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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 13 June 2012

**Three proposed resolutions to be moved by
the Secretary for Labour and Welfare**

I forward for Members' consideration three proposed resolutions (**Appendices I to III**) which the Secretary for Labour and Welfare will move at the Council meeting of 13 June 2012 under the following three Ordinances:

- (a) Employees' Compensation Ordinance (Cap. 282);
- (b) Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360); and
- (c) Occupational Deafness (Compensation) Ordinance (Cap. 469).

The President has directed that they be printed in the terms in which they were handed in on the Agenda of the Council.

2. The speeches in both Chinese and English (**Appendices IV to VI**) which the Secretary will deliver when moving the three proposed resolutions are also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

Employees' Compensation Ordinance

Resolution

(Under section 48A of the Employees' Compensation Ordinance (Cap. 282))

Resolved that, with effect from 14 July 2012, the Employees' Compensation Ordinance (Cap. 282) be amended as set out in the Schedule.

Schedule

Amendments to Employees' Compensation Ordinance

1. **Sixth Schedule amended (specified amount of compensation)**
 - (1) Sixth Schedule, entry relating to section 6(1)(a)—
Repeal
“21,500”
Substitute
“23,580”.
 - (2) Sixth Schedule, entry relating to section 6(1)(b)—
Repeal
“21,500”
Substitute
“23,580”.
 - (3) Sixth Schedule, entry relating to section 6(1)(c)—
Repeal
“21,500”
Substitute
“23,580”.
 - (4) Sixth Schedule, entry relating to section 6(2)—
Repeal
“310,000”
Substitute
“340,040”.
 - (5) Sixth Schedule, entry relating to section 6(5)—
Repeal

- “35,000”
Substitute
“70,000”.
- (6) Sixth Schedule, entry relating to section 6C(8)(a)—
Repeal
“500”
Substitute
“550”.
- (7) Sixth Schedule, entry relating to section 6C(8)(b)—
Repeal
“1,000”
Substitute
“1,100”.
- (8) Sixth Schedule, entry relating to section 6D(3)(a)—
Repeal
“500”
Substitute
“550”.
- (9) Sixth Schedule, entry relating to section 6D(3)(b)—
Repeal
“1,000”
Substitute
“1,100”.
- (10) Sixth Schedule, entry relating to section 6E(9)(a)—
Repeal
“500”
Substitute
“550”.

- (11) Sixth Schedule, entry relating to section 6E(9)(b)—
Repeal
“1,000”
Substitute
“1,100”.
- (12) Sixth Schedule, entry relating to section 7(1)(a)—
Repeal
“21,500”
Substitute
“23,580”.
- (13) Sixth Schedule, entry relating to section 7(1)(b)—
Repeal
“21,500”
Substitute
“23,580”.
- (14) Sixth Schedule, entry relating to section 7(1)(c)—
Repeal
“21,500”
Substitute
“23,580”.
- (15) Sixth Schedule, entry relating to section 7(2)—
Repeal
“352,000”
Substitute
“386,110”.
- (16) Sixth Schedule, entry relating to section 8(1)(a)—
Repeal
“422,000”

Substitute

“462,890”.

- (17) Sixth Schedule, entry relating to section 8(1)(b)—

Repeal

“422,000”

Substitute

“462,890”.

- (18) Sixth Schedule, entry relating to section 16A(10)(a)—

Repeal

“500”

Substitute

“550”.

- (19) Sixth Schedule, entry relating to section 16A(10)(b)—

Repeal

“1,000”

Substitute

“1,100”.

- (20) Sixth Schedule, entry relating to section 36C—

Repeal

“33,000”

Substitute

“33,460”.

- (21) Sixth Schedule, entry relating to section 36J—

Repeal

“100,000”

Substitute

“101,390”.

**Pneumoconiosis and Mesothelioma (Compensation)
Ordinance**

Resolution

(Under section 40 of the Pneumoconiosis and Mesothelioma
(Compensation) Ordinance (Cap. 360))

Resolved that, with effect from 14 July 2012, the Pneumoconiosis and
Mesothelioma (Compensation) Ordinance (Cap. 360) be amended as set out
in the Schedule.

Schedule

**Amendments to Pneumoconiosis and Mesothelioma
(Compensation) Ordinance**

1. First Schedule amended (amounts of compensation)

(1) First Schedule, Part IIA—

Repeal

“\$3,180”

Substitute

“\$3,220”.

