

立法會
Legislative Council

LC Paper No. CB(2)606/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/BC/5/08

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

**Minutes of meeting
held on Monday, 30 November 2009, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Dr Hon PAN Pey-chyou (Chairman)
Hon LEE Cheuk-yan
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHAN Kin-por, JP
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP

Members absent : Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, SBS, JP

Public Officers attending : Mrs Tonia LEUNG
Assistant Commissioner for Labour

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

Ms Melody LUK
Senior Labour Officer
Labour Department

Mr Alan CHONG Ka-ning
Senior Government Counsel
Department of Justice

Ms Mandy NG Wing-man
Government Counsel
Department of Justice

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

I. Meeting with the Administration

The Bills Committee deliberated and completed clause-by clause examination of the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill) (index of proceedings attached at **Annex**).

2. Members expressed support for the Administration's proposal to further enhance the improvement measures, as detailed in the Administration's paper (LC Paper No. CB(2)375/09-10(01)). The Administration undertook to provide the relevant draft Committee Stage amendments (CSAs) to the Bill before the next meeting.

3. Mr LEE Cheuk-yan expressed strong reservation about the Administration's proposal to adjust the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy (the Levy) as stipulated under the Employees' Compensation Insurance Levies Ordinance (Cap. 411). He held the view that the overall Levy rate should be maintained at the current level of 6.3%, as this would ensure the generation of sufficient levy income for distribution to the Occupational Deafness Compensation Board, the Occupational Safety and Health Council and the Employees Compensation Assistance Fund Board, and hence their financial viability and ability to perform their statutory functions or improve their services. The Administration was requested to consider Mr LEE's suggestion and provide a written response.

II. Date of next meeting

4. The Bills Committee agreed to hold the next meeting on 11 January 2010 at 2:30 pm to consider the Administration's outstanding response to drafting issues raised at the meeting on 11 November 2009, response to issues raised by members at this meeting and the Administration's proposed CSAs to the Bill.

5. The meeting ended at 3:40 pm.

Council Business Division 2
Legislative Council Secretariat
21 December 2009

**Proceedings of meeting of the
Bills Committee on
Occupational Deafness (Compensation) (Amendment) Bill 2009
on Monday, 30 November 2009, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000358	Chairman	Opening remarks	
000359 - 001040	Chairman Admin	Briefing on the Administration's response to issues raised at the Bills Committee meeting held on 11 November 2009 (LC Paper No. CB(2)375/09-10(01))	
001041 - 001246	Chairman Hon LI Fung-ying Admin Hon IP Wai-ming	<p>Hon LI Fung-ying and Hon IP Wai-ming expressed support for the Administration's proposal to further enhance the improvement measures by -</p> <p>(a) increasing the ceiling for the first-time reimbursement of hearing assistive devices (HADs) expenses from \$9,000 to \$12,000; and</p> <p>(b) reducing the aggregate length of employment required for making applications for further compensation from five to three years</p> <p>Hon IP Wai-ming reiterated the stance of the Hong Kong Federation of Trade Unions (HKFTU) that in calculating the amount of further compensation, the Administration should take the average earnings of the claimant's previous successful application or the average earnings of the claimant's current application, whichever was the higher. He hoped that the Administration would give due consideration to HKFTU's suggestion when it next reviewed the Occupational Deafness (Compensation) Ordinance (Cap. 469) (ODCO)</p> <p>The Administration undertook to provide the relevant draft Committee Stage amendments (CSAs) to the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill) for examination at the next meeting</p>	Admin to provide the proposed CSAs (paragraph 2 of the minutes refers)

Time marker	Speaker	Subject(s)	Action Required
001247 - 001524	Chairman Admin	Continuation of clause-by-clause examination of the Bill Examination of clause 14 concerning limits of direct payment of expenses and reimbursement of expenses	
001525 - 001636	Admin Chairman ALA2	Examination of clause 15 which sought to amend section 27D relating to application for reimbursement of expenses	
001637 - 001734	Admin	Examination of clause 16 which sought to amend section 27E relating to determination of application	
001735 - 001908	Chairman Admin	Examination of clause 17 which sought to amend section 27F concerning review of determination	
001909 - 002807	Chairman Admin ALA2 Hon IP Kwok-him	Examination of clause 18 which sought to amend section 27G(1) and (3) of ODCO to provide for the payment of reimbursement of expenses or money to the applicant or the device provider in different situations Rationale for the different payment dates in respect of the different situations under those provisions; rationale for the non-application of section 27G(4) of ODCO to "direct payment of expenses"	
002808 - 002830	Admin Chairman	Examination of clause 19 which sought to amend section 30(1) concerning offence	
002831 - 002902	Admin Chairman	Examination of clause 20 which sought to amend section 30A concerning priority of payment	
002903 - 002917	Admin	Examination of clause 21 on compensation or reimbursement of expenses not to be assigned, charged or attached	
002918 - 003924	Admin Chairman Hon IP Wai-ming	Examination of clause 22 which sought to amend section 48 of ODCO to provide for transitional arrangements The Chairman and Hon IP Wai-ming considered that the existing drafting of the Chinese text of the proposed new section 48(4), (5) and (6) could be further improved	

