

立法會
Legislative Council

Ref : CB2/BC/8/01

LC Paper No. CB(2) 2278/01-02
(These minutes have been seen by
the Administration)

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

**Minutes of the eighth meeting
held on Monday, 3 June 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

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

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Administration was requested to -

- (a) provide information on the time limit to file proof of debt by a creditor against an insolvent company with the Official Receiver's Office under the Bankruptcy Ordinance;
- (b) advise members of the provision which provided for the categories of persons eligible for applying payment of statutory compensation and damages from the Fund in respect of an employee in a non-fatal injury who died before such application was made; and
- (c) consider improving the drafting of the Chinese version of the proposed section 17(1)(b).

3. Mr LEE Cheuk-yan appealed for members' support of the following proposals which the Administration had no intention to pursue -

- (a) If an estate administrator who was also an eligible person under the Bill, the amounts of pre-trial loss of accumulation of wealth and post-trial loss of accumulation of wealth awarded to the estate should be included in the calculation of relief payment; and
- (b) The amount of monthly relief payment should be increased in the case of severely injured employees requiring long term care.

II. Dates of next meetings

4. The Bills Committee noted that the next meeting would be held on 5 June 2002 at 8:30 am. It also agreed that two more meetings be scheduled for 7 June 2002 at 4:00 pm and 13 June 2002 at 4:30 pm.
5. Members also noted that if the Bills Committee could conclude its deliberations at the meeting on 7 June 2002, the Bills Committee would recommend that the Second Reading debate on the Bill be resumed at the Council meeting on 26 June 2002. However, if the Bills Committee concluded its deliberations at the meeting on 13 June 2002, the Second Reading debate on the Bill would be resumed at the Council meeting on 3 July 2002.
6. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
12 June 2002

**Proceedings of the eighth meeting of the
Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002
held on Monday, 3 June 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