(2) First Schedule, Part IV—

Repeal

“\$4,160”

Substitute

“\$4,520”.

(3) First Schedule, Part V—

Repeal

“\$100,000”

Substitute

“\$101,390”.

(4) First Schedule, Part VI—

Repeal

“\$35,000”

Substitute

“\$70,000”.

Occupational Deafness (Compensation) Ordinance

Resolution

(Under section 39(2) of the Occupational Deafness (Compensation) Ordinance (Cap. 469))

Resolved that, with effect from 14 July 2012, the Occupational Deafness (Compensation) Ordinance (Cap. 469) be amended as set out in the Schedule.

Schedule

Amendments to Occupational Deafness (Compensation) Ordinance

1. Schedule 5 amended (amount of compensation)

(1) Schedule 5, section 1(a)(ii)—

Repeal

“\$341,000”

Substitute

“\$386,110”.

(2) Schedule 5, section 1(b)—

Repeal

“\$2,016,000”

Substitute

“\$2,263,680”.

(3) Schedule 5, section 1(b)—

Repeal

“\$1,512,000”

Substitute

“\$1,697,760”.

(4) Schedule 5, section 1(b)—

Repeal

“\$1,008,000”

Substitute

“\$1,131,840”.

DRAFT

Speech by the Secretary for Labour and Welfare
in moving the Resolution under Section 48A
of the Employees' Compensation Ordinance
in the Legislative Council on 13 June 2012

(This is a draft; please check against actual delivery.)

President,

I move that the resolution, as printed on the Agenda, be passed.

2. The purpose of this resolution is to increase the amount of eight compensation items payable under the Employees' Compensation Ordinance (ECO). ECO provides for the payment of statutory compensation to employees for occupational diseases or injuries caused by accidents arising out of and in the course of employment, or family members of the deceased employees for deaths so caused. It is an established practice to review the levels of compensation provided for under ECO every two years. Adjustments to the amounts of compensation are made mainly by reference to the changes in wage and price levels in the intervening period.

3. Prior to 1998, the levels of compensation under ECO had been adjusted upwards in line with the positive changes of the relevant indicators in the review periods. After 1998, as a result of deflation and downward adjustment of wages experienced in Hong Kong, the four review exercises covering 1999 to 2006 witnessed a negative growth in most of the indicators, including the Nominal Wage Index (NWI) and Consumer Price Index (CPI) (A). It was until the last review for 2007 to

2008 when the wage index recorded an increase after offsetting the cumulative negative change since 1998 but the price index still showed a cumulative decrease. In the five reviews for these 10 years, we have all along, on the premise of not jeopardizing the interests of employees sustaining injuries at work or occupational diseases or their family members, frozen the amount of various compensation items in face of negative growth in the adjustment indicators. Nonetheless, in subsequent reviews, the levels of compensation under ECO would not be revised upwards until the cumulative rate of decrease in wage or price movements have been offset by subsequent increases. However, where wage or price movements recorded positive growth net of the decreases accumulated in the past, the levels of compensation would be adjusted upwards according to the “net growth” recorded. In line with this practice, the levels of compensation for the five relevant ECO items have been raised by 2.34% with effect from 1 August 2010 while the amounts of compensation, which would have to be revised downwards according to the review findings, have remained unchanged.

4. Earlier, we have conducted a review for 2009 to 2010 pursuant to the established mechanism. The review findings indicated an increase in NWI but still a cumulative decrease in CPI(A). We proposed to raise the amount of the five relevant items under ECO by 1.48% according to the rate of increase in the wage index but to freeze the other levels of compensation. The ceiling of funeral expenses was to be increased by 57.14% from \$35,000 to \$55,000 according to the reference data collected from the funeral parlours.

5. At the meeting of the Legislative Council Panel on Manpower on 20 January 2012, some Members were concerned about the wage and price changes following the implementation of the statutory minimum wage (SMW) in May 2011 and the rising trend of funeral expenses in the period. In view of the very special circumstances, the Administration has made a special arrangement to further review the wage and price

movements in 2011 and the funeral expenses, and revisit the changes of the relevant review indicators in the past three years. The various indicators were found to have exhibited higher growth.

