

Waterworks (Amendment) Bill 2017 (“The Bill”)

**Response to the List of follow-up actions arising from
the discussion at the meeting of the Bills Committee on 12 June 2017**

Response to item (a)

1. The Administration has noted the views expressed by the deputations in the following aspects and would like to provide a collective response as below.

Criminal liabilities of workers in carrying out specified plumbing works

2. Under the current Waterworks Ordinance (Cap. 102) (“WWO”), any person, including a worker, who carries out the plumbing works in contravention with section 14(3) of the WWO is guilty of an offence. The Bill does not seek to impose any additional liability on a worker in respect of the works. In contrast, in order to provide protection to workers under the law from being convicted of the offence due to reasons out of their control, we propose adding a new statutory defence provision to provide that it is a defence for a person, including a worker, who is charged with an offence under the proposed section 14(4)(b) of the WWO to establish that he or she believed that carrying out the plumbing works would not contravene section 14(3) of the WWO and it was reasonable for him or her to so believe (see the proposed section 14(5)(b) of the WWO). After passing the Bill, we will issue guidelines for workers to explain their responsibility under the amended WWO.

3. Furthermore, it should be noted that the burden to prove beyond reasonable doubt that the worker commits an offence and could not rely on the defence remains on the prosecution side at all times. If the Water Authority (“WA”) considers there is not sufficient evidence to demonstrate a reasonable prospect of conviction taking into account the defence available to the worker, the WA will not proceed with the prosecution.

Restriction on the skills and training required for a person who works under the instruction and supervision arrangement of a licensed plumber or registered plumbing worker

4. Plumbing works cover a lot of menial or repetitive tasks, which are generally expected to be carried out by a person under instruction and supervision. In fact, allowing a qualified person to be assisted by a person who may not be qualified in carrying out the works has been a decades-long practice in the plumbing trade, as well as other trades. This arrangement provides additional workforce in the plumbing trade and facilitates such a person to acquire the necessary work experience and trade skills for becoming licensed plumbers and registered plumbing workers in future. Further, this arrangement is in line with the relevant requirement under the Construction Workers Registration Ordinance (Cap. 583) (“CWRO”), which allows a registered construction worker, who is not a registered worker for a designated trade division, to carry out construction works on construction sites under instruction and supervision.

5. Hence, it is considered not desirable to impose restriction on the skills and training required for a person to carry out specified plumbing works under the instruction and supervision of a licensed plumber or registered plumbing worker. Nevertheless, in order not to compromise the work quality, the person under instruction and supervision may only carry out specified plumbing works at the direction of and within the scope decided by the Instructing Supervisor, and the method and manner specified by the Instructing Supervisor. The Instructing Supervisor must inspect the carrying out of the works as often as is reasonable to ensure the plumbing works are carried out in compliance with section 14(3) of the WWO, having regard to the nature of the plumbing works, the risks involved in the plumbing works and the knowledge and experience of the person.

Time bar for prosecution

6. At present, a prosecution under the WWO or the Waterworks Regulations (Cap. 102A) (“WWR”) must commence within six months from the time when the offence was committed pursuant to section 26 of the Magistrates Ordinance (Cap. 227). On many occasions, prosecution against offenders would be time-barred due to the lapse of over six months between the time the offence was committed and the subsequent discovery of the offence.

7. The Bill seeks to include a provision in the WWO such that any prosecution under the WWO may be brought within a period of six months from the date on which the offence is discovered by, or comes to the notice of, the WA. This provision is important to enhance the deterrence effect such that persons involved in specified plumbing works must comply with the relevant requirements under the WWO. Similar arrangement regarding the time limit for prosecution could be found under section 142 of the Lifts and Escalator Ordinance (Cap. 618) and section 57 of the Electricity Ordinance (Cap. 406).

Other views that would be studied in the holistic review

8. The Administration is conducting a holistic review (“the Review”) on the WWO and WWR with a view to revamping the legislation to cater for the latest development of the plumbing trade, technologies and practices. Amendments to the WWO and WWR will be prioritized and carried out in phases.

9. The first phase amendments are considered of top priority as it seeks to amend the WWO to revise the requirements relating to the carrying out of works on fire services and inside services, taking into account the recommendations made in the Report of the Commission of Inquiry into Excess Lead Found in Drinking Water in respect of the duties of licensed plumbers; and to amend the WWR to promulgate the updated standards for plumbing material standards.

