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Legislative Council

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Date : 21 January 2015

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 4 February 2015

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

The Secretary for Labour and Welfare will move, at the Council meeting of 4 February 2015, three proposed resolutions under the following three Ordinances:

- (a) Employees' Compensation Ordinance (Cap. 282) (**Appendix 1**);
- (b) Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (**Appendix 2**); and
- (c) Occupational Deafness (Compensation) Ordinance (Cap. 469) (**Appendix 3**).

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, which the Secretary will deliver when moving the three proposed resolutions are in **Appendices 4 to 6** respectively.

(Odelia LEUNG)
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 5 March 2015, 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

"23,580"

Substitute

"26,070".

- (2) Sixth Schedule, entry relating to section 6(1)(b)—

Repeal

"23,580"

Substitute

"26,070".

- (3) Sixth Schedule, entry relating to section 6(1)(c)—

Repeal

"23,580"

Substitute

"26,070".

- (4) Sixth Schedule, entry relating to section 6(2)—

Repeal

"340,040"

Substitute

"375,950".

- (5) Sixth Schedule, entry relating to section 6(5)—
Repeal
“70,000”
Substitute
“76,220”.
- (6) Sixth Schedule, entry relating to section 6C(8)(a)—
Repeal
“550”
Substitute
“610”.
- (7) Sixth Schedule, entry relating to section 6C(8)(b)—
Repeal
“1,100”
Substitute
“1,220”.
- (8) Sixth Schedule, entry relating to section 6D(3)(a)—
Repeal
“550”
Substitute
“610”.
- (9) Sixth Schedule, entry relating to section 6D(3)(b)—
Repeal
“1,100”
Substitute
“1,220”.

- (10) Sixth Schedule, entry relating to section 6E(9)(a)—
Repeal
“550”
Substitute
“610”.
- (11) Sixth Schedule, entry relating to section 6E(9)(b)—
Repeal
“1,100”
Substitute
“1,220”.
- (12) Sixth Schedule, entry relating to section 7(1)(a)—
Repeal
“23,580”
Substitute
“26,070”.
- (13) Sixth Schedule, entry relating to section 7(1)(b)—
Repeal
“23,580”
Substitute
“26,070”.
- (14) Sixth Schedule, entry relating to section 7(1)(c)—
Repeal
“23,580”
Substitute
“26,070”.

- (15) Sixth Schedule, entry relating to section 7(2)—
Repeal
“386,110”
Substitute
“426,880”.
- (16) Sixth Schedule, entry relating to section 8(1)(a)—
Repeal
“462,890”
Substitute
“511,770”.
- (17) Sixth Schedule, entry relating to section 8(1)(b)—
Repeal
“462,890”
Substitute
“511,770”.
- (18) Sixth Schedule, entry relating to section 11(5)—
Repeal
“3,490”
Substitute
“3,690”.
- (19) Sixth Schedule, entry relating to section 16A(10)(a)—
Repeal
“550”
Substitute
“610”.

- (20) Sixth Schedule, entry relating to section 16A(10)(b)—
Repeal
“1,100”
Substitute
“1,220”.
- (21) Sixth Schedule, entry relating to section 36C—
Repeal
“33,460”
Substitute
“36,430”.
- (22) Sixth Schedule, entry relating to section 36J—
Repeal
“101,390”
Substitute
“110,390”.

Pneumoconiosis and Mesothelioma (Compensation) Ordinance

Resolution

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

Resolved that, with effect from 5 March 2015, 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

“\$3,220”

Substitute

“\$4,650”.

(2) First Schedule, Part IV—

Repeal

“\$4,520”

Substitute

“\$4,930”.

(3) First Schedule, Part V—

Repeal

“\$101,390”

Substitute

“\$110,390”.

(4) First Schedule, Part VI—

Repeal

“\$70,000”

Substitute

“\$76,220”.

Occupational Deafness (Compensation) Ordinance

Resolution

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

Resolved that, with effect from 5 March 2015, 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

“\$386,110”

Substitute

“\$426,880”.

- (2) Schedule 5, section 1(b)—

Repeal

“\$2,263,680”

Substitute

“\$2,502,720”.

