

LEGISLATIVE COUNCIL BRIEF

Occupational Deafness (Compensation) Ordinance
(Chapter 469)

Occupational Deafness (Compensation) (Amendment) Bill 2002

INTRODUCTION

At the meeting of the Executive Council on 19 March 2002, the Council ADVISED and the Chief Executive ORDERED that the Occupational Deafness (Compensation) (Amendment) Bill 2002, at Annex A, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Occupational Deafness Compensation Scheme

2. The Occupational Deafness Compensation Scheme (the Scheme) was set up in 1995 under the Occupational Deafness (Compensation) Ordinance (the Ordinance) to provide compensation to employees who have been engaged in specified noisy occupations and suffered from noise-induced deafness. Compensation is paid for permanent loss of earning capacity. To be eligible for compensation under the Scheme, a person has to fulfill both disability and occupational requirements. For the disability requirement, a person should be suffering from sensorineural hearing loss amounting to a specified level in both ears.

3. The Scheme is administered by the Occupational Deafness Compensation Board (the Board) and is currently financed by a levy of 2.3% on the employees' compensation insurance premium paid by employers. However, in view of the financial difficulties encountered by the Employees Compensation Assistance Scheme (ECAS), we have introduced the

Employees Compensation Assistance (Amendment) Bill 2002 into the Legislative Council on 27 February 2002. That Amendment Bill aimed, inter alia, to reduce the levy rate for the Occupational Deafness Compensation Board by 1.1 percentage point between 2002-03 and 2006-07 and by 0.5 percentage point thereafter, so as to enable the levy rate of ECAS to be increased correspondingly.

4. The Scheme was last reviewed in 1996. Most of the recommendations arising from the review were implemented by the Occupational Deafness (Compensation) (Amendment) Ordinance 1998 (the Amendment Ordinance 1998). However, due to financial constraints, three recommendations to improve the benefits to employees were not implemented. These included regular review of the minimum and maximum levels of compensation, adjusting upwards the percentage of permanent incapacity and providing hearing assistive devices. During the legislative process in 1998, the Government undertook to carry out a further review of the Scheme two years after the enactment of the Amendment Ordinance 1998.

Review of the Scheme

5. Against the above background, the Commissioner for Labour appointed a Working Group (WG) in December 2000 to conduct a further review of the Scheme. The WG comprised an audiologist, medical professionals as well as representatives of employers, employees, the Board, Education and Manpower Bureau and the Labour Department. The WG completed the review in July 2001 and put forward a number of recommendations.

The Proposal

6. Having carefully examined the recommendations of the WG and the views expressed in the consultation period, we have formulated a package of improvements to the Scheme which include the following -

- (a) to raise the minimum and maximum levels of compensation in accordance with the rate of nominal wage increase (paragraph 8 below);
- (b) to revise upwards the percentage of permanent incapacity whilst maintaining the maximum level at 60% (paragraphs 9 and 10

below);

- (c) to provide reimbursement of expenses incurred in purchasing, repairing and replacing hearing assistive devices (paragraphs 11 and 12 below);
- (d) to add four new specified noisy occupations (paragraph 13 below);
- (e) to empower the Board to conduct or finance rehabilitation programmes (paragraph 14 below); and
- (f) to disregard no-pay leave in determining a claimant's earnings (paragraph 15 below).

7. The proposed improvements to the Scheme will result in higher expenditure by the Board. However, as at the end of December 2001, the Board has built up a sizable reserve of \$236 million. It should have sufficient financial resources to implement all the improvement measures even after the proposed reduction of levy mentioned in paragraph 3 above.

Package of improvements

(A) To raise the minimum and maximum levels of compensation in accordance with the rate of nominal wage increase

8. Under the Ordinance, the amount of compensation payable is calculated with reference to the age, monthly earnings and percentage of permanent incapacity of the claimant. It is also subject to minimum and maximum levels, and the existing minimum and maximum levels have been used since 1995. To preserve the value of compensation so that it would not be eroded by changes in wage movement in recent years, it is proposed that the minimum level of compensation should be raised from the existing \$248,000 to \$341,000, and the maximum level from \$1.44 million to \$2.016 million. This is in line with the Government policy of adjusting the levels of compensation under the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance. Details of the calculation are shown in Annex B.

