

LEGISLATIVE COUNCIL BRIEF

Construction Workers Registration Ordinance (Chapter 583)

CONSTRUCTION WORKERS REGISTRATION (LEVY) (AMENDMENT) NOTICE 2018

INTRODUCTION

A Pursuant to section 23(4)(b) of Construction Workers Registration Ordinance (Cap. 583) (“CWRO”), the Secretary for Development (“SDEV”) has made the Construction Workers Registration (Levy) (Amendment) Notice 2018 (“Amendment Notice”) (**Annex A**) to prescribe the levy threshold under CWRO at \$3 million. This is to align the levy threshold under CWRO with that under the Construction Industry Council Ordinance (Cap. 587) (“CICO”) and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (“PMCO”). The levy thresholds under these two ordinances were raised from \$1 million to \$3 million by resolutions passed by the Legislative Council (“LegCo”) on 27 June 2018.

JUSTIFICATIONS

2. CWRO was enacted in 2004 to establish a system for the registration and regulation of construction workers so as to enhance the quality of construction work through certification of construction workers’ skill levels. Under CWRO and the Construction Workers Registration (Levy) Notice (Cap. 583, sub. leg. A) (“Levy Notice”), contractors are required to pay a levy at 0.03% of the value of construction operations to the Construction Industry Council (“CIC”)¹ for the administration of the construction workers registration regime. Pursuant to section 23(2) of CWRO, construction operations of total value not exceeding the prescribed amount (i.e. the levy threshold) are not liable to the levy. The levy threshold under CWRO is prescribed in

¹ When the Construction Industry Legislation (Miscellaneous Amendments) Ordinance 2012 came into effect in January 2013, the CIC amalgamated with the then Construction Workers Registration Authority and took over its functions, including administration of the construction workers registration regime and levy collection.

section 3 of the Levy Notice and has remained unchanged at \$1 million since the Levy Notice came into operation in February 2005.

3. Under CICO, contractors are required to pay levy to the CIC at 0.5% of the value of construction operations to support its functions of advising the Government on construction-related matters, providing training to construction workers and promoting on-going development of the construction industry. On the other hand, under PMCO, contractors are subject to a levy payable to the Pneumoconiosis Compensation Fund (“PCF”) at 0.15% of the value of construction operations. Both CICO and PMCO have adopted the levy threshold of \$1 million since 1985².

AMENDMENT OF LEVY THRESHOLDS UNDER CICO AND PMCO

4. Taking into account the cumulative inflation over the past three decades or so³, the CIC completed a review on the levy thresholds under CICO and CWRO. As the PMCO also adopts the same levy threshold, the CIC recommended the Government to increase the levy thresholds under the three ordinances from \$1 million to \$3 million after reaching consensus among stakeholders of the construction industry⁴.

5. Having considered the recommendation and the financial positions of the CIC and the PCF, SDEV and the Secretary for Labour and Welfare have moved motions at the sitting of LegCo on 27 June 2018 to raise the levy thresholds under CICO and PMCO from \$1 million to \$3 million. LegCo formed a Subcommittee on Subsidiary Legislation to scrutinise the two proposed resolutions. After completing the scrutiny, the Subcommittee did not propose any amendments to the two proposed resolutions noting that corresponding amendment needs to be made to the levy threshold under CWRO following the passage of the two resolutions to avoid confusion to contractors.

² Upon amalgamation of the CIC and then Construction Industry Training Authority, CICO adopted the prevailing levy threshold under the Industrial Training (Construction Industry) Ordinance (“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.

³ The cumulative inflation is estimated based on the Consumer Price Index, which has risen by about 220% from 1985 to 2017.

⁴ Including professionals, academics, contractors, workers and independent persons.