- (3) Schedule 5, section 1(b)—

Repeal

“\$1,697,760”

Substitute

“\$1,877,040”.

- (4) Schedule 5, section 1(b)—

Repeal

“\$1,131,840”

Substitute

“\$1,251,360”.

2. **Schedule 7 amended (limits of direct payment of expenses and reimbursement of expenses)**

(1) Schedule 7, section 1—

Repeal

“\$12,000”

Substitute

“\$15,000”.

(2) Schedule 7, section 2—

Repeal

“\$36,000”

Substitute

“\$52,000”.

DRAFT

Speech by the Secretary for Labour and Welfare
in moving the Resolution under Section 48A
of the Employees' Compensation Ordinance
at the Legislative Council sitting on 4 February 2015

(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 amounts of nine compensation items payable under the Employees' Compensation Ordinance (ECO). ECO provides for the payment of statutory compensation to injured employees and family members of deceased employees for prescribed occupational diseases, injuries or deaths caused by accidents arising out of and in the course of employment. According to the established mechanism, the levels of compensation under ECO together with those under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and the Occupational Deafness (Compensation) Ordinance are reviewed every two years. Adjustments, if required, are generally made by reference to the changes in the wage and price levels and other relevant factors in the review period.

3. Earlier, we have conducted a review on the changes of the relevant indicators in the period from 2012 to 2013 pursuant to the established mechanism. The review findings revealed a cumulative growth of 10.56% in the Nominal Wage Index in the period under review, and a cumulative growth of 8.88% in the Consumer Price Index (A) in the

same period.

4. Based on the review findings, we propose to increase the amounts of five compensation items under ECO by 10.56% in line with the wage movement. 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 \$23,580 to \$26,070. We also propose to increase the minimum levels of compensation for death from \$340,040 to \$375,950 and for permanent total incapacity from \$386,110 to \$426,880. 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 \$462,890 to \$511,770. 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 \$550 to \$610 and the minimum amount of a further surcharge imposed three months after the expiry of the payment period from \$1,100 to \$1,220.

5. At the same time, we also propose to increase the amounts of three compensation items by 8.88% in line with the price movement. The proposed changes include increasing the maximum amount of funeral expenses from \$70,000 to \$76,220, and increasing the maximum payments to be made by an employer towards the cost of supplying and fitting a prosthesis or surgical appliance from \$33,460 to \$36,430 and towards the cost of the repair and renewal of a prosthesis or surgical appliance from \$101,390 to \$110,390.

6. Finally, we propose to raise the amount of minimum monthly earnings specified in ECO for the purpose of calculating compensation from \$3,490 to \$3,690 so that it is not less than the rate of payment to a single and able-bodied adult under the Comprehensive Social Security Assistance Scheme in 2013.

7. The Labour Advisory Board has endorsed the above proposal, and Members of the Legislative Council Panel on Manpower have also expressed support to the proposal. We propose that the revised levels of compensation become effective from 5 March 2015.

8. I hope that Members will support and pass the resolution so that injured employees, employees suffering from prescribed occupational diseases under ECO or family members of deceased employees can benefit as early as possible.

9. 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
at the Legislative Council sitting on 4 February 2015

(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. According to the established mechanism, the levels of compensation under PMCO together with those under the Employees' Compensation Ordinance and the Occupational Deafness (Compensation) Ordinance are reviewed every two years. Adjustments, if required, are generally made by reference to the changes in the price level and other relevant factors in the review period.

3. Following the established mechanism, we have conducted a review on the changes of the relevant indicators in the period from 2012 to 2013. The review findings indicated a cumulative growth of 8.88% in the Consumer Price Index (A) in the period under review. We propose to increase the levels of compensation for three items under PMCO by 8.88% in line with the price movement. The proposed revisions include increasing the amount of compensation for bereavement from \$101,390 to \$110,390. 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 \$101,390 to \$110,390. We also propose to increase the maximum amount of funeral expenses from \$70,000 to \$76,220.

4. Furthermore, we propose to increase the monthly amount of compensation for care and attention from \$4,520 to \$4,930 to take into account the increase in the minimum allowable wage and food provision for a foreign domestic helper working in Hong Kong since the last revision of compensation level.

