

**For discussion
on 27 March 2018**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Amendment of Levy Thresholds under
the Construction Industry Council Ordinance (Cap. 587),
the Construction Workers Registration Ordinance (Cap. 583) and the
Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360)**

PURPOSE

This paper seeks Members' endorsement on the proposed amendment of levy thresholds under the Construction Industry Council Ordinance (Cap. 587) ("CICO"), the Construction Workers Registration Ordinance (Cap. 583) ("CWRO") and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) ("PMCO") from \$1 million to \$3 million.

BACKGROUND

Collection of Levy under CICO and CWRO

2. The Construction Industry Council ("CIC") was established on 1 February 2007 under CICO to advise the Government on construction-related matters¹, administer the Construction Industry Training Board

¹ CICO was enacted on 24 May 2006 to provide for the establishment of the CIC. To ensure smooth transition from the then Construction Industry Training Authority (CITA) to the CIC, the provisions of CICO were devised to be brought into operation in two phases. The first phase, covering the formation of the CIC, was brought into operation on 1 February 2007 under The Construction Industry Council Ordinance (Commencement) Notice 2006.

(“CITB”)² in providing training to construction workers, and implement the registration and management regime for construction workers under CWRO³.

3. Under CICO, contractors are required to pay a levy at the rate of 0.5% of the value of its construction operations to support the CIC’s work. Construction operations of total value not exceeding \$1 million are exempt from the levy. This levy threshold⁴, stipulated in Schedule 5 to CICO, is intended to exclude small contractors from the statutory payment and relieve the CIC of the time-consuming procedure of collecting small levies⁵.

4. Under CWRO, contractors are required to pay another levy to the CIC at the rate of 0.03% of the value of its construction operations for the administration of the construction workers registration regime. The levy threshold, set out in section 3 of the Construction Workers Registration (Levy) Notice (Cap. 583A), has remained unchanged at \$1 million since the Notice came into operation in February 2005.

Collection of Levy under PMCO

5. The Pneumoconiosis Compensation Fund (“the Fund”) is set up under PMCO to provide payment of compensation to persons and their family members in respect of incapacity or death resulting from pneumoconiosis and/or mesothelioma. The Fund is managed by the Pneumoconiosis Compensation Fund Board (“PCFB”). Apart from compensation work, the PCFB also conducts and finances educational, publicity, research and rehabilitation programmes in relation to pneumoconiosis and mesothelioma.

² The second phase of CICO, covering the repeal of the Industrial Training (Construction Industry) Ordinance (“ITCIO”) and dissolution of CITA, was brought into operation on 1 January 2008 under The Construction Industry Council Ordinance (Commencement) Notice 2007. The CIC took over CITA’s levy collection function and the CITB was formed under the CIC to take over the functions of the CITA in relation to training and trade testing.

³ Upon amalgamation of the CIC and the then Construction Workers Registration Authority in January 2013 under the Construction Industry Legislation (Miscellaneous Amendments) Ordinance 2012, the CIC has become the statutory industry coordinating body administering CWRO.

⁴ Upon amalgamation of the CIC and CITA, CICO maintained the levy threshold under ITCIO. The levy threshold under ITCIO was set at \$0.25 million in December 1975 and raised to \$1 million in June 1985. Since then, the levy threshold has remained unchanged.

⁵ Official Report of Proceedings of the Meeting on 16 July 1975 of Hong Kong Legislative Council.

6. To finance the functions of the PCFB, section 35 of PMCO provides for the imposition of a levy in respect of construction operations carried out in Hong Kong as well as quarry products extracted or produced. The current levy rate is set at 0.15% of the value of construction operations and quarry products. Construction operations with total value not exceeding \$1 million are exempt from the payment of levy (i.e. the levy threshold), as set out in Schedule 5 to PMCO. The levy threshold has remained unchanged at \$1 million since June 1985.

CIC's Recommendation to Amend the Levy Thresholds

7. The CIC completed a review on the levy thresholds under CICO and CWRO taking into account inflation based on the Consumer Price Index ("CPI"). As the same levy threshold also applies to PMCO, the CIC recommended increasing the levy thresholds under the three ordinances from \$1 million to \$3 million. Subsequently, the PCFB has conducted a review of its financial position and agreed to CIC's recommendation.

