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**Subcommittee on
Construction Workers Registration (Exemption) Regulation and
Construction Workers Registration Ordinance
(Amendment of Schedules 1 and 1A) Notice 2016**

Background brief

Purpose

This paper provides background information on the Construction Workers Registration (Exemption) Regulation ("Exemption Regulation") and the Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016 ("Amendment Notice"). It also summarizes the major views and concerns expressed by members of the Development Panel ("DEV Panel") when the Panel was consulted on the relevant proposals.

Background

2. Enacted in July 2004, the Construction Workers Registration Ordinance (Cap. 583) ("CWRO") provides for the registration of construction workers and the regulation of construction workers personally carrying out construction work on construction sites. CWRO prohibits construction workers from carrying out construction work on construction sites without proper registration ("the Prohibition"). The Prohibition requirements are implemented in phases. On 1 September 2007, the first phase of the Prohibition was implemented, i.e. forbidding unregistered construction workers from carrying out construction work on construction sites. The remaining phase of Prohibition, i.e. forbidding workers from carrying out construction work of designated trade divisions unless they are registered against the relevant trade divisions or under the "instruction and supervision" of the relevant trade division-registered workers (commonly

known as the "designated workers for designated skills" requirement or the "DWDS requirement" in short), has yet to be implemented.¹

3. CWRO was amended by the Construction Workers Registration (Amendment) Ordinance 2014 ("CWR(A)O"), which was enacted in December 2014. Under CWR(A)O, section 63A has been added to CWRO, where the Secretary for Development ("SDEV") is empowered to make a regulation to exempt specified construction work and persons from the DWDS requirement. CWR(A)O has also revamped the construction workers registration system to, for example, change the registration basis from "trade" to "trade division" and create new "trade division(s)" as necessary.²

4. CWR(A)O took effect on 1 April 2015. According to CWR(A)O, the DWDS requirement will come into operation on 1 April 2017.

Construction Workers Registration (Exemption) Regulation

5. Pursuant to section 63A of CWRO, SDEV has made the Exemption Regulation to provide exemption from the DWDS requirement in the following three aspects:

(a) Specified emergency construction work

The specified emergency construction work refers to skill work involving the skills of the 47 designated trade divisions specified at Schedule 1 to the Exemption Regulation. Such work is exempted from the DWDS requirement for a period of 72 hours counting from the time at which the responsible contractor becomes aware of the emergency. Upon being aware of the emergency, the contractor shall notify the Construction Industry Council ("CIC") the commencement of the emergency work within 48 hours, and shall submit a record of the emergency work to CIC within 96 hours.

¹ Source: [LC Paper No. CB\(1\)51/16-17\(04\)](#)

² Before CWR(A)O was enacted, the proposed amendments to CWRO had been introduced to the Legislative Council as the Construction Workers Registration (Amendment) Bill 2014. A Bills Committee was formed to scrutinize the Bill. Please refer to the Report of the Bills Committee ([LC Paper No. CB\(1\)334/14-15](#)) for the details of the Bill/CWR(A)O.

(b) Small-scale construction work

Similar to the exemption for emergency construction work, the small-scale construction work to be exempted is limited to the ones involving the skills of the said 47 designated trade divisions.

(c) Persons who are exempted under other specified ordinances

Persons are exempted from the DWDS requirement as and when these persons are already exempted from similar requirements under the Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51D), the Electricity Ordinance (Cap. 406) and the Lifts and Escalators Ordinance (Cap. 618).

Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016

6. According to the Administration, under the established mechanism of adding new trade divisions for implementing the DWDS requirement, CIC has scrutinized the labour union's request of adding three trade divisions, namely false ceiling installer, partition (metal frame) installer and cable jointer (dead cable), and an industry consensus has been reached on the addition of the said trade divisions. Based on CIC's request, SDEV has made the Amendment Notice pursuant to section 65 of CWRO to amend Schedule 1 to CWRO for adding the three trade divisions, amend Schedule 1A to CWRO to provide for the relevant work across arrangements,³ and provide relevant transitional provisions.

7. The Exemption Regulation and the Amendment Notice were gazetted on 9 December 2016 and tabled before the Legislative Council at its meeting of 14 December 2016 for negative vetting. They will come into operation on 1 April 2017.⁴

³ The work across arrangement allows registered skilled workers of certain trade divisions to carry out the skilled work of other specified trade division(s) of similar work nature, but not to provide instruction and supervision to other workers for such work.

