

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

**The Administration's Response –
Raising the level of initial payment of relief payment**

Introduction

This paper provides information requested by members of the Bills Committee at the meeting held on 9 May 2002 on the following aspects –

- (a) financial assessment for an initial relief payment at \$2 million; and
- (b) the Administration's response to the proposal.

(A) Financial assessment for an initial relief payment at \$2 million

Background

2. The Administration considers that the Employees Compensation Assistance Scheme (the Scheme) should no longer assume the liabilities of employers in paying common law damages due to the negligence of or breach of duty by such employers. Instead, it is proposed that the Scheme should provide assistance in the form of relief payment to injured employees or their families who have been awarded damages by the Court. The proposed relief payment shall be payable in the form of an initial lump sum payment plus monthly payments.

3. In respect of the initial lump sum payment, the limit of \$1.5 million was arrived at after taken into consideration the distribution of the amount of assistance in respect of common law damages assisted by the Employees Compensation Assistance Fund Board (the Board) since its inception. Under the proposed limit, the majority of the injured employees receiving assistance from the Scheme would be able to receive the full entitlement of the relief payment within a reasonable period of time.

Financial assessment

4. In the meeting held on 9 May 2002, the Bills Committee requested for a financial assessment of an initial relief payment at \$2 million. We have conducted the assessment.

5. Since the inception of the Scheme in 1991, the Board has assisted 103 cases involving common law damages. Out of these 103 cases, there were 16 cases (or 15.5%) with assistance for damages exceeding \$2 million. Based on the above proportion and the assumption that there will be 20 cases requiring assistance in the form of relief payment per year, it is estimated that the Board has to assist three cases with damages exceeding \$2 million in each year.

6. If the level of initial payment is raised from \$1.5 million to \$2 million, the additional payouts arising from the increase will be \$1.5 million per year. This will increase the total annual expenditure of the Scheme from \$41.3 million to \$42.8 million. While the long term annual levy income of the Scheme would stabilise at around \$72.5 million, the surplus is needed to repay the Government loan at no-gain-no-loss rate of interest. The total amount of Government loan is estimated to be in the region of \$270 million.

7. The additional liabilities arising from raising the level of the initial payment will have an accumulated effect of draining the resources of the Scheme over the years. Coupled with the need to repay the Government loan in 10 years starting from 2006/07, the reserve of the Scheme will drop to a risky low level at the end of the repayment period¹.

(B) Administration's Response to the Proposal

8. The Administration does not support the proposal of raising the level of the initial payment on the following grounds:

- (a) The present level of the initial payment of \$1.5 million is reached on the basis of a consensus of the Labour Advisory Board after prolonged discussion in the meetings. This level strikes a balance between the interests of employers and injured employees by according reasonable protection to the latter who have been awarded common law damages by the Court, while ensuring the long term financial viability of the Scheme.

¹ Due to the deferment of the repayment schedule and the capitalisation of the interests incurred during the period of deferment, the Board would have to repay the Government in 10 annual instalments of \$41.63 million.

- (b) It is demonstrated that if the level of initial payment is raised from \$1.5 million to \$2 million, it would have adverse financial implication on the cash flow of the Scheme as mentioned in paragraph 7, which would jeopardise the objective of restoring the financial viability of the Scheme.

Labour Department
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