8. Section 70(1) of CICO and section 36(1) of PMCO provide that the Legislative Council ("LegCo") may by resolution revise the levy threshold under CICO and PMCO. Under section 23(4)(b) of CWRO, the Secretary for Development may prescribe the levy threshold under CWRO by notice published in the Gazette, which will then be introduced into the LegCo for negative vetting.

PROPOSAL

9. Having considered the recommendation and financial positions of the CIC and the PCFB, we propose to amend CICO, CWRO and PMCO to raise the levy thresholds from \$1 million to \$3 million. The proposed revision of levy thresholds would reflect the current market situation⁶ and is

⁶ The levy threshold of \$1 million in 1985 amounts to around \$3,236,000 in 2017 after adjustment in line with the CPI, which has risen by about 220% from 1985 to 2017. Architectural Services Department's Building Works Tender Price Index and Rider Levett Bucknall's Tender Price Index have increased by around 430% and 360% respectively between the second quarter of 1985 and the third quarter of 2017.

in line with the legislative intent of exempting small-scale construction contracts from the levy net.

10. Based on seven-year (2011-2017) average figures, the CIC and the PCFB have respectively assessed the impact of the amendment on levy collection. According to the CIC, after the amendment of levy threshold, 26.8% and 27.0% of construction operations will no longer be subject to the levies under CICO and CWRO respectively⁷. As for the levy imposed by PMCO, the PCFB estimates that 26.2% of the construction operations handled will no longer be subject to the levy under PMCO.

11. As for the financial implication of the amendment on the CIC, based on seven-year average figures, the CIC would forgo \$8 million annually, equivalent to 0.97% of its average annual levy income (\$822.1 million). Taking into account the average annual processing cost savings of \$0.6 million, the net reduction in the CIC's annual income is around \$7.4 million. As at the end of 2017, the CIC has an accumulated surplus of \$2.2 billion⁸. Given its healthy financial position, the CIC should be able to absorb the impact of the reduction in income through cost-effective use of available resources.

12. According to the assessment by the PCFB, based on the figures for the past seven years, the average reduction of levy income arising from the rise in the levy threshold would be \$3.5 million per year, which accounts for 1% of the average annual levy income (\$349.3 million). Taking into account the average annual processing cost savings of \$0.23 million, the net reduction in the PCFB's annual income is around \$3.3 million. As at the end of 2017, the accumulated fund of the PCFB stood at \$2.37 billion⁹. Given the current healthy financial position, the amendment would not affect the financial viability of the PCFB in discharging its statutory functions.

⁷ Under the CICO, a number of construction works had commenced before the CWRO came into operation on 24 February 2005. Such construction works are not subject to the levy under CWRO and hence the expected number of construction operations affected by the amendment of levy threshold under CWRO is different from that under CICO.

⁸ The figure is subject to final auditing

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13. The revised levy thresholds will not apply retrospectively to construction works for which tendering is in progress or contracts which have commenced before the effective dates of the amendment.

PUBLIC CONSULTATION

14. The CIC has discussed at meetings and reached consensus among various stakeholders of the construction industry, including professionals, academics, contractors, workers and independent persons, before making the recommendation to the Government in paragraph 7.

15. The Labour Advisory Board (“LAB”) was consulted on the proposal to increase the levy threshold under PMCO on 14 March 2018. LAB members had no objection to the proposal.

PUBLICITY

16. The CIC would launch a series of publicity activities to draw contractors’ attention to the amended levy threshold, including electronic messages to contractors, consultant firms and other trade associations, as well as notices on the website and newsletters of the CIC and other related organisations. The PCFB will inform individual contractors of the amended levy threshold by letter, and publicise the amended levy threshold on its website and newsletter to be distributed to the contractors.

LEGISLATIVE PROCEDURES AND TIMETABLE

17. The tentative legislative timetable is as follows –

	CICO & PMCO (Resolution)	CWRO (Negative Vetting)
Publication of the notice in the Gazette	-	4 May 2018
Tabling the notice at LegCo	-	9 May 2018
Moving the resolution at LegCo	30 May 2018	-
Gazettal of resolution	1 June 2018	-
Commencement date	2 July 2018 (30 days after gazettal)	2 July 2018

ADVICE SOUGHT

18. Members are invited to endorse the proposed legislative amendment.

**Development Bureau
Labour and Welfare Bureau
March 2018**