

立法會
Legislative Council

LC Paper No. CB(2)2023/01-02
(These minutes have been seen by
the Administration)

Ref : CB2/BC/8/01

Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002

Minutes of the 4th meeting
held on Thursday, 9 May 2002 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP

Member attending : Hon Miriam LAU Kin-yee, JP

Members absent : Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP

Public Officers attending : Mr Alan LO
Principal Assistant Secretary for Financial Services
(Retirement Schemes and Insurance)

Mr Benjamin TANG, JP
Commissioner of Insurance

Mr H Y MOK
Assistant Commissioner of Insurance (General Business)

Mrs Jenny CHAN
Assistant Commissioner for Labour (Rights and Benefits)

Mr LAI Ka-tong
Senior Labour Officer (Compensation)

Mr Geoffrey A FOX
Senior Assistant Law Draftsman

Mr Lawrence PENG
Senior Government Counsel

Clerk in attendance : Mr Raymond LAM
Senior Assistant Secretary (2) 5

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Confirmation of minutes of meeting held on 23 April 2002

The minutes of the meeting held on 23 April 2002 were confirmed.

II. Meeting with the Administration

2. The Bills Committee deliberated (Index of proceedings attached at **Annex**).
3. The Bills Committee requested the Administration -

Relief payment

- (a) To provide an assessment of the financial implications of increasing the initial relief payment from \$1.5 million to \$2 million;

- (b) To explain how the provisions on relief payment would operate in respect of :
 - (i) fatal and non-fatal injuries;
 - (ii) the apportionment of relief payment among eligible persons, and the apportionment in the case where the deceased employee had made a will;
- (c) To explain the need for persons eligible for relief payment to obtain a court judgment on the common law damages before becoming entitled to relief payment;
- (d) To consider improving the proposed scheme of relief payment for ease of administration and implementation;

Imposition of surcharge on uninsured employers

- (e) To consider whether the level of surcharge should be further increased;
- (f) To provide details of the views of the Labour Advisory Board on the proposed level of surcharge; and
- (g) To consider whether the existing maximum penalty of \$100,000 under the Employees' Compensation Ordinance had sufficient deterrent effect against non-compliance with the statutory insurance requirement.

4. Mr Bernard CHAN expressed concern about the statement in paragraph 14 of the explanatory memorandum in the Bill that "the insurance industry in Hong Kong is in the process of establishing a scheme which will in effect replace the present provisions of the principal Ordinance relating to applications by employers for payment from the Fund where their insurers are insolvent". He considered that this might give the impression that the insurance industry had already agreed to the establishment of the proposed Employees Compensation Insurer Insolvency Scheme (the proposed scheme).

5. The Administration responded that the Secretary for Education and Manpower, in moving the Bill for Second Reading debate, had made it clear that certain provisions in the Bill would not be brought into operation until the proposed scheme was in place. It was also stated in a previous paper for the Bills Committee that the Office of the Commissioner of Insurance was consulting the insurance industry on the proposed scheme. The Administration added that the explanatory memorandum in the Bill did not form part of the Bill and could not be amended by a Committee Stage amendment. The Administration suggested that Mr Bernard CHAN might wish to inform the

Legislative Council of the position of the insurance industry during the resumption of Second Reading debate on the Bill.

III. Dates of subsequent meetings

6. The Bills Committee agreed to hold meetings on the following dates to continue discussion with the Administration -

- (a) Tuesday, 14 May 2002 at 8:30 am;
- (b) Thursday, 23 May 2002 at 10:45 am;
- (c) Wednesday, 29 May 2002 at 8:30 am;
- (d) Monday, 3 June 2002 at 8:30 am; and
- (e) Tuesday, 4 June 2002 at 8:30 am.

7. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
22 May 2002

**Proceedings of the fourth meeting of the
Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002
held on Thursday, 9 May 2002 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000329	Chairman	(a) Confirmation of minutes of last meeting; and (b) Introductory remarks	
000329 - 000817	Admin	Briefed members on Admin's paper concerning relief payment (LC Paper No. CB(2)1682/01-02(03))	
000817 - 001101	Mr LEE Cheuk-yan	Basis for setting the initial payment of relief payment at \$1.5 million	
001101 - 001242	Admin	- ditto -	
001242 - 001433	Mr LEE Cheuk-yan	Possibility of raising the level of initial payment	
001433 - 001539	Admin	- ditto -	
001539 - 001736	Mr James TIEN	- ditto -	
001736 - 001743	Chairman	- ditto -	
001743 - 001918	Mr LEE Cheuk-yan	- ditto -	
001918 - 001929	Chairman	Feasibility for the court to exercise discretion in determining the level of initial payment having regard to the circumstances of each case	
001929 - 002415	Mr LEE Cheuk-yan	- ditto -	
002415 - 002429	Mr James TIEN	- ditto -	
002429 - 002520	Admin	Level of monthly payment	
002520 - 002556	Mr Kenneth TING	Details of the three cases assisted by the Fund Board with over \$10 million common law damages awarded by the court	
002556 - 002635	Admin	- ditto -	
002635 - 002738	Mr LEUNG Yiu-chung	Admin to provide an assessment of the financial implications of increasing the initial relief payment from \$1.5 million to \$2 million	✓ Admin to provide a written response
002738 - 002759	Chairman	Relief payment in fatal and non-fatal injuries	
002759 - 002806	Mr Kenneth TING	- ditto -	
002806 - 002841	Chairman	- ditto -	
002841 - 003218	Admin	- ditto -	
003218 - 003241	Mr Kenneth TING	- ditto -	
003241 - 003245	Admin	- ditto -	
003245 - 003406	Chairman	- ditto -	
003406 - 003439	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
003439 - 003510	Chairman	Need for eligible persons to obtain a court judgment on common law damages before becoming entitled to relief payment	
003510 - 003604	Admin	- ditto -	
003604 - 003610	Chairman	- ditto -	
003610 - 003621	Mr Kenneth TING	Apportionment of relief payment among eligible persons, and the apportionment in the case where the deceased employee had made a will	
003621 - 003641	Chairman	- ditto -	
003641 - 003732	Admin	Definition of "fatal work injury" and "non-fatal work injury"	
003732 - 003744	Chairman	- ditto -	
003744 - 004127	Admin	- ditto -	
004127 - 004248	Mr LEE Cheuk-yan	Apportionment of relief payment in the case where the eligible person(s) died or ceased to be eligible before the relief payment was fully paid	
004248 - 004415	Admin	- ditto -	
004415 - 004445	Chairman	(a) Definition of "eligible persons"; (b) Definition of "fatal work injury" and "non-fatal work injury"; and (c) Need for eligible persons to obtain a court judgment on common law damages before becoming entitled to relief payment	
004445 - 004824	ALA5	- ditto -	
004824 - 004922	Mr Kenneth TING	Need for eligible persons to obtain a court judgment on common law damages before becoming entitled to relief payment	
004922 - 005008	Admin	- ditto -	
005008 - 005016	Mr Kenneth TING	- ditto -	
005016 - 005104	Admin	- ditto -	
005104 - 005351	Chairman	Admin to - (a) explain how the provisions on relief payment would operate in respect of : (i) fatal and non-fatal injuries; (ii) the apportionment of relief payment among eligible persons, and the apportionment in the case where the deceased employee had made a will; (b) explain the need for eligible persons to obtain a court judgment on common law damages before becoming entitled to relief payment; and (c) consider improving the proposed scheme of relief payment for ease of administration and implementation	✓ Admin to provide a written response

Time	Speaker	Subject(s)	Action required
005351 - 005406	Admin	- ditto -	
005406 - 005451	Chairman	Admin's paper concerning imposition of surcharge on uninsured employers (LC Paper No. CB(2)1824/01-02(01))	
005451 - 005832	Admin	- ditto -	
005832 - 005928	Mr LEUNG Fu-wah	Deterrent effect of fixing the surcharge at three times the levy payable on the premium paid for an employees compensation insurance policy	
005928 - 010124	Admin	(a) The principle of "proportionality"; and (b) Need for uninsured employers to pay surcharge as well as penalty imposed by the court for non-compliance with statutory insurance requirement	
010124 - 010213	Mr LEUNG Fu-wah	(a) Number of successful convictions against uninsured employers; and (b) Estimated amount of surcharge to be collected	
010213 - 010450	Admin	- ditto -	
010450 - 010538	Mr Kenneth TING	Number of times an uninsured employer would be required to pay surcharge on a single conviction	
010538 - 010626	Admin	- ditto -	
010626 - 010656	Mr LEE Cheuk-yan	The principle of "proportionality"	
010656 - 010820	Admin	- ditto -	
010820 - 010849	Chairman	Level of surcharge	
010849 - 010912	Admin	- ditto -	
010912 - 010917	Chairman	- ditto -	
010917 - 010947	Admin	- ditto -	
010947 - 010951	Chairman	- ditto -	
010951 - 011016	Admin	- ditto -	
011016 - 011030	Chairman	- ditto -	
011030 - 011102	Admin	- ditto -	
011102 - 011159	Mr CHAN Kwok-keung	(a) Effectiveness of the proposed level of surcharge in deterring non-compliance with statutory insurance requirement; and (b) High administrative cost incurred in securing successful convictions as compared with the estimated amount of surcharge to be collected	
011159 - 011237	Admin	- ditto -	
011237 - 011255	Chairman	- ditto -	
011255 - 011417	Admin	- ditto -	
011417 - 011557	Mr LEE Cheuk-yan	Need to adopt legislative measures to increase the level of surcharge in order to strengthen the deterrent effect	

