

立法會
Legislative Council

Ref : CB2/BC/8/01

LC Paper No. CB(2)2438/01-02
(These minutes have been seen by
the Administration)

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

**Minutes of the ninth meeting
held on Wednesday, 5 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 James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon CHAN Kwok-keung
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
- Members absent** : Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon Bernard CHAN
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 Geoffrey A FOX
Senior Assistant Law Draftsman

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 provide a paper explaining the principles of the proposed arrangement for interest payment payable by the Employees Compensation Assistance Fund Board (the Fund Board), and the operation of the proposed arrangement using an illustrative case.

3. In the light of the views expressed by some members, the Administration agreed to consider -

- (a) specifying in the proposed section 20F(1)(b) that where an eligible person died, the relief payment would be re-apportioned to the remaining eligible persons only when the death of the eligible person had come to the notice of the Fund Board;
- (b) deleting the proposed section 22(6)(b) and reviewing the drafting of the proposed section 22(6)(a); and
- (c) specifying in the proposed section 28(4) that the Fund Board should not be liable to pay the costs incurred by a person after the date of the offer made by the Fund Board to which the claim related, and whether it was necessary to retain the proposed section 28(5).

4. The Bills Committee would decide at the next meeting on whether the following proposals put forward by Hon LEE Cheuk-yan should be pursued by the Bills Committee -

- (a) some items of damages, such as pre-trial and post-trial loss of accumulation of wealth, awarded to the estate of the deceased employee should be taken into account when determining the amount of relief payment payable to eligible persons;
- (b) the prescribed monthly amount for seriously injured employees who required long term care and attention by other persons should be increased from \$10,000 to \$30,000; and
- (c) the level of surcharge imposed on uninsured employers should be increased from three times to 10 times the levy payable on the premium paid on the employees' compensation insurance policy taken out after the offence was detected.

5. The Administration informed members that as part of the introduction of the accountability system for principal officials, the policy bureaux would be reorganised. As a result, the Administration would make the necessary legislative amendments so as to transfer the respective statutory functions to the respective new principal officials with effect from 1 July 2002. A resolution to this effect would be moved by the Administration at the Council meeting on 19 June 2002. As the Bill contained two clauses which made reference to the Secretary for Education and Manpower, it was therefore necessary to make consequential amendments to the Bill upon the approval by the Legislative Council of the proposed resolution. However, as the Administration wished to resume the Second Reading debate on the Bill at the Council meeting on 26 June 2002, the deadline for giving notice of Committee Stage amendments would be 17 June 2002. Given that the said consequential amendments could not be finalised before 19 June 2002, the Administration appealed for members' support to seek the leave of the President to dispense with the notice requirement.

II. Date of next meeting

6. The Bills Committee agreed that the next meeting originally scheduled for 7 June 2002 at 4:00 pm be rescheduled to 7 June 2002 from 8:30 am to 12:45 pm.

