

**The Administration's response to concerns raised
on the FIU (Medical Examinations) Regulation
at the meeting of the Subcommittee on Regulations relating to
Occupational Safety and Health on 15 December 1999**

- (a) **Members have urged the Administration to seriously consider Hon LEE Kai-ming's proposal of a central levy system to pay for the medical examinations of those workers not covered by CITA. The amount of levy on each affected employer may be calculated on the basis of the number of employees who are subject to the mandatory medical examination requirements.**

As stated in the Administration's response to the same suggestion raised at the Subcommittee meeting on 10 November 1999, we do not consider a central levy system to pay for the medical examinations of those workers not covered by CITA a practicable option. It is difficult to devise a scheme that is administratively simple, fair and convenient to collect the proposed levy from employers of the some 40,000 workers in those industries concerned.

We can envisage the following problems/drawbacks for the proposed central levy system:

- (i) The employers concerned may have difficulty in determining the exact number of their workers requiring medical examinations, and hence the amount of levy payable, due to seasonal or other variations specific to their business/production cycle, etc.
- (ii) Under-reporting on the number of workers requiring medical examination and outright levy dodging are expected to be widespread. Whichever agency responsible for the central levy system would have to deploy considerable resources in enforcing against such malpractices.
- (iii) The system is vulnerable to abuse. For example, a levy-paying employer may, since it costs him nothing extra and as a kind of

‘staff benefit’, refer his other workers who are not required to take medical examination to receive a free check-up.

- (iv) Unlike CITA which recovers costs from a surcharge on top of its existing levy on construction contracts and only handles workers in the construction industry, the agency responsible for the central levy system would have a daunting administrative task of collecting a wide range of levies from individual employers and arranging medical examinations for workers in a diverse group of industries. Coupled with the enforcement problems outlined in (ii) and (iii) above and the relatively small number of contributing employers, the administrative cost for the agency is likely to be disproportionately high. This would in turn result in a high levy rate and put heavier financial burden on employers in the industries concerned.

Hence, instead of the proposed central levy system, the Administration firmly believes that it is far more simple, convenient and cost-effective to leave the employers concerned to arrange and pay for the required medical examinations for their workers direct.

- (b) Members are concerned that the medical examination costs for the affected workers will be pushed up with the limited supply of appointed medical practitioners (AMP). The Administration is requested to provide information on the fees charged by private medical schemes in respect of employees’ medical examinations.**

The Administration will closely monitor the supply of AMPs to ensure that it is adequate before the Regulation is brought into operation by phases. In this regard, a significant rise in the medical examination costs is not expected. Currently, the fees charged by private medical practitioners in respect of the existing statutory medical examinations for workers range from \$200 to \$400 (covering a general examination and chest X-ray).

- (c) The Administration is requested to provide breakdown, by type of industry, of the estimated number(s) of replacement/casual workers who are subject to the mandatory medical examination requirements.**

Despite our enquiries with the relevant trade unions and employers' associations, the Administration was unable to obtain concrete figures on the number of replacement/casual workers engaged in those designated occupations and subject to the medical examination requirements. However, according to the Special Topics Report No. 24 on Social Statistics recently published by the Census and Statistics Department, 8.2% of workers in the construction sector, 3.4% in the manufacturing sector and 3.9% in the wholesale, retail and import/export trades, restaurants and hotels sector were part-time workers in early 1999. On this basis, it is estimated that among the 195,000 workers requiring medical examinations, some 14,100 workers are part-time workers, including 12,600 construction workers, 600 Chinese restaurant workers and 900 manufacturing workers.

- (d) The Administration is urged to consider including a provision in the proposed Regulation that workers recommended by the AMP to be permanently suspended from employment in a particular occupation will be entitled to ex-gratia payments.**

Workers who are permanently suspended from employment in a particular occupation because of incapacity arising from an occupational disease are already entitled to compensation under the various compensation laws. They will be paid compensation in the form of a lump sum or monthly payments as the case may be. Apart from compensation for incapacity, they are entitled to compensation for constant attention, expenses of medical treatment, and expenses of medical appliances (for workers with pneumoconiosis). In this regard, the Administration considers that there is little justification to include a provision in the proposed Regulation to provide for the entitlement of these workers to additional ex-gratia payments.

- (e) The Labour Department to provide the performance pledge for following up individual medical reports of occupational illnesses from the employers.**

Upon detection of an occupational disease in the medical examination of a worker, an AMP is required to notify the Commissioner for Labour as soon as practicable. When a notification is received, the Labour Department will deploy Occupational Health Officers and Occupational Hygienists to investigate into the matter. Depending on the nature and size of the problem in question, an investigation will be initiated within 24 hours upon notification of an urgent case, e.g. acute poisoning, and as soon as

practicable for the rest.

(f) The definition and qualifications of an Occupational Health Consultant, a Senior Occupational Health Officer and an Occupational Health Officer to be appointed to the Appeal Board under section 13 of the Regulation.

Occupational Health Officers, Senior Occupational Health Officers and Occupational Health Consultants are permanent posts established under the Labour Department. These posts are filled by medical staff seconded from the Department of Health.

For appointment as an Occupational Health Officer, a medical doctor should have been registered in Hong Kong under the Medical Registration Ordinance. For promotion to the Senior Occupational Health Officer rank, a medical officer should have a relevant post-graduate qualification such as a master degree in Occupational Medicine. As for appointment as an Occupational Health Consultant, a medical officer should have a minimum of 7 years' post-registration experience, and a recognised post-graduate qualification with a minimum of 5 years' experience continuously and exclusively in the specialty of Community Medicine prior to appointment.

Insofar as membership of an Appeal Board under section 13 of the Regulation is concerned, the Commissioner for Labour will normally appoint a Senior Occupational Health Officer or an Occupational Health Consultant, as the case may be, as one of the members. An Occupational Health Officer will be appointed only if he is qualified in the specialty and has substantial experience, especially in the diagnosis and management of the occupational disease which is the subject of the appeal.

Other follow-up actions

Separately, the Administration has been requested to relay two concerns raised by Members at the meeting on 15 December 1999 to the relevant parties. We wish to report that we have already drawn the attention of CITA to Dr Hon Leong Chi-hung's concern that individual qualified AMPs should be given an equal opportunity in participating in its central medical examination scheme for construction workers in future. The Administration has also raised with the Occupational Safety and Health Council Hon Tam Yiu-chung's suggestion that ex-gratia payments be made available by the Council. A response by the Council on the suggestion is expected towards the end of this month.

Education and Manpower Bureau
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