

立法會
Legislative Council

LC Paper No. CB(2)2515/99-00
(These minutes have been
seen by the Administration and
cleared with Chairman)

Ref : CB2/BC/16/99

**Bills Committee on
Employees' Compensation (Amendment) (No.2) Bill 2000**

**Minutes of Meeting
held on Tuesday, 30 May 2000 at 4:30 pm
in Conference Room B of the Legislative Council Building**

Members Present : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEE Kai-ming, SBS, JP
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon Cyd HO Sau-lan

Members Absent : Hon David CHU Yu-lin
Dr Hon LUI Ming-wah, JP
Hon HO Sai-chu, SBS, JP
Hon LAU Chin-shek, JP
Hon Andrew CHENG Kar-foo
Hon CHAN Wing-chan
Hon LEUNG Yiu-chung

Public Officers Attending : Mr K K LAM
Principal Assistant Secretary for
Education & Manpower (7)

Mrs Bernadette LAI
Assistant Commissioner for Labour
(Employees' Rights and Benefits)

Mr LAI Yiu-kei, Samson
Assistant Secretary for Education and Manpower

Ms Anastasia KWONG
Senior Government Counsel

Mr LAI Ka-tong
Senior Labour Officer (Employee's Compensation)

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2) 6

Staff in Attendance : Mr Arthur CHEUNG
Assistant Legal Adviser 5

Mrs Shirley NG
Senior Assistant Secretary (2) 9

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I. Meeting with the Administration
[LC Paper No. CB(2)2139/99-00]

Members noted that the Administration's written response to the proposal of increasing the maximum amount of funeral and medical attendance expenses in all fatal cases payable by the employer to \$50,000, and the queries raised by Assistant Legal Adviser 5 (ALA5) on the drafting of the Bill had been issued vide LC Paper No. CB(2)2139/99-00(02).

Funeral and medical attendance expenses

2. Principal Assistant Secretary for Education and Manpower (7) (PAS(EM)7) informed members that the Finance Bureau and the Civil Service Bureau had been consulted on the proposal of increasing the maximum amount of funeral and medical expenses payable by the employer in all fatal cases from \$16,000 to \$50,000. The Administration had no objection to the proposed increase and had prepared draft Committee Stage amendment (CSA) to amend the Sixth Schedule to the Employees' Compensation Ordinance (Cap. 282) accordingly.

3. PAS(EM)7 said that as the proposal would affect the interests of employers and employees, consultation with the Labour Advisory Board (LAB) was required. He informed members that the Labour Department had issued an urgent circular to all LAB members seeking their views on the proposal. As some LAB members were attending an international labour conference in Geneva, the Administration did not consider it appropriate to make a decision on the proposal before all of them had indicated their views. Assistant Commissioner for Labour (Employees' Rights and Benefits) pointed out that

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the Labour Department would contact those LAB members in Geneva by phone to ascertain their views as soon as possible. PAS(EM)7 undertook to revert to the Bills Committee on the LAB's position in a few days' time.

4. Mr LEE Chuk-yan and Mr LEE Kai-ming reiterated their position to support the proposal of increasing the maximum amount of funeral and medical expenses payable by the employer in all fatal cases to \$50,000.

5. Mr LEE Cheuk-yan said that if the maximum amount of funeral and medical expenses remained as \$16,000, family members of the deceased employee would need to negotiate with the employer for more money in order to cover the funeral expenses. The painful negotiation process would cause additional hardship to the family members of the deceased employees. He added that from his experience working for the Association for Rights of Industrial Accident Victims, most employers were willing to pay more than \$16,000. However, any payment exceeding \$16,000 could not be covered by insurance if the amount was not prescribed in the Ordinance.

6. In response to Mr. LEE Cheuk-yan's enquiry, Senior Labour Officer (Employee's Compensation) (SLO(EC)) informed members that the Labour Department had not kept a record on the amount of funeral expenses paid by employers in fatal cases because it was a form of ex gratia. As far as he remembered, most employers normally would pay more than \$16,000.

7. With reference to members' question about the employees' compensation insurance cost impact, PAS(EM)7 informed members that the insurance industry would need one to two days more to provide the estimate in writing.

8. The Chairman thanked the Administration for its prompt action on the matter. He informed members that he had contacted a few employers' associations and they had reservation on the proposal of increasing the maximum amount of funeral and medical expenses to \$50,000. The Chairman pointed out that there was concern about the possible impact on the financial burden of small businesses.

Queries raised by Assistant Legal Adviser

9. Responding to the Chairman, ALA5 confirmed that the Administration had addressed his queries about the drafting of the Bill. ALA5 also remarked that the Administration had agreed to propose some technical amendments to sections 24(1A) and 27 of the Ordinance in order to improve the drafting.

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CSAs to be proposed by the Administration

10. Members noted that a copy of the draft CSAs to be proposed by the Administration was tabled at the meeting and subsequently issued vide LC Paper No. CB(2)2182/99-00(02).

11. Members also noted that the Administration proposed to introduce a CSA to amend section 26(1) of the Ordinance by deleting "to an employee" and substituting "against an employer". SLO(EC) explained that it was the current policy that where any injury was caused to an employee by negligence, breach of statutory duty or other wrongful act or omission of the employer, any damages awarded to the employee in an action at common law should be reduced by the value of any compensation which had been paid or was payable under the Ordinance in respect of the injury sustained by the employee. The purpose of the new amendment was to reflect more accurately the policy intent. Members found the proposed amendment acceptable.

12. ALA5 confirmed that the draft CSAs to be proposed by the Administration were legally in order.

II. Date of next meeting

13. Members agreed that the Bills Committee would hold the next meeting on Monday, 5 June 2000 at 1:00 pm to conclude scrutiny of the Bill.

14. The meeting ended at 5:05 pm.

Legislative Council Secretariat
21 July 2000