



Labour Department (Headquarters)

勞工處 (總處)

Your reference 來函編號 : LS/B/20/01-02

Our reference 本處檔案編號 : LD HQ/711/244/2

Tel. number 電話號碼 :

Fax number 傳真機號碼 :

15 February 2003

Miss Kitty Cheng
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Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Cheng,

Occupational Deafness (Compensation)(Amendment) Bill 2002

At the meeting of the Bills Committee held on 27.1.2003, a Member indicated intention to move a Committee Stage Amendment (CSA) to the effect that a claimant can be entitled to compensation even if he has not at any time been employed under a continuous contract in any noisy occupation within the 12 months before the date of application. The Member also enquired if the proposed CSA would likely be outside the scope of the Occupational Deafness (Compensation) (Amendment) Bill 2002 (the Bill). Our view is set out below.

Scope of the proposed CSA

The proposed CSA involves an amendment to section 14(2)(b)(ii) of the Occupational Deafness (Compensation) Ordinance (the principal Ordinance) which stipulates a condition for entitlement to compensation, namely, a person who suffers noise-induced deafness is entitled to such compensation as determined by the Board if he also satisfies the Board that he has at any time been employed under a continuous contract in any noisy occupation in Hong Kong within the 12 months before the date of his relevant application under section 15.

Scope of the Bill

The scope of the present Bill is defined, both in the long title of the Bill and the Explanatory Memorandum to the Bill. As stated in its Long Title and Explanatory Memorandum, the Bill sets out to amend ODCO to –

- (a) amend the long title;
- (b) provide for the reimbursement of expenses incurred in relation to hearing assistive devices;
- (c) add four new noisy occupations;
- (d) revise the scale of percentage of permanent incapacity prescribed by reference to noise-induced deafness;
- (e) revise the maximum and minimum levels of compensation;
- (f) disregard no-pay leave in the computation of a claimant's period of employment for the purpose of determining his earnings;
- (g) empower the Occupational Deafness Compensation Board (the Board) to conduct or finance programmes for the rehabilitation of persons suffering from noise-induced deafness by reason of employment;
- (h) amend certain procedural requirements concerning the payment of compensation; and
- (i) provide for related matters.

None of the provisions in the Bill pertains to conditions for entitlement to compensation referred to in section 14 of the principal Ordinance.

The Administration's view

According to paragraph 57(4)(a) of the Rules of Procedure of the LegCo, "an amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates".

Against this background, the Administration is of the view that the proposed CSA, if moved, will be outside the scope of the Bill.

Yours sincerely,

(Mrs Jenny Chan)
for Commissioner for Labour

c.c. DoJ (Attn : Mr Sunny Chan)
DoJ (Attn : Miss Amy Chan)