

立法會
Legislative Council

LC Paper No. CB(2) 2133/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/BC/8/01

**Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002**

**Minutes of the sixth meeting
held on Thursday, 23 May 2002 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon CHAN Kwok-keung
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
- Member attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Members absent** : Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon Bernard CHAN
Hon TAM Yiu-chung, GBS, JP
- Public Officers attending** : Mrs Jenny CHAN
Assistant Commissioner for Labour (Rights and Benefits)
- Mr LAI Ka-tong
Senior Labour Officer (Compensation)

Mr Geoffrey A FOX
Senior Assistant Law Draftsman

Mr Lawrence PENG
Senior Government Counsel

Clerk in attendance : Mr Raymond LAM
Senior Assistant Secretary (2) 5

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Confirmation of minutes of meeting held on 9 May 2002

The minutes of the meeting held on 9 May 2002 were confirmed.

II. Meeting with the Administration

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. The Bills Committee requested the Administration to provide a written response on the following -
 - (a) To consider including persons who had been awarded common law damages by the Court as "eligible persons" in the Bill;
 - (b) To respond to the further submission from The Hong Kong Construction Association Ltd dated 22 May 2002;
 - (c) To consider providing the Employees Compensation Assistance Fund Board with the discretion to increase the monthly relief payment in the case of severely injured employees requiring long-term care; and
 - (d) To explain the application of the relief payment provisions in the two cases referred to in paragraph (c) of the letter dated 17 May 2002 from the Legal Service Division to the Administration.

4. Regarding the apportionment of relief payment in the case of non-fatal injury where the injured employee died before the relief payment was fully paid, some members suggested that reference should be made to the distribution of the residuary estate of an intestate under the Intestates' Estates Ordinance. The Bills Committee requested Assistant Legal Adviser 5 to provide information on the statutory distribution of the estate of an intestate for members' reference.

5. Some members remained of the view that the surcharge to be imposed on uninsured employers should be further increased to strengthen the deterrent effect.

6. Regarding the categories of persons who would be eligible for relief payment in the case of non-fatal injury where the injured employee died before damages were awarded by the Court, the Administration informed the Bills Committee that it would move a Committee Stage amendment to clarify that the eligible persons who would be entitled to relief payment in the case of non-fatal injury should still be able to receive relief payment if the injured employee died before damages were awarded by the Court.

III. Date of next meeting

7. The Bills Committee noted that the next meeting would be held on Wednesday, 29 May 2002 at 8:30 am.

8. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of the sixth meeting of the
Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002
held on Thursday, 23 May 2002 at 10:45 am
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000620	Chairman	(a) Confirmation of minutes of meeting held on 9.5.2002; and (b) Papers for the meeting	
000620 - 000957	Admin	Briefed members on Admin's written response - Miscellaneous issues concerning relief payment (LC Paper No. CB(2)2040/01-02(01))	
000957 - 001001	Chairman	Invitation of questions from members	
001001 - 001103	Mr LEUNG Yiu-chung	Eligibility of siblings for relief payment in the case of non-fatal injury where the injured employee died before the relief payment was fully paid	
001103 - 001150	Admin	- ditto -	
001150 - 001217	Mr LEUNG Yiu-chung	- ditto -	
001217 - 001237	Admin	- ditto -	
001237 - 001350	Chairman/ Mr LEUNG Yiu-chung	- ditto -	
001350 - 001550	Mr Andrew CHENG	(a) Comparison between "dependants of the deceased" under the Fatal Accidents Ordinance (FAO) and "eligible persons" under the Bill (LC Paper No. CB(2)2017/01-02(01)); (b) Admin's reply to Legal Service Division's letter dated 17.5.2002 (LC Paper No. CB(2)2040/01-02(02)); and (c) Definition of "dependants of the deceased" under FAO and "eligible persons" under the Bill	
001550 - 002218	Admin	- ditto -	
002218 - 002529	Mr Andrew CHENG	Anticipated enforcement difficulties/legal implications if the definition of "dependants of the deceased" under FAO was applied to "eligible persons" under the Bill	
002529 - 002748	Admin	- ditto -	
002748 - 002958	ALA5	Parent-in-law, son-in-law and daughter-in-law not qualified as "dependants of the deceased" under FAO	
002958 - 003210	Admin	Definition of "dependants of the deceased" under FAO and "eligible persons" under the Bill	
003210 - 003530	Mr James TIEN	(a) Scope of eligible persons; and (b) Apportionment of relief payment in the case where the deceased employee had made a will	
003530 - 003607	Chairman	- ditto -	
003607 - 003757	Admin	- ditto -	
003757 - 003904	Mr James TIEN	Amount of relief payment payable to eligible persons	

