

LEGISLATIVE COUNCIL BRIEF

Construction Industry Council Ordinance (Chapter 587)

PROPOSED RESOLUTION UNDER SECTION 70 OF CONSTRUCTION INDUSTRY COUNCIL ORDINANCE

INTRODUCTION

A Secretary for Development (“SDEV”) has given notice of intention to move the motion in **Annex A** at the Legislative Council (“LegCo”) meeting of 30 May 2018. The motion is proposed under section 70 of the Construction Industry Council Ordinance (Cap. 587) (“CICO”) to amend the levy threshold specified in Part 1 of Schedule 5 to CICO from \$1 million to \$3 million.

JUSTIFICATIONS

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 (“CITB”)² in providing training to construction workers, and promote on-going development of the construction industry.

3. Under CICO, contractors are required to pay a levy at 0.5% of the value of construction operations to the CIC to support its functions. Pursuant to section 32(3) and Part 1 of Schedule 5 to CICO, construction operations of total value not exceeding the levy threshold

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.

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.

stipulated in Part 1 of Schedule 5 to CICO are not liable to the levy. This levy threshold enables the exemption of small-scale construction operations from the statutory payment, and also relieves the CIC of the time-consuming procedure of collecting small levies³. The levy threshold under CICO has remained unchanged at \$1 million since 1985⁴.

4. Separately, under Construction Workers Registration Ordinance (Cap. 583) (“CWRO”) ⁵, contractors are required to pay a levy at 0.03% of the value of construction operations to the CIC⁶. On the other hand, under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (“PMCO”), contractors are subject to a levy payable to the Pneumoconiosis Compensation Fund at 0.15% of the value of construction operations. CWRO and PMCO have adopted the levy threshold of \$1 million since 2005 and 1985 respectively.

CIC’S RECOMMENDATION TO AMEND THE LEVY THRESHOLDS

5. Taking into account the cumulative inflation over the past three decades or so⁷, the CIC completed a review on the levy threshold. The CIC recommended the Government to increase the levy threshold from \$1 million to \$3 million after reaching consensus among stakeholders of the construction industry⁸.

PROPOSAL

6. Having considered the recommendation and financial position of the CIC, we propose to raise the levy threshold under CICO from \$1 million to \$3 million. The proposal would reflect the current market situation and is in line with the legislative intent of exempting small-

³ Official Report of Proceedings of the Meeting on 16 July 1975 of Hong Kong Legislative Council.

⁴ Upon amalgamation of the CIC and CITA, CICO adopted the prevailing 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 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.

⁶ See Construction Workers Registration (Levy) Notice (Cap. 583 sub. leg. A).

⁷ The cumulative inflation is estimated based on the Consumer Price Index, which has risen by about 220% from 1985 to 2017.

⁸ Including professionals, academics, contractors, workers and independent persons.

scale construction contracts from the levy net. 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 dates of the amendment.

EFFECTIVE DATE AND LEGISLATIVE TIMETABLE

7. Pursuant to section 70 of CICO, LegCo may by resolution revise the levy threshold under CICO and the amendment shall come into effect on the expiry of the period of 30 days after publication of the resolution in the Gazette. SDEV will move the motion at the sitting of LegCo on 30 May 2018. Subject to its passage, the new levy threshold under CICO will come into effect on 2 July 2018. Labour and Welfare Bureau proposes to amend the levy threshold under PMCO based on the same legislative timetable.

8. The levy threshold under CWRO will be separately amended by notice published in the Gazette, subject to the negative vetting procedure. To avoid confusion to contractors, the effective dates of the new levy thresholds under the three ordinances should be aligned. Therefore, we will table the amendment notice to revise the levy threshold under CWRO after passage of the resolutions amending the levy thresholds under CICO and PMCO at LegCo. The effective dates of the new levy thresholds under the three ordinances will be the same.

9. The legislative timetable is as follows –

Moving the motion at LegCo	30 May 2018
Gazettal of resolution (if passed before 1pm on 31 May 2018)	1 June 2018
Effective date	2 July 2018 (30 days after gazettal of resolution)

IMPLICATIONS OF THE PROPOSAL

10. The CIC has assessed the impact of the levy threshold amendment based on seven-year (2011-2017) average figures. According to the CIC, after the amendment, 26.8% and 27% of construction operations handled will no longer be subject to the levies

under CICO and CWRO respectively⁹. 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 billion¹⁰. 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.

11. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of CICO. 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

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

PUBLICITY

13. 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

14. For enquiries, please contact Mr. Dominic CHOW, Principal Assistant Secretary (Works)¹ at 3509 8275.

Development Bureau May 2018

⁹ The Construction Workers Registration (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.

¹⁰ The figure is subject to final auditing.

Construction Industry Council Ordinance

Resolution of the Legislative Council

Resolution made and passed by the Legislative Council under section 70 of the Construction Industry Council Ordinance (Cap. 587) on 2018.

Resolved that the Construction Industry Council Ordinance (Cap. 587) be amended as set out in the Schedule.

Schedule

Amendment to Construction Industry Council Ordinance

1. Schedule 5 amended (levy)

Schedule 5, Part 1—

Repeal

“\$1,000,000”

Substitute

“\$3,000,000”.

Clerk to the Legislative Council

2018

Explanatory Note

Under section 32 of the Construction Industry Council Ordinance (Cap. 587) (*Ordinance*), if the total value of construction operations exceeds the amount specified in Part 1 of Schedule 5 to the Ordinance (*levy threshold*), the construction operations are subject to a statutory levy at the rate of 0.5% of the value of the construction operations.

2. This Resolution increases the levy threshold from \$1 million to \$3 million. Contractors of construction operations the total value of which does not exceed \$3 million are not liable to pay the levy.
3. The increase comes into effect on the expiry of 30 days after the publication in the Gazette of this Resolution (see section 70(2) and (5) of the Ordinance).

Construction Industry Council Ordinance

Resolution

(Under section 70 of the Construction Industry Council Ordinance (Cap. 587))

Resolved that the Construction Industry Council Ordinance (Cap. 587) be amended as set out in the Schedule.

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