

Amend the Employees' Compensation Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Employees' Compensation (Amendment) (No.

2) Ordinance 2000.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice in the Gazette.

2. Meaning of "employee"

Section 2(3) of the Employees' Compensation Ordinance (Cap. 282) is amended-

--

(a) by repealing "his dependants" and substituting "the members of his family";

(b) by repealing "the dependants" and substituting "the members of the family".

3. Interpretation

Section 3 is amended---

(a) by renumbering it as section 3(1);

(b) in subsection (1)---

(i) in the definition of "compensation"---

(A) in paragraph (a), by repealing "burial" and substituting "the funeral";

(B) by adding---

"(da) interim payment;"

(C) in paragraph (e), by repealing "(c) or (d)" and substituting "(c), (d) or (da)";

(ii) by repealing the definition of "dependants";

(iii) by repealing the definition of "member of the family" and substituting---

"member of the family" (家庭成員), in relation to an employee, means a person who has any of the following relationships in respect of the employee, whether by blood or an adoption specified in subsection (2)---

(a) a spouse or cohabitee;

(b) a child;

(c) a parent or grandparent; or

(d) a grandson, granddaughter, stepfather, stepmother, stepson, stepdaughter, son-in-law, daughter-in-law, brother, sister, half-brother, half-sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, and child of a brother or sister of the whole blood, any of whom has been living with the employee as a member of the same household and has been so living for the period of 24 months immediately preceding the accident concerned;"

(iv) by adding---

"Certificate for Funeral and Medical Attendance Expenses" (殯殮費和醫護費證明書) means a certificate issued under section 6E(1)(b);

"Certificate of Compensation Assessment for Fatal Case" (致命個案補償評估證明書) means a certificate issued under section 6B(1)(b);

"Certificate of Interim Payment" (臨時付款證明書) means a certificate issued under section 6C(1)(b);

"cohabitee" (同居者), in relation to an employee, means any person who at the time of the accident concerned was living with the employee as the employee's wife or husband;

"interim payment" (臨時付款) means an interim payment of compensation the subject of a determination under section 6C(1)(a);

"Review Certificate for Funeral and Medical Attendance Expenses" (殯殮費和醫護費審核證明書) means a certificate issued under section 6E(12)(c);

"Review Certificate of Compensation Assessment for Fatal Case" (致命個案補償評估審核證明書) means a certificate issued under section 6D(6)(c);

"Review Certificate of Interim Payment" (臨時付款審核證明書) means a certificate issued under section 6C(11)(c);";

(c) by adding---

"(2) For the purposes of the definition of "member of the family" (家庭成員) ---

(a) an adoption means an adoption---

(i) made under an adoption order made in accordance with the Adoption Ordinance (Cap. 290);

(ii) to which section 17 of the Adoption Ordinance (Cap. 290) applies; or

(iii) made in Hong Kong in accordance with Chinese law and custom before 1 January 1973; and

(b) any person so adopted shall be treated as the child of the adopter, and not as the child of any other person, and all relationships to the adopted person shall be deduced accordingly."

4. Application to certain employees

Section 4(1) is amended, in the proviso, by repealing "his dependants" and substituting "the members of his family".

5. Compensation in fatal cases

Section 6 is amended---

(a) in subsection (1), by repealing "if the employee leaves any dependants wholly dependent on his earnings, the amount of compensation" and substituting "then, subject to section 6A, the amount of compensation payable to the members of the family of the employee";

(b) by repealing subsection (4);

(c) in subsection (5)---

(i) by repealing "if the employee leaves no dependants, the reasonable expenses of the burial" and substituting "reimbursement of the reasonable expenses of the funeral";

(ii) by repealing "to whom such expenses are due, within 21 days after receipt by the employer of a request in writing by such person" and substituting "who has paid the expenses";

(d) by repealing subsection (6).

6. Sections added

The following are added---

"6A. Apportionment of compensation

(1) Where death results from the injury, the compensation shall be payable only to eligible members of the family and apportioned in the manner set out in the Seventh Schedule.

(2) For the purposes of this section---

(a) "eligible" (合資格), in relation to a member of the family, means the member is entitled to compensation under section 6(1) by virtue of a determination under section 6B(1), 6D (6), 6H(4) or 18A(1);

(b) a reference to a child of a deceased employee includes a child born after the death of the employee but before a determination made under section 6B(1)(a), 6D(6), 6H(4) or 18A(1) in respect of the employee.

(3) In determining the amount of compensation payable under section 6(1), the Commissioner or the Court shall take into account---

(a) any compensation deductible under section 6(3);

(b) any interim payments paid under subsection (4).

(4) Where the spouse of the employee who has been paid any interim payments dies prior to the Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case is issued, the aggregate amount of interim payments already paid shall be deducted from the total amount of compensation payable before the apportionment of the amount for other members of the family.

(5) In stating the amount of compensation payable to each member of the family named in the Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case, the Commissioner and the Court may round down the amounts to the nearest dollar.

6B. Determination by Commissioner of claims for compensation in fatal cases

(1) Subject to subsection (2), where death results from the injury, the Commissioner may, on application by the members of the family under subsection (4)

and with the consent in writing of the employer and signed by him---

(a) determine in respect of the members of the family making the application---

(i) the total amount of compensation payable;

(ii) the persons to whom the compensation is payable and the amount of compensation payable to each such person; and

(iii) the persons who are not entitled to the compensation; and

(b) issue a certificate---

(i) as to his determination under paragraph (a); and

(ii) as soon as practicable after making the determination, but in any case not earlier than 6 months from the date of death of the employee or the date of accident if the date of death cannot be ascertained.

(2) The Commissioner shall not determine or continue to determine a claim under subsection (1)(a) where---

(a) the employer does not give his consent in writing signed by him to the Commissioner determining the claim;

(b) the employer gives his consent to the Commissioner determining the claim but prior to determination withdraws such consent by notice in writing signed by him to the Commissioner;

(c) there is a dispute on the familial connection between the employee and any of the persons claiming compensation;

(d) any party to the claim, at any time prior to the issue of the Certificate of Compensation Assessment for Fatal Case, declines determination by the Commissioner;

(e) a claim for compensation in respect of the same employee has been filed with the Court;

(f) in the Commissioner's opinion, the claim is not suitable for such determination; or

(g) the first application under subsection (4) has not been made within 24 months from the date of death of the employee.