(B) To revise upwards the percentage of permanent incapacity whilst maintaining the maximum level at 60%

9. In determining the amount of compensation, the degree of hearing loss suffered by a claimant will be translated into the percentage of permanent incapacity in accordance with the existing Schedule 4 of the Ordinance (Annex C). Having taken reference to the scales adopted by Singapore and the United Kingdom, we propose to revise the existing scale of percentages of permanent incapacity for different levels of hearing loss so as to improve benefits to claimants. The proposed Schedule 4 is at Annex D.

10. The current maximum level of loss of earning capacity of 60% will be maintained as this level is broadly comparable to those adopted in other countries such as Singapore, Australia and USA. Moreover, noise-induced deafness normally develops insidiously over a long period of time, and a person suffering from such deafness is more likely to be able to continue working without suffering total loss of earning capacity.

(C) To provide reimbursement of expenses incurred in purchasing, repairing and replacing hearing assistive devices

11. To enable persons suffering from occupational deafness to overcome the difficulties in communicating with other people, we propose to provide hearing assistive devices to claimants who are successful in obtaining compensation for permanent incapacity under the Ordinance. It is further recommended that this new item should be paid by way of reimbursement of the expenses incurred and subject to a maximum amount in aggregate per applicant. This maximum amount is set with reference to the prevailing cost of hearing assistive devices in the market.

12. If the device is a hearing aid, we propose that it must be purchased on the recommendation of qualified professionals in order to ensure that the applicant will benefit from the appropriate device that suits his need.

(D) To add four new specified noisy occupations

13. To be eligible for compensation under the Ordinance, claimants have to prove that they have worked for a minimum period of time in any of the specified noisy occupations. At present, there are 25 specified noisy occupations in Schedule 3 of the Ordinance. Having made reference to the

results of noise surveys conducted by the Labour Department in respect of 43 work processes/posts and a noise survey report of Singapore on disc jockeys, it is proposed that the list of specified noisy occupations should be expanded to include -

- (a) slaughterhouse employees working near the point of electrocution of pigs;
- (b) mahjong parlour workers employed wholly or mainly to play mahjong;
- (c) bartenders and waiters working near the dancing area in discotheques; and
- (d) disc jockeys working in discotheques.

(E) To empower the Board to conduct or finance rehabilitation programmes

14. It is noted that while occupational deafness is incurable, rehabilitation services may help deafness sufferers to overcome the obstacles caused by the disability at work and in life. It is proposed that the Board should be empowered to conduct or finance rehabilitation programmes for occupational deafness sufferers.

(F) To disregard no-pay leave in determining a claimant's earnings

15. In determining a claimant's earnings for the purpose of calculating the compensation payable, it is proposed that the Board should disregard no-pay leave taken with the consent of the employer during the last 12 months' of employment in aggregate. This will better reflect the average earnings of claimants and also fall in line with the current practice with regard to maternity leave and sick leave.

THE BILL

16. The main provisions of the Bill are -

- (a) **Clause 2** amends the long title of the Ordinance.

- (b) **Clause 4** amends section 5 to add two new functions of the Board.
- (c) **Clause 6** amends section 13 to add two new functions of the Occupational Deafness Medical Committee.
- (d) **Clause 9** adds a new Part VIIA which provides for the following matters concerning the reimbursement of expenses in relation to hearing assistive devices -
 - (i) entitlement to reimbursement of expenses (new section 27B);
 - (ii) limits of the amount of reimbursement of expenses (new section 27C);
 - (iii) application procedure (new section 27D);
 - (iv) determination of application (new section 27E);
 - (v) review of determination of application (new section 27F); and
 - (vi) payment of reimbursement of expenses (new section 27G).
- (e) **Clause 10** amends section 28 to provide for an appeal channel for an applicant who is dissatisfied with the result of the review of his application for reimbursement of expenses.
- (f) **Clause 11** amends section 30 to create an offence of providing false information in an application for reimbursement of expenses.
- (g) **Clause 12** adds a new section to provide for the priority of payment of compensation and reimbursement of expenses where there are insufficient funds to make all payments within the prescribed time limits.
- (h) **Clause 16** amends Schedule 3 to add four noisy occupations.
- (i) **Clause 17** amends Schedule 4 which sets out the percentage of permanent incapacity by reference to hearing loss.
- (j) **Clause 18** amends Schedule 5 to revise the minimum and maximum levels of compensation.
- (k) **Clause 19** creates a new Schedule 6 which prescribes kinds of hearing assistive devices for the purposes of the new Part VIIA, and a new Schedule 7 which prescribes the limits of reimbursement of expenses.

