

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

**Administration's response to  
follow-up actions arising from the first meeting on 20 May 2014**

**I. Obligations and duties of relevant parties**

Members enquired whether there would be new obligations and duties imposed on the employer, the principal contractor, the sub-contractor, the registered skilled/general worker (including carrying out construction works personally; carrying out skill works under the instruction and supervision of other registered skilled workers; and providing instruction and supervision for another worker not registered for the relevant trade division) after the amendments in the Bill have come into operation.

*Administration's response*

2. The Construction Workers Registration Ordinance (Cap 583) (CWRO) was enacted in July 2004. It regulates construction worker, the employer of workers (e.g. sub-contractor) and the principal contractor in respect of carrying out construction work on construction sites, and their respective obligations and duties include the following –

- (i) construction worker
  - must register as a general worker, or a skilled/semi-skilled worker according to his trade and skill level; and
  - must be a relevant trade-registered worker or works under the instruction and supervision of the relevant trade-registered worker when carrying out construction work of the designated skill.
- (ii) employer of workers
  - must employ qualified registered construction workers to carry out construction work.
- (iii) principal contractor
  - must employ qualified registered construction workers to carry out construction work;

- must install card reading device at construction site that enables the data stored in a registration card to be retrieved;
- must maintain a register for workers without carrying registration cards to fill in their registration information; and
- must submit workers' attendance record to the Registrar at regular intervals.

Yet, the employer and the worker providing “instruction and supervision” are not regulated.

3. Currently, only Phase One Prohibition under CWRO was implemented, i.e. forbidding unregistered construction workers from carrying out construction work on construction sites. The proposed amendments to CWRO under the Bill are to facilitate the implementation of the remaining phase of Prohibition<sup>1</sup> (i.e. the part of "designated workers for designated skills"). Upon commencement of the Bill, the existing obligations and duties for principal contractor, employer of workers and worker under the CWRO will basically remain unchanged, while the Bill will -

- (1) impose obligations on both the principal contractor and employer of workers to implement reasonable measures for the “instruction and supervision” arrangement, and will impose obligations on both the principal contractor and employer of workers to implement reasonable measures for the “exemption” arrangement under the proposed Exemption Regulation, to inform workers of the relevant arrangements to protect them from committing an offence inadvertently; and
- (2) require the principal contractor to submit accurate daily attendance records of workers to facilitate effective manpower planning and training.

## **II. Arrangement for exemption and staged implementation**

4. Members requested to illustrate with examples (i) the small scale construction works with value not exceeding \$50,000 to be exempted from the remaining phase of Prohibition; (ii) the works under a construction

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<sup>1</sup> i.e. 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.

contract with a total value of all construction operations not exceeding \$10 million to be regulated under the remaining phase of Prohibition at a later stage; and (iii) how to differentiate the above two types of works.

### *Administration's response*

5. We would like to explain as follows -

(i) Small scale construction works with value not exceeding \$50,000

6. We propose to define a small scale construction work with value not exceeding \$50,000 to be exempted from the remaining phase of Prohibition based on the following principles<sup>2</sup> –

- (a) the concerned work is a discrete work item, isolated from other construction works by location, and not physically connected with other construction works; and
- (b) the value of the concerned work (including value of all relevant works that are contiguous irrespective of whether the works are constructed in stages) does not exceed \$50,000<sup>3</sup>.

We would like to use the following example to illustrate the concerned arrangement. For instance, a works order issued under a term contract for maintenance with a value of \$40,000 (i.e. not exceeding \$50,000), and with the construction works involved being discrete in nature without physical connection with other construction works, will be exempted<sup>4</sup>.

(ii) Works under a construction contract with total value of all construction operations not exceeding \$10 million

7. To facilitate gradual adaption by stakeholders, we propose to adopt a phased approach whereby minor construction works will be regulated at a later stage. We would like to use the following example to illustrate the

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<sup>2</sup> Since the Exemption Regulation will be drafted after commencement of the Bill, the concerned principles may be subject to minor refinement during the drafting process.

<sup>3</sup> In the process of drafting the Exemption Regulation, we will determine the exemption threshold with reference to the latest construction price fluctuation.

<sup>4</sup> Some trade divisions will not be exempted due to considerations such as safety concern or the fact that they are already regulated by other legislation.

concerned arrangement. For instance, works with total value<sup>5</sup> of all construction operations<sup>6</sup> under a construction contract<sup>7</sup> of \$8 million (i.e. not exceeding \$10 million) will be regulated under the remaining phase of Prohibition at a later stage.

