

立法會
Legislative Council

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by the Administration)

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**Bills Committee on
Occupational Deafness (Compensation) (Amendment) Bill 2009**

**Minutes of meeting
held on Monday, 22 June 2009, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon PAN Pey-chyou (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon CHAN Kin-por, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP

Public Officers attending : Mrs Tonia LEUNG
Assistant Commissioner for Labour

Dr LEUNG Lai-man, Raymond, JP
Occupational Health Consultant

Ms Melody LUK
Senior Labour Officer

Mr CHONG Ka-ning, Alan
Senior Government Counsel

Ms NG Wing-man, Mandy
Government Counsel

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Miss Josephine SO
Senior Council Secretary (2) 1

Miss Kiwi NG
Legislative Assistant (2) 1

I. Election of Chairman

Dr Hon PAN Pey-chyou was elected Chairman of the Bills Committee.

II. Meeting with the Administration

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. The Bills Committee requested the Administration -

- (a) to consider incorporating in the transitional arrangement flexibility to net in workers with monaural hearing loss who had not filed any applications with the Occupational Deafness Compensation Board (ODCB) in the past after knowing that their monaural hearing loss would not be compensable under the Occupational Deafness Compensation Ordinance (ODCO) (Cap. 469) even though they had met the occupational requirements under ODCO;
- (b) to consider exercising flexibility to net in workers with monaural hearing loss who had not filed any applications with ODCB in the past but could provide proof on his employment in the specified noisy occupations for many years and developed sensorineural hearing loss, as shown by results of hearing tests carried out at private clinics or public hospitals at that point in time; to consider adopting such results for the purpose of assessing the degree of hearing loss suffered by the claimant;
- (c) to provide information on the practices of other places in determining the percentage of permanent incapacity of a person suffering from monaural hearing loss and calculating the amount of compensation payable to him;
- (d) to provide information on how other places or countries determined the percentage of permanent incapacity of a claimant and calculated the amount of compensation payable to him;

- (e) to provide information on research studies conducted locally or overseas on the hearing loss of persons exposed to different levels of noise in their working environment and developed noise-induced hearing loss; and
- (f) to provide the reason(s) for setting a minimum of five-year interval for re-assessing the degree of hearing impairment for providing further compensation for additional hearing loss sustained as a result of continued employment in a noisy occupation.

III. Date of next meeting

4. The Bills Committee agreed that the next meeting would be held on Tuesday, 28 July 2009, at 4:30 pm. The Bills Committee also agreed that deputations would be invited to attend the meeting to give views on the Bill. The Bills Committee further agreed that the Administration's response to the issues and requests highlighted at paragraph 3 would be submitted for consideration after the deputations had also given their views.

5. The meeting ended at 6:05 pm.

Council Business Division 2
Legislative Council Secretariat
21 July 2009

**Proceedings of meeting of the
Bills Committee on
Occupational Deafness (Compensation) (Amendment) Bill 2009
on Monday, 22 June 2009, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000209	Hon LEE Cheuk-yan Hon LI Fung-ying Dr Hon PAN Pey-chyou	Election of Chairman	
000210 - 000427	Chairman	Opening remarks	
000428 - 002044	Chairman Admin	<p>Briefing on the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill)</p> <p>Object of the Bill -</p> <p>(a) to adjust the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy payable under the Employees' Compensation Insurance Levies Ordinance (Cap. 411); and</p> <p>(b) to improve the Occupational Deafness Compensation Scheme (the ODC Scheme) administered by the Occupational Deafness Compensation Board (ODCB)</p> <p>Proposed improvements to the ODC Scheme -</p> <p>(a) providing compensation for employees suffering from monaural hearing loss;</p> <p>(b) increasing the maximum reimbursable amount for the expenses incurred in purchasing, repairing and replacing hearing assistive device (HAD);</p> <p>(c) providing further compensation for additional hearing loss</p>	