PUBLIC CONSULTATION

17. The Board and the Labour Advisory Board have been consulted and agreed with the proposed amendments. The Legislative Council Panel on Manpower has also been consulted on the proposal.

BASIC LAW IMPLICATIONS

18. The Department of Justice advises that the proposed legislation does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

19. The Department of Justice advises that the proposed legislation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

20. The amendment will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

21. Enactment of the Bill itself will have no financial or staffing implication for the Government.

ECONOMIC IMPLICATIONS

22. As the increased payments stemming from the proposed improvements to the Scheme can be met from within the levy rate on the employees' compensation insurance premium paid by employers, there should not be additional compliance cost on the part of the business sector.

LEGISLATIVE TIMETABLE

23. The legislative timetable for the Bill is as follows -

Publication in the Gazette	28 March 2002
First Reading and commencement of Second Reading debate	17 April 2002
Resumption of Second Reading debate, Committee stage and Third Reading	to be notified

PUBLICITY

24. A press release will be issued on 28 March 2002. A spokesman of the Labour Department will be available to handle press enquiries.

Education and Manpower Bureau
March 2002

**OCCUPATIONAL DEAFNESS (COMPENSATION)(AMENDMENT)
BILL 2002**

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REIMBURSEMENT OF EXPENSES IN RELATION TO HEARING ASSISTIVE DEVICES		
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A BILL

To

Amend the Occupational Deafness (Compensation) Ordinance to –

- (a) amend the long title;
- (b) provide for the reimbursement of expenses incurred in relation to hearing assistive devices;
- (c) add 4 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 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.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Occupational Deafness (Compensation)(Amendment) Ordinance 2002.

2. Long title amended

The long title to the Occupational Deafness (Compensation) Ordinance (Cap. 469) is amended by adding "and other benefits" after "compensation".

3. Interpretation

Section 2 is amended by adding –

""applicant" (申請人) means a person who makes an application for reimbursement of expenses under section 27D;

"hearing assistive device" (聽力輔助器具) means a device prescribed in Schedule 6 and any component or accessory of such device;

"reimbursement of expenses" (付還開支) means the reimbursement of any expenses under Part VIIA;".

4. Functions and powers of the Board

Section 5(1) is amended –

(a) in paragraph (c), by adding "or reimbursement of expenses" after "compensation";

(b) in paragraph (da), by repealing "and" at the end;

(c) by adding –

"(db) to conduct or finance programmes for the rehabilitation of persons suffering from noise-induced deafness by reason of employment; and".

5. Payments by the Board from the Fund

Section 8 is amended by adding –

"(aa) reimbursement of expenses;".

6. Functions of Medical Committee

Section 13 is amended –

- (a) in paragraph (d), by repealing "; and" and substituting "or 27E(3)(b)(i);";
- (b) by adding –
 - "(da) to recommend to the Board categories of persons that may be designated under section 36(1)(e); and".

7. Determination of compensation

Section 21 is amended by adding "as in force on the date of the determination of such amount, irrespective of the date of the application under section 15 to which the determination relates" after "5".

8. Payment of compensation

Section 25 is amended –

- (a) in subsections (1) and (2), by repealing "subsection (7)" and substituting "section 30A";
- (b) by repealing subsection (3) and substituting –
 - "(3) Compensation that remains unpaid at the expiry of the period prescribed in subsection (1) or (2) shall carry simple interest as from the date of such expiry until such time as it is paid, calculated at the rate determined from time to time by the Chief Justice for the purposes of section 49(1)(b) of the High Court Ordinance (Cap. 4).";
- (c) by repealing subsections (4) to (8).

9. Part added

The following is added –

"PART VIIA
REIMBURSEMENT OF EXPENSES IN RELATION TO
HEARING ASSISTIVE DEVICES

27B. Reimbursement of expenses in relation to hearing assistive devices

- (1) A person who –
- (a) is entitled to compensation pursuant to a determination made under section 21;
 - (b) is entitled to compensation pursuant to a court order made under section 28; or
 - (c) 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 on application to the Board be reimbursed by the Board 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.