(iii) Example to differentiate the above two types of works

8. We would like to use the following example to illustrate how to differentiate the above two types of works. For instance, a construction contract comprises the following two works that are isolated from each other and not physically connected –

(A) to carry out upgrading works for a slope ; and

(B) to reconstruct a catchpit outside the above slope (value not exceeding \$50,000).

**Scenario 1:** total value of (A) and (B) not exceeding \$10 million

- all the works (i.e. both (A) and (B)) under the construction contract will be regulated under the remaining phase of Prohibition at a later stage.

**Scenario 2:** total value of (A) and (B) exceeding \$10 million

- the works under the construction contract will be regulated upon implementation of the remaining phase of Prohibition (i.e. 24 months after commencement of the Bill). However, as the value of (B) does not exceed \$50,000, it would be exempted.

**III. Mechanism for adding/deleting/changing the trade divisions in Schedule 1**

9. Members enquired about the mechanism for adding, deleting and changing the trade divisions in Schedule 1 of CWRO.

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<sup>5</sup> “total value” has the meaning given by section 21 of CWRO.

<sup>6</sup> “construction operations” refers to those construction operations within the meaning under Schedule 1 of Construction Industry Council Ordinance (Cap 587) (CICO).

<sup>7</sup> “construction contract” has the meaning given by section 2(1) of CICO.

### *Administration's response*

10. At present, the Construction Workers Registration Board (CWRB)<sup>8</sup> has established a mechanism for adding trades (or trade divisions after the Bill is enacted) in the Schedule 1 to address the need of the industry. The CWRB will first scrutinise and discuss the work description and registration qualification of the proposed trade division with the relevant industry, and will widely consult the industry stakeholders. Upon reaching a consensus, and when the relevant training institution is ready to launch the trade test for the trade division, the CWRB will submit a proposal to the Development Bureau for amending the ordinance<sup>9</sup>. Proposals for deleting and changing trade divisions will also be processed with reference to the above mechanism. Details of the above mechanism are available at CWRB's website<sup>10</sup> for industry's reference.

#### **IV. Trade divisions that are exempted**

11. Some trade divisions are not to be exempted due to considerations such as safety concern or the fact that they are already regulated by other legislation. Members requested to provide a list of trade divisions that would be exempted.

### *Administration's response*

12. The proposed list of trade divisions that would be exempted is at *Annex A*. The list may be subject to change due to amendments to the Schedule 1 (e.g. adding new trade divisions) or other factors to reflect the need of the industry.

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<sup>8</sup> CWRB was established by the Construction Industry Council according to section 11A of CWRO. Its members include representatives of labour unions, trade associations and training institutions, etc.

<sup>9</sup> Under section 65 of CWRO, the Secretary for Development may amend the Schedule 1 by notice published in the Gazette.

<sup>10</sup> The website address is: <http://cwr.hkcic.org/Download/Workflow.asp>

**V. Trade divisions of which the registration requirements are solely the qualifications obtained under other legislations**

13. Members requested to provide a list of trade divisions of which the registration requirements are solely the qualifications obtained under other legislations.

*Administration's response*

14. According to the Schedule 1 of the Bill, a list of trade divisions of which the registration requirements are solely the qualifications obtained under other legislations is at *Annex B*. A worker may apply to the Registrar for registration as a registered skilled worker of the relevant trade division upon obtaining the required qualification.

**VI. Simplified specified training courses**

15. Members requested to provide the respective passing rates of the assessment for the Specified Training Course (STC)<sup>11</sup> before and after the content have been simplified.

*Administration's response*

16. The passing rates of the STC before and after simplification of the course assessment are about 90% and about 99% respectively. As registered skilled workers (provisional) (RSW(P)) have already possessed not less than 6 years' working experience before 29 December 2005 in the relevant trade, it is reasonable for the passing rate to be relatively high.

17. Although the passing rate of the STC before simplification was already quite high, the attendance rate was low. The industry indicated that the reason for the low attendance rate might be because it took about one full day to complete the STC, including about half-day for the course and about half-day for a practical test. In order to encourage more RSW(P) to take the STC to register as registered skilled workers, upon review by a task force formed under the CWRB comprising members from the relevant

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<sup>11</sup> According to CWRO, a registered skilled worker (provisional) (RSW(P)) may register as a registered skilled worker by completing the relevant STC and pass the course assessment.

industry stakeholders, the course assessment was simplified from a practical test to a written test<sup>12</sup> since December 2012. It reduces the course duration and the test. Since then, the attendance rate of the STC has increased. Notwithstanding this, there are still RSW(P) who have not taken the STC before expiry of their registrations<sup>13</sup>, and quite a number of senior workers have still not registered as RSW(P) as reflected by the industry, indicating that the current arrangement is not satisfactory. In the course of formulating the proposed amendments to CWRO, upon thorough discussions, the industry considers it necessary to introduce a one-off senior workers registration arrangement to facilitate senior workers to register as registered skilled workers for smooth transition.