THE AMENDMENT NOTICE

6. Following the passage of the resolutions amending the levy thresholds under CICO and PMCO by LegCo, SDEV has made the Amendment Notice 2018 to raise the levy threshold under CWRO as prescribed in section 3 of the Levy Notice from \$1 million to \$3 million. The revised levy threshold will not apply retrospectively to construction works for which tendering is in progress or contracts which have commenced before the effective date of the amendment.

EFFECTIVE DATE AND LEGISLATIVE TIMETABLE

7. To avoid confusion, the effective date of the new levy threshold under CWRO will tally with that under CICO and PMCO. The amendments to the levy thresholds under CICO and PMCO will come into effect on 30 July 2018. To align the effective dates of the new levy thresholds under the three ordinances, the Amendment Notice will also come into effect on 30 July 2018.

8. The legislative timetable is as follows –

Publication of the Amendment Notice in the Gazette	6 July 2018
Tabling the Amendment Notice at LegCo	11 July 2018
Effective Date	30 July 2018 ⁵

IMPLICATIONS OF THE PROPOSAL

9. According to the CIC's assessment based on seven-year (2011-2017) average figures, after levy threshold amendment, 27% and 26.8% of construction operations handled will no longer be subject to

⁵ The Amendment Notice will come into effect before the expiry of the full negative vetting period (28-day vetting period plus 21-day extension). As explained in paragraphs 5 and 7, this arrangement is to ensure the alignment of effective dates of the new levy thresholds under the three ordinances in order to avoid confusion to contractors. This has been brought to the attention of LegCo Members at the meeting of the Subcommittee on Proposed Resolutions under CICO and PMCO and when moving the two motions at LegCo.

the levies under CWRO and CICO respectively⁶. The CIC would forgo about \$8 million annually, equivalent to 0.97% of its average annual levy income (around \$822.1 million). Taking into account the average annual processing cost savings of about \$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 billion. 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.

10. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of CWRO. The proposed amendment of levy threshold would not entail significant economic implications in general, yet it would help alleviate the financial burden of contractors through excluding more low-value construction operations from the levy net. It has no financial, civil service, productivity, environmental, family and gender implications. Other than the economic implications set out above, the proposal has no sustainability implications.

PUBLIC CONSULTATION

11. We briefed the LegCo Panel on Development on the proposal on 27 March 2018. No objection was raised.

PUBLICITY

12. The CIC would draw contractors' attention to the amended levy thresholds through electronic messages and notices on the website and newsletters of the CIC and related organisations.

ENQUIRIES

13. For enquiries, please contact Mr. Dominic CHOW, Principal Assistant Secretary (Works) at 3509 8275.

Development Bureau July 2018

⁶ The Levy Notice came into operation on 24 February 2005. Construction operations that had commenced before this date are subject to the levy under CICO but not to the levy under CWRO. Hence, the expected numbers of construction operations affected by the amendment of levy thresholds under the two ordinances are different.

**Construction Workers Registration (Levy)
(Amendment) Notice 2018**

(Made by the Secretary for Development under section 23 of the
Construction Workers Registration Ordinance (Cap. 583))

1. Commencement

This Notice comes into operation on 30 July 2018.

2. Construction Workers Registration (Levy) Notice amended

The Construction Workers Registration (Levy) Notice (Cap. 583
sub. leg. A) is amended as set out in section 3.

**3. Section 3 amended (upper limit of total value of construction
operations not liable to levy)**

Section 3—

Repeal

“\$1,000,000”

Substitute

“\$3,000,000”.



Secretary for Development

29 June 2018

Explanatory Note

Under section 23 of the Construction Workers Registration Ordinance (Cap. 583), if the total value of construction operations exceeds the prescribed amount (*levy threshold*), the construction operations are subject to the payment of a levy at the prescribed rate. The levy threshold is prescribed in section 3 of the Construction Workers Registration (Levy) Notice (Cap. 583 sub. leg. A).

2. This Notice increases the levy threshold from \$1 million to \$3 million so contractors of construction operations the total value of which does not exceed \$3 million are not liable to pay the statutory levy.