

LS/B/20/01-02

Mrs Jenny Chan
Assistant Commissioner for Labour
Labour Department
16/F, Harbour Building
38 Pier Road
Central
Hong Kong

By Fax and By Post

19 December 2002

Dear Mrs Chan,

Occupational Deafness (Compensation) (Amendment) Bill 2002

I am in the course of scrutinizing the drafting and procedural aspects of the above Bill and would be pleased for your clarification on the following questions:-

Clause 3 - Long title

Do you think that it would be more appropriate if the Long Title of the Bill is worded as "[a]n Ordinance to provide for *compensation and other benefits for persons who ...*" instead of "for *the compensation and other benefits of persons who ...*"?

Clause 7 - Determination of compensation

Clause 7 adds a new condition to the existing provision as to the determination of compensation. New section 21 provides that where the Occupational Deafness Compensation Board ("the Board") has determined the percentage of permanent incapacity of a claimant, the Board shall determine the amount of compensation payable to him in accordance with Schedule 5 (Amount of Compensation) *as in force on the date of the determination of such amount, irrespective of the date of the application under section 15 (Application for Compensation) to which the determination relates.* Please explain the intention of such amendment.

Clause 9 - Section 27B (Reimbursement of expenses in relation to hearing assistive devices)

New section 27B(1)(c) provides that a person who has been paid by the Government a pension or gratuity under any Ordinance in consequence of incapacity resulting from noise-induced deafness which arose in the course of his employment may apply to the Board to be reimbursed for any expenses he has reasonably incurred in the acquisition, fitting, repair or maintenance of a hearing assistive device used by him in connection with his noise-induced deafness.

Please explain the operation of this provision. Please advise the Bills Committee which particular Ordinance(s) the Administration has in mind in relation to the application of this provision.

Clause 12 - Priority of Payment

Under new section 30A(3), where the Board has come to the opinion that the available funds of the Occupational Deafness Compensation Fund ("the Fund") are insufficient to pay all amounts of compensation and reimbursement of expenses within the prescribed periods, it shall attach to any certificate of notice referred to in new section 30A(1) a statement "indicating" that the compensation or reimbursement of expenses is payable in the manner described in new section 30A(1) and (2). The Bill no doubt requires the Board to pay compensation or reimbursement of expenses in a prescribed manner in the case that the Fund is insufficient to make full payment to all claimants. Since the word "indicating" connotes the showing of a sign of something, I wonder if you would consider the use of the word "informing" or "advising" instead of "indicating"?

I look forward to your reply at your earliest convenience, preferably before the second meeting of the Bills Committee.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

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