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3919 3512

2877 5029
ctam@legco.gov.hk

By Fax (2810 8502)

12 June 2014

Miss WONG Hoi Wan, Charmaine
Principal Assistant Secretary for
Development (Works)1
Development Bureau
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Miss WONG,

Re: Construction Workers Registration (Amendment) Bill 2014

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects. I would be most grateful if you would let us have your response to the following matters.

Basis of the registration scheme

The Bill seeks to change the basis of construction workers registration scheme from "trade" to "trade division". Schedule 1 (Designated Trades) to the Construction Workers Registration Ordinance (Cap. 583) is proposed to be replaced by the proposed new Schedule 1 (Designated Trade Divisions) which sets out 139 trade divisions. To assist members in understanding the amendments proposed under the new Schedule 1, please provide a table (in the form suggested below) setting out each of the designated trades under the existing Schedule 1 with its equivalent designated trade division under the proposed new Schedule 1 and the change in the respective requisite certificate, qualification or requirement (if any).

Name of trade under the existing Schedule 1	Item no. in the existing Schedule 1	Equivalent trade division under the proposed new Schedule 1	Item no. under the proposed new Schedule 1	Change in requisite certificate, qualification or requirement (if any)
e.g. Asbestos Abatement Worker	Item 1, Part 1			

It is noted that in the proposed Schedule 1, the designated trade divisions are arranged according to the number of strokes in the Chinese text and the English texts are arranged in same order as in the Chinese text. Such arrangement may cause difficulties for non-Chinese readers to locate a particular trade division among a list of 139 items. Please consider adopting in the new Schedule 1 the usual way of arranging definitions in legislation, i.e. the English text is arranged in alphabetical order while the Chinese text is arranged according to number of strokes of the Chinese characters.

Working across designated trade divisions

Under the proposed new section 3A and Schedule 1A, a registered skilled worker for a designated trade division is allowed to work across designated trade divisions in different designated trades (described in column 1 of new Schedule 1) if the two trade divisions are related as set out in the new Schedule 1A. In the Bill, there is no provision allowing registered skilled workers to work across different trade divisions within the same designated trade notwithstanding that the skills required are similar. Please explain the rationale for the disparity in the policy.

Registration arrangement for senior workers

Under the proposed new section 40A, a one-off registration arrangement is provided for certain senior construction workers. Please provide -

- (a) rationale for stipulating two requisite periods of 10 years' and 6 years' relevant experience in the trade division;
- (b) details/contents of the assessment to be conducted under subsection (1)(b)(ii) and the mechanism in determining the prescribed fee for the assessment under subsection (8); and

- (c) examples of 'fair and reasonable' ground for late application under subsection (7) and consider whether illness or injury may be expressly provided as fair and reasonable ground as in the existing section 45A(Application to extend registration as registered skilled worker (provisional)) in view of the one-off nature of the arrangement.

Code of Practice

The proposed new section 63B empowers the Construction Industry Council to issue a code of practice by notice published on the Council website. Please explain the rationale for publication of the code only on Council website which may not be readily accessible by some stakeholders, e.g. construction workers.

Powers of authorized officer

The proposed new section 18A confers powers on an authorized officer (defined in section 16(1)) to require a person concerned in any construction work to provide information. Please provide -

- (a) examples of "person concerned in any construction work" and in particular confirm whether persons not found in the construction site may fall within the ambit of this new section; and
- (b) justification for giving the new powers in addition to the powers given to authorized officers under the existing section 18 of Cap. 583.

Exemption regulation

The proposed new section 63A(1) empowers the Secretary for Development to provide exemptions for any construction work from the application of Cap. 583 on the basis of scale, value or urgency of the construction work. Subsection (3) further empowers the Secretary to provide exemption for a person or class of persons but does not provide any basis for making such exemption. Please explain the reasons for such a wide enabling provision.

Please also let the members know whether a draft exemption regulation has been prepared; if so, please provide a copy for the Bills Committee's consideration.

Transitional and saving provisions relating to registration

Please confirm whether it is necessary to make provisions in the proposed new Schedule 5 for transitional arrangements relating to decisions pending review or appeal respectively under the existing sections 51 and 52 of Cap. 583.

Commencement of the Bill

Clause 1(4) enables the Secretary for Development to extend the period of 24 months under Clause 1(3). Please let the members know whether public consultation will be conducted in respect of such extension.

I would be grateful if you could let me have your response in bilingual form at your earliest convenience.

Yours sincerely,

(Clara TAM)
Assistant Legal Adviser

cc. DoJ (Attn: Mr Sunny CHAN, SALD (By Fax: 2869 1302) &
Miss Queenie WU, GC (By Fax: 2869 1302))
Clerk to Bills Committee