(3) Where the Commissioner has proceeded to determine a claim under subsection (1)(a) but prior to the issue of the Certificate of Compensation Assessment for Fatal Case, the process of determination is terminated by virtue of subsection (2)---

(a) the claim shall be determined by the Court pursuant to section 18A(1); and

(b) the Commissioner shall notify the parties concerned of the termination.

(4) An application under subsection (1) shall be made---

(a) in such form as the Commissioner may specify and signed by the person making it;

(b) within 6 months from the date of death of the employee or the date of accident if the date of death cannot be ascertained (but the Commissioner may, if he thinks fit, extend the period for making the application);

(c) subject to paragraph (d), separately by each person claiming compensation or by his authorized representative;

(d) where the person claiming compensation is a minor or a person incapable of managing himself and his affairs, by his guardian or legal representative, as the case may be.

(5) A Certificate of Compensation Assessment for Fatal Case shall---

(a) be in such form as may be specified by the Commissioner giving details of the determination; and

(b) be sent---

(i) to the employer; and

(ii) to each person named in the certificate, whether or not compensation is payable to the person.

(6) The Commissioner shall, as soon as practicable after he decides to determine a claim for compensation under subsection (1)(a), send to the Court a notice advising the Court of that decision.

6C. Determination by Commissioner of interim payments

(1) Where a claim for compensation is to be determined under section 6B(1)(a), upon application by the spouse of the deceased employee, the Commissioner---

(a) may, irrespective of whether applications for compensation have been made by other members of the family and prior to the issue of the Certificate of Compensation Assessment for Fatal Case, on application by the spouse in a form as the Commissioner may specify and signed by the spouse, determine that interim payment of compensation be made by the employer to the spouse; and

(b) where he makes a determination under paragraph (a), shall issue a certificate---

(i) as to his determination; and

(ii) as soon as practicable after making the determination.

(2) A Certificate of Interim Payment shall---

(a) be in such form as may be specified by the Commissioner giving details of the determination; and

(b) be sent---

(i) to the employer;

(ii) to the spouse of the employee; and

(iii) to each of the persons who has made an application under section 6B(1).

(3) Interim payments---

(a) shall be payable to the spouse named in the Certificate of Interim Payment or, where that Certificate is cancelled under subsection (12), in the Review Certificate of Interim Payment concerned until the aggregate amount referred to in paragraph (c) is fully paid;

(b) shall comprise---

(i) an initial payment calculated by multiplying the monthly payment referred to in subparagraph (ii) by the number of months elapsed between the date of death, or the date of accident if the date of death cannot be ascertained, and the date of issue of the Certificate of Interim Payment or Review Certificate of Interim Payment, as the case may require;

(ii) subsequent monthly payments calculated at the rate of 50% of---

(A) the monthly earnings of the deceased employee at the time of the accident as determined in accordance with section 11; or

(B) the amount specified in the second column of the Sixth Schedule shown opposite section 6(1)(a) specified in the first column of the Schedule, whichever is the less;

(c) shall not in aggregate exceed 45% of the total amount of compensation payable under section 6(1) after deducting any compensation which has already been paid under sections 7, 9 and 13(3);

(d) shall---

(i) be deducted from the compensation payable under section 6A to the person to whom interim payments have been paid; and

(ii) where the spouse dies before the issue of the Certificate of Compensation Assessment for Fatal Case, be deducted from the compensation payable to the members of the family under section 6(1),

except that any surcharge payable under subsection (8) by the employer for late payment of interim payments shall not be deductible.

(4) Interim payments shall be payable by the employer---

(a) as to the initial payment, not later than 21 days after the date of issue of the Certificate of Interim Payment or Review Certificate of Interim Payment, as the case may require;

(b) as to each monthly payment, not later than the date corresponding to the date on which the preceding initial payment or monthly payment is payable or if there is no such corresponding date in that month, the last day of that month.

(5) An employer is not required to make payments under a Certificate of Interim Payment pending the completion of a review under subsection (10) or (11).

(6) Where the Commissioner is satisfied on reasonable grounds that a determination which gave rise to a Certificate of Interim Payment was based on information false or misleading in a material particular, he may, by notice in writing to the employer and spouse named in the Certificate of Interim Payment setting out those grounds, order that interim payments under that Certificate shall cease on and from a date specified in the notice for the purpose until such time, if any, that

the notice is revoked.

(7) Interim payments shall cease to be payable---

(a) 7 days before the date on which compensation under section 6(1) is due in accordance with a Certificate of Compensation Assessment for Fatal Case;

(b) on the date specified in a notice under subsection (6) for the purpose;

(c) when the total amount of interim payments paid to the spouse reaches the aggregate amount that may be payable as stated in the Certificate of Interim Payment or Review Certificate of Interim Payment, as the case may require; or

(d) on the date the Commissioner notifies the employer and the spouse of his decision that the claim shall be determined by the Court under section 18A(1), whichever is the earlier.

(8) An employer who fails without reasonable excuse to make interim payments in accordance with a Certificate of Interim Payment or Review Certificate of Interim Payment, as the case may require, shall pay to the spouse of the employee, in addition to the amount of interim payments---

(a) upon the expiry of the payment period, a surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6C(8)(a) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown opposite section 6C(8)(a) specified in the first column of that Schedule of the amount of interim payment then remaining unpaid,

whichever is the greater; and

(b) thereafter upon the expiry of 3 months after the expiry of the payment period, a surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6C(8)(b) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown opposite section 6C(8)(b) specified in the first column of that Schedule of the amount of interim payment then remaining unpaid,

whichever is the greater.

(9) A person may object to a determination under subsection (1)(a) by sending an objection in writing signed by him to the Commissioner within 14 days from the date of issue of the Certificate of Interim Payment, or within such further time as the Commissioner, in the circumstances of any particular case, thinks fit, stating the grounds of the objection.