(2) The following expenses are not reimbursable under subsection (1) –

- (a) expenses incurred before the date on which –
 - (i) a certificate was issued to the person under section 24(1);

- (ii) the court order referred to in subsection (1)(b) was made; or
 - (iii) any pension or gratuity referred to in subsection (1)(c) was first paid to him; and
- (b) expenses met by any grant, sponsorship or donation given to him by any person for the purpose of the acquisition, fitting, repair or maintenance of a hearing assistive device.
- (3) Expenses incurred in relation to a hearing assistive device that is a hearing aid shall not be reimbursed under subsection (1) unless advice in writing indicating that the applicant reasonably requires the use of the hearing aid has been given by a person belonging to a category of persons designated under section 36(1)(e).

27C. Limits of reimbursement of expenses

(1) The amount of expenses that may be reimbursed to an applicant for the first time in respect of an application under section 27D in relation to the acquisition and fitting of a hearing assistive device shall not exceed the amount prescribed for the purposes of this subsection in Schedule 7, as in force on the date of the determination by the Board under section 27E(1)(b) in respect of such application.

(2) The amount of expenses that may be reimbursed to an applicant shall not in aggregate exceed the amount prescribed for the purposes of this subsection in Schedule 7, as in force on the date of the first determination by the Board under section 27E(1)(b) in respect of the applicant.

27D. Application for reimbursement of expenses

(1) An application for reimbursement of expenses shall be in a specified form and shall be made within a period of 12 months beginning on the date on which the expenses were incurred.

(2) An application made under subsection (1) shall be accompanied by –

- (a) the original receipt issued in respect of the expenses to which the application relates; and
- (b) if the expenses relate to a hearing aid, the advice referred to in section 27B(3), unless the advice has already been sent to the Board.

27E. Determination of application

(1) The Board shall consider any application made under section 27D, and shall determine in accordance with sections 27B, 27C and 27D –

- (a) whether or not the applicant is entitled to reimbursement of any expenses; and
- (b) if he is entitled to reimbursement of any expenses, the amount of that reimbursement.

(2) The Board shall by notice in writing inform an applicant of its determination under subsection (1).

(3) For the purposes of making a determination under subsection (1), the Board may –

- (a) require an applicant to undergo such test or examination as it considers necessary, at the cost of the Board;
- (b) refer any information relevant to an application to –
 - (i) the Medical Committee;

- (ii) a designated medical practitioner; or
- (iii) a person belonging to a category of persons designated under section 36(1)(e),

for advice as to whether the use by the applicant of the relevant hearing assistive device or the repair or maintenance of such device is or was reasonably required.

(4) Where an applicant fails without reasonable excuse to undergo a test or examination required under subsection (3)(a), the Board may determine that he is not entitled to any reimbursement of expenses.

27F. Review of determination

(1) An applicant in respect of whom a determination has been made under section 27E(1) may request the Board to review the determination.

(2) A request under subsection (1) shall –

- (a) be in writing;
- (b) be sent to the Board within a period of 14 days beginning on the date of the notice issued to him under section 27E(2); and
- (c) state the reasons for requesting the review.

(3) The Board may, if it thinks fit, extend the time limit mentioned in subsection (2)(b).

(4) Upon receipt of a request under subsection (1), the Board shall review its determination and may, after the review, confirm, vary or reverse the determination.

(5) The Board shall by notice in writing inform the applicant of the result of its review.

(6) No request for review shall be made under subsection (1) in respect of any amount of reimbursement of expenses the payment of which has been made by the Board and received by the applicant.

27G. Payment of reimbursement of expenses

(1) Subject to section 30A, where an applicant is entitled to any amount pursuant to a determination made under section 27E(1)(b), the Board shall pay the amount to the applicant within a period of 21 days beginning on the date of the notice issued to him under section 27E(2).

(2) Where a request has been made for the review of a determination of the Board under section 27F(1), subsection(1) shall not apply in respect of any amount payable under the determination.

(3) Subject to section 30A, any amount payable to an applicant at the conclusion of a review shall be paid within a period of 21 days beginning on the date of the notice issued under section 27F(5).

(4) Any amount of reimbursement of expenses that remains unpaid at the expiry of the period prescribed in subsection (1) or (3) shall carry simple interest as from the date of such expiry until such time as it is paid, calculated at the rate determined from time to time by the Chief Justice for the purposes of section 49(1)(b) of the High Court Ordinance (Cap. 4).