10. Currently, we are conducting researches on the relevant international practices and collaborating with the interested parties to enhance the current regulatory framework to address various issues in second phase amendments. We noted the views expressed by the deputations in the meeting and would give due consideration in the Review in relation to the following areas of interest –

- i. to review the roles, involvements and responsibilities of parties relevant to a plumbing project including the developers, professionals, contractors, licensed plumbers and workers;
- ii. to enhance the process in the design, construction and approval of plumbing systems;

- iii. to review the need to regulate the supplier of plumbing materials and control the sale of plumbing materials in the retail market;
- iv. to review the penalty level of the offences under the WWO to enhance the deterrence effect;
- v. to continue in consultation with an inter-bureau and inter-departmental working group and the consultant engaged to study the water safety regimes of leading jurisdictions, to explore the water quality regulatory regime and deliberate the necessity of legislation on drinking water safety and developing a water quality regulatory framework; and
- vi. to conduct review studies on the drinking water standards and sampling protocols of various organizations and developed countries including the practices of these organisations and countries, the purposes, limitations, applicability in Hong Kong etc. of their practices and to put forward proposals that are suitable in Hong Kong context.

Response to item (b)

11. There are a number of trades supporting the plumbing industry of Hong Kong. We will focus on the registered semi-skilled workers and registered skilled workers for the trade division of plumber under the CWRO in the following paragraphs as an example.

12. Currently, there are various training programmes and tests available for new entrants and practitioners to become registered semi-skilled workers and registered skilled workers for the trade division of plumber under the CWRO. Details of the relevant information are at **Annex A**.

13. Apart from attending the training programmes at **Annex A**, new entrants and practitioners may learn the relevant skills while working under instruction and supervision of registered semi-skilled workers or registered skilled workers for the concerned trade division. They may seek for registration as semi-skilled workers or skilled workers for the concerned trade division after obtaining the intermediate trade test certificate or trade test certificate issued by the Construction Industry Council (“CIC”) respectively.

14. The general progression pathway for new entrants and practitioners is at **Annex B**. From time to time, we will review the progression pathway with the CIC and other relevant industry stakeholders.

Development Bureau
16 June 2017

Registration under the Construction Workers Registration Ordinance (Cap. 583) (“CWRO”) in the trade division of plumber	Qualification required to seek registration	Relevant examinations/tests	Relevant training courses	Works that are qualified to personally carry out in the construction sites as defined under the CWRO
Semi-skilled worker ¹	Holder of an intermediate trade test certificate in the trade division of plumber issued by the Construction Industry Council (“CIC”)	Intermediate trade test in the trade division of plumber (which comprises three and half hours practical test) conducted by the CIC	The CIC is offering the following four courses for new entrants and practitioners who completed either one of the courses to sit for the CIC’s intermediate trade test- <ul style="list-style-type: none"> • a regular 1-year basic craft course • a 90-day full-time adult short course • a 150-day collaborative training programme jointly organized with the industry • a 50-hour skill enhancement course for in-service general workers 	Assembling, installing and repairing—
Skilled worker	Holder of a trade test certificate in the trade division of plumber issued by the CIC	Trade test in the trade division of plumber (which comprises half hour written test and six hour forty five minute practical test) conducted by the CIC	The CIC’s Advanced Construction Manpower Training Scheme – Pilot Scheme is offering two training courses, namely 18-month structured on-the-job training and a 90-hour skill enhancement course, for registered semi-skilled workers in the trade division of plumber under the CWRO who completed the either one of the courses to sit for the trade test under the CIC.	(a) pipes, pipe-fittings, sanitary fixtures, cold, hot and flush water systems, and soil, waste and rain water drainage systems in buildings; (b) pipes and fittings in premises, and any pipes and fittings between premises and a connection to the mains (including the pipes and pipe-fittings forming part of a fire service) which are used for the purposes of a supply within the meaning of the Waterworks Ordinance (Cap. 102)
	Licensed Plumbers under the Waterworks Regulations (Cap. 102A) (“WWR”)	-	The Vocational Training Council (“VTC”) is offering two training courses, namely a 3-year course of “Craft Certificate in Plumbing and Pipefitting” and a short course of “Certificate in Plumbing Services (Hong Kong)” ² , for new entrants and practitioners who completed both training courses to apply for being a Licensed Plumber under the WWR.	
	Holder of certificate of completion of an apprenticeship in the trade of plumber	-	The VTC is offering 3-year apprenticeship in the trade of plumber under the Apprenticeship Ordinance (Cap. 47) for new entrants and practitioners who satisfactorily completed to obtain the certificate of completion of the apprenticeship in the trade of plumber.	
	Registered skilled worker (provisional) ³ for the trade division of plumber under the CWRO who has taken the specified training course ⁴ and pass the assessment conducted by the CIC	A dedicated assessment ⁴ conducted by the CIC for registered skilled worker (provisional) for the trade division of plumber under the CWRO	The CIC is offering the specified training course for registered skilled worker (provisional) ³ for the trade division of plumber under the CWRO.	