(10) Without prejudice to the right of any other person to object to a determination under subsection (1)(a), the Commissioner may on his own initiative review any such determination at any time if he considers that it---

(a) was made in ignorance of, or under a mistake as to the circumstances of the claim;
or

(b) was based upon any false or misleading information or statement given or made to the Commissioner.

(11) On receipt of an objection under subsection (9) or on a review under subsection (10), the Commissioner shall---

(a) in the case of an objection, send a copy of the objection to any other person who has made an application under section 6B(1) and to the employer if the employer is not the objector;

(b) review the determination under subsection (1)(a) concerned and confirm or vary the determination as he thinks fit (including ceasing interim payments);

(c) upon completing the review, issue to the employer and the spouse a certificate in such form as he may specify stating---

(i) that the original determination is confirmed and giving details thereof;

(ii) details of the determination as varied; and

(d) send a copy of the Certificate to each of the persons who has made an application under section 6B(1).

(12) Upon the issue of a Review Certificate of Interim Payment, the Certificate of Interim Payment to which it relates shall be cancelled.

(13) A Certificate of Interim Payment or Review Certificate of Interim Payment, other than a Certificate cancelled under subsection (12), purporting to be issued and signed by or for the Commissioner shall be admitted in evidence without further proof on its production before any Magistrate or in any court, and---

(a) until the contrary is proved it shall be presumed that the Certificate is so issued and signed; and

(b) shall be evidence of the matters stated therein.

(14) A Certificate of Interim Payment or Review Certificate of Interim Payment, other than a Certificate cancelled under subsection (12) may, on application to the Court by the employer or the spouse of the employee, be made an order of the Court and, for the purposes of this subsection, the amount payable under any such Certificate shall include any surcharge payable under subsection (8).

(15) An employer who fails without reasonable excuse to comply with subsection (4) or (8) commits an offence and is liable to a fine at level 6.

(16) This section shall not apply in the case of a member of the family where the employee was in the service of the Government unless and until the member gives up his rights under the Pensions Ordinance (Cap. 89), the Pension Benefits Ordinance (Cap. 99), the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) and the

Auxiliary Forces Pay and Allowances Ordinance (Cap. 254) to receive pension or gratuities arising from the death of the employee in consequence of injury received in the discharge of his duties.

(17) For the purposes of this section---

"date of issue" (發出日期) means the date appearing on the Certificate of Interim Payment or Review Certificate of Interim Payment;

"payment period" (付款期) means the appropriate period of payment referred to in subsection (4);

"spouse" (配偶) does not include a cohabitee.

6D. Payment of compensation and objection to determination of Commissioner

(1) Where the Commissioner determines a claim under section 6B(1)(a) (including any case where such a determination is varied under this section), compensation, other than interim payments payable under a Certificate of Interim Payment or Review Certificate of Interim Payment, shall be payable by the employer not earlier than 42 days but not later than 49 days after the date of issue of the Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case, as the case may be.

(2) If any person named in the Certificate of Compensation Assessment for Fatal Case has received any interim payment or payment under section 13(3), the employer shall only be required to pay the balance of the amount of compensation, if any, stated in the Certificate after deducting from that amount the amount of any such payment paid to that person.

(3) An employer who fails without reasonable excuse to make payment in accordance with a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case shall pay, in addition to the amount of compensation payable---

(a) upon the expiry of the payment period, a surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6D(3)(a) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown opposite section 6D(3)(a) specified in the first column of that Schedule of the amount of compensation then remaining unpaid,

whichever is the greater; and

(b) upon the expiry of 3 months after the expiry of the payment period, a further surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6D(3)(b) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown

opposite section 6D(3)(b) specified in the first column of that Schedule of the amount then remaining unpaid of the aggregate of any amount of compensation referred to in paragraph (a) and the surcharge imposed under that paragraph,

whichever is the greater.

(4) The employer or any person who has made an application under section 6B(1) may object to a determination under section 6B(1)(a) by sending an objection in writing signed by him to the Commissioner within 30 days of the date of issue of the Certificate of Compensation Assessment for Fatal Case (but the Commissioner may, if he thinks fit, extend the period for making the objection), stating the grounds of the objection.

(5) Without prejudice to the right of any other person to object to a determination under section 6B(1)(a), the Commissioner may on his own initiative review any such determination at any time if he considers that it---

(a) was made in ignorance of, or under a mistake as to the circumstances of the claim; or

(b) was based upon any false or misleading information or statement given or made to the Commissioner.

(6) On receipt of an objection under subsection (4) or on a review under subsection (5), the Commissioner shall---

(a) in the case of the objection, send a copy of the objection to any other person who has made an application under section 6B(1) and to the employer if the employer is not the objector;

(b) review the determination under section 6B(1)(a) concerned and confirm or vary the determination as he thinks fit;

(c) upon completing the review, issue to the employer and each of the members of the family a certificate in such form as he may specify stating---

(i) that the original determination is confirmed and giving details thereof;

(ii) details of the determination as varied; or

(iii) that due to the reasons set out under section 6B(2), the Commissioner shall not continue to determine the claim;

(d) send a copy of the certificate to each of the persons who has made an application under section 6B(1).

(7) Upon the issue of a Review Certificate of Compensation Assessment for Fatal Case, the original Certificate of Compensation Assessment for Fatal Case to which it relates shall be cancelled.

(8) A certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case, other than a Certificate cancelled under subsection (7), purporting to be issued and signed by or for the Commissioner shall

be admitted in evidence without further proof on its production before any Magistrate or in any court, and---

(a) until the contrary is proved it shall be presumed that the Certificate is so issued and signed; and

(b) shall be evidence of the matters stated therein.

(9) A Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case, other than a Certificate cancelled under subsection (7) may, on application to the Court by the employer, or any person named in the Certificate, be made an order of the Court, and for the purposes of this subsection, the amount payable under any such Certificate shall include any surcharge payable under subsection (3).

(10) An employer who fails without reasonable excuse to comply with subsection (1) or (3) commits an offence and is liable to a fine at level 6.

