

**For discussion
on 22 May 2012**

Legislative Council Panel on Development

Proposal to amend the Levy Rates under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (PMCO) (Cap. 360) and the Construction Industry Council Ordinance (CICO) (Cap. 587)

Purpose

This paper seeks Members' view on the proposal to amend the levy rates under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance¹ (Cap. 360) (PMCO) and the Construction Industry Council Ordinance² (Cap. 587) (CICO).

2. Subject to Members' views, we plan to effect technical amendments to the PMCO and CICO to lower the levy rate of the former by 0.1% to 0.15% and at the same time adjust upwards the levy rate of the latter by 0.1% to 0.5%.

Justification

Review of the Levy rates under the PMCO

3. The Pneumoconiosis Compensation Fund (the Fund) is set up under the 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

¹ This ordinance, previously known as the Pneumoconiosis (Compensation) Ordinance, has been re-titled as the Pneumoconiosis and Mesothelioma (Compensation) Ordinance to reflect the extension in scope to cover cancerous mesothelioma starting from 18 April 2008.

² The Construction Industry Council bill was first introduced into the Legislative Council in February 2004 and was enacted as the Construction Industry Council Ordinance on 24 May 2006.

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.

4. To finance the functions of the PCFB, section 35 of the 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 levy is currently set at the rate of 0.25% of the value of construction operations and quarry products. Construction operations with total value lower than \$1 million are exempted from the payment of levy. This levy rate has been adopted since 18 June 2000.

5. Recently, the PCFB has conducted a review of its financial position. As at the end of 2011, the accumulated funds of the PCFB stood at \$1,356.1 million. Given that the expenditure of the PCFB in 2011 amounted to \$190.6 million, the accumulated funds were approximately equal to the expenses of the PCFB for seven years. In view of the Fund's reserve and taking into consideration the income and expenditure forecast up to 2019, including compensation payment and the additional expenses for implementing various new programmes in the coming few years, the PCFB proposed to the Government to reduce the current levy rate of 0.25% by 0.1% to 0.15%. According to the financial estimates of the PCFB, even if the levy rate is reduced to 0.15%, there will still be a surplus of around \$700 million by 2019 after deducting the relevant expenditures. The surplus should enable the PCFB to meet its liabilities for two years even without any income. Therefore, the proposed reduction of levy rate would not affect the financial viability of the PCFB in discharging its statutory functions. In fact, since the establishment of the Fund in 1981, the levy rate has been lowered four times and raised once. The last adjustment took place in 2000; the levy rate was reduced from 0.3% to the current 0.25%.

Review of the Levy rates under the CICO

6. In addition to the above-mentioned levy imposed on construction operations under the PMCO, a contractor is also liable to pay a levy at the rate of 0.4% to the Construction Industry Council (CIC) according to the CICO. Construction operations with total value not exceeding \$1 million are exempted from such levy payment.

7. The CIC was established in February 2007 under the CICO to forge consensus on long-term strategic issues concerning the local construction industry, convey the industry's needs and aspirations to the Government and to provide a communication channel for the Government to solicit advice on construction-related matters.

8. Despite the broad scope of CIC's functions, its primary source of revenue is the construction levy income transferred from the ex-Construction Industry Training Authority (ex-CITA) upon amalgamation of CIC and ex-CITA in 2008. The levy rate of 0.4%, which was hitherto used solely to support the provision of training and trade-testing by ex-CITA, has remained unchanged notwithstanding the amalgamation and the expanded portfolio of CIC.

9. To attract more people to join the construction industry and support its long-term development, the CIC has actively implemented a number of new initiatives in the recent years. These include expansion/establishment of training courses, works to collaborate with the Government to uplift the construction industry's image and the publication of more construction information. The Government has twice injected one-off funding (i.e. in May 2010 and April 2012) at a total of \$320 million to support the implementation of the concerned initiatives. Facing the challenge of the commencement of various major infrastructure projects, construction workers' ageing problem as well as skill mismatch, we need to continue with the above initiatives and through the CIC launch initiatives to improve the health and welfare benefits of construction workers and to study improvement measures on construction safety. As additional and stable resources are required for implementing the new initiatives, earlier on the CIC conducted a review on the levy rate under the CICO with reference to its current and future financial positions, and proposed to the Government to increase the levy rate by 0.1% to 0.5%. In 2000³, the levy rate was adjusted from 0.25%, which was set at 1975, to the current 0.4%.

Consolidated Proposal

³ At that time the levy was collected by ex-CITA under provisions of the Industrial Training (Construction Industry) Ordinance (Cap 317).

10. Having studied the financial positions and proposals of the PCFB and CIC, and ensured the financial viability of the PCFB in meeting its commitments for compensation payment and launching of new programmes over the next few years, the Government intends to effect technical amendments to the PMCO and CICO to lower the levy rate of the former by 0.1% to 0.15% and at the same time adjust upwards the levy rate of the latter by 0.1% to 0.5%. With the overall levy rate remaining unchanged, additional resources could be provided to the CIC to conduct various new initiatives to attract more new blood to join the construction industry and to nurture a quality construction team, so as to support the sustainable and long-term development of the industry.

Public Consultation

11. On 3 May 2012, we consulted the Labour Advisory Board (LAB) on the proposal in paragraph 10. LAB members unanimously agreed to accept Government's proposal to effect technical amendments to the levy rates.

Financial Implications

12. The proposed amendment to the levy rates has no Financial implication for the Government.

Legislative Procedures and Timetable

13. Section 36 of the PMCO and section 70 of the CICO provide that the Legislative Council (LegCo) may by resolution revise the levy rates. The revised levy rates would come into effect 30 days after the resolutions are published in the Gazette and shall not be applicable to any construction works for which the tender is submitted or has commenced before the effective date of the resolutions.

14. The Administration plans to introduce the resolutions to revise the levy rates under the PMCO and CICO into LegCo within the current LegCo session.

Advice Sought

15. Members are invited to comment on the proposal in paragraph 10.

Development Bureau

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