| Time | Speaker | Subject(s) | Action required |
|---|-----------------|--|------------------------|
| 000000 - 000124 | Chairman | Confirmation of minutes of meetings held on 14.5.2002 and 23.5.2002 | |
| 000124 - 000249 | Admin | Admin's written response to Legal Service Division's letter dated 29.5.2002 on application of relief payment provisions (LC Paper No. CB(2)2126/01-02(02)) | |
| 000249 - 000410 | Chairman | Amount of statutory compensation | |
| 000410 - 000447 | Admin | - ditto - | |
| 000447 - 000500 | Chairman | - ditto - | |
| 000500 - 000503 | Admin | - ditto - | |
| 000503 - 000525 | Chairman | Admin's paper on long term care and attention to injured employees (LC Paper No. CB(2)2126/01-02(03)) | |
| 000525 - 000805 | Admin | Briefed members on the above paper | |
| 000805 - 000846 | Chairman | Maximum amount of compensation (including statutory compensation and initial relief payment) to be received by a severely injured employee requiring long term care who was assisted by the Fund Board | |
| 000846 - 001042 | Admin | - ditto - | |
| 001042 - 001050 | Chairman | - ditto - | |
| 001050 - 001101 | Admin | - ditto - | |
| 001101 - 001133 | Chairman | - ditto - | |
| Clause-by-clause examination of the Bill | | | |
| 001133 - 001319 | Chairman | (a) Clause 3 - Interpretation (Proposed section 2(2) concerning adoption of child); and (b) Clause 4 - Constitution of the Board | |
| 001319 - 001354 | Admin | Clause 4 - Constitution of the Board | |
| 001354 - 001409 | Mr LEUNG Fu-wah | - ditto - | |
| 001409 - 001423 | Chairman | Clause 5 - Employees Compensation Assistance Fund | |
| 001423 - 001431 | Admin | - ditto - | |
| 001431 - 001443 | Chairman | Clause 6 - Application by employee etc for payment from the Fund in relation to unpaid compensation | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|-----------------|---|------------------------|
| 001443 - 001558 | Admin | - ditto - | |
| 001558 - 001638 | Chairman | - ditto - | |
| 001638 - 001647 | Admin | - ditto - | |
| 001647 - 001650 | Chairman | - ditto - | |
| 001650 - 001704 | Admin | - ditto - | |
| 001704 - 001745 | Chairman | Clause 7 - Application by employer for payment from the Fund | |
| 001745 - 001914 | Admin | - ditto - | |
| 001914 - 001945 | Chairman | Clause 6 - Application by employee etc for payment from the Fund in relation to unpaid compensation | |
| 001945 - 002004 | Admin | - ditto - | |
| 002004 - 002023 | Chairman | - ditto - | |
| 002023 - 002046 | Admin | - ditto - | |
| 002046 - 002100 | Chairman | Clause 7 - Application by employer for payment from the Fund | |
| 002100 - 002207 | Admin | - ditto - | |
| 002207 - 002227 | Chairman | - ditto - | |
| 002227 - 002310 | Admin | - ditto - | |
| 002310 - 002329 | Chairman | - ditto - | |
| 002329 - 002346 | Admin | - ditto - | |
| 002346 - 002402 | Chairman | - ditto - | |
| 002402 - 002551 | Mr Andrew CHENG | Clause 7 - Application by employer for payment from the Fund (a) Chinese version of the drafting of the proposed section 17(1)(b); and (b) Policy intent of the proposed section 17(3) | |
| 002551 - 002651 | Admin | Policy intent of the proposed section 17(3) | |
| 002651 - 002703 | Mr Andrew CHENG | - ditto - | |
| 002703 - 002708 | Admin | - ditto - | |
| 002708 - 002718 | Mr Andrew CHENG | Chinese version of the drafting of the proposed section 17(1)(b) | |
| 002718 - 002722 | Admin | - ditto - | |
| 002722 - 002728 | Mr Andrew CHENG | - ditto - | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|------------------|---|------------------------|
| 002728 - 002858 | Admin | Admin to consider improving the drafting of the Chinese version of the proposed section 17(1)(b) | ✓ Admin to consider |
| 002858 - 002914 | Chairman | Clause 8 - Application by employer for payment from the Fund to third party | |
| 002914 - 003012 | Admin | - ditto - | |
| 003012 - 003044 | Chairman | Clause 9 - Section added (Proposed section 18A - Provisions ancillary to sections 17 and 18) | |
| 003044 - 003226 | Admin | - ditto - | |
| 003226 - 003240 | Chairman | Proposed section 18A(2) (Non-eligibility for payment from the Fund in the case where an employer failed to make an application under section 17 within 180 days after the date on which the employer was entitled to make the application) | |
| 003240 - 003244 | Admin | - ditto - | |
| 003244 - 003306 | Chairman | - ditto - | |
| 003306 - 003419 | Admin | - ditto - | |
| 003419 - 003427 | Mr Kenneth TING | Basis for setting 180 days under the proposed section 18A(2) | |
| 003427 0 003545 | Admin | - ditto - | |
| 003545 - 003623 | Mr Kenneth TING | - ditto - | |
| 003623 - 003707 | Admin | - ditto - | |
| 003707 - 003751 | Chairman | Proposed section 18A(2) (Non-eligibility for payment from the Fund in the case where an employer failed to make an application under section 17 within 180 days after the date on which the employer was entitled to make the application) | |
| 003751 - 003822 | Admin | - ditto - | |
| 003822 - 003852 | Mr LEE Cheuk-yan | - ditto - | |
| 003852 - 003909 | Chairman | Difference between applications under sections 17 and 18 | |
| 003909 - 004102 | Admin | (a) Ditto; and (b) Proposed section 18A(2) and (3) | |
| 004102 - 004142 | Mr Kenneth TING | Reasons for not allowing a longer period for an employer to make an application for payment from the Fund under section 17 | |
| 004142 - 004238 | Admin | - ditto - | |
| 004238 - 004316 | Chairman | - ditto - | |
| 004316 - 004328 | Admin | - ditto - | |