27H. Death of applicant

Where an applicant to whom any amount is payable pursuant to a notice issued under section 27E(2) or 27F(5) dies before the amount is paid to him, that amount shall be payable to his estate."

10. Appeal

Section 28 is amended –

(a) by adding –

"(1A) An applicant who is dissatisfied with the result of a review conducted under section 27F(4) may appeal to the District Court.";

(b) in subsection (2), by repealing everything after "months from" and substituting "the date of the written result of review issued under section 23(2), or of the certificate issued under section 24(3) or of the notice issued under section 27F(5) (as the case may be).".

11. Offence

Section 30(1) is amended by adding "or reimbursement of expenses" after "compensation".

12. Section added

The following is added –

"30A. Priority of payment

(1) If in the opinion of the Board, the available funds of the Fund are insufficient to pay all amounts of compensation and reimbursement of expenses within the periods prescribed for their payment, the Board shall apply the available funds in payment of the compensation and reimbursement of expenses in order of priority of the dates of the certificates or notices issued under section 24(1), 24(3), 27E(2) or 27F(5) (as the case may be).

(2) Where the dates of any 2 or more certificates or notices referred to in subsection (1) are the same, the order of priority of payment for the

purposes of that subsection is to be determined by reference to the dates of birth of the relevant claimants or applicants, with the amount payable in relation to the claimant or applicant who was born earlier being paid first.

(3) Where the Board has come to the opinion described in subsection (1), it shall attach to any certificate or notice referred to in that subsection a statement indicating that the compensation or reimbursement of expenses to which the certificate or notice relates is payable in the manner described in subsections (1) and (2)."

13. Compensation or reimbursement of expenses not to be assigned, charged or attached

Section 32 is amended by adding "or reimbursement of expenses" after "compensation" where it twice appears.

14. Designations by the Board

Section 36(1) is amended –

- (a) in paragraph (d), by repealing the full stop and substituting a semicolon;
- (b) by adding –
 - "(e) the categories of persons who may give an advice under section 27B(3) or 27E(3)(b)(iii)."

15. Amendment of Schedules

Section 39 is amended –

- (a) in subsection (2), by repealing "and 5" and substituting ", 5 and 7";
- (b) by adding –

"(3) The Secretary may, by notice in the Gazette, amend Schedule 6."

16. Noisy occupations

Schedule 3 is amended –

- (a) in paragraph (x), by repealing "or" at the end;
- (b) in paragraph (y), by repealing the full stop and substituting a semicolon;
- (c) by adding –
 - "(z) work wholly or mainly in the immediate vicinity of a place where the electrocution of pigs takes place;
 - (za) playing mahjong (as the major duty) inside a mahjong parlour licensed under section 22(1)(b) of the Gambling Ordinance (Cap. 148);
 - (zb) work wholly or mainly in the immediate vicinity of the dancing area of a place commonly known as a "discotheque"; or
 - (zc) work in controlling or operating instruments or systems for playing back and broadcasting pre-recorded music in a place commonly known as a "discotheque".

17. Schedule substituted

Schedule 4 is repealed and the following substituted –

"SCHEDULE 4 [ss. 20, 39 & 48]
 PERCENTAGE OF PERMANENT INCAPACITY BY REFERENCE
 TO NOISE-INDUCED DEAFNESS

Average hearing loss (dB) at 1, 2, 3 kHz frequencies as determined by the Board		FOR BETTER EAR											
		40 to below 45 dB	45 to below 50 dB	50 to below 55 dB	55 to below 60 dB	60 to below 65 dB	65 to below 70 dB	70 to below 75 dB	75 to below 80 dB	80 to below 85 dB	85 to below 90 dB	90 dB or above	
FOR WORSE EAR	Percentage of permanent incapacity	%	%	%	%	%	%	%	%	%	%	%	%
	40 to below 45 dB	1											
	45 to below 50 dB	2	5										
	50 to below 55 dB	3	6	10									
	55 to below 60 dB	4	7	11	15								
	60 to below 65 dB	5	8	12	16	20							
	65 to below 70 dB	6	9	13	17	21	25						
	70 to below 75 dB	7	10	14	18	22	26	30					
	75 to below 80 dB	8	11	15	19	23	27	31	35				
	80 to below 85 dB	9	13	17	21	25	29	33	37	43			
	85 to below 90 dB	11	14	18	22	26	30	34	38	45	51		
90 dB or above	13	16	20	24	28	32	36	40	46	53	60		

