

立法會
Legislative Council

LC Paper No. CB(2)2128/01-02
(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 fifth meeting
held on Tuesday, 14 May 2002 at 8:30 am
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 Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
- Members absent** : Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, JP
- Public Officers attending** : 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. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to provide a written response to the following -

- (a) The breakdown of common law damages in the three cases assisted by the Employees Compensation Assistance Fund Board (the Fund Board) where the damages exceeded \$10 million in each case;
- (b) Whether the relief payment in the case of non-fatal injury would be treated as income under an attachment of income order in matrimonial cases;
- (c) The categories of persons eligible for relief payment in the case of non-fatal injury where the injured employee died before damages were awarded by the Court; and
- (d) To consider increasing the relief payment in the case of severely injured employees requiring long-term care.

3. In view of members' concern about a lack of definition for fatal and non-fatal injuries in the Bill, the Administration agreed to move a Committee Stage amendment to set out clearly that the Fund Board would not determine whether an employment-related injury was fatal or non-fatal, and this question would be a matter to be determined by the Court in accordance with the Employees' Compensation Ordinance.

4. Some members expressed concern that the brothers, sisters and other dependants of a deceased employee would not be eligible for relief payment under the Bill in the case of non-fatal injury. The Bills Committee requested Assistant Legal Adviser 5 to provide a comparison between the "dependants of the deceased" under the Fatal Accidents Ordinance and "eligible persons" under the Bill.

II. Date of next meeting

5. The Bills Committee noted that the next meeting would be held on Thursday, 23 May 2002 at 10:45 am.

6. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
31 May 2002

**Proceedings of the fifth meeting of the
Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002
held on Tuesday, 14 May 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000144	Chairman	Opening remarks	
000144 - 000533	Admin	Briefed members on Admin's paper concerning "Operation of the relief payment provisions" (LC Paper No. CB(2)1916/01-02(02))	
000533 - 000637	Chairman	Definition of fatal and non-fatal injuries	
000637 - 000658	Admin	- ditto -	
000658 - 000727	Chairman	- ditto -	
000727 - 000804	Admin	- ditto -	
000804 - 000817	Chairman	- ditto -	
000817 - 000848	Admin	- ditto -	
000848 - 000856	Chairman	- ditto -	
000856 - 000858	Admin	- ditto -	
000858 - 000909	Chairman	- ditto -	
000909 - 000919	Admin	- ditto -	
000919 - 000924	Chairman	- ditto -	
000924 - 000945	Admin	- ditto -	
000945 - 001036	Mr James TIEN	- ditto -	
001036 - 001112	Chairman	- ditto -	
001112 - 001306	Admin	- ditto -	
001306 - 001341	Chairman	- ditto -	
001341 - 001411	Admin	Committee Stage amendment to be moved by Admin to set out clearly that the Fund Board would not determine whether an employment-related injury was fatal or non-fatal	✓ Admin to follow-up
001412 - 001446	Mr LEUNG Fu-wah	Entitlement of an estate beneficiary to the unpaid balance of relief payment in the case where the injured employee died before the relief payment was fully paid	
001446 - 001530	Chairman	Manner of payment of relief payment	
001530 - 001552	Mr LEUNG Fu-wah	Entitlement of an estate beneficiary to the unpaid balance of relief payment in the case where the injured employee died before the relief payment was fully paid	