(11) For the purposes of this section---
"date of issue" (發出日期) means the date appearing on the Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case;

"payment period" (付款期) means the appropriate period of payment referred to in subsection (1).

6E. Determination by Commissioner of claims for funeral and medical attendance expenses

(1) Subject to subsection (17), where an application seeking a determination under this section is made to the Commissioner by any person who has paid the expenses of the funeral of the employee or the expenses of medical attendance on the employee, and the employer has given his consent in writing signed by him to the Commissioner that the Commissioner may make such determination, then the Commissioner, after the period referred to in subsection (3)(b)---

(a) if there is a liability to pay any such expenses under section 6(5), may determine, in respect of the persons making the application, the persons to whom reimbursement of such expenses under that section is payable and the amount of reimbursement payable to each such person; and

(b) where he makes a determination under paragraph (a), shall issue a certificate---

(i) as to his determination; and

(ii) as soon as practicable after making the determination.

(2) A consent referred to in section 6B(1) given by an employer in respect of an employee shall be deemed to be a consent referred to in subsection (1) given by the employer in respect of the employee.

(3) An application under subsection (1) shall be---

- (a) made in such form as the Commissioner may specify and signed by the person making it;
- (b) made within 30 days from the date of cremation or date of burial of the employee, or the date on which the Commissioner receives the consent or deemed consent referred to in subsection (1) or (2), as the case may be, from the employer, whichever is the later;
- (c) made separately by each of the persons who has paid the expenses or his authorized representative; and
- (d) accompanied by supporting documents.

(4) A Certificate for Funeral and Medical Attendance Expenses shall---

- (a) be in such form as may be specified by the Commissioner giving details of the determination; and
- (b) be sent---
 - (i) to the employer;
 - (ii) to each person who has made an application under subsection (1) whether or not reimbursement of the expenses is payable to him.

(5) In determining the amount of reimbursement payable under section 6(5), if the aggregate claimed amount exceeds the amount specified in the second column of the Sixth Schedule shown opposite section 6(5) specified in the first column of that Schedule, the Commissioner shall apportion the amount payable on a pro rata basis.

(6) Where a person who has paid any expenses of the funeral of the employee and expenses of medical attendance on the employee dies prior to the reimbursement of the expenses is paid to him, his legal personal representative shall substitute for him in pursuing the claim.

(7) In stating the reimbursement payable to each person named in the Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses, the Commissioner may round down the amounts to the nearest dollar.

(8) Reimbursement of the expenses of the funeral of the employee and expenses of medical attendance on the employee shall be payable by the employer not earlier than 42 days but not later than 49 days after the date of issue of the Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses, as the case may be.

(9) An employer who fails without reasonable excuse to pay reimbursement in accordance with a Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses, shall pay, in addition to the reimbursement payable---

(a) upon the expiry of the payment period, a surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6E(9)(a) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown opposite section 6E(9)(a) specified in the first column of that Schedule of the reimbursement then remaining unpaid,

whichever is the greater; and

(b) upon the expiry of 3 months after the expiry of the payment period, a further surcharge of---

(i) the amount specified in the second column of the Sixth Schedule shown opposite section 6E(9)(b) specified in the first column of that Schedule; or

(ii) the percentage specified in the third column of the Sixth Schedule shown opposite section 6E(9)(b) specified in the first column of that Schedule of the amount then remaining unpaid of the aggregate of any reimbursement referred to in paragraph (a) and the surcharge imposed under that paragraph,

whichever is the greater.

(10) The employer or any person who has made an application under subsection (1) may object to a determination under subsection (1)(a) by sending an objection in writing signed by him to the Commissioner within 30 days of the date of issue of the Certificate for Funeral and Medical Attendance Expenses, stating the grounds of the objection.

(11) Without prejudice to the right of any other person to object to a determination under subsection (1)(a), the Commissioner may on his own initiative review any such determination at any time if he considers that it---

(a) was made in ignorance of, or under a mistake as to the circumstances of the claim; or

(b) was based upon any false or misleading information or statement given or made to the Commissioner.

(12) On receipt of an objection under subsection (10) or on a review under subsection (11), the Commissioner shall---

(a) in the case of the objection, send a copy of the objection to any other person who has made an application under subsection (1) and to the employer if the employer is not the objector;

(b) review the determination under subsection (1)(a) concerned and confirm or vary the determination as he thinks fit;

(c) upon completing the review, issue to the employer and each of the persons who has made an application under subsection (1) a certificate in such form as he may specify stating---

(i) that the original determination is confirmed and giving the details thereof;
or

(ii) details of the determination as varied.

(13) Upon the issue of a Review Certificate for Funeral and Medical Attendance Expenses, the Certificate for Funeral and Medical Attendance Expenses to which it relates shall be cancelled.

(14) A Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses, other than a Certificate cancelled under subsection (13), purporting to be issued and signed by or for the Commissioner shall be admitted in evidence without further proof on its production before any Magistrate or in any court, and---

(a) until the contrary is proved it shall be presumed that the Certificate is so issued and signed; and

(b) shall be evidence of the matters stated therein.

(15) A Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses, other than a Certificate cancelled under subsection (13) may, on application to the Court by the employer, or the persons named in the Certificate, be made an order of the Court and the amount payable under the Certificate shall include any surcharge payable under subsection (9).

(16) An employer who fails without reasonable excuse to comply with subsection (8) or (9) commits an offence and is liable to a fine at level 6.

(17) The Commissioner shall not determine or continue to determine under subsection (1) a claim for funeral expenses or medical attendance expenses where---

(a) the employer does not give his consent in writing signed by him to the Commissioner to make such determination;

(b) the employer gives his consent to the Commissioner to determine the claim but prior to the determination withdraws such consent by notice in writing signed by him to the Commissioner;

(c) any party to the claim, at any time prior to the issue of the Certificate for Funeral and Medical Attendance Expenses, declines determination by the Commissioner;

(d) a claim for funeral and medical attendance expenses has been filed with the Court;

or

(e) in the Commissioner's opinion, the claim is not suitable for such determination.