6. In line with the review findings for 2009 - 2011, we propose to increase the amount of five compensation items by 9.69% according to the positive change in the wage index. The proposed revisions include increasing the ceiling of monthly earnings for calculating the maximum amounts of compensation for death and for permanent total incapacity from \$21,500 to \$23,580. We also propose to increase the minimum levels of compensation for death from \$310,000 to \$340,040, and for permanent total incapacity from \$352,000 to \$386,110. In addition, we propose that the maximum amount of compensation for employees injured at work who require the attention of another person be revised upwards from \$422,000 to \$462,890. As for the surcharge on late payment of compensation, we propose to increase the minimum amount of surcharge imposed upon expiry of the payment period from \$500 to \$550 and the minimum of a further surcharge imposed three months after the expiry of the payment period from \$1,000 to \$1,100.

7. In addition, we also propose to increase the amount of two compensation items by 1.39% in line with the movement in the price index. The increase has already fully offset the negative price change accumulated since the last adjustment of compensation levels in 1998 and up to 2008. The proposed changes include increasing the maximum payments towards the cost of supplying and fitting a prosthesis and surgical appliance from \$33,000 to \$33,460, and towards the cost of the repair and renewal of a prosthesis and surgical appliance from \$100,000 to \$101,390.

8. As for funeral expenses, we have made reference to the practice in 2000 to approach the major funeral parlours for the cost of funeral services. According to the information collected in February 2012, and

having regard to the prices of urns in the private market, we propose to increase the maximum amount of funeral expenses from \$35,000 to \$70,000. It would not only cater for inflation and the actual situation but also provide better financial relief to the family members of the deceased.

9. To allow time for the employers and the insurance industry to prepare for the implementation arrangements, we propose that the revised levels of compensation should take effect from 14 July 2012.

10. For the compensation item that should be revised downwards in accordance with the review findings, we recommend to maintain its existing level of compensation, in order not to adversely impact on the livelihood of the affected employees.

11. The Labour Advisory Board (LAB) has unanimously endorsed the above proposal. It is against the very special circumstances in the light of the substantive effect brought by the implementation of SMW in May 2011 that a three-year review was conducted. Nonetheless, upholding the spirit of mutual understanding, and in furtherance of harmonious labour relations and employees' rights and benefits, the employer representatives of LAB have worked in unanimity with the employee representatives to give support to the present proposal. I wish to take this opportunity to express my gratitude to them. In future reviews, the Government will revert to the established practice of reviewing the levels of compensation every two years. I hope that Members will support and pass the motion so that the employees injured at work or sustaining occupational diseases or their family members can benefit as soon as possible.

12. Thank you, President.

- End -

DRAFT

Speech by the Secretary for Labour and Welfare
in moving the Resolution under Section 40
of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance
in the Legislative Council on 13 June 2012

(This is a draft; please check against actual delivery.)

President,

I move that the resolution, as printed on the Agenda, be passed.

2. The purpose of this resolution is to increase the amount of five compensation items payable under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (PMCO). PMCO provides for the payment of compensation to persons or their family members in respect of incapacity or death resulting from pneumoconiosis and/or mesothelioma. It is an established practice to review the levels of compensation provided for under PMCO together with those under the Employees' Compensation Ordinance (ECO) every two years, and adjustments to the amounts of compensation are made by reference to the changes in the price level and other relevant indicators in the intervening period.

3. As mentioned earlier in moving the motion to raise the levels of compensation under ECO, the five reviews covering the 10 years from 1999 to 2008 witnessed a negative growth in most of the indicators, including the Consumer Price Index (CPI) (A). Notwithstanding that, we have all along kept the amounts of various compensation items under PMCO unchanged in order not to affect the interests of employees

contracting the diseases or family members of the deceased. Nevertheless, the negative price movement accumulated in the past would be taken into account in subsequent reviews. In other words, the levels of compensation under PMCO would not be revised upwards until the cumulative rate of decrease in price movement has been offset by subsequent increases.

4. Pursuant to the established mechanism, we have conducted a review on the changes in the relevant indicators for 2009-2010. The review findings indicated the room for upward adjustment in respect of two compensation items. However, to take account of the effect of the implementation of the statutory minimum wage (SMW), the Administration has made a special arrangement to conduct a further review to cover the changes of various indicators in 2011. Based on the findings of the further review, we propose to increase the amount of three compensation items under PMCO by 1.39%. The increase has fully offset the cumulative rate of decrease in the price level since the last adjustment of compensation levels in 1998 and up to 2008. The proposed changes include increasing the monthly amount of compensation for pain, suffering and loss of amenities from \$3,180 to \$3,220. We also propose to increase the amount of compensation for bereavement from \$100,000 to \$101,390. As the minimum amount of compensation for death is pegged to the amount of compensation for bereavement, the revision of the amount of compensation for bereavement will automatically adjust the minimum amount of compensation for death from \$100,000 to \$101,390.

