

LEGISLATIVE COUNCIL BRIEF

Resolution of the Legislative Council under Section 48A of the Employees' Compensation Ordinance, Cap 282

Resolution of the Legislative Council under Section 40 of the Pneumoconiosis (Compensation) Ordinance, Cap 360

Introduction

The Employees' Compensation Ordinance (ECO) provides for the payment of compensation to employees and dependants of deceased employees for occupational diseases, injuries or deaths caused by accident arising out of and in the course of employment. The Pneumoconiosis (Compensation) Ordinance (PCO) provides for the payment of compensation to persons, or family members of persons, who have been diagnosed on or after 1 January 1981 as suffering from pneumoconiosis and are incapacitated by or die as a result of pneumoconiosis.

2. The levels of compensation provided under the ECO and PCO are due for revision to ensure that the value of compensation is not eroded by price and wage movements.

Background and Proposals

3. The levels of compensation under the ECO and 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 resolutions to revise the levels of compensation did not satisfy the test of "essentiality" laid down by the Preparatory Committee of the Hong Kong Special Administrative Region in March 1996 for legislative activities by the Provisional Legislative Council, the resolutions to revise the levels are now put forward to the first Legislative Council of the Hong Kong Special Administrative Region.

4. It is proposed to revise upwards the levels of compensation under the ECO and PCO and bring the new levels into effect on 1 August 1998. The revisions fully take into account the price or wage movements for the full years from 1996 to 1998.

Compensation items to be adjusted according to wage movement

5. In previous reviews, the levels of compensation for the items listed below were adjusted according to the rate of wage increase as reflected in the Nominal Wage Index. It is estimated that the rate of wage increase for the period between 1 January 1996 to 31 December 1998 will be 15.8%. Accordingly, it is proposed that the levels of compensation in respect of the following compensation items should be adjusted upwards by 15.8%, rounded off to the nearest thousand or ten dollar where appropriate:

<u>Item under ECO</u>	<u>Existing Level (\$)</u>	<u>Proposed Level (\$)</u>
(a) Ceiling of monthly earnings for calculating compensation for death and permanent total incapacity	18,000	21,000
(b) Minimum compensation for death	262,000	303,000
(c) Minimum compensation for permanent total incapacity	297,000	344,000
(d) Compensation for employee requiring attention	356,000	412,000
(e) Minimum amount of surcharge on late payment of compensation		
initial surcharge	420	490
further surcharge	840	970

Compensation items to be adjusted according to inflation rate

6. In past reviews, the items listed below were adjusted with reference to the increase in inflation as reflected in the Consumer Price Index (A). The inflation rate for the period between 1 January 1996 to 31 December 1998 is estimated to be 16.8%. It is therefore proposed that the levels of compensation for the following

items be adjusted upwards by 16.8%, rounded off to the nearest thousand, as follows :

<u>Item under ECO</u>	<u>Existing Level (\$)</u>	<u>Proposed Level (\$)</u>
a. Maximum amount for burial expenses	14,000	16,000
b. Maximum amount of the cost for supplying and fitting of a prosthesis or surgical appliance	28,000	33,000
c. Maximum amount for the cost of repair and renewal of a prosthesis or surgical appliance	86,000	100,000

<u>Item under PCO</u>	<u>Existing Level (\$)</u>	<u>Proposed Level (\$)</u>
a. Maximum amount for funeral expenses	14,000	16,000
b. Compensation for pain, suffering and loss of amenities (see para. 7 below)	2,570	3,180

7. At the meeting of the Legislative Council Subcommittee on the two resolutions held on 16 July 1998, Members expressed concern over the lack of retrospectivity of the level of compensation for pain, suffering and loss of amenities (PSLA) under the PCO, given that this compensation level had not been revised on 1 January 1998 as originally scheduled. After careful consideration, we have now decided to revise the amount from \$2,570 to \$3,180. This would offset the amount of additional compensation forgone by the recipients during the period of January to July 1998 by increasing the level of compensation for PSLA by \$180 on top of the originally proposed new compensation level of \$3,000, which has taken into account the actual and projected inflation for the period between 1 January 1996 and 31 December 1998. This represents an increase of 23.7% or \$610 over the 1996 level.