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		<p>sustained as a result of continued employment in a noisy occupation; and</p> <p>(d) providing for the direct payment of the expenses on a HAD to the device provider, as an alternative to the existing reimbursement arrangement</p>	
<p>002045 - 003549</p>	<p>Chairman Hon LI Fung-ying Admin Hon IP Kwok-him</p>	<p>Whether the Administration would consider granting compensation to those persons with monaural hearing loss who had not filed any application with ODCB in the past and had discontinued employment in noisy occupation for more than 12 months</p> <p>Whether the Administration would consider making reference to the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (PMCO) (Cap. 360) to provide monthly payments of compensation, in addition to a one-off compensation for incapacity in the form of a lump sum payment, to persons with occupational deafness</p> <p>Whether the Administration would consider increasing the limits of reimbursement of expenses in relation to HADs so that the amount of expenses that might be reimbursed to an applicant for the first time could exceed \$9,000; price range of digital HADs</p> <p>Considered that as there might be some workers with monaural hearing loss who had not made application to ODCB in the past after knowing that their monaural hearing loss would not be compensable under the Occupational Deafness (Compensation) Ordinance (ODCO) (Cap. 469), the</p>	

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		<p>Administration should consider exercising flexibility in granting compensation to those workers who could provide proof that they had worked in the specified noisy occupations and had hearing test results to support that they suffered from noise-induced deafness in one of their ears</p> <p>Explained the details of the transitional arrangement to net in some 500 workers with monaural hearing loss who had already left employment for some time. Compensation would be granted to these workers if records of ODCB revealed that their applications were refused because they suffered from occupational deafness of 40 dB or above in only one of their ears. The amount of compensation payable to them would be calculated with reference to the hearing loss level, age and earnings of the claimant when the latest application, which was rejected, was made</p> <p>Explained that hearing loss could be attributed to various factors such as age and medications, and the establishment of a causal relationship between the hearing loss and the occupation of a person was crucial in considering whether an applicant was eligible for compensation under the ODC Scheme</p> <p>Explained that people with occupational deafness were not aware of the extent of their hearing loss unless they took hearing tests. People suffering from monaural hearing loss would most probably have approached ODCB for assessments of hearing loss</p>	

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		<p>Explained that in Hong Kong, compensation for work injuries and occupational diseases was all given in a lump sum. Pneumoconiosis was treated differently because it would continue to deteriorate, causing much suffering to the affected worker even after he had left the occupation</p> <p>Explained that the current ceiling of \$9,000 for first time reimbursement of HAD should be able to cater for a wide range of digital hearing aids. There was medical opinion that more costly hearing aids might not be more effective in enhancing hearing ability, though they provided more functions</p> <p>Whether the Administration would consider incorporating in the transitional arrangement the flexibility to net in workers with monaural hearing loss who had not filed any applications with ODCB in the past because they knew their monaural hearing loss would not be compensable, even though they had met the occupational requirements under ODCO</p>	<p>Admin to consider the suggestion and provide a response (paragraph 3(a) of the minutes refers)</p>
003550 - 004907	Chairman Hon LEE Cheuk-yan Admin	<p>Echoed the view that in taking forward the transitional arrangement, the Administration should exercise as much flexibility as possible in determining whether an applicant fulfilled the specified conditions for compensation</p> <p>Whether the Administration would consider exercising flexibility in considering the application of persons with monaural hearing loss who had not filed any application with ODCB in the past, but could provide proof on his employment in the specified noisy occupations for many years and developed</p>	<p>Admin to consider the suggestion and provide a response (paragraph 3(b) of the minutes refers)</p>

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		<p>sensorineural hearing loss, as shown by results of hearing tests carried out at private clinics or public hospitals at that point in time. Such results should be adopted for assessing the degree of hearing loss suffered by the claimant</p> <p>Expressed concern about the transitional arrangement whereby the level of compensation would be determined with reference to the last hearing test results adopted by ODCB in determining workers' monaural hearing loss, without the need for these workers to undertake hearing loss assessment afresh</p> <p>Considered that there could be a chance that the degree of hearing loss suffered by a claimant might increase over the years; whether the Administration had undertaken any study in this regard</p> <p>Method for determining the percentage of permanent incapacity of a person suffering from monaural hearing loss, rationale for fixing the percentage in cases of monaural hearing loss as half of the percentage shown in Schedule 4 to ODCO; practices of other places in the calculation of compensation for people with monaural hearing loss</p> <p>Reiterated that the establishment of a causal relationship between the hearing loss and the occupation was crucial in considering whether an applicant was eligible for compensation under the ODC Scheme</p> <p>Explained that once a person with occupational deafness had left the noisy occupation, his hearing loss caused by noise normally would not</p>	<p>Admin to provide the requested information (paragraph 3(c) of the minutes refers)</p>