(18) For the purposes of this section---

"date of issue" (發出日期) means the date of issue appearing on the Certificate for Funeral and Medical Attendance Expenses or the Review Certificate for Funeral and

Medical Attendance Expenses;

"expenses for medical attendance" (醫護費) means any expenses incurred by any person other than the deceased employee for the convalescence given in a hospital or medical treatment given to the employee arising from the accident before his death;

"payment period" (付款期) means the appropriate period of payment referred to in subsection (8).

6F. Supply of particulars to Commissioner

(1) For the purposes of making a determination under section 6B(1)(a), 6C(1)(a) or (11), 6D(6)(b) or 6E(1)(a) or (12), the Commissioner may by notice in writing require---

(a) any person making the claim; and

(b) the employer of the employee and if the employer is a sub-contractor, the principal contractor,

to provide such particulars in writing as the Commissioner thinks necessary, or by the production of documents or the submission of copies of documents, as the Commissioner may direct.

(2) Any person who---

(a) fails or refuses without reasonable excuse to provide any particular required to be provided under this section; or

(b) provides any particular which he knows or reasonably ought to know to be false or misleading in any material particular, commits an offence and is liable to a fine at level 5.

6G. Discharge of liability of employer and his insurer in fatal cases

(1) Subject to subsections (2), (3) and (4), the total liability of an employer and his insurer shall not in respect of any one deceased employee exceed the aggregate amount payable under section 6(1) and (5).

(2) Where the employer is liable to pay reimbursement of the expenses of the funeral of the employee and the expenses of medical attendance on the employee, the total amount payable for such expenses by the employer and his insurer shall not in any one fatal case for any one deceased employee exceed the aggregate amount payable under section 6(5).

(3) Any compensation paid to the employee under sections 10 and 10A prior to his death and any surcharge payable under sections 6C(8), 6D(3), and 6E(9) shall not be taken into account when calculating the aggregate amount of compensation paid or payable by the employer under section 6.

(4) Where an amount in excess of the compensation payable by the employer under section 6 is paid to the employee by the employer under sections 7 and 9 prior to his death, the employer shall not recover any such excess amount.

6H. Appeal against determination of Commissioner in fatal cases

(1) Subject to the provisions of this section, an appeal shall lie to the Court from a determination under section 6B(1)(a), 6C(1)(a) or (11), 6D(6)(b) or 6E(1)(a) or (12), as the case may be.

(2) No appeal shall lie after the expiry of 42 days from the date of issue of the certificate concerned under section 6B, 6C, 6D or 6E, unless the Court, as it thinks fit, extends the time for an appeal notwithstanding that the 42 days period has elapsed.

(3) On an appeal under this section, the Court may confirm or vary the determination of the Commissioner.

(4) Where the Court varies the determination of the Commissioner, the Court shall---

(a) in the case of a determination under section 6B(1)(a) or 6D(6)(b), make an order to apportion the amount of compensation payable under section 6(1) to the member of the family of the employee according to section 6A;

(b) in the case of a determination made under section 6E(1)(a) or (12), make an order to apportion the amount of reimbursement payable to each person who has paid the expenses of the funeral of the employee and the expenses of medical attendance on the employee taking into account section 6E(5).

(5) The Court shall---

(a) subject to section 6G, direct the employer to pay to the Court any amount of payment which is payable by the employer but not yet paid; and

(b) direct any person who has received the payment from the employer in accordance with a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case, a Certificate of Interim Payment or Review Certificate of Interim Payment, a Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses to pay to the Court any amount which has been overpaid to the person taking into account the apportionment made by the Court; and

(c) make such order as to costs as the Court thinks fit.

(6) The amount apportioned to---

(a) any member of the family ; or

(b) any person who has paid the expenses of the funeral of the employee and the expenses of medical attendance on the employee, shall be paid to him, or be invested, applied or otherwise dealt with for his benefit in such manner as the Court thinks fit."

7. Persons entitled to compensation

Section 12 is amended---

(a) in subsection (1), by repealing "his dependants" and substituting "the members of his family";

(b) by repealing subsections (2) and (3) and substituting---

"(2) Where a member of the family dies---

(a) prior to an application made under section 6B(1) or 18A(1);

(b) if an application under section 6B(1) has been made, prior to a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case is issued; or

(c) if a claim has been made to the Court, prior to an order for the payment of compensation has been made,

the legal personal representative of the member of the family shall have no right to payment of compensation."

8. Distribution of Compensation

Section 13 is amended---

(a) in subsection (1)---

(i) by repealing the first paragraph and substituting---

"Compensation payable where the death of an employee has resulted from an injury, other than those which have been determined under section 6B(1)(a), 6C(1)(a) or (11), 6D (6)(b) or 6E(1)(a) or (12), shall be paid to the Court, and the Court may---

(a) in the case of compensation paid under section 6(1), order any sum so paid in to be apportioned among the members of the family according to section 6A; and

(b) in the case of reimbursement paid under section 6(5), order any sum so paid in to be apportioned to the persons who have paid the expenses of the funeral of the employee and the expenses of medical attendance on the employee according to section 6E(5),

and the sum so apportioned shall be paid to them or be invested, applied or otherwise dealt with for their benefit in such manner as the Court thinks fit.";

(ii) in the second paragraph, by repealing "dependants" and substituting "members of the family";

(b) in subsection (3)---

(i) by repealing "dependant" where it twice appears and substituting "member of the family";

(ii) in the proviso---

(A) in paragraph (a), by adding "or an interim payment" after "payment";

(B) in paragraph (b), by adding "or an interim payment" after "payment".

9. Requirements as to notice of accident and application for compensation

Section 14(1) is amended by adding "or prior to a determination made by the Commissioner under section 6B(1)(a), whichever is the earlier" after "date of death".

