordinance (Cap. 583) ("CWRO") was enacted in July 2004 to provide for, among others, the registration of construction workers and the regulation of construction workers who personally carry out construction works. In September 2004, the Construction Workers Registration Authority ("CWRA") was established under CWRO.

Construction workers registration and Phase One Prohibition

3. CWRA commenced the registration of construction workers in December 2005. Under CWRO, a registered construction worker means a registered general worker, a registered skilled/semi-skilled worker for a designated trade, or a registered skilled/semi-skilled worker (provisional) for a designated trade¹. On 1 September 2007, the Phase One Prohibition under CWRO came into effect. Starting from that date, unregistered construction workers are prohibited from carrying out construction works

¹ Section 2 of CWRO

at construction sites. Employers are also prohibited from employing unregistered construction workers.

4. Considering the difficulties that would be encountered in taking forward the implementation of the remaining phase of Prohibition² under CWRO and the time required for consultation with relevant industry stakeholders on the measures and associated legislative amendments, the Administration adopted a two-stage approach for the legislative amendments. While Stage 1 amendments are to provide for the amalgamation of the Construction Industry Council ("CIC") and CWRA and other streamlining measures, Stage 2 would deal with amendments to CWRO to facilitate implementation of the remaining phase of Prohibition. As regards Stage 1 amendments, the Administration introduced the Construction Industry Legislation (Miscellaneous Amendments) Bill 2012, which was passed in June 2012. Subsequently, amalgamation of the CIC and CWRA took effect from 1 January 2013.

Major proposals in the Construction Workers Registration (Amendment) Bill 2014

5. The Bill was published in the Gazette on 17 April 2014 and received its First Reading in the Legislative Council ("LegCo") on 30 April 2014. At the meeting of the House Committee on 2 May 2014, members agreed to form a bills committee to study the Bill.

Registration by reference to trade division

6. Under the Bill, the basis of registration in CWRO is changed from "trade" to "trade division". The construction workers are required to be registered by reference to a designated trade division instead of a designated trade. A registered skilled worker of a designated trade division is allowed to carry out works involving skills required for another trade division, if the two trade divisions are related as set out in the new Schedule 1A.

Senior workers registration arrangement

7. A one-off grandfathering arrangement is proposed for senior workers who would have possessed an aggregate of not less than 10 years' relevant

² The remaining phase of Prohibition refers to forbidding people from undertaking construction works of designated trades unless they are relevant trade-registered workers or under instruction and supervision of the relevant trade-registered workers.

working experience on an individual trade division upon commencement of the relevant provisions of the proposed amendments. Under this prerequisite, those satisfying the requirement of possessing an aggregate of not less than six years' relevant experience on a trade division before 29 December 2005 might directly apply for registration as registered skilled workers. Other senior workers not satisfying the above requirement might take an assessment for registration as registered skilled workers. However, this arrangement is not applicable to trade divisions with special registration requirements such as those requiring possession of relevant qualifications under other ordinances.

Proposed exemption works

8. The Bill proposes, by amending the definitions of "construction work" and "construction site" under CWRO, to exclude Class III minor works and designated exempted works as defined in the Building (Minor Works) Regulation (Cap. 123N) from the application of CWRO. It also proposes to empower the Secretary for Development ("SDEV") to make regulation for exempting construction works or persons from the application of CWRO on the basis of the scale, monetary value and urgency of the construction works.

Administration of the Construction Workers Registration Ordinance

9. Under the Bill, an obligation is imposed on both principal contractors and subcontractors to implement reasonable measures regarding the arrangement for workers not registered under the relevant trade division to carry out construction work under instruction and supervision of the relevant trade-registered workers. To this end, CIC is empowered to issue a code of practice to provide guidance on such reasonable measures and to facilitate the industry stakeholders to understand their obligations under CWRO.

Deliberation by Members

10. The DEV Panel was briefed on the proposed amendments to CWRO at its meeting on 20 December 2013. Members' major views on the legislative amendments are summarized in the ensuing paragraphs.

The remaining phase of Prohibition

11. While some Panel members supported the proposed amendments to facilitate the implementation of the remaining phase of Prohibition under CWRO, i.e. forbidding people from undertaking construction works of designated trade divisions unless they are registered workers of the relevant trade divisions or under the instruction and supervision of those registered under the relevant trade divisions; some members expressed concerns that the implementation of the remaining phase of Prohibition would affect the workers possessing multiple but lower skills, or would hamper labour mobility within the industry, thus affecting the overall productivity of the industry. There were concerns on whether the prohibition would have an impact on the supply of skilled construction workers, hence leading to escalation of labour cost.

12. The Administration advised that the proposed registration arrangement was prepared in accordance with the prevailing construction practice and there should have no impact on the existing supply of construction workers. The Administration proposed that construction works that required lower-level skills and general household works would be exempted from the remaining phase of Prohibition. On the supply of skilled workers, the Administration advised that of the some 320 000 construction workers currently registered as general, semi-skilled or skilled workers under CWRO, about 110 000 were registered skilled/semi-skilled workers. They were allowed to carry out "skill" works upon the implementation of the remaining phase of Prohibition.

