

**Legislative Council Panel on Manpower
Meeting on 16 November 2000**

**Review of the Levels of Compensation
under the Employees' Compensation Ordinance
and the Pneumoconiosis (Compensation) Ordinance**

Introduction

The Employees' Compensation Ordinance (ECO) provides for the payment of compensation to employees and family members of deceased employees for occupational diseases, injuries or deaths caused by accidents arising out of and in the course of employment. The Pneumoconiosis (Compensation) Ordinance (PCO) provides for the payment of compensation to persons who are incapacitated by pneumoconiosis or family members of pneumoconiotics who die from the disease.

2. The levels of compensation under the ECO and PCO are reviewed every two years with a view to maintaining their values in line with the wage or price movements during the intervening period. The current levels of compensation under the two ordinances came into effect on 1 August 1998.^{Note} They are now due for review.

The Proposal

3. It is proposed that –
- (a) save for the amount of funeral expenses under the PCO, the amounts for various compensation items under the ECO and PCO should be maintained at their existing levels;

^{Note} The levels of compensation under the ECO and PCO were originally due to be revised on 1.1.1998. However, the revision exercise was then put on hold as the legislative proposal did not satisfy the “essentiality test” for consideration by the Provisional Legislative Council. As a result, the Legislative Council Resolution to revise the levels of compensation was submitted to the First Legislative Council in July 1998. It was passed on 22.7.1998 and came into effect on 1.8.1998. In order to make up for the delay, the revised levels had taken into account the actual price and wage movements for 1996 and 1997 as well as the projected movements for 1998.

- (b) the negative wage and price movements for 1999 and 2000 as well as the over-projected movement for 1998 should be taken into account in future review of the levels of compensation; and
- (c) the amount of funeral expenses payable under the PCO should be raised from \$16,000 to \$35,000.

Background and Justification

4. The levels of compensation provided for under the ECO and PCO are reviewed every two years. Most of these levels are adjusted by reference to either the wage movement or price movement in the intervening years. The amount of some compensation items, such as medical expenses, is adjusted according to the actual amount of the cost or other relevant factors.

5. The current levels of compensation took effect from 1.8.1998. The review of the levels of compensation was conducted in the earlier part of 1998 and took into account the projected figures to the end of that year as the actual figures were not yet available at that time. For the present review, we have likewise taken stock of the changes in wages and price for 1999 and the projected figures for 2000. In line with past practices, we also made adjustments to discount the over/ under projection of the provisional figures of 1998 used in the last review. We intend to bring the proposals into operation from 1.1.2001. Detailed findings of the review are set out in the ensuing paragraphs.

Compensation Items to be Adjusted According to Wage Movement

6. In past review exercises, the levels of compensation for the following items under the ECO were adjusted according to the rate of change as reflected in the Nominal Wage Index:

- (a) wage ceiling of the monthly earnings for calculating compensation for death and permanent total incapacity;
- (b) minimum level of compensation for death;
- (c) minimum level of compensation for permanent total incapacity;

- (d) compensation for employees requiring attention; and
- (e) minimum amount of surcharge on late payment of compensation.

7. In the last review, the Nominal Wage Index had been over-estimated. The Index for 1998 only grew by 2.2% instead of 4.5% as projected. It is estimated that after discounting the over-estimated Index for 1998, the rate of wage movement as reflected in the Nominal Wage Index during the period between 1 January 1999 to 31 December 2000 is -2.98%.

Compensation items to be adjusted according to inflation rate

8. In past reviews, the following items were adjusted by reference to changes in inflation as reflected in the Consumer Price Index (A) (CPI(A)):

- (a) the maximum amount of the cost for the supplying, fitting and repair/renewal of prostheses and surgical appliances expenses under the ECO;
- (b) the compensation for pain, suffering and loss of amenities under PCO; and
- (c) the compensation for bereavement under PCO.

9. When the levels of compensation under the two Ordinances were last reviewed, the projected price movement for 1998 was higher than the actual figure. The Index for 1998 was 2.6% instead of 4.5% as projected. After discounting the over-projection for 1998, it is estimated that the inflation rate as reflected in the CPI(A) during the period between 1 January 1999 and 31 December 2000 is -6.96%.