10. Employer to report the injury to or death of an employee and method of notification
Section 15(3)(a) is amended---
 - (a) in subparagraph (i), by repealing everything after "any" and substituting "members of the family of the deceased employee; and";
 - (b) in subparagraph (ii)---
 - (i) by repealing "dependants" and substituting "members of the family";
 - (ii) by repealing "and" at the end and substituting "or";
 - (c) by repealing subparagraph (iii).
11. Determination of claims in respect of minor injuries
Section 16A(12) is amended by repealing "5" and substituting "6".
12. Determination of claims by the Court
Section 18A is amended---
 - (a) in subsection (1), by adding---

"(ab) by a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case; or
 - (ac) by a Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses; or";
 - (b) by adding---

"(3) The Court shall, as soon as practicable after it receives a claim for compensation where death results from the injury concerned, cause to be sent to the Commissioner a notice advising the Commissioner of the receipt of that claim."
13. Liability in case of employees employed by sub-contractors
Section 24 is amended by adding---

"(1A) Where a principal contractor is liable to pay compensation under this section, he shall be liable for the offences under section 6C(15), 6D(10), 6E(16), 10(10), 16A(12) and 16I(6) as if he was an employer."
14. Remedies against both employer and third party
Section 25(5) is amended by adding---

"(aaa) determined by a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case; or".
15. Limitation of right of indemnity against third party under section 25
Section 27 is amended by repealing "dependant" and substituting "member of his family".
16. Application to persons employed on ships
Section 29(1)(d) is amended by repealing "leaving no dependants, no compensation" and substituting ", no reimbursement of the reasonable expenses of the funeral".
17. Compensation in the case of occupational disease
Section 32(1), (2) and (5) is amended by repealing "his dependants" and

substituting "members of his family".

18. Compulsory insurance against employer's liability

Section 40(2) is amended---

- (a) in paragraph (a), by repealing "of \$50,000" and substituting "at level 6";
- (b) in paragraph (b), by repealing "of \$20,000" and substituting "at level 6".

19. Notice of insurance

Section 41(3) is amended by repealing "of \$10,000" and substituting "at level 3".

20. Notice to produce documents etc.

Section 45C(2)(a) is amended---

- (a) in subparagraph (i), by repealing "of \$50,000" and substituting "at level 6";
- (b) in subparagraph (ii), by repealing "of \$20,000" and substituting "at level 6".

21. Notice of premium increases

Section 45D(2) is amended by repealing "of \$20,000" and substituting "at level 4".

22. Deduction of insurance premiums from earnings to be an offence

Section 47(1) is amended by repealing "of \$10,000" and substituting "at level 3".

23. Sections added

The following are added---

"48B. Amendment of Seventh Schedule

The Commissioner may, by order in the Gazette, amend the Seventh Schedule.

48C. Protection of public officers

(1) A public officer is not personally liable in respect of any act or omission of his if it was done or made by him in the honest belief that it was required or authorized in the exercise of any function or power under this Ordinance.

(2) The protection conferred on public officers by subsection (1) in respect of any act or omission shall not in any way affect any liability of the Government in tort for that act or omission."

24. Regulations

Section 49(2) is amended by repealing "of \$10,000" and substituting "at level 3".

25. Transitional

Section 55 is amended by adding---

"(8) Subject to subsection (9), nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) ("the amending Ordinance") shall apply with respect to claims for compensation or other rights, obligations or liabilities in respect of accidents happening before the commencement of the amending Ordinance;

and the provisions of this Ordinance in force immediately before the commencement of the amending Ordinance shall continue to apply to such claims, rights, obligations or liabilities as if such provisions had never been repealed or amended by the amending Ordinance.

(9) Subsection (8) shall not apply to section 16A(12), 24, 40(2), 41(3), 45C(2)(a), 45D(2), 47(1) or 49(2) as amended by sections 11, 13, 18, 19, 20, 21, 22 and 24 respectively of the amending Ordinance."

26. Schedule substituted

The Sixth Schedule is repealed and the following substituted---

"SIXTH SCHEDULE [ss. 6, 6C, 6D, 6E, 7,
8, 11, 16A, 36C,
36J and 48A]

Specified Amount of Compensation

	Section	Amount	Percentage
		\$	
6(1)(a)	21,000		
6(1)(b)	21,000		
6(1)(c)	21,000		
6(2)	303,000		
6(5)	16,000		
6C(8)(a)	490	5	
6C(8)(b)	970	10	
6D(3)(a)	490	5	
6D(3)(b)	970	10	
6E(9)(a)	490	5	
6E(9)(b)	970	10	
7(1)(a)	21,000		
7(1)(b)	21,000		
7(1)(c)	21,000		
7(2)	344,000		
8(1)(a)	412,000		
8(1)(b)	412,000		
11(5)	3,490		
16A(10)(a)	490	5	
16A(10)(b)	970	10"	
36C	33,000		
36J	100,000		

27. Schedule added

The following is added---

"SEVENTH SCHEDULE [ss. 6A & 48B]

Apportionment of Compensation Payable to Eligible Members of the Family

1. If the only eligible members of the family are spouses or cohabitees, or any combination thereof, then the compensation shall be paid to all of them in equal amounts.

2. If the only eligible members of the family are children, then the compensation shall be paid to all of them in equal amounts.

3. If the only eligible members of the family are parents or grandparents, or any combination thereof, then---

(a) the compensation shall be paid to all of those parents in equal amounts if there are no grandparents;

(b) the compensation shall be paid to all of those grandparents in equal amounts if there are no parents;

(c) in any other case---

(i) 70% of the compensation shall be paid to all of those parents in equal amounts; and

(ii) the remaining 30% of the compensation shall be paid to all of those grandparents in equal amounts.

4. If the only eligible members of the family are members other than spouses, cohabitees, children, parents and grandparents, then the compensation shall be paid to all of those eligible members in equal amounts.

5. If the only eligible members of the family are---

(a) spouses or cohabitees, or any combination thereof; and

(b) children,

then---

(i) 50% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts; and

(ii) the remaining 50% of the compensation shall be paid to all of those children in equal amounts.