Time	Speaker	Subject(s)	Action required
003904 - 004044	Admin	- ditto -	
004044 - 004135	Chairman	- ditto -	
004135 - 004247	Mr James TIEN	Apportionment of relief payment in the case where the deceased employee had made a will	
004247 - 004329	Admin	- ditto -	
004329 - 004412	Mr James TIEN	- ditto -	
004412 - 004706	Mr LEE Cheuk-yan	Liability of the Fund Board in respect of statutory compensation and common law damages	
004706 - 004729	Admin	- ditto -	
004729 - 004748	Mr LEE Cheuk-yan	- ditto -	
004748 - 004832	Admin/ Chairman	- ditto -	
004832 - 004923	Mr LEE Cheuk-yan	Definition of "dependants of the deceased" under FAO and "eligible persons" under the Bill	
004923 - 005025	Chairman	- ditto -	
005025 - 005305	Mr LEE Cheuk-yan	(a) Eligibility for relief payment in the case where an eligible person did not fall under the category of dependant of the deceased under FAO; and (b) Adoption of the manner of distribution of residuary estate of an intestate under the Intestates' Estate Ordinance (IEO) in the apportionment of relief payment in the case of non-fatal injury where the injured employee died before the relief payment was fully paid	
005305 - 005512	Admin	- ditto -	
005512 - 005520	Mr LEE Cheuk-yan	Information on the statutory distribution of the estate of an intestate	✓ ALA5 to provide the information
005520 - 005613	Mr LEUNG Yiu-chung	Possibility of expanding the scope of eligible persons to cover siblings in the case of non-fatal injury where the injured employee died before the relief payment was fully paid	
005613 - 005633	Admin	- ditto -	
005633 - 005708	Mr LEE Cheuk-yan	Eligibility for relief payment in the case where an eligible person did not fall under the category of dependant of the deceased under FAO	
005708 - 005718	Chairman	- ditto -	
005718 - 005741	Mr LEE Cheuk-yan	- ditto -	
005741 - 005939	Admin	- ditto -	
005939 - 010033	Mr LEE Cheuk-yan	- ditto -	

Time	Speaker	Subject(s)	Action required
010033 - 010139	Chairman	Including persons who had been awarded common law damages by the Court as "eligible persons" in the Bill	
010139 - 010256	Admin	- ditto -	✓ Admin to provide a written response
010256 - 010344	Chairman	- ditto -	
010344 - 010528	Mr Abraham SHEK/ Chairman	Further submission from The Hong Kong Construction Association Ltd dated 22.5.2002 (LC Paper No. CB(2)2054/01-02(03))	✓ Admin to provide a written response to the submission
010528 - 010615	Mr LEE Cheuk-yan	Summary of recent judgment awards (LC Paper No. CB(2)2017/01-02(02))	
010615 - 010811	ALA5/ Mr LEE Cheuk-yan	- ditto -	
010811 - 011000	Mr LEE Cheuk-yan	Possibility of raising the monthly relief payment	
011000 - 011028	Admin	- ditto -	
011028 - 011047	Mr LEE Cheuk-yan	- ditto -	
011047 - 011305	Admin/ Chairman	- ditto -	
011305 - 011341	Chairman	- ditto -	
011341 - 011412	Admin	- ditto -	
011412 - 011426	Chairman	- ditto -	
011426 - 011546	Mr CHAN Kwok-keung/ Chairman	Providing the Fund Board with the discretion to increase the monthly relief payment in the case of severely injured employees requiring long-term care	
011546 - 011626	Mr Abraham SHEK	Manner of payment of relief payment	
011626 - 011656	Mr LEE Cheuk-yan	Providing the Fund Board with the discretion to increase the monthly relief payment in the case of severely injured employees requiring long-term care	
011656 - 011712	Chairman	- ditto -	
011712 - 011852	Ms LI Fung-ying	- ditto -	
011852 - 011913	Mr LEUNG Yiu-chung	- ditto -	
011913 - 011918	Admin	- ditto -	✓ Admin to provide a written response