Note: For continuing education of plumbing practitioners, the CIC and the VTC offer short appreciation course on quality of drinking water and good practice, and plumbing engineering drawing for water supply system respectively.

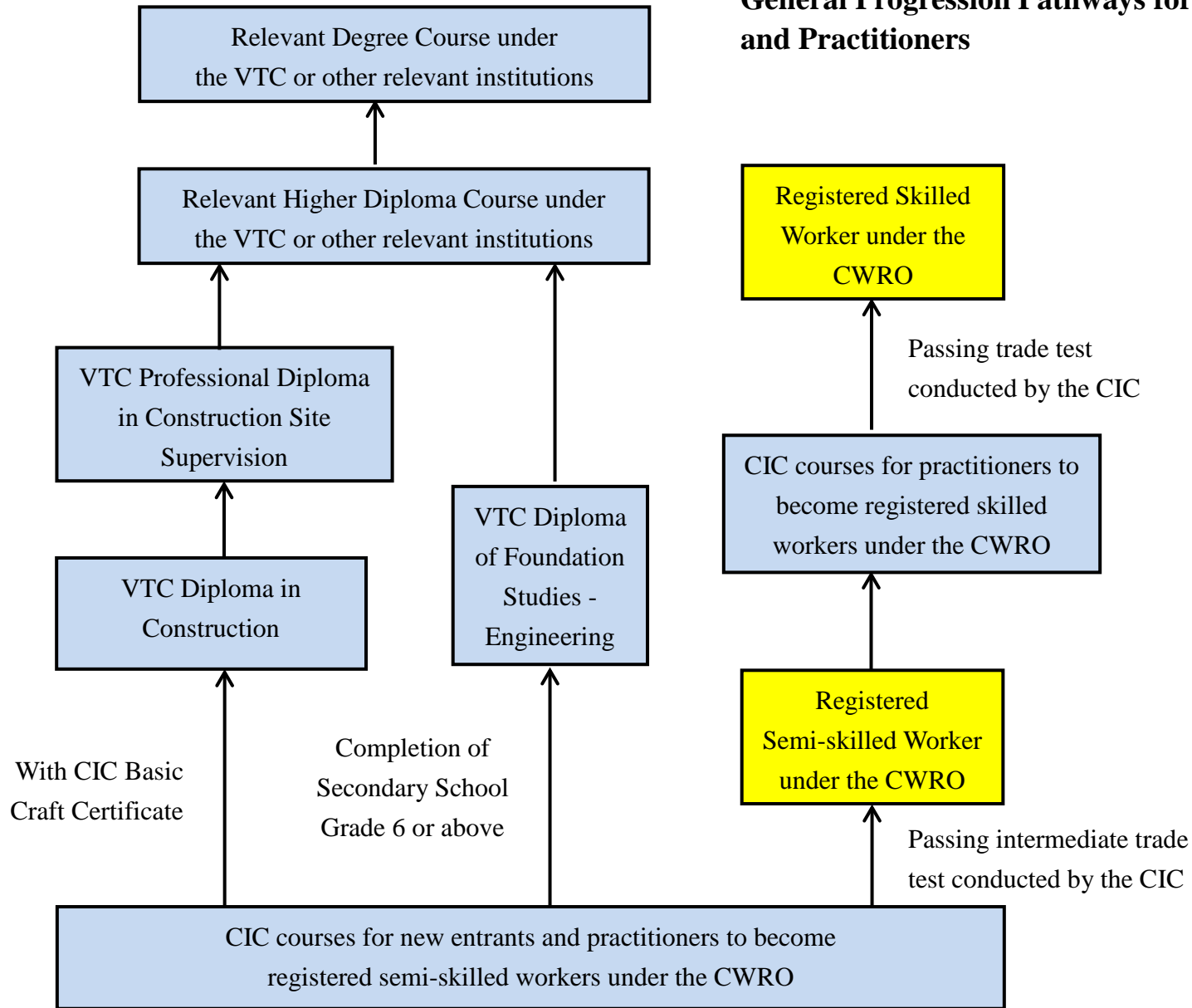
¹ For registered semi-skilled workers (provisional) for the trade division of plumber, they still need to pass the intermediate trade test in order to be eligible to register as registered semi-skilled workers for the trade.

² Graduates of the former course with a minimum of 4 years’ relevant working experience may apply for admission to the latter course.

³ A worker may seek for registration as registered skilled workers (provisional) if he/she possesses not less than six years of relevant work experience before 29 December 2005.

⁴ Please read CWRO section 41 for details.

General Progression Pathways for New Entrants and Practitioners



Note: 1. VTC, CIC and CWRO denote the Vocational Training Council, the Construction Industry Council and the Construction Workers Registration Ordinance (Cap. 583) respectively.

2. The other possible routes to become registered skilled worker under the CWRO are not shown for clarity.