

立法會
Legislative Council

LC Paper No. LS48/09-10

**Paper for the House Committee Meeting
on 26 February 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 19 February 2010**

Date of tabling in LegCo : 24 February 2010

Amendment to be made by : 17 March 2010 (or 14 April 2010 if extended by resolution)

Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (6 of 2010)

Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (Commencement) Notice (L.N. 17 of 2010)

By this Notice, the Secretary for Labour and Welfare appoints:

- (a) 16 April 2010 as the day on which the Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (6 of 2010) (the Ordinance) (except sections 29 and 30) comes into operation;
- (b) 1 July 2010 as the day on which section 30 of the Ordinance comes into operation; and
- (c) 1 October 2010 as the day on which section 29 of the Ordinance comes into operation.

2. The Ordinance, which was enacted in February 2010, amends the Occupational Deafness (Compensation) Ordinance (Cap. 469) to improve the scheme of compensation thereunder. It also amends the Employees' Compensation Insurance Levies Ordinance (Cap. 411) (ECILO) and the Employees' Compensation Insurance Levy (Rate of Levy) Order (Cap. 411 sub. leg. A) (the Order) in connection with the payment and distribution of levies.

3. The provisions that will come into operation on 16 April 2010 relate to improvements to the scheme of compensation under Cap. 469, including the provision of compensation for monaural hearing loss and further compensation for additional hearing loss due to continued employment in noisy occupations. Section 29 of the Ordinance, which will come into operation on 1 October 2010, substitutes a new Schedule 2 to ECILO to adjust the proportions in which the net resources of the Employees' Compensation Insurance Levies Management Board (the Board) are to be distributed to the various bodies specified in that Schedule. Section 30 of the

Ordinance, which will come into operation on 1 July 2010, amends the Order to reduce the overall rate of levy payable on insurance premiums from 6.3% to 5.8 %.

4. Members may refer to the Information Note at **Annex** prepared by the Administration to explain why different provisions of the Ordinance are to be brought into operation on different dates. In gist:

- (a) the provisions of the Ordinance which seek to improve the scheme of compensation under Cap. 469 are proposed to come into operation on 16 April 2010 (two days after the expiry of the full negative vetting period) in response to Members' request that such improvement should be implemented as soon as possible;
- (b) the new overall levy rate of 5.8% introduced by section 30 of the Ordinance will apply to each premium payable by an insured in respect of any insurance policy issued by an insurer on or after 1 July 2010, the first day of the full relevant period¹; and
- (c) the Board will distribute its net resources according to the new proportions introduced by section 29 of the Ordinance with effect from 1 October 2010, the first day of the relevant period following the implementation of the new levy rate of 5.8% on 1 July 2010.

5. The Panel on Manpower has not been consulted on the Notice. However, the Occupational Deafness (Compensation) (Amendment) Bill 2009 had been scrutinized by a Bills Committee before the Ordinance was enacted. Members may wish to refer to the report of the Bills Committee to the House Committee (LC Paper No. CB(2) 786/09-10) for further information.

6. No difficulties have been identified in relation to the legal and drafting aspects of the Notice.

Encl.

Prepared by

LOO Chi-pong, Bonny
Assistant Legal Adviser
Legislative Council Secretariat
23 February 2010

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¹ According to the Administration, the four relevant periods determined by the Board are from April to June, July to September, October to December and January to March.

Information Note

on

The Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (Commencement) Notice (L.N. 17 of 2010)

Introduction

With the passage of the Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (“Amendment Ordinance”) by the Legislative Council (“LegCo”) on 3rd February 2010, the Secretary for Labour and Welfare has appointed the dates on which the provisions of the Amendment Ordinance will come into operation. The Occupational Deafness (Compensation) (Amendment) Ordinance 2010 (Commencement) Notice (“Commencement Notice”) was published in the Gazette on 19th February 2010. The Commencement Notice will be tabled at the LegCo on 24th February 2010 to go through the negative vetting procedure.

The Commencement Notice

2. We propose to set three different dates for the commencement of different provisions of the Amendment Ordinance. The rationale for setting three different commencement dates is set out as follows:-

(a) Amendments to the Occupational Deafness (Compensation) Ordinance to improve the statutory compensation scheme for the persons with occupational deafness (sections 3 to 26 of the Amendment Ordinance) and minor amendments to the Employees’ Compensation Insurance Levies Ordinance (ECILO) (sections 27 and 28 of the Amendment Ordinance)

- In response to the request made by the LegCo Members that the provisions to improve the Occupational Deafness Compensation Scheme should be implemented as soon as possible to benefit persons with occupational deafness, we propose to bring these sections into operation on 16th April 2010, two days after the expiry of the full negative vetting period of the Commencement

Notice.

(b) Amendment to the Employees' Compensation Insurance Levy (Rate of Levy) Order (section 30 of the Amendment Ordinance)

- The purpose of section 30 of the Amendment Ordinance is to amend the Employees' Compensation Insurance Levy (Rate of Levy) Order to adjust the overall Levy rate from 6.3% to 5.8%. Under ECILO, the Levy is charged on the premium of every employee's compensation insurance policy taken out by employers, and collected via the insurers. Section 9 of ECILO provides that the Employees' Compensation Insurance Levies Management Board ("ECILMB") may fix any period of 12 months to be the financial year of ECILMB. For the purposes of the payment, receipt and remittance of the Levy, ECILMB may divide the financial year as so fixed into four equal periods of three months. The four relevant periods in a financial year as determined by ECILMB are from April to June, from July to September, from October to December and from January to March in the following year.
- To avoid any confusion that may arise, the date on which the new Levy rate takes effect should be the first day of a relevant period. As the full negative vetting period for the Commencement Notice would expire on 14th April 2010, it is proposed to appoint 1st July 2010, which is the first day of the next full relevant period (i.e. July to September 2010), to be the day on which section 30 of the Amendment Ordinance would become effective.

(c) Amendment to Schedule 2 to ECILO (section 29 of the Amendment Ordinance)

- The purpose of section 29 of the Amendment Ordinance is to amend Schedule 2 to ECILO to adjust the proportions of distribution of the net resources of ECILMB to the Occupational Deafness Compensation Board ("ODCB") and the Employees Compensation Assistance Fund Board ("ECAFB"). Under section 15(4) of ECILO, an insurer who, during any relevant period,

receives any Levy, has to remit the Levy to ECILMB not later than two months after the end of that relevant period. Section 7(1) of ECILO provides that ECILMB must, not later than three months after the end of the relevant period, distribute to the three specified bodies, namely ODCB, ECAFB and the Occupational Safety and Health Council, the net resources in respect of that relevant period according to the proportions specified in Schedule 2 to ECILO.

- As the new overall Levy rate is to take effect on the first day of a relevant period from July to September 2010, it is proposed that new proportions of distribution of the net resources to ODCB and ECAFB become effective on the first day of the following relevant period (i.e. 1st October 2010). Upon the commencement of section 29 of the Amendment Ordinance on 1st October 2010, ECILMB will distribute the net resources to the specified bodies according to the adjusted proportions of distribution specified in Schedule 2 to ECILO on or after that day.

Labour and Welfare Bureau
February 2010