Works exempted from the remaining phase of Prohibition

13. Some members requested the Administration to enhance the publicity work for the exemption arrangements to owners of private properties, owners' corporations and the construction sector so as to address the concerns of the small and medium contractors. On the Administration's proposal that 48-hour exemption would be provided for emergency construction works, a member opined that the Administration should review whether the proposal was practical for implementation.

14. Noting that the Administration was considering exempting works with value not exceeding \$50,000 from the remaining phase of Prohibition, some members held the view that the threshold was too low. The Administration advised that it had consulted the industry when tentatively setting the exemption threshold at \$50,000, and would adjust the threshold based on inflation.

Proposed senior workers registration arrangement

15. Some members requested the Administration to allow some flexibility on the requisite years of experience for senior workers who were already well-versed in a "trade division". Some opined that the Administration should handle the recognition of working experience of senior construction workers with due care and thorough consultation should be conducted with the relevant labour unions on the subject. Moreover, the Administration should assist construction workers, in particular the senior ones, in meeting the new registration requirements and adapting themselves to the changes.

Code of Practice to be issued by the Construction Industry Council

16. Some members considered that if the code of practice to be issued by CIC (mentioned in paragraph 9) ("the Code") had a legal status, it should be made available for LegCo's examination when the Bill was introduced. The Administration advised that as the Code was not part of CWRO or a piece of subsidiary legislation, it was not appropriate for it to be submitted to LegCo for scrutiny. The Code would be prepared in consultation with the relevant stakeholders and made public by CIC when available. Although a failure to observe a provision in the Code was not itself an offence, contravention with a relevant provision of the Code might be taken into account by a court in legal proceedings.

Staged implementation of the remaining phase of Prohibition

17. The Administration advised that the remaining phase of Prohibition for major construction works would come into operation two years following the commencement of the legislative amendments, while the maintenance works under term contract for maintenance and Classes I and II Minor Works would be regulated under the remaining phase of Prohibition at a later stage. Some members urged the Administration to consult LegCo before finalizing the implementation timetable for maintenance and minor works. The Administration responded that it would closely monitor the adaptation of the industry to the legislative amendments in formulating an appropriate timetable for the staged implementation of the remaining phase of Prohibition.

Relevant papers

18. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
19 May 2014

**Bills Committee on
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List of relevant papers

Date of meeting	Committee	References
March to June 2012	Bills Committee on Construction Industry Legislation (Miscellaneous Amendments) Bill 2012	<p>Legislative Council Brief (File Ref.: DEVB(CR)W1-10/31) http://legco.gov.hk/yr11-12/english/bills/brief/b29_brf.pdf</p> <p>The Bill http://legco.gov.hk/yr11-12/english/bills/b201202241.pdf</p> <p>Legal Service Division Report (LC Paper No. LS39/11-12) http://legco.gov.hk/yr11-12/english/hc/papers/hc0302ls-39-e.pdf</p> <p>Background brief (LC Paper No. CB(1)1556/11-12(02)) http://legco.gov.hk/yr11-12/english/bc/bc03/papers/bc030413cb1-1556-2-e.pdf</p> <p>Report tabled at the Legislative Council on 6 June 2012 (LC Paper No. CB(1)2030/11-12) http://legco.gov.hk/yr11-12/english/bc/bc03/reports/bc030606cb1-2030-e.pdf</p> <p>Papers http://legco.gov.hk/yr11-12/english/bc/bc03/papers/bc03_ppr.htm</p>

Date of meeting	Committee	References
20 December 2013	Panel on Development	<p>Administration's paper on proposed amendments to the Construction Workers Registration Ordinance (Chapter 583) (LC Paper No. CB(1)533/13-14(03)) http://legco.gov.hk/yr13-14/english/panels/dev/papers/dev1220cb1-533-3-e.pdf</p> <p>Minutes of the meeting (LC Paper No. CB(1)927/13-14) http://legco.gov.hk/yr13-14/english/panels/dev/minutes/dev20131220.pdf</p>
30 April 2014	--	<p>Construction Workers Registration (Amendment) Bill 2014 http://www.legco.gov.hk/yr13-14/english/bills/b201404173.pdf</p> <p>Legislative Council Brief on Construction Workers Registration (Amendment) Bill 2014 (File Ref: DEVB(CR)(W)1-10/31) http://www.legco.gov.hk/yr13-14/english/bills/brief/b201404173_brf.pdf</p>
2 May 2014	House Committee	<p>Legal Service Report on Construction Workers Registration (Amendment) Bill 2014 (LC Paper No. LS46/13-14) http://www.legco.gov.hk/yr13-14/english/hc/papers/hc0502ls-46-e.pdf</p>