

LEGISLATIVE COUNCIL BRIEF

Employees' Compensation Ordinance
(Chapter 282)

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 2000

INTRODUCTION

At the meeting of the Executive Council on 1 February 2000, the Council ADVISED and the Chief Executive ORDERED that the Employees' Compensation (Amendment) Bill 2000, at **Annex A**, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

General Background

2. The Employees' Compensation Ordinance (Cap. 282) (the Ordinance) originally provided that, if an employee was injured by accident while travelling between his residence and his work place within four hours before or after his working hours when a gale warning or Red/Black rainstorm warning was in effect, such accident shall be deemed by virtue of section 5(4)(f) of the Ordinance to arise out of and in the course of his employment and the employee would be entitled to claim compensation from the employer under section 5(1) of the Ordinance. Under section 5(4)(f) of the Ordinance, "gale warning" and "rainstorm warning" are defined to have the same meaning as in section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance, (Cap.62) (JP(ADGW)O).

3. On 5 July 1999, the JP(ADGW)O was amended to remove the reference to the Red rainstorm warning from the definition of "rainstorm warning" so that judicial proceedings would not be adjourned when the Red rainstorm warning was in force. This amendment was to ensure the efficient use of court time as a Red rainstorm warning is usually of a short duration and public transportation will be available.

4. Since the definition of “rainstorm warning” under the Ordinance is adopted from the JP(ADGW)O, the exclusion of Red rainstorm warning from the definition of “rainstorm warning” in the JP(ADGW)O has resulted in the removal of protection provided under the Ordinance to employees when a Red rainstorm warning is issued. In order to restore the protection afforded to employees against accidents which occur during travelling to and from work when the Red rainstorm warning is issued, there is a need to amend the definitions of gale warning and rainstorm warning under section 5(4)(f) of the Ordinance.

The Proposal

5. We propose to amend section 5(4)(f) of the Ordinance to restore the protection afforded to employees during gale warnings and rainstorm warnings, including the Black rainstorm and Red rainstorm. To protect the rights of those employees who might have been injured after the amendment to the JP(ADGW)O, it is also suggested that the proposed amendments should be deemed to have taken effect on 5 July 1999.

THE BILL

6. The main provisions of the Bill are:
- (a) Clause 1(2) provides that the Ordinance shall be deemed to come into operation on 5 July 1999;
 - (b) Clause 2(a) repeals the reference to the JP(ADGW)O.
 - (c) Clause 2(c) provides definitions for “gale warning” and “rainstorm warning”.
7. The existing provisions which are being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

8. The legislative timetable for the Bill is as follows :-

Publication in the Gazette	3 February 2000
First Reading and commencement of Second Reading debate	16 February 2000

Resumption of Second Reading Debate, committee stage and Third Reading to be notified

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

11. The amendments will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

12. There is no financial and staffing implication on the Government.

ECONOMIC IMPLICATIONS

13. The proposal to restore the protection offered to employees against accidents which occur during travelling to and from work when the Red rainstorm warning is issued should not have any appreciable economic implications.

PUBLIC CONSULTATION

14. The present proposal is only a technical amendment which aims at restoring the protection afforded to employees when the Red rainstorm warning is issued. The Labour Advisory Board was consulted and was in agreement when the Ordinance was amended in 1994 to give protection to employees

against injury in an accident while travelling to and from work during a gale warning or a rainstorm warning. The Labour Advisory Board was informed of the amendment on 3 February 2000.

PUBLICITY

15. A press release was issued on 3 February and a spokesman will be available to handle press enquiries.

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