Time	Speaker	Subject(s)	Action required
001552 - 001607	Chairman	- ditto -	
001607 - 001614	Mr LEUNG Fu-wah	- ditto -	
001614 - 001617	Chairman	Manner of payment of relief payment	
001617 - 001845	Admin	- ditto -	
001845 - 001849	Chairman	- ditto -	
001849 - 001939	Admin	- ditto -	
001939 - 002009	Chairman	- ditto -	
002009 - 002201	Admin	Entitlement of an estate beneficiary to the unpaid balance of relief payment in the case where the injured employee died before the relief payment was fully paid	
002201 - 002213	Chairman	- ditto -	
002213 - 002243	Ms LI Fung-ying	Upper limit of relief payment	
002243 - 002311	Admin	- ditto -	
002311 - 002344	Chairman	Possibility of not being able to receive the full amount of damages under the proposed arrangement for relief payment	
002344 - 002354	Ms LI Fung-ying	Upper limit of relief payment	
002354 - 002519	Admin	- ditto -	
002519 - 002555	Chairman	Possibility of not being able to receive the full amount of damages under the proposed arrangement for relief payment	
002555 - 002723	Admin	- ditto -	
002723 - 002835	Mr LEE Cheuk-yan	New sections 20G and 37A	
002835 - 002931	Admin	- ditto -	
002931 - 002938	Mr LEE Cheuk-yan	- ditto -	
002938 - 003016	Chairman	- ditto -	
003016 - 003037	Mr LEE Cheuk-yan	- ditto -	
003037 - 003254	Admin	- ditto -	
003254 - 003304	Chairman	- ditto -	
003304 - 003319	Admin	- ditto -	
003319 - 003424	Mr LEUNG Fu-wah	Entitlement of an estate beneficiary to the unpaid balance of relief payment in the case where the injured employee died before the relief payment was fully paid	
003424 - 003624	Admin	- ditto -	
003624 - 003647	ALA5	- ditto -	

Time	Speaker	Subject(s)	Action required
003647 - 003931	Mr Andrew CHENG	Possibility of including brothers and sisters as eligible persons in the case of non-fatal injury	
003931 - 004155	Admin	- ditto -	
004155 - 004314	Mr Andrew CHENG	- ditto -	
004314 - 004504	Chairman	Possibility of including dependants as eligible persons in the case of non-fatal injury	
004504 - 004705	Mr Andrew CHENG	Possibility of including brothers and sisters/dependants as eligible persons in the case of non-fatal injury	
004705 - 004726	Admin	- ditto -	
004726 - 004831	Mr CHAN Kwok-keung	Inadequate financial support for severely injured employees requiring long-term care under the proposed arrangement for relief payment	
004831 - 004957	Chairman	Feasibility for the court to exercise discretion in determining the level of initial relief payment having regard to the circumstances of each case	
004957 - 005059	Mr CHAN Kwok-keung/ Chairman	Inadequate financial support for severely injured employees requiring long-term care under the proposed arrangement for relief payment	
005059 - 005259	Admin	Basis for having an initial relief payment of \$1.5 million followed by monthly payments	
005259 - 005331	Mr CHAN Kwok-keung	Amount of damages likely to be awarded to a young employee who became a paraplegic as a result of an employment-related injury	
005331 - 005500	Chairman	Breakdown of common law damages in the three cases assisted by the Fund Board where the damages exceeded \$10 million in each case	
005500 - 005603	Admin	- ditto -	✓ Admin to provide a written response
005603 - 005657	Mr CHAN Kwok-keung	- ditto -	
005657 - 005900	Mr Andrew CHENG	Rationale for limiting eligible persons to the deceased employee's spouse, children under 21 and parents in the case of non-fatal injury	
005900 - 005912	Chairman	- ditto -	
005912 - 005925	Mr Andrew CHENG	- ditto -	
005925 - 010022	Chairman	ALA5 to provide a comparison between "dependants of the deceased" under the Fatal Accidents Ordinance and "eligible persons" under the Bill	✓ ALA5 to provide a comparison
010022 - 010042	Mr Andrew CHENG	Rationale for limiting eligible persons to the deceased employee's spouse, children under 21 and parents in the case of non-fatal injury	
010042 - 010340	Admin	- ditto -	
010340 - 010436	Mr Andrew CHENG	Reasons for not including brothers and sisters as eligible persons in the case of non-fatal injury	
010436 - 010719	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
010719 - 010922	Ms LI Fung-ying	Whether relief payment in the case of non-fatal injury would be treated as income under an attachment of income order in matrimonial cases	
010922 - 010958	Chairman	- ditto -	
010958 - 011121	Admin	- ditto -	
011121 - 011201	Chairman	- ditto -	
011201 - 011332	Ms LI Fung-ying	- ditto -	
011332 - 011354	Chairman	- ditto -	
011354 - 011425	Ms LI Fung-ying	- ditto -	
011425 - 011548	Admin	- ditto -	
011548 - 011611	Chairman	- ditto -	✓ Admin to provide a written response
011611 - 011910	Mr LEE Cheuk-yan	Inadequate financial support for severely injured employees requiring long-term care under the proposed arrangement for relief payment	
011910 - 011917	Chairman	- ditto -	
011917 - 011944	Mr Kenneth TING	Support for the proposed arrangements in the Bill	
011944 - 012116	Chairman	Categories of persons eligible for relief payment in the case of non-fatal injury where the injured employee died before damages were awarded by the Court	
012116 - 012226	Admin	- ditto -	
012226 - 012300	Chairman	- ditto -	
012300 - 012310	Admin	Categories of persons eligible for relief payment in the case of non-fatal injury where the injured employee died before damages were awarded by the Court	✓ Admin to provide a written response
012310 - 012426	Mr CHAN Kwok-keung	Possibility of taking out insurance cover against the liabilities of the Fund Board in respect of uninsured employers and insurer insolvency	
012426 - 012607	Admin	- ditto -	
012607 - 012622	Mr CHAN Kwok-keung	- ditto -	
012622 - 012720	Chairman	Admin's paper concerning "Raising the level of initial payment of relief payment" (LC Paper No. CB(2)1916/01-02(01))	
012720 - 012741	Mr LEE Cheuk-yan	Reasons for the anticipated adverse financial implication on the cash flow of the Scheme if the initial relief payment was increased to \$2 million	
012741 - 013036	Admin	- ditto -	
013036 - 013302	Mr LEE Cheuk-yan	Possibility of raising the level of relief payment for severely injured employees requiring long-term care	