5. As for the compensation for pain, suffering and loss of amenities (PSLA), we have made reference to the practice adopted in 1993 of taking into account the average amount of compensation for PSLA awarded by the court in past personal injuries claims in setting the level of compensation for PSLA. According to the information provided by the Legal Aid Department on the scale of PSLA awards set by the court in 2013, we propose to increase the monthly amount of compensation for PSLA under PMCO from \$3,220 to \$4,650, up by 44.41%. It would provide better financial relief to persons suffering from pneumoconiosis and mesothelioma.

6. The Labour Advisory Board and the Pneumoconiosis Compensation Fund Board have endorsed the above proposal, while Members of the Legislative Council Panel on Manpower have also expressed support to the proposal. We propose that the revised levels of compensation should take effect from 5 March 2015.

7. I hope that Members will support and pass the resolution 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
at the Legislative Council sitting on 4 February 2015

(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 amounts of four compensation items stipulated in the Occupational Deafness (Compensation) Ordinance (ODCO). ODCO provides compensation to persons who suffer from noise-induced deafness by reason of employment in the specified noisy occupations (OD persons). According to the established mechanism, the maximum and minimum sums for calculating the amount of compensation for permanent incapacity under ODCO together with the levels of compensation under the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance are reviewed every two years. Adjustments, if required, to the relevant sums under ODCO are generally made by reference to the wage movement as reflected by the Nominal Wage Index (NWI) in the review period.

3. Moreover, with a view to enhancing protection for OD persons under the financing scheme for hearing assistive devices (HADs) under ODCO, we will, starting from this review exercise, review the first-time financing limit and aggregate financing limit every two years with reference to the experience of the Occupational Deafness Compensation

Board (ODCB) in administering the scheme.

4. The review findings revealed a cumulative growth of 10.56% in NWI in the period from 2012 to 2013. According to the established mechanism, we propose to increase the maximum and minimum sums for calculating the amount of compensation for permanent incapacity under ODCO by 10.56% in line with the wage movement. Specifically, the proposed revisions include increasing the maximum sum for calculating the amount of compensation for permanent incapacity for employees aged under 40 from \$2,263,680 to \$2,502,720; for employees aged 40 to under 56 from \$1,697,760 to \$1,877,040, and for employees aged 56 or above from \$1,131,840 to \$1,251,360. As for the minimum sum for calculating the amount of compensation for permanent incapacity, we propose to increase the amount from \$386,110 to \$426,880.

5. We have also reviewed the first-time financing limit and the aggregate financing limit for HADs stipulated under ODCO, having regard to the experience of ODCB in administering the scheme. From the implementation of the revised HAD financing limits on 16 April 2010 up to 31 December 2013, ODCB recorded 43 HAD applications with a claim amount exceeding \$12,000, of which 76.7% (or 33 applications) involved a claim amount ranging from \$12,001 to \$15,000. We also understand from ODCB that new models of hearing aids are now available in the market with more functions designed to suit the needs of individual OD persons, the prices of which are commonly in the range of \$14,000 to \$16,000. In view of this, we suggest adjusting upwards the first-time financing limit by 25% from \$12,000 to \$15,000 so as to allow OD persons to have a wider choice of HADs to cater for their individual needs.

6. Furthermore, we understand that some OD persons have already exhausted the aggregate financing limit of \$36,000 or are likely to exhaust the aggregate financing limit in around one to two years.

Taking into account the estimated average annual HAD expenses of an OD person as well as the biennial review timeframe, we suggest raising the aggregate financing limit by 44.44% from \$36,000 to \$52,000, such that those OD persons who have exhausted the aggregate financing limit can benefit again, while those approaching the limit will also continue to benefit.

7. The Labour Advisory Board and ODCB have endorsed the above proposal, while Members of the Legislative Council Panel on Manpower have also expressed support to the proposal. We propose that the revised levels of compensation and financing limits take effect from 5 March 2015.

8. I hope that Members will support and pass the resolution so that OD persons can benefit as early as possible.

9. Thank you, President.

- End -