Time marker	Speaker	Subject(s)	Action Required
		<p>to make the provisions easier to comprehend</p> <p>The Administration's response -</p> <p>(a) in drafting the Bill, the Administration had endeavoured to make the style of the Chinese text of the proposed sections match with that of the English text as far as possible. Noting members' views and concerns, the Administration would examine whether the drafting of the Chinese text of the proposed new section 48(4) could be further refined; and</p> <p>(b) the provision of definitions in the proposed new section 48(6) could avoid the repetition of making reference to the same phrase(s)/expression(s) in each relevant substantive provisions in the Bill</p>	
003925 - 004151	Admin Chairman	Examination of clause 23 which sought to amend Schedule 5 to ODCO to provide how the amount of compensation was calculated in a case relating to additional permanent incapacity	
004152 - 004228	Admin Chairman	Examination of clause 24 which sought to amend Schedule 7 to ODCO to increase the maximum amounts for reimbursement and direct payment by the Occupational Deafness Compensation Board (ODCB) of expenses relating to HADs to \$36,000 for each applicant	
004229 - 004300	Admin	Examination of clause 25 which sought to make amendment to the Chinese text of section 3(2)(e) of the Employees' Compensation Insurance Levies Ordinance (Cap. 411) (ECILO)	
004301 - 004357	Admin	Examination of clause 26 which sought to amend Schedule 1 to ECILO	
004358 - 010509	Admin Hon LEE Cheuk-yan Chairman Hon CHAN Kin-por Hon IP Kwok-him	Examination of clause 27 which sought to amend Schedule 2 to ECILO to adjust the proportions of the net resources of the Employees' Compensation Insurance Levies Management Board to be distributed to ODCB, the Occupational Safety and Health	

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		<p>Council (OSHC) and the Employees Compensation Assistance Fund Board (ECAFB) to 7/58, 20/58 and 31/58 respectively</p> <p>Examination of clause 28 which sought to amend paragraph 2 of the Employees' Compensation Insurance Levy (Rate of Levy) Order (Cap. 411 sub. leg. A) to reduce the overall Employees' Compensation Insurance Levy rate (the Levy) to 5.8%</p> <p>Hon LEE Cheuk-yan expressed reservation about the Administration's proposal to adjust the overall rate and proportions of distribution of the Levy as stipulated under ECILO. He held the view that the overall Levy rate should be maintained at the current level of 6.3%, as this would ensure the generation of sufficient levy income for distribution to the three statutory bodies, i.e. ODCB, OSHC and ECAFB, and hence their financial viability and ability to perform their statutory functions or improve their services</p> <p>The Administration advised that the proposal to adjust the overall rate and proportions of distribution of the Levy was worked out after having carefully considered the operation and financial position of the three statutory bodies and full consultation with relevant stakeholders, including respective statutory bodies in which both employers and employees were represented. The proposal was accepted by all parties concerned during consultations. The adjustments in the Levy rate would not affect the three statutory bodies in performing their statutory functions. The Administration considered the proposed adjustments reasonable and appropriate</p> <p>Hon LEE Cheuk-yan indicated that he might move CSAs to the effect that the current prescribed rate of levy would continue to prevail. Where necessary, he might also consider moving CSAs to amend the proportions of distribution of the Levy now</p>	<p>Admin to provide a written response (paragraph 3 of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action Required
		proposed by the Bill	
010510 - 011129	Chairman Hon IP Kwok-him Admin Hon LEE Cheuk-yan Hon IP Wai-ming	The Chairman concluded that the Bills Committee had completed clause-by-clause examination of the Bill. The Bills Committee agreed to hold the next meeting on 11 January 2010 at 2:30 pm to consider the Administration's outstanding response to drafting issues raised at the meeting on 11 November 2009, response to issues raised by members at this meeting and the Administration's proposed CSAs to the Bill	

Council Business Division 2
Legislative Council Secretariat
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