

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

**Administration's Response to  
the rationale for adjusting the overall rate and proportions of distribution  
of the Employees' Compensation Insurance Levy**

**Introduction**

At the meeting held on 30 November 2009, the Administration was asked to provide a response on the rationale for adjusting the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy (the Levy) proposed in the Occupational Deafness (Compensation) (Amendment) Bill 2009 (the Bill).

2. Essentially, the Bill consists of two key components, namely, amendments to the Employees' Compensation Insurance Levies Ordinance (ECILO) to adjust the overall rate and proportions of distribution of the Levy, and amendments to the Occupational Deafness (Compensation) Ordinance (ODCO) to improve the Occupational Deafness Compensation Scheme (ODC Scheme). In order that the matter can be considered in its proper perspective, the background leading to the formulation of the proposals and the justifications for adjusting the overall rate and proportions of distribution of the Levy are set out below.

**Background information**

3. The Employees' Compensation Insurance Levies Management Board (ECILMB), established under ECILO in 1990, charges employers a Levy for funding three statutory boards. The Levy is currently charged at 6.3% on the premium of every employee compensation insurance policy taken out by employers, and collected via the insurers. The Levy is distributed to the Employees Compensation Assistance Fund Board (ECAFB), the

Occupational Deafness Compensation Board (ODCB) and the Occupational Safety and Health Council (OSHC) as follows :-

Statutory body	Proportion of the net resources of the ECILMB to be distributed
ECAFB	25/63
ODCB	18/63
OSHC	20/63

4. The Administration keeps under regular review the financial position of the three statutory boards. In a review conducted in 2006, it was found necessary to adjust the proportion of allocation of the Levy to ECAFB and ODCB as ECAFB might face cash flow problems in a few years' time, while ODCB had accumulated a very healthy reserve that would continue growing. Hence, a proposal was worked out for consultation. Under the proposal, the rates of the Levy for distribution to ECAFB would be revised from 2.5% to 3.1%, while that for ODCB would be revised from 1.8% to 0.2%, making room for a downward revision of the overall Levy rate by one percentage point from 6.3% to 5.3%.

5. In the consultation process, while the proposal was supported by stakeholders in general, employee representatives expressed reservations about the extent of the proposed adjustments and the degree of proposed reduction in the overall Levy rate. Employee representatives of the statutory bodies and organisations with an interest in occupational deafness compensation, in particular, registered their disagreement with the extent of the proposed reduction in the proportion of distribution of the Levy to ODCB. They suggested a list of proposed items to improve the ODC Scheme to further benefit persons with occupational deafness.

6. Taking into account the concerns of various stakeholders, LD came up with a revised package of proposals that makes improvements to the ODC Scheme alongside the adjustment of the rate and proportions of distribution of the Levy. Under the revised proposals, the rate of the Levy for distribution to ECAFB would be increased from 2.5% to 3.1% and that to ODCB be reduced

from 1.8% to 0.7%. The current Levy rate for OSHC would remain unchanged. As part of the package of changes, it was also proposed that the overall Levy rate be adjusted downwards by 0.5 percentage point to 5.8%. This package of proposals as presented in the Bill was accepted by relevant statutory bodies in another round of consultations conducted in late 2007. The Labour Advisory Board and the Panel on Manpower of this Council were consulted in 2008 and they also endorsed the proposals.

### **Justifications for adjusting the overall rate and proportions of distribution of the Levy**

7. In determining the total Levy rate and the proportion to be distributed to each of the three statutory boards, the Administration was aware of the importance to ensure that the Levy distributed to each of the statutory bodies should be sufficient to ensure their financial viability and ability to perform their functions without any interruptions. The financial positions of the statutory boards and the justifications for making the adjustments are given below :-

#### **ECAFB**

8. ECAFB is responsible for providing payment to injured employees who are unable to receive from their employers or insurers their compensation entitlements for employment-related injuries. In 2000 and 2002, the Government provided two loan facilities totalling \$280 million to help ECAFB tide over its financial difficulties aggravated by the insolvency of two major local insurers operating employees' compensation insurance business in 2001. Starting from 2006-07, ECAFB has to repay the loans by 10 annual instalments, each ranging from \$32 million to \$37 million, in addition to providing statutory payments to eligible employees. This has strained ECAFB's reserves which stood at \$267 million as at 31 March 2009. With the Levy rate for ECAFB currently set at 2.5%, ECAFB is expected to incur deficits in the next ten years, further pushing down its reserve level. By projection, ECAFB would face cash flow problems in 2014-15 and thereafter.

To ensure the long-term financial viability of ECAFB and its continued ability to provide statutory payments for employees, there is a need to increase the proportion of the Levy to be distributed to ECAFB from 2.5% to 3.1% to increase its operating income.

### ODCB

9. ODCB provides compensation and reimburses expenses incurred in purchasing, repairing and replacing hearing assistive devices to those persons with occupational deafness owing to employment in specified noisy occupations. ODCB has been in operation for over ten years. The number of applications for compensation and the amount of compensation paid on an annual basis has more or less stabilised. With the restructuring of the Hong Kong economy, noisy occupations in the manufacturing sector have been dwindling. Together with the strengthening of noise control measures in noisy occupations and the stepping up of publicity efforts on hearing conservation, it is likely that new cases of occupational deafness would broadly remain at the present level.

10. As at 31 March 2009, ODCB has accumulated a healthy reserve of \$519.3 million. In the past five years, on average it spent \$18.8 million annually and had an operating surplus of \$33.2 million per year. At the current Levy rate of 1.8%, ODCB will continue to accumulate surplus. If the three improvement items proposed in the Bill are implemented, ODCB is estimated to have an additional annual expenditure of about \$13 million. Given its accumulated fund balance, the additional expenditure can still be comfortably absorbed by ODCB at the proposed Levy rate of 0.7%.

### OSHC

11. OSHC promotes safety and health at work. Its financial position has all along been sound. Its annual expenditure is dependent on its planned level of promotional and educational activities. During the past years, OSHC has been able to effectively perform its functions at the current Levy rate of 2%.

## **The Administration's Response to the Request**

12. The Administration would like to highlight that, in arriving at the current proposal in relation to the adjustment and distribution of the Levy, the financial implications of the proposed improvements to the ODC Scheme and the income and expenditure patterns of the statutory bodies concerned had been critically assessed and taken fully into account. Stakeholders concerned had been duly consulted with their views carefully considered. Specifically, relevant statutory bodies, the Labour Advisory Board and the Manpower Panel of this Council with employers and employees represented had shown support to the proposal when consulted.

13. It is also pertinent to point out that when ECILO was first introduced, the overall Levy rate was set at 2% of the insurance premium. Since then, four reviews were conducted and each resulted in an upward adjustment of the overall Levy rate. In the past employers had expressed concern that the overall Levy rate should be reduced if the financial positions of the statutory boards so permitted. The proposed reduction in the overall Levy rate, while modest, would be the first reduction since the enactment of the ECILO in 1990. Notwithstanding the reduction, improvements would still be made to the ODC Scheme to benefit persons with occupational deafness while ECAF and OSHC would continue operating effectively.

14. Given the above reasons, the Administration considers the current proposal reasonable and justifiable. As always, we will closely monitor the financial positions of the three statutory boards and formulate improvement or adjustment measures where necessary.

Labour and Welfare Bureau  
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