

**A Submission from the Pneumoconiosis Mutual Aid Association to
LegCo Members dated 14 July 1998
regarding the motion under Section 40 of
the Pneumoconiosis (Compensation) Ordinance (Cap. 360)**

The Pneumoconiosis Mutual Aid Association (“the Association”) welcomes the Secretary for Education and Manpower’s proposal to move a motion at a meeting of the Legislative Council under Section 40 of the Pneumoconiosis (Compensation) Ordinance (Cap. 360) (“the Ordinance”), to raise the levels of compensation payable under the Ordinance to people suffering from pneumoconiosis. Although the revision is made on a regular basis, our Association still finds shortcomings and latent problems therein and would like to express our views in this respect. We urge LegCo Members to uphold justice for elderly victims of pneumoconiosis by proposing improvements to the Government so that the benefits of these victims can be better protected. The shortcomings of the motion as identified by our Association are summarized as follows:

1. It is proposed in the motion that the monthly compensation for pain, suffering and loss of amenities be raised from \$2,570 to \$3,000:-
(The existing level of \$2,570 came into effect on 1 January 1996 and it is provided in the Amendment Ordinance that the level shall be revised every two years to take inflation into account.)
 - A. The Education and Manpower Bureau has not explained how it has arrived at the revised rates and it seems that its various proposals are based on different standards.

Our Association has computed the revised rates by taking inflation into account as follows:

Year	Amount payable to victims	Revised Amount payable having regard to inflation	inflation (%)	Monthly Difference (\$)	Yearly Difference (\$)
1996	2,570.00	2,732.00	6.3	-162.00	-1,944.00
1997	2,570.00	2,890.00	5.8	-320.00	-3,840.00

1998	3,000.00*	3,035.00	5.0 (estimated)	-35.00	-420.00 **-3,010.00
1999	3,000.00	3,186.00	5.0 (estimated)	-186.00	-2,232.00
2000	3,000.00	3,345.00	5.0 (estimated)	-345.00	-4,140.00
			Accumulated	Difference	-15,586.00
in five years :					

Irrespective of the accumulated shortfall in the amounts of compensation and interest over the past two years, the so-called "painful compensation" should be increased this year to \$3,035 each month to take inflation into account.

- B. Why does the Education and Manpower Bureau suggest that the proposed levels of compensation should take effect on 1 August 1998?

As the amended Ordinance took effect on 1 January 1996, the levels of compensation should be adjusted with effect from 1 January 1998. However, the Motion has proposed to increase the levels of compensation with effect from 1 August 1998 and made no mention of retrospective effect. This contravenes the original intention of the Ordinance and shows a total disregard of the interests of pneumoconiosis victims, who have to make both ends meet on the levels of compensation based on a standard set two years ago, which has given rise to an accumulated shortfall of \$5,784 over the past two years, taking inflation into account. Should the effective date for the revision be deferred to 1 August 1998, pneumoconiosis victims would receive \$3,010 less in compensation.

As the annual inflation rate for 1998 is not yet available, the Education and Manpower Bureau has used an estimated inflation rate into bringing forward the revision date, so as to reduce the losses suffered by pneumoconiosis victims. While this is a welcome move, the Bureau has also said that the revised levels have taken into account the price movements for 1998. Does this imply that the next revision will only be made in 2001, thereby turning a promised two-year revision cycle into a three-year one in practice? This will prolong the period for which pneumoconiosis victims have to put up with compensation levels which are lower than the prescribed

standards. Moreover, even if the Bureau revises the amounts of compensation immediately on 1 January 2001, the accumulated loss in "painful compensation" is estimated to be up to \$15,586 for each pneumoconiosis victim.

2. Now that the amount of "painful compensation" is set according to inflation or a rate close to the inflation rate, why are different rates used for determining the respective levels of compensation for care and attention, medical expenses and funeral expenses?

As reflected by members of our Association, the upward revision of the various levels of compensation seems to be a fair deal, but they fail to meet the actual needs of pneumoconiosis victims and their families. Apart from revising the levels of compensation having regard to the prevailing situation in society, the government officials concerned should take a closer look at the Ordinance and consider whether amendment should be made. Take the amount of compensation for care and attention as an example. As no prescribed criteria or guidelines are available for the determination of who should be awarded such compensation, it will depend to a large extent on the judgment and personal preference of the medical practitioner concerned. Although we have full confidence in the professional expertise and ethics of medical practitioners, such an arrangement may give rise to problems in actual practice. In some cases, family members of pneumoconiosis victims who are in genuine need of assistance are not entitled to this kind of compensation simply because of the arbitrary judgment of the doctor in charge. Similar problems exist in the case of funeral and medical expenses.

The amendment proposed in the motion makes no mention of the expenses for medical appliances. Under the Ordinance, compensation is payable for the expenses incurred in procuring and renting oxygen concentrator, cylinder and accessories. However, some paramedical appliances are not covered by the Ordinance. Even if the doctor recommends the use of such appliances, the pneumoconiosis victims concerned cannot claim compensation for this purpose.

3. Even with the amendments proposed by the Education and Manpower Bureau, the Ordinance only covers persons diagnosed after 1 January 1981

to be suffering from pneumoconiosis while the plight of those diagnosed before that date has yet to be addressed. In late 1997, the Government split the ex-gratia grant by introducing separately the so-called "painful compensation" for those who were diagnosed to be suffering from pneumoconiosis before 1981. However, it was not specified that the level of such compensation would be adjusted in line with revisions made to the compensation payable to post-1981 pneumoconiosis victims. The motion proposes that the level of the latter should be raised, but makes no mention of the former compensation. This will confuse pneumoconiosis victims and create more red-tape and workload for the Administration.

We sincerely hope that LegCo Members will convey our concerns to the Administration. We are very keen to have dialogue with LegCo Members who are concerned about pneumoconiosis victims, with a view to expressing our views on this bill.

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