5. Furthermore, we propose to increase the monthly amount of compensation for care and attention from \$4,160 to \$4,520 to take into account the increase in the minimum allowable wage and food provision for a foreign domestic helper since the last revision of compensation level. Regarding funeral expenses, as for the same item under ECO, considering the charges for funeral services by the major funeral parlours and

allowing subsidy for the purchase of urns in the private market, we propose to increase the maximum amount of funeral expenses from \$35,000 to \$70,000.

6. The Labour Advisory Board and the Pneumoconiosis Compensation Fund Board have endorsed the above proposal. We propose that the revised levels of compensation should take effect from 14 July 2012.

7. I hope that Members will support and pass the motion so that persons suffering from pneumoconiosis and mesothelioma or their family members can benefit as soon as possible.

8. Thank you, President.

- End -

DRAFT

Speech by the Secretary for Labour and Welfare
in moving the Resolution under Section 39(2)
of the Occupational Deafness (Compensation) Ordinance
in the Legislative Council on 13 June 2012

(This is a draft; please check against actual delivery.)

President,

I move that the resolution, as printed on the Agenda, be passed.

2. The purpose of this resolution is to increase the amount of two compensation items payable under the Occupational Deafness (Compensation) Ordinance (ODCO). ODCO provides compensation to persons who suffer from noise-induced deafness due to employment in specified noisy occupations. When ODCO was first introduced in 1995, its levels of compensation, which relate to the maximum and minimum sums for calculating the amount of compensation for permanent incapacity, were pegged at the same levels as the Employees' Compensation Ordinance (ECO).

3. The maximum sum for calculating the compensation for permanent incapacity under ODCO is derived from a ceiling of monthly earnings. The ceiling of monthly earnings currently adopted under ODCO is \$21,000 while the minimum sum for calculating the compensation for permanent incapacity is set at \$341,000. The amounts of compensation were revised in 2003 on the basis of the cumulative increase in nominal wage index from 1994 to 2001. The revision has brought the levels of compensation under ODCO generally on a par with the corresponding prevailing rates under ECO except for a mild

difference arising mainly from the different review timeframes adopted by the two ordinances.

4. The present levels of compensation have been in force since 2003. To ensure consistency in compensation levels between ECO and ODCO, it is intended that the maximum and minimum sums for calculating the amount of compensation for permanent incapacity under ODCO be aligned with the levels of the relevant compensation items under ECO, and be reviewed every two years so as to maintain their values in line with the wage movement during the intervening period.

5. Members have just passed the motion to increase the amount of eight compensation items under ECO, of which the ceiling of monthly earnings for calculating compensation for death and permanent total incapacity has increased by 9.69% from \$21,500 to \$23,580. To maintain parity in compensation levels between ODCO and ECO, we propose to increase the ceiling of monthly earnings for calculating the maximum sum of compensation for permanent incapacity under ODCO from \$21,000 to \$23,580. Calculating on this basis, the maximum sum of compensation for permanent incapacity for employees aged under 40 would be increased from \$2,016,000, i.e. 96 times of \$21,000, to \$2,263,680, i.e. 96 times of \$23,580. The maximum sum of compensation for permanent incapacity for employees aged 40 to under 56 would be increased from \$1,512,000, i.e. 72 times of \$21,000, to \$1,697,760, i.e. 72 times of \$23,580. For employees aged 56 or above, the maximum sum of compensation for permanent incapacity would be increased from \$1,008,000, i.e. 48 times of \$21,000, to \$1,131,840, i.e. 48 times of \$23,580.

6. Moreover, we propose to increase the minimum sum for calculating the amount of compensation for permanent incapacity under ODCO from \$341,000 to \$386,110 so that it would be aligned with the corresponding item under ECO.

7. The Labour Advisory Board and the Occupational Deafness Compensation Board have endorsed the above proposal. We propose that the revised levels of compensation should take effect from 14 July 2012.

8. I hope that Members will support and pass the motion so that the employees suffering from occupational deafness can benefit as soon as possible.

9. Thank you, President.

- End -