18. Amount of compensation

Schedule 5 is amended –

- (a) in section 1(a)(ii), by repealing "248,000" and substituting "341,000";
- (b) in section 1(b), by repealing Table 2 and substituting –

"TABLE 2

Age	Sum
under 40	\$2,016,000
40 to under 56	\$1,512,000
56 and above	\$1,008,000";

(c) in section 3B –

- (i) in paragraph (b), by repealing "or" at the end;
- (ii) in paragraph (c), by repealing the comma and substituting a semicolon;
- (iii) by adding –

"(d) the claimant's having obtained his employer's consent to the absence subject to a condition that no earnings are accrued for the claimant during such absence,".

19. Schedules 6 and 7 added

The following are added –

"SCHEDULE 6

[ss. 2 & 39]

HEARING ASSISTIVE DEVICE

1. Hearing aid.
2. Telephone amplifier specially designed for use by persons with hearing difficulty.
3. Desktop telephone with flashing light or other visual device to indicate ringing.
4. Any device the use of which by a person suffering from noise-induced deafness is determined by the Board, upon the advice of the Medical Committee, to be reasonably necessary in connection with such deafness.

SCHEDULE 7

[ss. 27C & 39]

LIMITS OF REIMBURSEMENT OF EXPENSES

1. The amount prescribed for the purposes of section 27C(1) is \$6,000.
2. The amount prescribed for the purposes of section 27C(2) is \$15,000."

20. Transitional

Section 9 of this Ordinance shall not apply in respect of expenses of the acquisition, fitting, repair or maintenance of a hearing assistive device incurred before the commencement of that section.

Explanatory Memorandum

The main provisions of this Bill are as follows –

- (a) clause 2 amends the long title to the Occupational Deafness (Compensation) Ordinance (Cap. 469) ("the principal Ordinance");
- (b) clause 4 amends section 5 of the principal Ordinance to add 2 new functions of the Occupational Deafness Compensation Board;
- (c) clause 6 amends section 13 of the principal Ordinance to add 2 new functions of the Occupational Deafness Medical Committee;
- (d) clause 9 adds a new Part VIIA which provides for the following matters concerning the reimbursement of expenses in relation to hearing assistive devices –
 - (i) entitlement to reimbursement of expenses (new section 27B);

- (ii) limits of the amount of reimbursement of expenses (new section 27C);
 - (iii) application procedure (new section 27D);
 - (iv) determination of application (new section 27E);
 - (v) review of determination of application (new section 27F);
and
 - (vi) payment of reimbursement of expenses (new section 27G);
- (e) clause 10 amends section 28 of the principal Ordinance to provide for an appeal channel for an applicant who is dissatisfied with the result of the review of his application for reimbursement of expenses;
- (f) clause 11 amends section 30 of the principal Ordinance to create an offence of providing false information in an application for reimbursement of expenses;
- (g) clause 12 adds a new section to provide for the priority of payment of compensation and reimbursement of expenses where there are insufficient funds to make all payments within the prescribed time limits;
- (h) clause 16 amends Schedule 3 to the principal Ordinance to add 4 noisy occupations;
- (i) clause 17 amends Schedule 4 to the principal Ordinance which sets out the percentage of permanent incapacity by reference to hearing loss;
- (j) clause 18 amends Schedule 5 to the principal Ordinance to revise the minimum and maximum levels of compensation;
- (k) clause 19 creates a new Schedule 6 which prescribes kinds of

hearing assistive devices for the purposes of the new Part VIIA, and a new Schedule 7 which prescribes the limits of reimbursement of expenses.