6. If the only eligible members of the family are or the eligible members of the family include---

(a) spouses or cohabitees, or any combination thereof;

(b) children; and

(c) parents or grandparents, or any combination thereof,

then, whether or not there is any other eligible member of the family---

(i) 45% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts;

(ii) 45% of the compensation shall be paid to all of those children in equal

amounts;

(iii) the remaining 10% of the compensation shall be paid---

(A) to all of those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents and grandparents such that 70% of that 10% is paid to all of those parents in equal amounts and 30% of that 10% is paid to all of those grandparents in equal amounts.

7. If the only eligible members of the family are---

(a) spouses or cohabitees, or any combination thereof; and

(b) parents or grandparents, or any combination thereof,

then---

(i) 80% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts;

(ii) the remaining 20% of the compensation shall be paid---

(A) to all of those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents and grandparents such that 70% of that 20% is paid to all of those parents in equal amounts and 30% of that 20% is paid to all of those grandparents in equal amounts.

8. If the only eligible members of the family are---

(a) spouses or cohabitees, or any combination thereof; and

(b) other members who are not children, parents or grandparents,

then---

(i) 95% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts;

(ii) the remaining 5% of the compensation shall be paid to all of those other members in equal amounts.

9. If the only eligible members of the family are---

(a) spouses or cohabitants, or any combination thereof;

(b) parents or grandparents, or any combination thereof; and

(c) other members who are not children,

then---

(i) 75% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts;

(ii) 20% of the compensation shall be paid---

(A) to all those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents or grandparents such that 70% of that

20% is paid to all of those parents in equal amounts and 30% of that 20% is paid to all of those grandparents in equal amounts;

(iii) the remaining 5% of the compensation shall be paid to all of those other members in equal amounts.

10. If the only eligible members of the family are---

(a) spouses or cohabitees, or any combination thereof;

(b) children; and

(c) other members who are not parents or grandparents,

then---

(i) 50% of the compensation shall be paid to all of those spouses or cohabitees in equal amounts;

(ii) 45% of the compensation shall be paid to all of those children in equal amounts;

(iii) the remaining 5% of the compensation shall be paid to all of those other members of the family in equal amounts.

11. If the only eligible members of the family are---

(a) children; and

(b) parents or grandparents, or any combination thereof,

then---

(i) 80% of the compensation shall be paid to all of those children in equal amounts;

(ii) the remaining 20% of the compensation shall be paid---

(A) to all of those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents and grandparents such that 70% of that 20% is paid to all of those parents in equal amounts and 30% of that 20% is paid to all of those grandparents in equal amounts.

12. If the only eligible members of the family are---

(a) children; and

(b) other members who are not spouses, cohabitees, parents or grandparents,

then---

(i) 95% of the compensation shall be paid to all of those children in equal amounts;

(ii) the remaining 5% of the compensation shall be paid to all those other members in equal amounts.

13. If the only eligible members of the family are---

(a) children;

(b) parents or grandparents, or any combination thereof; and

(c) other members who are not spouses or cohabitees,
then---

(i) 75% of the compensation shall be paid to all of those children in equal amounts;

(ii) 20% of the compensation shall be paid---

(A) to all of those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents or grandparents such that 70% of that 20% is paid to all of those parents in equal amounts and 30% of that 20% is paid to all of those grandparents in equal amounts;

(iii) the remaining 5% of the compensation shall be paid to all of those other members in equal amounts.

14. If the only eligible members of the family are---

(a) parents or grandparents, or any combination thereof; and

(b) other members who are not spouses, cohabitees or children,
then---

(i) 95% of the compensation shall be paid---

(A) to all of those parents in equal amounts if there are no grandparents;

(B) to all of those grandparents in equal amounts if there are no parents; and

(C) in any other case, to all of those parents or grandparents such that 70% of that 95% is paid to all of those parents in equal amounts and 30% of that 95% is paid to all of those grandparents in equal amounts;

(ii) the remaining 5% of the compensation shall be paid to all of those other members in equal amounts."

Consequential Amendments

Pensions Ordinance

28. Pensions to dependants when an officer dies on duty

Section 18(6) of the Pensions Ordinance (Cap. 89) is amended by repealing "dependants" and substituting "members of the family".

29. Section added

The following is added---

"23. Transitional

Nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) ("the amending Ordinance") shall apply to claims for compensation in respect of accidents occurring before the commencement of the amending Ordinance, and the provisions in force immediately before the commencement of the amending Ordinance shall continue to apply to such claims as if they had not been amended by the amending Ordinance."

Pension Benefits Ordinance

30. Dependant pension

Section 19(9) of the Pension Benefits Ordinance (Cap. 99) is amended by repealing "dependants" and substituting "members of the family".

31. Section added

The following is added---

"36. Transitional

Nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) ("the amending Ordinance") shall apply to claims for compensation in respect of accidents occurring before the commencement of the amending Ordinance, and the provisions in force immediately before the commencement of the amending Ordinance shall continue to apply to such claims as if they had not been amended by the amending Ordinance."

Auxiliary Forces Pay and Allowances (Pensions) Regulation

32. Exclusion from application

Section 8 of the Auxiliary Forces Pay and Allowances (Pensions) Regulation (Cap. 254 sub. leg.) is amended, in paragraph (b), by repealing "dependants as defined in section 3 of the Employees' Compensation Ordinance (Cap. 282) or any member of his family as defined in" and substituting "member of the family as defined in section 3 of the Employees' Compensation Ordinance (Cap. 282) or".

33. Section added

The following is added---

"9. Transitional

Nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) ("the amending Ordinance") shall apply to claims for compensation in respect of accidents occurring before the commencement of the amending Ordinance, and the provisions in force immediately before the commencement of the amending Ordinance shall continue to apply to such claims as if they had not been amended by the amending Ordinance."

Employees' Compensation Regulations

34. Certificate as to compensation payable

Regulation 5 of the Employees' Compensation Regulations (Cap. 282 sub. leg.) is amended by adding---

"(c) a Certificate of Interim Payment or Review Certificate of Interim Payment has been issued and it is desired to proceed in accordance with section 6C(14) of the Ordinance; or

(d) a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case has been issued and it is desired to proceed

in accordance with section 6D(9) of the Ordinance; or

(e) a Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses has been issued and it is desired to proceed in accordance with section 6E(14) of the Ordinance,".