⁴ Source: Legislative Council Brief on "Construction Workers Registration (Exemption) Regulation Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016" ([File Ref: DEVB\(CR\)\(W\)1-10/31](#))

Major views and concerns expressed by members of the Panel on Development

8. The Administration briefed DEV Panel on 8 November 2016 on the proposed enactment of the Exemption Regulation and the Amendment Notice. As requested by the Panel, the Administration has provided supplementary information ([LC Paper No. CB\(1\)163/16-17\(01\)](#)) on the proposal after the meeting. The major views and concerns expressed by Panel members on the proposal are summarized in the ensuing paragraphs.

Exemption for emergency construction work

9. Some members queried the rationale for exempting emergency construction work from the DWDS requirement under the Exemption Regulation. They considered that, given the significance of emergency construction work, skilled workers should be deployed to carry out such work, and the exemption went against the principal objective of CWRO, i.e. enhancement of the quality of construction work.

10. The Administration advised that in view of the urgency of emergency construction work and for the interests of the public, the industry practice was to carry out the work immediately based on the manpower resources available to the contractors concerned at that time. After consultation with industry stakeholders, the Administration decided to follow the current practice and propose exempting emergency construction work from the DWDS requirement. However, the Exemption Regulation would only exempt specified emergency construction work from the DWDS requirement subject to the conditions/requirements set out above in paragraph 5(a).

11. Some members opined that, apart from requiring the contractor concerned to submit a record of emergency work to CIC afterwards, the completed emergency work should be reviewed by a registered worker of the relevant trade division to ensure that the work achieved the required standard. The Administration explained that the Exemption Regulation would exempt specified emergency construction work from the DWDS requirement for a period of 72 hours counting from the time at which the responsible contractor became aware of the emergency. Yet, construction work beyond the first 72 hours (including any necessary remedial work to the completed emergency construction work) would be subject to the DWDS requirement.

Exemption for small-scale construction work

12. Some members relayed the concern of some construction workers that the wage levels of skilled workers engaged in small-scale construction work might be brought down as general workers were allowed to carry out the exempted work under the Exemption Regulation.

13. The Administration advised that it had adopted a phased approach to implementing the DWDS requirement. With effect from 1 April 2017, the DWDS requirement would come into operation. To facilitate a gradual adaptation of the industry, the DWDS requirement would not apply to specified maintenance work and minor construction work on 1 April 2017. The Administration would monitor the implementation of the DWDS requirement and take steps to extend the requirement to all construction work. Under the Exemption Regulation, only small-scale construction work satisfying the exemption thresholds was to be exempted from the DWDS requirement. The work was mainly minor remedial work requiring relatively low skill level. The exemption was in line with the current industry practice where general workers were employed to carry out the work.

Addition of new trade divisions for implementing the "designated workers for designated skills" requirement

14. Some members considered the addition of the said three new trade divisions to Schedule 1 to CWRO an act responsive to the requests of the construction industry. Some other members enquired whether CIC would consider adding landscape worker to Schedule 1 as a new trade division. The Administration advised that the Construction Workers Registration Board under CIC had established a mechanism for adding new trade divisions and the proposal of adding landscape worker as a new trade division was under consideration.

Latest development

15. At the House Committee meeting held on 16 December 2016, Members agreed that a subcommittee should be formed to examine the Exemption Regulation and the Amendment Notice.

Relevant papers

16. A list of relevant papers with their hyperlinks is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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**Construction Workers Registration (Exemption) Regulation and
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List of relevant papers

Council/Committee	Date of meeting	Paper
Panel on Development	8 November 2016	Administration's paper on "Enactment of Exemption Regulation and Addition of Three New Trade Divisions under Construction Workers Registration Ordinance" [LC Paper No. CB(1)51/16-17(04)] Administration's follow-up paper [LC Paper No. CB(1)163/16-17(01)] Minutes of meeting [LC Paper No. CB(1)289/16-17]
Legislative Council	14 December 2016	Legislative Council Brief on "Construction Workers Registration (Exemption) Regulation Construction Workers Registration Ordinance (Amendment of Schedules 1 and 1A) Notice 2016" [File Ref: DEVB(CR)(W)1-10/31]
House Committee	16 December 2016	Legal Service Division Report on Subsidiary Legislation Gazetted on 9 December 2016 [LC Paper No. LS18/16-17]