7. There being no other business, the meeting ended at 11:00 am.

**Proceedings of the ninth meeting of the
Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002
held on Wednesday, 5 June 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000200	Chairman	Information provided by Admin on the time limit to file proof of debt by creditors under the Bankruptcy Ordinance (LC Paper No. CB(2)2181/01-02(01))	
000200 - 000353	Admin	- ditto -	
000353 - 000407	Chairman	- ditto -	
000407 - 000517	Admin	- ditto -	
000517 - 000545	Chairman	Admin's paper on application for assistance in relation to statutory compensation where the injured employee died before the compensation was determined (LC Paper No. CB(2)2181/01-02(02))	
000545 - 000734	Admin	- ditto -	
000734 - 000900	Chairman	- ditto -	
000900 - 000910	Admin	- ditto -	
000910 - 000921	Chairman	- ditto -	
000921 - 001026	Admin	- ditto -	
001026 - 001033	Chairman	- ditto -	
001033 - 001037	Admin	- ditto -	
Clause-by-clause examination of the Bill			
001037 - 001152	Chairman	Clause 13 - Applications	
001152 - 001236	Admin	- ditto -	
001236 - 001239	Chairman	- ditto -	
001239 - 001251	Admin	- ditto -	
001251 - 001305	Chairman	Clause 14 - Determination of applications by the Board	
001305 - 001336	Admin	- ditto -	
001336 - 001350	Chairman	- ditto -	
001350 - 001544	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
001544 - 001601	Chairman	Proposed arrangement for interest payment	
001601 - 001739	Admin	- ditto -	
001739 - 001824	Chairman	- ditto -	
001824 - 002143	Admin	- ditto -	
002143 - 002222	Chairman	- ditto -	
002222 - 002325	Admin	- ditto -	
002325 - 002347	Chairman	Proposed section 22(3)	
002347 - 002412	Admin	Proposed section 22(3)(a)	
002412 - 002426	Chairman	- ditto -	
002426 - 002506	Admin	Proposed section 22(3)(b)	
002506 - 002541	Chairman/ Admin	- ditto -	
002541 - 002615	Admin	Proposed section 22(3)(c)	
002615 - 002804	Chairman/Admin	- ditto -	
002804 - 003021	Admin	(a) Proposed section 22(3)(d); and (b) Proposed section 22(3)(e)	
003021 - 003043	Mr Kenneth TING/ Chairman	Time limit for the Fund Board to process applications	
003043 - 003320	Admin	- ditto -	
003320 - 003340	Mr Kenneth TING	- ditto -	
003340 - 003418	Chairman	- ditto -	
003418 - 003440	Mr Kenneth TING	- ditto -	
003440 - 003648	Mr Andrew CHENG	Request for Admin to provide a paper explaining the principles of the proposed arrangement for interest payment	
003648 - 003944	Admin	- ditto -	
003944 - 004016	Mr Andrew CHENG	- ditto -	
004016 - 004124	Chairman	- ditto -	
004124 - 004149	Admin	Principles of the proposed arrangement for interest payment	
004149 - 004207	Chairman	Proposed section 22(3)(b) and (c)	
004207 - 004247	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
004247 - 004253	Chairman	- ditto -	
004253 - 004342	Admin	- ditto -	
004342 - 004440	Chairman	- ditto -	
004440 - 004449	Admin	- ditto -	
004449 - 004458	Chairman	- ditto -	
004458 - 004542	Admin	- ditto -	
004542 - 004622	Chairman	- ditto -	
004622 - 004638	Admin	- ditto -	
004638 - 004658	Mr Kenneth TING	Different arrangements for employers and employees in respect of application for payment from the Fund and the proposed arrangement for interest payment	
004658 - 004723	Chairman	- ditto -	
004723 - 004913	Admin	- ditto -	
004913 - 004938	Mr Kenneth TING	- ditto -	
004938 - 004959	Admin	- ditto -	
004959 - 005025	Chairman	- ditto -	
005025 - 005035	Admin	- ditto -	
005035 - 005055	Mr Kenneth TING	- ditto -	
005055 - 005134	Mr Andrew CHENG	Request for Admin to set out in the paper to be provided to members the operation of the proposed arrangement for interest payment	
005134 - 005208	Chairman	- ditto -	
005208 - 005213	Admin	- ditto -	✓ Admin to provide a paper
005213 - 005217	Chairman	Proposed section 22(4)	
005217 - 005352	Admin	- ditto -	
005352 - 005357	Chairman	- ditto -	
005357 - 005407	Admin	- ditto -	
005407 - 005512	Chairman	- ditto -	
005512 - 005534	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
005534 - 005600	Chairman	- ditto -	
005600 - 005653	Admin	- ditto -	
005653 - 005726	Chairman	Reasons for addressing the issue of interest and surcharge payable under the Employees' Compensation Ordinance in both the proposed sections 18A and 22	
005726 - 005858	Admin	- ditto -	
005858 - 005913	Chairman	- ditto -	
005913 - 005930	Admin	- ditto -	
005930 - 010000	Chairman	- ditto -	
010000 - 010102	Admin	- ditto -	
010102 - 010108	Chairman	Proposed section 22(5)	
010108 - 010126	Admin	- ditto -	
010126 - 010130	Chairman	Proposed section 22(6)	
010130 - 010204	Admin	- ditto -	
010204 - 010216	Chairman	- ditto -	
010216 - 010242	Admin	- ditto -	
010242 - 010325	Mr Andrew CHENG	Criteria for determining whether the manner of the Fund Board in varying a determination of an application was not inconsistent with the provisions of the Bill	
010325 - 010537	Admin	- ditto -	
010537 - 010652	Mr Andrew CHENG	- ditto -	
010652 - 010727	Admin	- ditto -	
010727 - 010730	Chairman	- ditto -	
010730 - 010753	Admin	- ditto -	
010753 - 010800	Chairman	- ditto -	
010800 - 010813	Mr Andrew CHENG	- ditto -	
010813 - 010910	Admin	- ditto -	
010910 - 011006	Mr Andrew CHENG	Reasons for having the proposed section 22(6)(b)	
011006 - 011230	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
011230 - 011401	Mr Andrew CHENG	- ditto -	
011401 - 011519	Admin	Admin agreed to consider deleting the proposed section 22(6)(b) and reviewing the drafting of the proposed section 22(6)(a)	✓ Admin to consider
011519 - 011642	Mr Andrew CHENG	- ditto -	
011642 - 011720	Admin	- ditto -	
011720 - 011727	Mr Andrew CHENG	- ditto -	
011727 - 011855	Chairman	Re-apportionment of relief payment upon the death of one of the eligible persons	
011855 - 012010	Admin	- ditto -	
012010 - 012048	Chairman	- ditto -	
012048 - 012155	Admin	- ditto -	
012155 - 012237	Chairman	- ditto -	
012237 - 012313	Admin	- ditto -	
012313 - 012333	Chairman	- ditto -	
012333 - 012537	Mr James TIEN	- ditto -	
012537 - 012703	Admin	- ditto -	
012703 - 012716	Mr James TIEN	- ditto -	
012716 - 012822	Admin/ Mr James TIEN	- ditto -	
012822 - 012855	Chairman	Need to consider specifying in the proposed section 20F(1)(b) that where an eligible person died, the relief payment would be re-apportioned to the remaining eligible persons only when the death of the eligible person had come to the notice of the Fund Board	
012855 - 012944	Admin	- ditto -	
012944 - 013036	Chairman	- ditto -	
013036 - 013044	Admin	- ditto -	✓ Admin to consider
013044 - 013103	Chairman	Clause 15 - Costs	
013103 - 013123	Admin	- ditto -	
013123 - 013142	Chairman	- ditto -	
013142 - 013345	Admin	(a) Clause 16 - Board liable in certain proceedings; and (b) Clause 17 - Sections added (25A and 25B)	