Employees' Compensation (Rules of Court) Rules

35. Rule substituted

Rule 25 of the Employees' Compensation (Rules of Court) Rules (Cap. 282 sub. leg.) is repealed and the following substituted---

"25. Medical and funeral expenses

(1) An application to determine the reimbursement payable in respect of the expenses of medical attendance on or the funeral of a deceased employee shall be made by any person who has paid the expenses and any other person known to the applicant to be a person who has paid the expenses shall be joined in the application either as applicant or as respondent.

(2) Where the amount awarded by the court on such applications is insufficient to reimburse such expenses in full, it shall be apportioned between the persons to whom such reimbursement are payable on a pro rata basis."

36. Application to make a certificate as to compensation payable an order of the court

Rule 27 is amended by repealing "section 16A(8)" and substituting "sections 6C(14), 6D(9), 6E(14) or 16A(8)".

37. Schedule amended

The Schedule is amended, in Form 2---

(a) in the heading, by repealing "Dependants of Deceased Employee" and substituting "Members of the Family";

(b) in paragraph 2, by repealing "dependents of the deceased employee" and substituting "members of the family";

(c) in paragraph 3(6),---

(i) by repealing "dependants of the deceased" and substituting "members of the family";

(ii) by repealing "Wholly/Partially Dependant".

Employees Compensation Assistance Ordinance

38. Interpretation

Section 2 of the Employees Compensation Assistance Ordinance (Cap. 365) is amended by repealing the definition of "dependants" and substituting---

"member of the family" (家庭成員) has the meaning assigned to it under section 3 of the Employees' Compensation Ordinance (Cap. 282);".

39. Application by employee etc. for payment from the Fund

Section 16 is amended---

(a) in subsection (2)---

(i) in paragraph (a), by adding---

"(iv) pursuant to a Certificate of Compensation Assessment for Fatal Case or Review Certificate of Compensation Assessment for Fatal Case issued under the Employees' Compensation Ordinance (Cap. 282);";

(ii) in paragraph (b), by repealing "or" at the end;

(iii) in paragraph (c)(iii), by repealing the full stop and substituting "; or";

(iv) by adding---

"(d) in the case of reimbursement of the expenses of the funeral of the deceased employee and expenses of the medical attendance on the deceased employee, a Certificate for Funeral and Medical Attendance Expenses or Review Certificate for Funeral and Medical Attendance Expenses has been issued under the Employees' Compensation Ordinance (Cap. 282).".

(b) by adding---

"(4) Notwithstanding subsections (1) and (3), where---

(a) compensation under section 6(1) of the Employees' Compensation Ordinance (Cap. 282) payable pursuant to---

(i) a Certificate of Compensation Assessment for Fatal Case; or

(ii) a Review Certificate of Compensation Assessment for Fatal Case; or

(b) reimbursement under section 6(5) of that Ordinance payable pursuant to---

(i) a Certificate for Funeral and Medical Attendance Expenses; or

(ii) a Review Certificate for Funeral and Medical Attendance Expenses, has been fully paid by the employer or his insurer, no application shall lie for the payment thereof from the Fund.".

40. Applications

Section 21(4) is amended, in paragraph (a), by repealing "dependant" where it twice appears and substituting "member of the family".

41. Transitional

Section 46 is amended---

(a) by renumbering it as section 46(1);

(b) by adding---

"(2) Nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) shall apply to applications for payment from the Fund in respect of claims for compensation arising from accidents occurring before the commencement of that Ordinance, and the provisions in force immediately before the commencement of that Ordinance shall continue to apply to such applications as if they had not been repealed or amended by that Ordinance.".

Pension Benefits (Judicial Officers) Ordinance

42. Dependant pension

Section 20(9) of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) is amended by repealing "dependants" and substituting "members of the family".

43. Section added

The following is added---

"39. Transitional

Nothing in the Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (of 2000) ("the amending Ordinance") shall apply to claims for compensation in respect of accidents occurring before the commencement of the amending Ordinance, and the provisions in force immediately before the commencement of the amending Ordinance shall continue to apply to such claims as if they had not been amended by the amending Ordinance."

Explanatory Memorandum

This Bill amends the Employees' Compensation Ordinance (Cap. 282) ("the Ordinance"). The main purposes are to make compensation, in case of death of an employee, payable to members of his family instead of his dependants; to provide an additional avenue for settlement of claims to compensation whereby in straightforward cases the Commissioner for Labour ("the Commissioner") may determine a claim; to require the employer to make interim payment to the spouse of the deceased employee pending final determination by the Commissioner; to require an employer to reimburse funeral and medical attendance expenses in all fatal cases; and to revise the level of fines on offences committed under the Ordinance.

2. Clause 3 amends section 3 to introduce certain new definitions used in the Ordinance including a new definition of "member of the family" in substitution for the definition of "dependants".

3. Clause 5 amends section 6(1) to provide that compensation shall be payable to the members of family of the deceased employee and amends section 6(5) to provide the payment of reimbursement of funeral and medical attendance expenses by the employer.

4. Clause 6 adds new sections 6A to 6H---

(a) new section 6A sets out in the new Seventh Schedule the manner in which the compensation is to be apportioned;

(b) new sections 6B and 6D set out the procedure for making claims to the Commissioner and for making determination of claims by the Commissioner;

(c) new section 6C sets out the procedure for application for interim payments by the spouse and for making determination of those payments by the Commissioner;

(d) new section 6E sets out the procedure for making claims for reimbursement of

funeral and medical attendance expenses and for making determination of those reimbursements by the Commissioner;

(e) new section 6F provides that the Commissioner may require production of supporting documents by any person making a claim;

(f) new section 6G sets out the total liability of the employer and his insurer in respect of one deceased employee;

(g) new section 6H provides for an avenue for appeal to the Court against a determination made by the Commissioner.

5. Clauses 11, 18, 19, 20, 21, 22 and 24 revise the level of fines for offences committed under the Ordinance.

6. Clauses 28 to 43 contain consequential amendments to other related Ordinances and subsidiary legislation.