**Development Bureau  
June 2014**

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<sup>12</sup> Written test includes multiple choice questions related to the relevant trade division. Workers may also choose to attend oral test.

<sup>13</sup> According to CWRO, the validity period of RSW(P) is 3 years and is not renewable, but may be extended under special circumstances (e.g. cannot attend the course due to illness or injury) upon application.

**Trade divisions that are exempted**

<b>Name of trade division</b>	<b>Name of trade division</b>
Carpenter (Fender)	Concretor
Carpenter (Formwork – Civil Construction)	Concrete Repairer(Spalling Concrete)
Carpenter (Formwork – Civil Construction) (Striking)	Marble Worker (Dry Fixing)
Carpenter (Formwork – Building Construction)	Marble Worker (Wet Fixing)
Carpenter (Formwork – Building Construction) (Striking)	Marble Worker (Polishing)
Joiner	Glazier
Joiner (Assembling)	Floor Layer (PVC Flooring)
Leveller	Floor Layer (Timber Flooring)
Waterproofing Worker (Liquid Membrane)	Bar Bender and Fixer
Waterproofing Worker (Burn-type Felt)	Painter and Decorator (Surface Filling)
Waterproofing Worker (Adhesive-type Felt)	Painter and Decorator (Emulsion Painting)
Plumber	Painter and Decorator (Brushing Lacquering)
Drainlayer	Painter and Decorator (Synthetic Painting)
Paving Block Layer	Painter and Decorator (Clear Lacquering)
Plasterer	Painter and Decorator (Roller Painting)
Plasterer (Floor)	Painter and Decorator (Texture-spray)
Mason	Painter and Decorator (Metal Paint Spray)
Bricklayer	Painter and Decorator (Paperhanging)
Tiler	Painter and Decorator (Sign writing)
Tiler (Mosaic)	Asphalter (Road Construction)
Tiler (Tile)	Electrical Wireman
Demolition Worker (Building)	
Metal Worker	
Structural Steel Erector	



## Annex B

### Trade divisions of which the registration requirements are solely the qualifications obtained under other legislations

<b>Name of trade division</b>	<b>Relevant legislation</b>
Truck Driver (Medium Goods Vehicles)	Road Traffic (Driving Licences) Regulations (Cap. 374B)
Truck Driver (Heavy Goods Vehicles)	Road Traffic (Driving Licences) Regulations (Cap. 374B)
Truck Driver (Special Purpose Vehicles)	Road Traffic (Driving Licences) Regulations (Cap. 374B)
Truck Driver (Articulated Vehicles)	Road Traffic (Driving Licences) Regulations (Cap. 374B)
Plant and Equipment Operator (Fork-lift Truck)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Mini-loader)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Mini-loader (with Attachments))	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Grader)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Suspended Working Platform)	Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (Cap. 59AC)
Plant and Equipment Operator (Excavator)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Builder's Lift Operator	Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470)
Plant and Equipment Operator (Bulldozer)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Truck-mounted Crane)	Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59J)
Plant and Equipment Operator (Dumper)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)

<b>Name of trade division</b>	<b>Relevant legislation</b>
Plant and Equipment Operator (Loader)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Tower Crane)	Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59J)
Plant and Equipment Operator (Crawler-mounted Mobile Crane)	Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59J)
Plant and Equipment Operator (Wheeled Telescopic Mobile Crane)	Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59J)
Plant and Equipment Operator (Locomotive)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Gantry Crane)	Factories and Industrial Undertakings (Lifting Appliances and Lifting Gear) Regulations (Cap. 59J)
Plant and Equipment Operator (Compactor)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Plant and Equipment Operator (Scraper)	Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59AG)
Shotfirer	Mines (Safety) Regulations (Cap. 285B)
Lift Mechanic	Lifts and Escalators Ordinance (Cap. 618)
Escalator Mechanic	Lifts and Escalators Ordinance (Cap. 618)
Fire Service Portable Equipment Fitter	Fire Service (Installation Contractors) Regulations (Cap. 95A)
Gas Installer	Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51D)
Electrical Fitter	Electricity Ordinance (Cap. 406)