| Time | Speaker | Subject(s) | Action required |
|--------------------|------------------------------|---|---------------------------------------|
| 004328 - 004340 | Chairman | - ditto - | |
| 004340 - 004607 | Admin | - ditto - | |
| 004607 - 004638 | Chairman | - ditto - | |
| 004638 - 004716 | Admin | - ditto - | |
| 004716 - 004806 | Mr Kenneth TING/ Chairman | - ditto - | |
| 004806 - 004904 | Mr LEUNG Fu-wah | Views on the proposal to require an employer to make an application for payment from the Fund within 180 days after the date on which the employer was entitled to make the application | |
| 004904 - 005029 | Admin | - ditto - | |
| 005029 - 005048 | Mr Kenneth TING | - ditto - | |
| 005048 - 005145 | Mr LEE Cheuk-yan | Time limit for a creditor to file proof of debt by a creditor against an insolvent company with the Official Receiver's Office under the Bankruptcy Ordinance | |
| 005145 - 005149 | Chairman | - ditto - | |
| 005149 - 005151 | Admin | - ditto - | |
| 005151 - 005317 | Chairman | Situation where an employer might be unable to make an early application for payment from the Fund | |
| 005317 - 005410 | Admin | Admin to provide information on the time limit to file proof of debt by a creditor against an insolvent company with the Official Receiver's Office under the Bankruptcy Ordinance | ✓ Admin to provide the information |
| 005410 - 005623 | Mr Andrew CHENG | Possibility of providing the Fund Board with the discretion to extend the time limit of 180 days under the proposed section 18A(2) | |
| 005623 - 005912 | Admin/ Mr Andrew CHENG | - ditto - | |
| 005912 - 010048 | Ms LI Fung-ying | Views on the proposal to require an employer to make an application for payment from the Fund within 180 days after the date on which the employer was entitled to make the application | |
| 010048 - 010125 | Mr Kenneth TING | - ditto - | |
| 010125 - 010307 | Chairman/ Mr Kenneth TING | - ditto - | |
| 010307 - 010407 | Chairman | Implications on an employee where the employer made an application for payment from the Fund under the proposed section 18A(3) | |
| 010407 - 010555 | Admin | - ditto - | |
| 010555 - 010620 | Chairman | - ditto - | |
| 010620 - 010641 | Admin | - ditto - | |
| 010641 - 010647 | Chairman | - ditto - | |

| Time | Speaker | Subject(s) | Action required |
|--------------------|--------------------|---|------------------------|
| 010647 - 010653 | Admin | - ditto - | |
| 010653 - 010721 | Chairman | Clause 10 - Limitations on applications by employers | |
| 010721 - 010808 | Admin | - ditto - | |
| 010808 - 010842 | Chairman | - ditto - | |
| 010842 - 010911 | Admin | - ditto - | |
| 010911 - 010921 | Chairman | - ditto - | |
| 010921 - 010940 | Admin | - ditto - | |
| 010940 - 011007 | Chairman | (a) Ditto; and (b) Clause 11 - Notice of insolvency of insurer | |
| 011007 - 011035 | Admin | Clause 11 - Notice of insolvency of insurer | |
| 011035 - 011039 | Chairman | - ditto - | |
| 011039 - 011101 | Admin | - ditto - | |
| 011101 - 011126 | Chairman | Clause 12 - Sections added (Proposed section 20A - Application by employee etc for relief payment from the Fund in relation to unpaid damages) | |
| 011126 - 011215 | Admin | - ditto - | |
| 011215 - 011245 | Chairman | - ditto - | |
| 011245 - 011304 | Admin/ Chairman | - ditto - | |
| 011304 - 011336 | Admin | - ditto - | |
| 011336 - 011339 | Chairman | - ditto - | |
| 011339 - 011354 | Admin | - ditto - | |
| 011354 - 011444 | Chairman | Provision which provided for the categories of persons eligible for applying payment of statutory compensation and damages from the Fund in respect of an employee in a non-fatal injury who died before such application was made | |
| 011444 - 011529 | Admin | - ditto - | |
| 011529 - 011545 | Chairman | - ditto - | |
| 011545 - 011551 | Admin | - ditto - | |
| 011551 - 011601 | Chairman/ Admin | - ditto - | |
| 011601 - 011618 | Chairman | - ditto - | |

