

立法會
Legislative Council

LC Paper No. CB(2)478/04-05(05)

Ref : CB2/SS/2/04

**Subcommittee on Employees' Compensation Ordinance
(Amendment of Second Schedule) Order 2004 and
Occupational Safety and Health Ordinance
(Amendment of Schedule 2) Order 2004**

Background brief prepared by the Legislative Council Secretariat

**Proposal to add severe acute respiratory syndrome
and avian influenza A as occupational diseases
under the Employees' Compensation Ordinance**

Purpose

This paper gives a summary of issues raised by Members on the Administration's proposal to add severe acute respiratory syndrome (SARS) and avian influenza A as occupational diseases under the Employees' Compensation Ordinance.

The Administration's proposal

2. At its meeting on 18 November 2004, the Panel on Manpower was consulted on the Administration's proposal to add SARS and avian influenza A as occupational diseases to the Second Schedule of the Employees' Compensation Ordinance (Cap. 282) and Schedule 2 of the Occupational Safety and Health Ordinance (Cap. 509).

3. The Administration informed the Panel that the proposed amendment would expedite the compensation process for injured employees involving close and frequent contacts with a source or sources of SARS infection arising from their employment in specified high-risk occupations. These included medical and nursing staff, medical research and laboratory workers, pathologists, post-mortem or funeral services workers, etc. There were about 94 000 employees in these occupations.

4. The Administration also informed the Panel that the proposed amendment would expedite the compensation process for injured employees involving close and frequent contacts with a source or sources of avian influenza A infection arising from their employment in specified high-risk occupations. These included those engaged in the handling of poultry or birds and as research or laboratory workers. There were about 5 000 employees in these occupations.

Issues raised by Members

5. A Member expressed support for the Administration's proposal to safeguard the interests of employees. Another Member said that the poultry industry welcomed the proposal of prescribing avian influenza A as an occupational disease. The Member suggested that the Administration should gauge the views of the medical and healthcare sectors on the proposed prescribed employment period of one month for SARS.

6. Another Member informed the Panel that the insurance industry did not raise objection to the Administration's proposal. The Member envisaged that there would be an upward adjustment on the employees' compensation insurance premium after the proposal came into operation.

7. The extract from the minutes of the Panel meeting on 18 November 2004 is in the **Appendix** for members' reference.

EXTRACT

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Legislative Council

Ref : CB2/PL/MP/1

LC Paper No. CB(2)398/04-05

(These minutes have been
seen by the
Administration)

Panel on Manpower

Minutes of meeting

held on Thursday, 18 November 2004 at 2:30 pm

in Conference Room A of the Legislative Council Building

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung

Members attending : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Bernard CHAN, JP
Hon Howard YOUNG, SBS, JP

Member absent : Hon LI Fung-ying, BBS, JP

Public Officers attending : Item II

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and

Action

Labour (Labour)

Mrs DO PANG Wai-yee
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)
Labour Department

Mrs Jenny CHAN
Assistant Commissioner for Labour (Employees' Rights
and Benefits)
Labour Department

Miss Carrie CHANG
Senior Administrative Officer (Policy Support)
Labour Department

Mrs Vivian TING
Principal Executive Officer (Tender)
Financial Services and the Treasury Bureau

Mr MOK Kam-kwan
Deputy Government Property Administrator
Government Property Agency

Mr LO Tai-fai
Chief Property Manager (Property Management)
Government Property Agency

Mr Ricky K M CHUI
Assistant Director (Finance)
Leisure and Cultural Services Department

Mr LO Fu-wai
Assistant Director (Grade Management and Development)
Food and Environmental Hygiene Department

Mr LEUNG Sai-chi
Chief Manager/Management (Support Services 1)
Housing Department

Mr CHOI Chun-sun
Senior Statistician (Labour) 2
Census and Statistics Department

Item III

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and
Labour (Labour)

Dr LO Wai-kee
Occupational Health Consultant (1)
Labour Department

Mrs Jenny CHAN
Assistant Commissioner for Labour (Employees' Rights
and Benefits)
Labour Department

Item IV

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and
Labour (Labour)

Mrs DO PANG Wai-yee
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)
Labour Department

Miss Carrie CHANG
Senior Administrative Officer (Policy Support)
Labour Department

Mr H Y CHEUNG
Principal Economist
Financial Secretary's Office

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Miss Betty MA
Senior Council Secretary (2)1

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III. Proposal to add Severe Acute Respiratory Syndrome and avian influenza A as occupational diseases under the Employees' Compensation Ordinance
(LC Paper No. CB(2)207/04-05(03))

38. PSL briefed members on the Administration's proposal to add two new diseases viz. Severe Acute Respiratory Syndrome (SARS) and avian influenza A, to the Second Schedule to the Employees' Compensation Ordinance and Schedule 2 to the Occupational Safety and Health Ordinance. The proposed legislative amendments would expedite the compensation process as employees in specified high-risk occupations did not need to prove that their injury was by accident arising out of and in the course of employment. PSL said that the impact of the proposal on employees' compensation insurance premium was unlikely to be significant, but more than 100 000 employees would be protected under the proposal.

39. Regarding the proposal of prescribing SARS as an occupational disease, Miss CHAN Yuen-han said that some staff associations of the medical and healthcare sectors had suggested that the prescribed employment period should be shortened to 14 days as it remained uncertain whether the incubation period for the disease would be less than 14 days. Miss CHAN further said that the poultry industry welcomed the proposal of prescribing avian influenza A as an occupational disease.

40. Occupational Health Consultant/LD said that with reference to the SARS cases, the incubation period for the disease was normally not more than 14 days. The prescribed employment period was therefore proposed to be a double of the incubation period. PSL said that the proposed prescribed employment period set out the upper limit of the period immediately preceding the incapacity and within which the employee was employed at any time in the specified trade.

41. Miss CHAN Yuen-han said that the Administration should gauge further views of the medical and healthcare sectors on the proposed prescribed employment period for SARS.

42. Mr LEE Cheuk-yan expressed support for further safeguarding the interests of employees. Mr LEE said that as the legislative proposal would have no retrospective effect, he asked about the number of compensation claims from

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employees that they had got infected with SARS in the course of employment which were under dispute or rejected.

43. PSL said that of the compensation claims from 414 employees who were infected with SARS in the course of employment, most of the claims were not in dispute. ACL said that in some cases, there were disputes over whether the employees got infected with SARS in the course of employment. For most of these cases, the employers affirmed that the employees were infected with SARS in the course of employment after considering the contact tracing reports prepared by the Department of Health. ACL added that there were currently about 20 cases with dispute on whether it was employment-related.

44. Mr Bernard CHAN said that the insurance industry raised no objection to the legislative proposal. After the coming into force of the proposal, the insurance industry would be in a better position to assess the risks of SARS and avian influenza A in the premium rate for employees' compensation insurance policies. However, he envisaged that there would be an upward adjustment on the employees' compensation insurance premium.

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Council Business Division 2
Legislative Council Secretariat
15 December 2004