**Adjustment of the maximum and minimum levels of compensation
in accordance with the rate of increase in Nominal Wage Index**

- (1) The rate of increase in Nominal Wage Index (NWI) for the period from 1.1.1994 to 31.12.2001¹ is determined as follows -

The rate of increase in NWI for 1994	= +9.4%
The rate of increase in NWI for 1995	= +7.0%
The rate of increase in NWI for 1996	= +6.4%
The rate of increase in NWI for 1997	= +7.1%
The rate of increase in NWI for 1998	= +2.2%
The rate of increase in NWI for 1999	= -0.8%
The rate of increase in NWI for 2000	= +1.1%
The rate of increase in NWI for 2001	= +0.7%

The rate of increase in Nominal Wage Index for the period from 1.1.1994 to 31.12.2001

$$= [(1.094 \times 1.070 \times 1.064 \times 1.071 \times 1.022 \times 0.992 \times 1.011 \times 1.007) - 1] \times 100\%$$

$$= + 37.68\%$$

- (2) Adjustment of the minimum level of compensation in accordance with the rate of increase in Nominal Wage Index

$$= \$248,000 \times 137.68\%$$

$$= \$341,446$$

$$= \$341,000 \text{ (rounded to the nearest thousand dollars)}$$

¹ The Occupational Deafness (Compensation) Bill was first introduced into the LegCo in 1994 and so the current maximum and minimum levels of compensation were actually set with reference to the 1994 wage level. Therefore, the nominal wage increase from 1994 is taken as a yardstick in the adjustment of the levels of compensation.

(3) Adjustment of the wage threshold in accordance with the rate of increase in Nominal Wage Index

= \$15,000 x 137.68%

= \$20,652

= \$21,000 (rounded to the nearest thousand dollars)

(4) Adjustment of the maximum and minimum levels of compensation in accordance with the rate of increase in Nominal Wage Index

Age	Compensation amount	Maximum and minimum levels of compensation*
Under 40	96 x monthly earnings* x percentage of permanent incapacity	96 months' earnings but subject to a minimum amount of \$341,000 and a maximum amount of \$2,016,000 (i.e. the monthly earning is not more than \$21,000)
40 to under 56	72 x monthly earnings* x percentage of permanent incapacity	72 months' earnings but subject to a minimum amount of \$341,000 and a maximum amount of \$1,512,000 (i.e. the monthly earning is not more than \$21,000)
56 or above	48 x monthly earnings* x percentage of permanent incapacity	48 months' earnings but subject to a minimum amount of \$341,000 and a maximum amount of \$1,008,000 (i.e. the monthly earning is not more than \$21,000)

Existing Schedule of Permanent Incapacity

Percentage of permanent incapacity		Average hearing loss (dB) at 1,2, 3kHz frequencies as determined by the Board		FOR BETTER EAR									
				40 to below 45dB	45 to below 50dB	50 to below 55dB	55 to below 60dB	60 to below 65dB	65 to below 70dB	70 to below 75dB	75 to below 80 dB	80 to below 85dB	85 to below 90 dB
FOR WORSE EAR	40 to below 45dB	%	%	%	%	%	%	%	%	%	%	%	%
	45 to below 50dB	1	3										
	50 to below 55dB	2	3	5									
	55 to below 60dB	3	4	6	10								
	60 to below 65dB	4	5	7	11	15							
	65 to below 70dB	5	6	8	12	16	20						
	70 to below 75dB	6	7	9	13	17	21	25					
	75 to below 80 dB	7	8	10	14	18	22	26	30				
	80 to below 85dB	9	10	12	16	20	24	28	32	40			
	85 to below 90 dB	11	12	14	18	22	26	30	34	42	50		
	90 dB or above	13	14	16	20	24	28	32	36	44	52	60	

Proposed Schedule of Permanent Incapacity

Average hearing loss (dB) at 1,2, 3kHz frequencies as determined by the Board		FOR BETTER EAR											
		40 to below 45dB	45 to below 50dB	50 to below 55dB	55 to below 60dB	60 to below 65dB	65 to below 70dB	70 to below 75dB	75 to below 80 dB	80 to below 85dB	85 to below 90 dB	90 dB or above	
FOR WORSE EAR	40 to below 45dB	%	%	%	%	%	%	%	%	%	%	%	%
	45 to below 50dB	1											
	50 to below 55dB	2	5										
	55 to below 60dB	3	6	10									
	60 to below 65dB	4	7	11	15								
	65 to below 70dB	5	8	12	16	20							
	70 to below 75dB	6	9	13	17	21	25						
	75 to below 80 dB	7	10	14	18	22	26	30					
	80 to below 85dB	8	11	15	19	23	27	31	35				
	85 to below 90 dB	9	13	17	21	25	29	33	37	43			
	90 dB or above	11	14	18	22	26	30	34	38	45	51		
	13	16	20	24	28	32	36	40	46	53	60		