8. 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 revision of the amount of compensation for bereavement will automatically adjust the minimum amount of compensation for death. The current compensation amount of \$70,000 was set in July 1993. To preserve the value of these two compensation items, it is proposed to revise the amount according to the rate of increase in inflation as reflected in the Consumer Price Index (A). The inflation rate for the period between 1 July 1993 to 31 December 1998 is estimated to be 43.2%. Therefore, the amount should be raised from \$70,000 to \$100,000.

Compensation items to be adjusted according to the costs of medical treatment at public hospital or clinic

9. Under both the ECO and PCO, a claimant who has received medical treatment as a result of a work injury or pneumoconiosis may claim reimbursement of the actual amount of medical expenses incurred. The reimbursable amount is subject to a maximum which is currently \$160 per day. This amount was set to cover the total costs for consultation, injection and dressing, physiotherapy and hospitalisation in a public hospital or clinic.

10. The charges for medical treatment in a public hospital or clinic were last revised on 15 November 1996. To ensure that the injured employees or pneumoconiotics will not be affected by the raise of medical fees, it is proposed that the daily maximum amount of medical expenses reimbursable under the ECO and PCO should be raised from \$160 to \$175.

Item to be adjusted according to the benefits provided under the Comprehensive Social Security Assistance Scheme

11. Section 11(5) of the ECO provides that where an employee earns less than \$2,450 per month, his monthly earnings shall be deemed to be that amount for the purpose of calculating compensation. This amount is set with reference to the standard rate for a single adult, and other payments, such as rental allowance, water charges and Long Term Supplement, under the Comprehensive Social Security Assistance Scheme (CSSA).

12. To be in line with the rates of the same items of benefits under the CSSA which took effect from 1 April 1998, the amount of minimum earnings under the ECO should be revised upwards to \$3,490.

**Item to be adjusted according to
the monthly wages and food provision for a foreign domestic helper**

13. Section 11 of the PCO provides for the payment of compensation for care and attention to a pneumoconiotic if he is unable to perform the essential actions of life without the care and attention of another person. The compensation is payable in the form of monthly payment and is set with reference to the monthly wages and food provision for a foreign domestic helper. The rates in force in the last review exercise were \$3,750 and \$300 respectively. Therefore, the current amount of compensation for care and attention is \$4,050.

14. The current rate of the monthly wages and food provisions for a foreign domestic helper are \$3,860 and \$300 respectively. It is proposed that the monthly rate of the compensation for care and attention under the PCO be raised from \$4,050 to \$4,160.

Effective Date of the New Levels of Compensation

15. It is proposed that the new levels of compensation be brought into effect on 1 August 1998.

The Legislative Council Resolutions

16. Both the ECO and PCO provide for amendments to the levels of compensation to be effected by resolution of the Legislative Council. The Resolutions under section 48A of the ECO and section 40 of the PCO are at Annexes A and B respectively.

Legislative Timetable

17. The legislative timetable will be -

Moving of Resolutions	22 July 1998
Publication in the Gazette	31 July 1998

Consultation

18. The Labour Advisory Board and the Pneumoconiosis Compensation Fund Board have been consulted and have endorsed the proposal. The Legislative Council Subcommittee on the two resolutions also accepts this proposal.

Economic Implications

19. The proposal will not impose new liability on employers and the Pneumoconiosis Compensation Fund Board. The Accident Insurance Association advised that the proposed adjustments of the levels of compensation under the ECO would result in an increase of about two percent in insurance claims costs which would translate into an increase in insurance premium at a similar rate. The actual increase in insurance premium would be subject to the market mechanism and the accident record of individual employers.

20. The revision of the levels of compensation under the PCO will not lead to an increase in the rate of levy on the value of construction works and quarry products.

Financial and Staffing Implications

21. There will be marginal financial implications for the Government in making higher payout of compensation to civil servants who are injured or die in a work-related accident.