Item to be adjusted according to the benefits provided under the Comprehensive Social Security Assistance Scheme

10. Section 11(5) of the ECO provides that where an employee earns less than a certain amount per month, his monthly earnings shall be deemed to be that amount for the purpose of calculating compensation. That amount, which is currently \$3,490 is set by reference to the standard rate for a single adult and other payments, such as rental allowance, water charges and Long Term

Supplement, under the Comprehensive Social Security Assistance Scheme (CSSA).

11. Since the last revision exercise in 1998, the rates of the relevant items of benefits under the CSSA have been revised downwards to \$3,444 or a decrease of 1.32%.

Item to be adjusted according to the monthly wages and food provision for a foreign domestic helper

12. Section 11 of the PCO provides for the payment of compensation for care and attention to a pneumoconiotic person if he is unable to perform the essential actions of life without the care and attention of another person. This compensation is payable in the form of a monthly payment of \$4,160. This amount was set by reference to the monthly wages and food provision for a foreign domestic helper. The rates in force in the last review exercise were \$3,860 and \$300 respectively.

13. The current rates of the monthly wages and food provisions for a foreign domestic helper are \$3,670 and \$300 respectively. Taking together, the two rates add up to \$3,970, or a decrease of 4.57% as compared with the existing amount of the compensation for care and attention.

Compensation items to be adjusted according to the costs of medical treatment at public hospital or clinic

14. Under both the ECO and PCO, a claimant who has received medical treatment as a result of a work injury or pneumoconiosis may claim reimbursement of the actual amount of medical expenses incurred. The reimbursable amount is subject to a maximum which is currently \$175 per day. This amount was set to cover the costs for consultation, injection and dressing, physiotherapy and hospitalisation in a public hospital or clinic.

15. Since the last revision exercise, the charges in respect of these medical treatments have not been changed.

Maintaining the levels of compensation under the ECO and PCO at their existing rates

16. As seen from the above, the wage and price movements as reflected in the Nominal Wage Index and CPI(A) showed a negative growth in the last couple of years. Other expenses relevant to the compensation items have also either decreased or remained static. If adjustment were to be made in

accordance with the rates of decrease, the amounts of various compensation items under the two ordinances would have to be reduced by 1.32% to 6.96%.

17. If the amounts of compensation under the two Ordinances were adjusted downwards in accordance with a strict application of the review formula as in the past, the magnitude of reduction would not be very significant. Nevertheless, the reduction would affect the interests of some injured employees and pneumoconiotic persons. It is therefore recommended that the amounts of compensation be maintained at their existing levels. However, in order to avoid inflating the value of the levels of compensation in future reviews, the over-projected rates of price and wage movement for 1998 and the rates of decrease for the years 1999 and 2000 should be taken into account in future revision exercises. In other words, the levels of compensation under the two ordinances would not be revised upwards until the cumulated rates of decrease have been set off by future increase in price or wage levels.

Funeral expenses under PCO

18. The maxima for funeral expenses under the ECO and PCO have all along been set at the same level. In the past revision exercises, the maximum amount of this compensation item was adjusted by reference to the changes in inflation. From time to time, we received petitions urging an increase in this compensation item. It has been pointed out that the maximum amount of \$16,000 was insufficient to cover the reasonable funeral expenses for a deceased person.

19. With the enactment of the Employees' Compensation (Amendment) (No. 2) Ordinance 2000, the maximum amount of funeral expenses under the ECO was raised from \$16,000 to \$35,000 with effect from 1 August 2000. To provide better financial relief to the family members of deceased pneumoconiotic persons and in line with the adjustment under the ECO, it is proposed that the amount of funeral expenses under the PCO should also be raised to \$35,000.

Economic Implication

20. As it is proposed to maintain the levels of compensation under the ECO at their existing rates, there should not be any impact on the employees' compensation insurance premium.

21. The Pneumoconiosis Compensation Fund Board (PCFB) is being consulted on the impact of the proposal to increase the amount of funeral

expenses from \$16,000 to \$35,000 under the PCO on the Pneumoconiosis Compensation Fund.

Implementation Plan

22. The levels of compensation may be revised by resolutions of the Legislative Council. We intend to submit a proposal to the Legislative Council in December this year with a view to bringing the revised amount of funeral expenses under the PCO into effect on 1 January 2001.

Public Consultation

23. The Labour Advisory Board has been consulted and endorsed the proposal. The PCFB is being consulted on the proposals.

Education and Manpower Bureau
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