

**立法會**  
***Legislative Council***

LC Paper No. LS95/99-00

**Paper for the House Committee Meeting  
of the Legislative Council  
on 3 March 2000**

**Legal Service Division Further Report on  
Employees' Compensation (Amendment) Bill 2000**

At the meeting of the House Committee on 18 February 2000, a Member queried whether the proposed retrospective commencement of the Bill from 5 July 1999 would create any problems from the point of view of employees' compensation.

2. Written clarification has now been obtained from the Administration as follows -

- (a) the protection against work-related accidents during Red rainstorm warning was added to the Employees' Compensation Ordinance in 1995. Insurers were consulted at the time and their premium structure should have since reflected the liability in respect of such accidents;
- (b) as the protection against accidents during Red rainstorm warnings was only removed in as recently as July 1999, insurers would not have foreseen this event when they issued policies to employers before that date. The retrospective effect of the amendment would not therefore add to the protection afforded to employees;
- (c) the query would seem to apply to policies taken out after 5 July. In theory an insurer might have taken the initiative to lower the premium in order to reflect the removal of the liability in respect of Red rainstorm warnings. The Labour Department, however, considers this unlikely, in view that the amount of compensation for accidents which occurred during Red rainstorm warnings have been negligible, and the impact on the premium therefore insignificant. Still, it would be necessary to remove this grey area by the proposed amendment, preferably before the next rainy season begins;

- (d) the Labour Department is aware of only one minor case of employee injury which occurred during a Red rainstorm warning signal issued after 5 July 1999, and the case in question is covered by a policy taken out before that date; and
  - (e) Since 5 July 1999, 5 Red rainstorm warnings have been issued, on 23 August, 24 August (2 times), 25 August and 16 September 1999.
3. The relevant correspondence is attached for reference.

Prepared by

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Assistant Legal Adviser  
Legislative Council Secretariat  
28 February 2000

EMBCR 11/4/3231/77  
LS/B/34/99-00  
2869 9283  
2877 5029

Secretary for Education and Manpower  
Education and Manpower Bureau  
(Attn: Mr K K LAM  
Prin AS EM(7))  
Room 611, 6/F  
West Wing, CGO  
Hong Kong

By Fax (2899 2967) By Post

18 February 2000

Dear Sir,

**Employees' Compensation (Amendment) Bill 2000**

At the House committee meeting today, a query was raised by a Member as to whether the retrospective restoration of the employees' protection under the Bill would cause any practical complications or difficulties from the insurance point of view such as whether insurance already taken out to cover the liability arising from the statutory protection under the principal ordinance could cater to the additional liability that may arise from the retrospective effect of the Bill or whether any claims that have already been disposed of could be reviewed. It would also be helpful if it could be confirmed whether any Red rainstorm warning signal was ever issued since 5 July 1999.

Yours faithfully,

(Arthur CHEUNG)  
Assistant Legal Adviser

c.c. Hon Ronald ARCULLI

(21) in EMBCR 11/4/3231/77 Pt. 12

LS/B/34-99/00

2810 3561

2899 2967

8 March 2000

Mr Arthur Cheung

Assistant Legal Advisor

Legal Services Division

Legislative Council Secretariat

8 Jackson Road

Hong Kong

Dear Sir,

**Employees' Compensation (Amendment) Bill 2000**

Thank you for your letter of 18 February 2000 concerning the query raised by a Member at the House Committee on 18 February. I would like provide the response as follows.

The objective of the amendment Bill is to restore the protection afforded to employees against accidents which occur during travelling to and from work when the Red rainstorm warning is issued. To protect the interest of employees who might have been injured after the amendment to the Judicial Proceedings (Adjournment During Gale Warning) Ordinance on 5 July 1999, the Bill proposes to effect the amendment retrospectively on the same date.

The protection against work-related accidents during Red rainstorm warnings was added to the Employees' Compensation Ordinance in 1995. Insurers were consulted at the time and their premium structure should have since reflected the liability in respect of such accidents.

As the protection against accidents during Red rainstorm warnings was only removed in as recently as July 1999, insurers would not have foreseen this event when they

issued policies to employers before that date. The retrospective effect of the amendment would not therefore add to the protection afforded to employees.

The query would seem to apply to policies taken out after 5 July. In theory an insurer might have taken initiative to lower the premium in order to reflect the removal of the liability in respect of Red rainstorm warnings. Labour Department, however, considers this unlikely, in view that the amount of compensation for accidents which occurred during Red rainstorm warnings have been negligible, and the impact on the premium therefore insignificant. Still, it would be necessary to remove this grey area by the proposed amendment, preferably before the next rainy season begins.

Labour Department is aware of only one minor case of employee injury which occurred during a Red rainstorm warning signal issued after 5 July 1999, and the case in question is covered by a policy taken out before that date.

Since 5 July 1999, five Red rainstorm warnings have been issued, on 23 August, 24 August (2 times), 25 August and 16 September 1999.

Yours faithfully,

( K.K. Lam )  
for Secretary for Education and Manpower

c.c. C for L (Attn: Mrs Jennie Chor)