Time	Speaker	Subject(s)	Action required
011918 - 012001	Chairman	Admin's written response - Raising the level of surcharge and adequacy of the maximum penalty against uninsured employers (LC Paper No. CB(2)2054/01-02(01))	
012001 - 012011	Admin	- ditto -	
012011 - 012046	Chairman	- ditto -	
012046 - 012449	Admin	Briefed members on the above paper	
012449 - 012630	Mr LEUNG Fu-wah	Views of employee representatives of Labour Advisory Board (LAB) on the proposal to impose a surcharge at three times the levy payable on the premium paid for an employees compensation insurance policy	
012630 - 012655	Ms LI Fung-ying	- ditto -	
012655 - 012814	Admin	- ditto -	
012814 - 012900	Mr LEE Cheuk-yan	Need to further increase the level of surcharge to strengthen the deterrent effect	
012900 - 012910	Admin	- ditto -	
012910 - 012943	Mr LEE Cheuk-yan	- ditto -	
012943 - 013037	Mr LEUNG Fu-wah	Views of employee representatives of LAB on the proposal to further increase the level of surcharge	
013037 - 013116	Chairman	- ditto -	
013116 - 013211	Mr Andrew CHENG	- ditto -	
013211 - 013249	Chairman	Admin's written response - Relief payment for non-fatal cases where the damages were awarded after the death of the injured employee (LC Paper No. CB(2)2054/01-02(02))	
013249 - 013331	Admin	Briefed members on the above paper	
013331 - 013512	Chairman/ Admin	Categories of persons eligible for relief payment in the case of non-fatal injury where the damages were awarded after the death of the injured employee	
013512 - 013536	Ms LI Fung-ying	- ditto -	
013536 - 013701	Chairman	- ditto -	
013701 - 013859	ALA5	Application of the relief payment provisions in the two cases referred to in paragraph (c) of the letter dated 17.5.2002 from Legal Service Division to Admin (LC Paper No. CB(2)2017/01-02(03))	
013859 - 013926	Chairman	- ditto -	
013926 - 013955	ALA5/ Chairman	- ditto -	
013955 - 014016	Admin	- ditto -	✓ Admin to provide a written response

Time	Speaker	Subject(s)	Action required
014016 - 014134	Mr LEE Cheuk-yan	Ways of determining the amount of common law damages by the Court in the case of non-fatal injury where the injured employee died before the award of damages was made	
014134 - 014200	Chairman	- ditto -	
014200 - 014252	Admin	- ditto -	
014252 - 014316	Mr LEE Cheuk-yan	- ditto -	
014316 - 014456	Admin	- ditto -	
014456 - 014616	Mr Andrew CHENG	Need to set out clearly in the Bill the differentiation between fatal and non-fatal injuries	
014616 - 014649	Admin	- ditto -	
014649 - 014737	Mr LEUNG Fu-wah	Ways of handling cases where the fatal injury was caused by a combination of work and personal health of the deceased employee	
014737 - 014753	Chairman	- ditto -	
014753 - 015004	Admin	- ditto -	
015004 - 015052	Chairman	- ditto -	
015052 - 015212	Mr LEUNG Fu-wah	- ditto -	
015212 - 015354	Admin	Purpose of empowering the Fund Board to take part in court proceedings in respect of claims assisted by the Fund Board	
015354 - 015439	Chairman	Date of next meeting	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
 31 May 2002