

**立法會**  
*Legislative Council*

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**Paper for the House Committee Meeting  
on 26 April 2002**

**Legal Service Division Report on  
Occupational Deafness (Compensation) (Amendment) Bill 2002**

**I. SUMMARY**

1. **Object of the Bill** To amend the Occupational Deafness (Compensation) Ordinance (Cap. 469) to increase levels of compensation and other benefits for claimants suffering from occupational deafness.
2. **Comments**
  - (a) The Bill implements a package of increased compensation and benefits recommended by a Working Group appointed by the Government.
  - (b) The improvements would be funded by the Occupational Deafness Compensation Fund without the need for any increase in levy.
3. **Public Consultation** According to the LegCo Brief (paragraph 17), the Occupational Deafness Compensation Board and the Labour Advisory Board have been consulted and agreed to the proposed amendments.
4. **Consultation with LegCo Panel(s)/ Committee(s)** The policy aspects of the Bill were discussed at the meetings of the Panel on Manpower on 15 November and 20 December 2001.
5. **Conclusion**
  - (a) As views are likely to differ on the adequacy of the improvements, Members may wish to form a Bills Committee to study the Bill in detail.
  - (b) Legal Service Division will continue the scrutiny of the legal and drafting aspects of the Bill.

## **II. REPORT**

### **Object of the Bill**

To amend the Occupational Deafness (Compensation) Ordinance (Cap. 469) :-

- (a) to increase the minimum and maximum levels of compensation;
- (b) to adjust upwards the percentage of permanent incapacity of claimants caused by occupational deafness; and
- (c) to make provision for reimbursements for hearing assistive devices.

### **LegCo Brief Reference**

2. LD CR 244/711/2 issued by the Education and Manpower Bureau in March 2002.

### **Date of First Reading**

3. 17 April 2002.

### **Comments**

4. The Occupational Deafness (Compensation) Ordinance (Cap. 469) ("the Ordinance") was passed in 1995 to set up a scheme for paying compensation to employees suffering from occupational deafness due to prolonged exposure to excessive noise in the workplace. The Occupational Deafness Compensation Board ("the Board") was established under the Ordinance to administer the scheme, namely, the Occupational Deafness Compensation Scheme ("the Scheme").

5. The Scheme is now funded by a levy of 2.3% imposed on the employees' compensation insurance premium paid by employers. Members may recall that the Employees Compensation Assistance (Amendment) Bill 2002 ("ECA Bill") was introduced by the Administration in February 2002 with a view to alleviating the financial difficulties faced by the Employees' Compensation Assistance Fund ("ECA Fund"), which is also funded by the levy imposed on the same employees' compensation insurance premium. It is proposed in the ECA Bill that, amongst other things, the levy rate for the Board be reduced by 1.1% in the period between 2002-03 and 2006-07 and by 0.5% thereafter. The ECA Bill is being scrutinized by a Bills Committee.

6. To qualify for compensation, an applicant must meet the disability and occupational requirements provided in the Ordinance. An applicant must have suffered from sensorineural hearing loss amounting to a specified level in both ears.

7. In December 2000, the Commissioner for Labour appointed a Working Group to conduct a review of the Scheme and the present Bill seeks to implement the recommendations made by the Working Group.

8. The Bill seeks to make improvements to the Scheme in the following aspects:-

(a) The minimum and maximum levels of compensation

The minimum level of compensation will be raised from \$248,000 to \$341,000 and the maximum level from \$1,440,000 to \$2,016,000.

(b) Levels of permanent incapacity

The levels of permanent incapacity of a claimant according to the different degrees of hearing incapacity will be revised upwards, while maintaining the maximum level of 60%, that is, a total loss of hearing represents a 60% loss of earning capacity of a claimant. This will result in increased compensation.

(c) Expenses of purchasing, repairing and replacing hearing assistive devices

Claimants who are entitled to monetary compensation for permanent incapacity under the Ordinance will be provided with hearing assistive devices by way of reimbursement of their cost.

(d) 4 new specified noisy occupations

Workers in 4 more trades will be made eligible for compensation for occupational deafness. The 4 new specified noisy occupations are:

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

(e) Rehabilitation programmes

The Board will be empowered to conduct or finance programmes for the rehabilitation of persons suffering from noise-induced deafness by reason of employment.

(f) No-pay leave in determining claimants' earnings

It is proposed that the Board may disregard no-pay leave taken with the employer's consent during the last 12 months' of employment in aggregate in determining a claimant's earnings for the purpose of calculating the compensation payable.

9. According to the Administration (paragraphs 7 and 22 of the LegCo Brief), increased payments as proposed in the Bill can be met by the levy rate on the employees' compensation insurance premium and there should not be additional compliance cost on the part of the business sector. In the LegCo Brief, the Administration has not provided a projection of the extra costs involved in the implementation of these proposals, but it has given the assessment that the Scheme should have sufficient financial resources to implement the proposed increased payments even after the levy income is reduced as a result of the ECA Bill.

### **Public Consultation**

10. According to the LegCo Brief (paragraph 17), the Board and the Labour Advisory Board have been consulted and agreed with the proposed amendments.

### **Consultation with LegCo Panel(s)/Committee(s)**

11. The Panel on Manpower was consulted on the relevant proposals at its meetings on 15 November and 20 December 2001. The following comments were made:-

- (a) Some Members suggested that the reimbursable amount for the initial purchase of hearing assistive device should be fixed at \$10,000-12,000 instead of \$6,000 as proposed in the Bill and the lifetime maximum amount for the purchase, repair and replacement of hearing assistive device should be fixed at \$25,000 instead of \$15,000 as also proposed.

- (b) It was also suggested by some Members that the scope of the Scheme should be extended to cover all industries and not just the noisy occupations specified in the Ordinance.
- (c) The Panel noted a submission from the Hong Kong Occupational Deafness Association opposing to the Administration's proposal to maintain the maximum level of permanent incapacity at 60% for noise-induced deafness.

### **Recommendation**

12. The proposals in the Bill will no doubt raise policy issues such as the adequacy of the proposed improvements. It is therefore recommended that a Bills Committee be formed to study the Bill and its implications in more detail.

13. The legal and drafting aspects of the Bill are still being scrutinized.

Prepared by

Cheng Kit-ye Kitty  
Assistant Legal Adviser  
Legislative Council Secretariat  
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