22. There is no staffing implication for the Government arising from the proposal.

Publicity

23. A press release will be issued on 22 July 1998.

EMPLOYEES' COMPENSATION ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

Resolution made and passed by the Legislative Council under section 48A of the Employees' Compensation Ordinance (Cap. 282) on 1998.

RESOLVED that, with effect from 1 August 1998, the

Employees' Compensation Ordinance be amended -

- (a) in paragraphs 1(b), 2(b) and 3 of the Third Schedule, by repealing "\$160" and substituting "\$175";
- (b) in the Sixth Schedule, by repealing all the amounts mentioned in column 2 and substituting -

"21,000

21,000

21,000

303,000

16,000

21,000

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344,000

412,000

412,000

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33,000
100,000”.

Clerk to the Legislative Council

1998

Explanatory Note

This Resolution increases the following amounts of compensation payable by the employers under the Employees’ Compensation Ordinance (Cap. 282) -

- (a) maximum daily rate of expenses for medical treatment;
- (b) ceiling of monthly earnings;
- (c) minimum compensation for death;
- (d) burial expenses;
- (e) minimum compensation for permanent total incapacity;
- (f) compensation for attention;
- (g) minimum monthly earnings;
- (h) minimum amount of initial surcharge;
- (i) minimum amount of further surcharge;
- (j) cost of supplying and fitting of a prosthesis or surgical appliance;
- and
- (k) cost of repair and renewal of a prosthesis or surgical appliance.

EMPLOYEES' COMPENSATION ORDINANCE

RESOLUTION

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

RESOLVED that, with effect from 1 August 1998, the

Employees' Compensation Ordinance be amended -

- (a) in paragraphs 1(b), 2(b) and 3 of the Third Schedule, by repealing "\$160" and substituting "\$175";
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PNEUMOCONIOSIS (COMPENSATION) ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

Resolution made and passed by the Legislative Council under section 40 of the
Pneumoconiosis (Compensation) Ordinance (Cap. 360) on 1998.

RESOLVED that, with effect from 1 August 1998, the

Pneumoconiosis (Compensation) Ordinance be amended -

- (a) in the First Schedule -
 - (i) in Part IIA, by repealing "\$2,570" and substituting "\$3,180";
 - (ii) in Part IV, by repealing "\$4,050" and substituting "\$4,160";
 - (iii) in Part V, by repealing "\$70,000" and substituting "\$100,000";
 - (iv) in Part VI, by repealing "\$14,000" and substituting "\$16,000";
- (b) in the Second Schedule, in paragraphs 1(b), 2(b) and 3 of Part I, by repealing "\$160" and substituting "\$175".

Clerk to the Legislative Council

Explanatory Note

This Resolution increases the levels of compensation payable to a person under the Pneumoconiosis (Compensation) Ordinance (Cap. 360) as follows -

- (a) the amount of compensation for pain, suffering and loss of amenities is increased from \$2,570 to \$3,180;
- (b) the amount of compensation for care and attention is increased from \$4,050 to \$4,160;
- (c) the amount of compensation for bereavement is increased from \$70,000 to \$100,000;
- (d) the maximum amount of funeral expenses is increased from \$14,000 to \$16,000; and
- (e) the maximum daily rate of expenses for medical treatment is increased from \$160 to \$175.

PNEUMOCONIOSIS (COMPENSATION) ORDINANCE

RESOLUTION

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

RESOLVED that, with effect from 1 August 1998, the

Pneumoconiosis (Compensation) Ordinance be amended -

- (a) in the First Schedule -
 - (i) in Part IIA, by repealing “\$2,570” and substituting “\$3,180”;
 - (ii) in Part IV, by repealing “\$4,050” and substituting “\$4,160”;
 - (iii) in Part V, by repealing “\$70,000” and substituting “\$100,000”;
 - (iv) in Part VI, by repealing “\$14,000” and substituting “\$16,000”;
- (b) in the Second Schedule, in paragraphs 1(b), 2(b) and 3 of Part I, by repealing “\$160” and substituting “\$175”.