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		<p>deteriorate further</p> <p>Advised that sensorineural hearing loss could be caused by a number of factors including noise, old age, medication and disease; hearing tests could diagnose sensorineural hearing loss but could not identify its cause</p> <p>Advised that under the ODC Scheme, an applicant was required to fulfill the requirement of having a period of continuous employment in any noisy occupation in Hong Kong within the 12 months before the date of application, establishing a causal relationship between the hearing loss and the employment</p>	
004908 - 010239	Hon LEUNG Yiu-chung Admin	<p>Suggested that -</p> <p>(a) the Administration should exercise flexibility in approving workers' claim for compensation, if the workers could provide proof that they had worked in noisy occupations for many years and developed sensorineural hearing loss;</p> <p>(b) the Administration should make reference to PMCO to provide monthly payments of compensation, in addition to a one-off compensation in the form of a lump sum payment, to persons with occupational deafness; and</p> <p>(c) the Administration should consider raising the percentage of permanent incapacity for sensorineural hearing loss measured by audiometry over the 1, 2 and 3 kHz frequencies reached 90 dB or above in both ears from 60% to 100%</p>	

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		<p>Sought information on how other places or countries determined the percentage of permanent incapacity and calculated the amount of compensation payable to a claimant</p> <p>Explained that support services were currently provided by ODCB to workers suffering from noise-induced deafness who had received compensation</p>	<p>Admin to provide the requested information (paragraph 3(d) of the minutes refers)</p>
010240 - 011212	Chairman Hon IP Wai-ming Admin	<p>Shared the view that the Administration should exercise flexibility in taking forward the transitional arrangement and approving workers' claim for compensation, if the workers with monaural hearing loss could provide proof that they had worked in noisy occupations for many years and developed sensorineural hearing loss as a result of the employment</p> <p>Advised that either the average earnings of the 12 months' employment immediately preceding the application or the median monthly employment earnings of the total employed population of Hong Kong published by the Census and Statistics Department would be adopted for calculating compensation for claims made under ODCO</p>	
011213 - 012415	Chairman Hon IP Kwok-him Admin Hon IP Wai-ming	<p>Expressed concern that there might be some workers with monaural hearing loss who had not submitted application to ODCB in the past. Echoed the view that the Administration should exercise flexibility and consider applications from these workers if they could provide proof to verify that they had been employed under a continuous contract in the specified noisy occupations for many years and developed sensorineural hearing loss</p>	

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		<p>Whether hearing tests conducted years later could identify the cause of sensorineural hearing loss and prove that the deafness was caused by employment in noisy occupations</p> <p>Advised that sensorineural hearing loss could be caused by a number of factors including noise, old age, medication and diseases. Hearing tests could diagnose sensorineural hearing loss and measure the degree of a person's deafness at the time he underwent the hearing test, but the test could not identify the cause of deafness. With the history of being in employment in any specified noisy occupation within the past 12 months before making a claim, the doctor might in his diagnosis attribute the cause of deafness to the occupation of the patient as the most likely cause after excluding other probable causes</p>	
012416 - 013259	Chairman Hon LI Fung-ying Admin	<p>Sought information on research studies conducted locally and overseas on the hearing loss of persons exposed to different levels of noise in their working environment and developed noise-induced hearing loss</p> <p>Reasons for setting a minimum of five-year interval for re-assessing the degree of further compensation for additional hearing loss sustained as a result of continued employment in a noisy occupation</p> <p>Explained that the hearing loss of a person normally deteriorated at a slower pace after the first few years of exposure to a noisy environment. Therefore, a five-year interval was considered appropriate for assessing additional hearing loss</p>	<p>Admin to provide the requested information (paragraph 3(e) of the minutes refers)</p> <p>Admin to provide the requested information (paragraph 3(f) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action Required
013300 - 013737	Chairman Hon LEE Cheuk-yan Clerk Hon LEUNG Yiu-chung Hon IP Wai-ming Admin	Date of next meeting; inviting deputations to the next meeting	

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