Time	Speaker	Subject(s)	Action required
013345 - 013452	Chairman	Deferment of discussion on the proposed section 25A and 25B with proposed Committee Stage amendments	
013452 - 013542	Admin	Clause 18 - Priority of payments from the Fund	
013542 - 013607	Chairman	- ditto -	
013607 - 013755	Admin	Principles of the order of priority of payments from the Fund	
013755 - 013808	Ms LI Fung-ying	- ditto -	
013808 - 013919	Admin	- ditto -	
013919 - 013923	Chairman	- ditto -	
013923 - 013932	Admin	- ditto -	
013932 - 013949	Chairman	- ditto -	
013949 - 014032	Admin/ Chairman	- ditto -	
014032 - 014224	Admin	Proposed section 26(2)(a), (b) and (ba)	
014224 - 014237	Chairman	- ditto -	
014237 - 014435	Admin	Proposed section 26(2)(bb), (bc) and (bd)	
014435 - 014532	Chairman	- ditto -	
014532 - 014701	Admin	Clause 19 - Payments in anticipation of entitlement under section 16, etc	
014701 - 014715	Chairman	- ditto -	
014715 - 014733	Admin	- ditto -	
014733 - 014740	Chairman	- ditto -	
014740 - 014816	Admin	- ditto -	
014816 - 014834	Chairman	Clause 20 - Interpretation	
014834 - 014918	Admin	- ditto -	
014918 - 014928	Chairman	- ditto -	
014928 - 015237	Admin/ Chairman	- ditto -	
015237 - 015440	Mr Andrew CHENG	Policy intent of replacing the original section 28(2) with the proposed section 28(2) to 28(6)	
015440 - 015656	Admin	- ditto -	
015656 - 015824	Mr Andrew CHENG	- ditto -	

Time	Speaker	Subject(s)	Action required
015824 - 020058	Admin	- ditto -	
020058 - 020209	Mr Andrew CHENG	- ditto -	
020209 - 020305	Admin	- ditto -	
020305 - 020407	Mr James TIEN	- ditto -	
020407 - 020733	Chairman	Drafting of the proposed section 28(4) and (5)	
020733 - 020806	Admin	- ditto -	
020806 - 020822	Mr LEE Cheuk-yan	- ditto -	
020822 - 020830	Chairman	- ditto -	
020830 - 020847	Mr LEE Cheuk-yan	- ditto -	
020847 - 020931	Chairman	- ditto -	
020931 - 020950	Mr Andrew CHENG	- ditto -	
020950 - 021017	Admin	- ditto -	
021017 - 021040	Chairman	- ditto -	
021040 - 021055	Admin	Admin agreed to consider specifying in the proposed section 28(4) that the Fund Board should not be liable to pay the costs incurred by a person after the date of the offer made by the Fund Board to which the claim related, and whether it was necessary to retain the proposed section 28(5)	✓ Admin to consider
021055 - 021512	Chairman Admin Members	Date and time of next meeting	
021512 - 021528	Mr LEE Cheuk-yan	Proposals put forward by Mr LEE which Admin had no intention to pursue	
021528 - 021544	Chairman	- ditto -	
021544 - 021556	Mr LEE Cheuk-yan	- ditto -	
021556 - 021609	Mr James TIEN	- ditto -	
021609 - 021615	Chairman	- ditto -	
021615 - 022033	Mr LEE Cheuk-yan	(a) Details of the proposals put forward by Mr LEE; and (b) Power of LegCo to amend the proposed schedule 4 after enactment of the Bill	
022033 - 022052	Chairman	Need to move Committee Stage amendments to transfer the statutory functions of the Secretary for Education and Manpower under the Bill to the new principal official upon the approval by LegCo of the proposed resolution on the accountability system for principal officials to be moved by Admin at the Council meeting on 19 June 2002	

Time	Speaker	Subject(s)	Action required
022052 - 022137	Admin	- ditto -	
022137 - 022152	Mr LEE Cheuk-yan	Power of LegCo to amend the proposed schedule 4 after enactment of the Bill	
022152 - 022213	Chairman	- ditto -	

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

Council Business Division 2
Legislative Council Secretariat
27 June 2002