Time	Speaker	Subject(s)	Action required
011557 - 011723	Admin	Suggestion to raise the level of surcharge on an ascending scale for repeated failure to comply with statutory insurance requirement	
011723 - 011732	Chairman	Maximum penalty for non-compliance with statutory insurance requirement	
011732 - 011754	Admin	- ditto -	
011754 - 011807	Chairman	- ditto -	
011807 - 011940	Mr Bernard CHAN	Common scenario that most employers did not take out insurance cover for all their employees	
011940 - 012000	Mr James TIEN	Views of Labour Advisory Board (LAB) on the proposed level of surcharge	
012000 - 012119	Admin	- ditto -	
012119 - 012127	Mr James TIEN	- ditto -	
012127 - 012131	Admin	Whether the level of surcharge should be further increased	
012131 - 012200	Mr James TIEN	Need to consult LAB on the proposed level of surcharge	
012200 - 012401	Admin	Whether the level of surcharge should be further increased	
012401 - 012452	Chairman	Admin to - (a) consider whether the level of surcharge should be further increased; (b) provide details of the views of LAB on the proposed level of surcharge; and (c) consider whether the existing maximum penalty of \$100,000 under the Employees' Compensation Ordinance had sufficient deterrent effect against non-compliance with statutory insurance requirement	✓ Admin to provide a written response
012452 - 012718	Mr Bernard CHAN	Reasons for not having reserve in the Fund for liabilities in respect of insurer insolvency (LC Paper No. CB(2)1824/01-02(04))	
012718 - 012900	Admin	- ditto -	
012900 - 013124	Mr Bernard CHAN	Estimated further increase of 6.5% in levy rate to meet liabilities arising from insurer insolvency (LC Paper No. CB(2)1824/01-02(03))	
013124 - 013213	Admin	- ditto -	
013213 - 013455	Mr James TIEN	Measures to minimise the risk of insurer insolvency, especially insurers with parent companies outside Hong Kong	
013455 - 013616	Admin	- ditto -	
013616 - 013644	Mr James TIEN	Registered capital and turnover of the HIH Group of Companies which operated in Hong Kong	
013644 - 013727	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
013727 - 013756	Mr James TIEN	Feasibility of regulating reinsurance arrangement of insurers	
013756 - 013901	Admin	Proposal to set an admissibility limit to the amount of reinsurance recoverable from parent companies outside Hong Kong	
013901 - 014135	Mr Bernard CHAN	Need to raise the solvency margin of insurers	
014135 - 014144	Chairman	- ditto -	
014144 - 014202	Mr Kenneth TING	Proportion of reinsurance taken out by the HIH Group of Companies which operated in Hong Kong	
014202 - 014228	Admin	- ditto -	
014228 - 014319	Mr James TIEN	Rating of insurers	
014319 - 014403	Admin	- ditto -	
014403 - 014449	Mr Bernard CHAN	Request to amend the statement in paragraph 14 of the explanatory memorandum in the Bill that "the insurance industry in Hong Kong is in the process of establishing a scheme which will in effect replace the present provisions of the principal Ordinance relating to applications by employers for payment from the Fund where their insurers are insolvent"	
014449 - 014458	Admin	- ditto -	
014458 - 014521	Mr Bernard CHAN	- ditto -	
014521 - 014604	Admin	- ditto -	
014604 - 014636	Mr James TIEN	- ditto -	
014636 - 015120	Admin	- ditto -	
015120 - 015157	Mr LEE Cheuk-yan	- ditto -	
015157 - 015332	Admin	- ditto -	
015332 - 015425	Mr Bernard CHAN	- ditto -	
015425 - 015516	Chairman	Issues raised in Legal Service Division's letter to Admin (LC Paper No. CB(2)1674/01-02(01)) and Admin's reply to the letter (LC Paper No. CB(2)1674/01-02(02))	
015516 - 015532	ALA5	- ditto -	
015532 - 015552	Chairman	Current balance of the Fund	
015552 - 015558	Admin	- ditto -	
015558 - 015604	Mr James TIEN	- ditto -	
015604 - 015643	Admin	- ditto -	
015643 - 015648	Mr James TIEN	- ditto -	
015648 - 015718	Chairman	Dates of next five meetings	
015718 - 015734	Mr James TIEN	Outstanding issues to be dealt with by the Bills Committee	
015734 - 015820	Chairman	- ditto -	
015820 - 015832	Mr James TIEN	- ditto -	

Time	Speaker	Subject(s)	Action required
015832 - 020106	Chairman	(a) Outstanding issues to be dealt with by the Bills Committee; and (b) Dates of next five meetings	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
22 May 2002