| Time | Speaker | Subject(s) | Action required |
|--------------------|-------------------------------|--|---|
| 011618 - 011622 | Admin | - ditto - | |
| 011622 - 011700 | Chairman | - ditto - | |
| 011700 - 011714 | Admin | - ditto - | |
| 011714 - 011748 | Chairman | - ditto - | |
| 011748 - 011855 | Admin | - ditto - | |
| 011855 - 012049 | Chairman | (a) Ditto; and (b) Clause 12 - Sections added (Proposed section 20B - Amount of relief payment) | ✓ Admin to provide a written response on (a) |
| 012049 - 012236 | Admin | Clause 12 - Sections added (Proposed section 20B - Amount of relief payment) | |
| 012236 - 012248 | Chairman | Letter dated 29.5.2002 from Legal Service Division to Admin on application of relief payment provisions (LC Paper No. CB(2)2126/01-02(01)) | |
| 012248 - 012340 | ALA5 | - ditto - | |
| 012340 - 012609 | Mr LEE Cheuk-yan | Inclusion of the amounts of pre-trial loss of accumulation of wealth and post-trial loss of accumulation of wealth awarded to the estate in the calculation of relief payment in the case where an estate administrator who was also an eligible person under the Bill | |
| 012609 - 012703 | Admin | - ditto - | |
| 012703 - 012750 | Chairman | - ditto - | |
| 012750 - 012855 | Admin/ Chairman | - ditto - | |
| 012855 - 012859 | Chairman | - ditto - | |
| 012859 - 013008 | Mr LEE Cheuk-yan | - ditto - | |
| 013008 - 013040 | Chairman | - ditto - | |
| 013040 - 013159 | Mr LEE Cheuk-yan | - ditto - | |
| 013159 - 013326 | Admin | - ditto - | |
| 013326 - 013427 | Mr LEE Cheuk-yan | - ditto - | |
| 013427 - 013443 | Admin | - ditto - | |
| 013443 - 013615 | Mr LEE Cheuk-yan/ Chairman | - ditto - | |
| 013615 - 013629 | Mr LEE Cheuk-yan | - ditto - | |

| Time | Speaker | Subject(s) | Action required |
|-----------------|----------------------------|--|------------------------|
| 013629 - 013706 | Chairman | (a) Ditto; and (b) Clause 12 - Sections added (Proposed section 20C - Manner of payment of relief payment) | |
| 013706 - 013911 | Admin | Clause 12 - Sections added (Proposed section 20C - Manner of payment of relief payment) | |
| 013911 - 014008 | Chairman | - ditto - | |
| 014008 - 014017 | Admin | - ditto - | |
| 014017 - 014110 | Chairman | - ditto - | |
| 014110 - 014230 | Admin | - ditto - | |
| 014230 - 014338 | Chairman | - ditto - | |
| 014338 - 014616 | Admin | - ditto - | |
| 014616 - 014632 | Chairman | Clause 12 - Sections added (Proposed section 20D - Cessation of payments under section 20C(2)(b)) | |
| 014632 - 014709 | Admin | - ditto - | |
| 014709 - 014801 | Chairman | - ditto - | |
| 014801 - 014826 | Admin | - ditto - | |
| 014826 - 014900 | Chairman | (a) Ditto; and (b) Clause 12 - Sections added (Proposed section 20E - When eligible person ceases to be entitled to relief payment) | |
| 014900 - 014944 | Admin | - ditto - | |
| 014944 - 015008 | Chairman | Clause 12 - Sections added (Proposed section 20F - Apportionment of relief payment) | |
| 015008 - 015203 | Admin | - ditto - | |
| 015203 - 015216 | Chairman | Clause 12 - Sections added (Proposed section 20G - Set-off) | |
| 015216 - 015246 | Admin | - ditto - | |
| 015246 - 015300 | Mr LEE Cheuk-yan | - ditto - | |
| 015300 - 015415 | Admin | - ditto - | |
| 015415 - 015740 | Chairman/members/ Admin | Dates of subsequent meetings | |
| 015740 - 015925 | Mr LEE Cheuk-yan | (a) Inclusion of the amounts of pre-trial loss of accumulation of wealth and post-trial loss of accumulation of wealth awarded to the estate in the calculation of relief payment in the case where an estate administrator who was also an eligible person under the Bill; and (b) Possibility of increasing the monthly relief payment in the case of severely injured employees requiring long term care | |

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| 015925 - 020001 | Chairman | - ditto - | |
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Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
12 June 2002