

立法會
Legislative Council

LC Paper No. CB(2)76/98-99

Ref : CB2/SS/2/98

Paper for the House Committee

**Report of the Subcommittee on Government Motions
under section 48A of the Employees' Compensation Ordinance
and section 40 of the Pneumoconiosis (Compensation) Ordinance**

Purpose

This paper reports on the deliberations of the Subcommittee on Government Motions under section 48A of the Employees' Compensation Ordinance (Cap. 282) (ECO) and section 40 of the Pneumoconiosis (Compensation) Ordinance (Cap. 360) (PCO).

Background

2. The levels of compensation under the ECO and the PCO are normally revised every two years to catch up with the wage and price movements. The current compensation levels came into effect on 1 January 1996. As the Administration considered that the resolutions to revise the levels of compensation did not satisfy the "essentiality" criterion for submission to the Provisional Legislative Council, the resolutions have been deferred to the Legislative Council.

The Motions

3. The Secretary for Education and Manpower has given notice to move the two motions at the Legislative Council meeting on 22 July 1998. The motions propose to revise the levels of compensation under the ECO and the PCO with effect from 1 August 1998 to take into account the price or wage movements for the full years from 1 January 1996 to 31 December 1998. The proposals have been endorsed by the Labour Advisory Board and the Pneumoconiosis Compensation Fund Board.

The Subcommittee

4. At the House Committee meeting held on 10 July 1998, Members agreed to form a subcommittee to study the two motions. The Subcommittee met on 16 July 1998 and Hon CHAN Kam-lam was elected Chairman. The membership list of the Subcommittee is in the **Appendix**.

5. The Subcommittee met representatives of the Administration and a deputation from the Pneumoconiosis Mutual Aid Association at the meeting and concluded its deliberations in one meeting.

Deliberations of the Subcommittee

6. The main deliberations of the Subcommittee are set out in the following paragraphs.

7. Members have noted that as requested by the House Committee at its meeting on 10 July 1998, the Administration has agreed to postpone the resolutions to a later date. They have also noted that in order that the new rates could take effect on 1 August 1998, the resolutions must be moved at the Council meeting on 22 July 1998. In order to enable the recipients to receive the new rates of compensation as soon as possible, members agree that the Administration should move the resolutions on 22 July 1998 as originally scheduled. In accordance with the Subcommittee's recommendation, the Administration gave notice on 17 July 1998 to move the two resolutions at the Council meeting on 22 July 1998.

Motion under section 48A of the ECO

8. Except for one member who has reservation about the proposed ceiling of monthly earnings for calculating compensation for death and permanent total incapacity which is revised from \$18,000 to \$21,000, the Subcommittee agrees that the resolution is acceptable.

Motion under section 40 of the PCO

9. Members share the view that the proposed revised level of compensation for pain, suffering and loss of amenities under the PCO should be retrospective to 1 January 1998. Having regard to the Administration's explanation of the technical difficulties involved and the time constraint, members have agreed that the Administration should review the proposed level of compensation in order to make up for the amount of additional compensation foregone by the recipients since 1 January 1998.

10. In its letter of 17 July 1998 giving notice of motion, the Administration has explained that on the basis of inflation as reflected in the Consumer Price Index for the period between 1 January 1996 and 31 December 1997, the level of compensation for pain, suffering and loss of amenities under the PCO should have been adjusted from \$2,570 to \$2,870, if it was revised on 1 January 1998. Hence the total amount of additional compensation which should have been payable to the recipients but is now foregone because the revision will only take effect on 1 August 1998 is \$2,100. The Administration proposes to offset the amount of additional compensation foregone by the recipients by increasing the level of compensation by \$180 (i.e. \$2,100 divided by 12 = \$175, and rounded up to \$180) on top of the originally proposed new compensation level of \$3,000. This revised level of compensation is included in the new resolution under the PCO.

11. Compensation for bereavement provided under the PCO is payable to the family members of a deceased pneumoconiotic if he dies before the Pneumoconiosis Compensation Fund Board issues the certificate for determining the amount of compensation payable. Under section 5 of the PCO, the minimum amount of compensation for death is pegged to the amount of compensation for bereavement. The current amount of \$70,000 was set in July 1993. To preserve the value of these two compensation items, the Administration proposes to revise the amount according to the rate of inflation for the period between 1 July 1993 to 31 December 1998 which is estimated to be 43.2%. The proposed revised amount is \$100,000. A member has pointed out that the two items are related to a similar item under the Fatal Accidents Ordinance (Cap. 22) which has been revised to \$150,000. Members have asked the Administration to provide information on the reasons for the difference in the amount payable. While the Administration has agreed to pursue the matter later, a member has indicated that he will move an amendment to revise the amount of compensation.

Recommendation

12. The Subcommittee recommends that the two Government motions be supported at the Council meeting on 22 July 1998.

Advice Sought

13. Members are invited to support the recommendation of the Subcommittee in paragraph 12 above.

Legislative Council Secretariat

20 July 1998

