

立法會
Legislative Council

LC Paper No. LS60/17-18

**Paper for the House Committee Meeting
on 18 May 2018**

**Legal Service Division Report on
Proposed Resolutions under section 70 of the Construction Industry
Council Ordinance (Cap. 587) and section 36 of the Pneumoconiosis
and Mesothelioma (Compensation) Ordinance (Cap. 360)**

The Secretary for Development and the Secretary for Labour and Welfare have respectively given notice to move two motions at the Legislative Council ("LegCo") meeting of 30 May 2018 under section 70 of the Construction Industry Council Ordinance (Cap. 587) and section 36 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360). The proposed resolutions seek to raise the levy threshold specified in Part 1 of Schedule 5 to Cap. 587 and Cap. 360 from \$1 million to \$3 million respectively.

2. Under sections 32(1) and 33 of Cap. 587, a contractor is liable to pay a levy to the Construction Industry Council ("CIC") at the rate of 0.5% (as specified in Part 2 of Schedule 5 to Cap. 587) of the value of the construction operations carried out in Hong Kong. The levy provides a source of income for CIC to perform functions relevant to the construction industry. Pursuant to section 32(3) of Cap. 587, construction operations the total value of which does not exceed the amount specified in Part 1 of Schedule 5 to Cap. 587 are not liable to the levy.

3. Under section 35 of Cap. 360, a contractor and a quarry operator are required to pay to the Pneumoconiosis Compensation Fund Board ("PCFB") a levy at the rate of 0.15% (as specified in Part 2 of Schedule 5 to Cap. 360) of the value of the construction operations carried out in Hong Kong and the value of the quarry products extracted or produced respectively. The levy provides a source of income for the Pneumoconiosis Compensation Fund set up under Cap. 360 to support the functions of PCFB. Under section 35(3) of Cap. 360, construction operations the total value of which does not exceed the amount specified in Part 1 of Schedule 5 to Cap. 360 are not liable to the levy.

4. The proposed resolutions seek to amend Part 1 of Schedule 5 to Cap. 587 and Cap. 360 respectively to raise the levy threshold from \$1 million to \$3 million. The effect is that construction operations of the total value not exceeding \$3 million are exempt from the levy under Cap. 587 and Cap. 360.

5. According to paragraphs 5 and 6 of the LegCo Briefs (File Ref: DEVB(CR)(W)1-10/22 and File Ref: LD ECS1/50/24 (C)) issued by the Development Bureau and by the Labour and Welfare Bureau and the Labour Department respectively in May 2018, the proposed increase in the levy threshold from \$1 million (which has remained unchanged since 1985) to \$3 million is based on the recommendation of CIC following a review on the levy threshold which has taken into account cumulative inflation based on the Consumer Price Index from 1985 to 2017 and after reaching consensus among stakeholders of the construction industry. According to the Administration, the proposal would help alleviate the financial burden of contractors through excluding more low-value construction operations from the levy net.

6. Apart from the levies under Cap. 587 and Cap. 360, contractors are also required to pay levies to CIC under the Construction Workers Registration Ordinance (Cap. 583) at the rate of 0.03% of the value of the construction operations concerned. The levy imposed under Cap. 583 is subject to the same levy threshold of \$1 million as in Cap. 587 and Cap. 360. According to the Administration, the amendment under Cap. 583 would be introduced into LegCo for negative vetting after the passage of the proposed resolutions under Cap. 587 and Cap. 360 and the effective dates of the new levy thresholds under the above three Ordinances would be aligned to avoid confusion to contractors.

7. According to paragraph 10 of the LegCo Brief on the proposed resolution under Cap. 360, PCFB agreed to the proposal to raise the levy threshold to \$3 million under Cap. 360 at its meeting held on 8 February 2018. The Labour Advisory Board discussed the proposal on 14 March 2018 and its members had no objection.

8. As advised by the Clerk to the Panel on Development, the Administration briefed the Panel on 27 March 2018 on the proposed increase in the levy thresholds. While members did not object to raising the levy threshold as proposed, there was a concern that the resulting deduction in the levy income of CIC would affect its work, in particular in providing training to construction workers. The Administration stressed that the proposal would have little impact on CIC's work given its healthy financial position and as the reduction in levy income only accounted for about 1% of its annual levy income. In response to the concerns raised at the Panel meeting about the provision of support for the patients concerned by PCFB and its work on research, prevention and rehabilitation, the Administration advised that the compensation amounts under Cap. 360 were reviewed regularly and a study on expanding the list of medical appliances for patients was expected to be completed this year.

9. Under section 70(2) and (5) of Cap. 587 and section 36(2) and (5) of Cap. 360, the proposed resolutions, if passed, would come into effect on the expiry of the period of 30 days after publication in the Gazette¹.

10. No difficulties have been identified in the legal and drafting aspects of the two proposed resolutions.

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17 May 2018

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¹ If the proposed resolutions are passed by LegCo on 30 May 2018 and gazetted on 1 June 2018, the new levy thresholds under Cap. 587 and 360 will come into effect on 2 July 2018.