Time	Speaker	Subject(s)	Action required
013302 - 013310	Chairman	(a) Ditto; and (b) Possibility of raising the level of surcharge to be imposed on uninsured employers	
013310 - 013427	Admin	(a) Possibility of raising the level of relief payment for severely injured employees requiring long-term care; and (b) Possibility of raising the level of surcharge to be imposed on uninsured employers	✓ Admin to provide a written response on (a)
013427 - 013636	Chairman	Possibility of raising the level of monthly relief payment for severely injured employees requiring long-term care	
013636 - 013800	Ms LI Fung-ying	(a) Ditto; and (b) Whether the relief payment in the case of non-fatal injury would be treated as income under an attachment of income order in matrimonial cases	
013800 - 013823	Chairman	Same as (b) above	
013823 - 013841	Mr CHAN Kwok-keung	Cause of the financial predicament of the Fund	
013841 - 013910	Admin	- ditto -	
Clause-by-clause examination of the Bill			
013910 - 014003	Chairman	Clause 2 - Long title substituted	
014003 - 014042	Admin	- ditto -	
014042 - 014140	Chairman	Clause 3 - Interpretation	
014140 - 014212	Admin	Definition of "cohabitee"	
014212 - 014230	Chairman	Definition of "eligible person" in a non-fatal injury	
014230 - 014309	Admin	- ditto -	
014309 - 014338	Chairman	Definition of fatal and non-fatal injuries	
014338 - 014439	Admin	- ditto -	
014439 - 014510	Chairman	Categories of persons eligible for relief payment in the case of non-fatal injury where the injured employee died before damages were awarded by the Court	
014510 - 014518	Admin	- ditto -	
014518 - 014556	Chairman	- ditto -	
014556 - 014609	Admin	- ditto -	
014609 - 014632	Chairman	- ditto -	
014632 - 014646	Admin	- ditto -	
014646 - 014725	Chairman	Reasons for not including a child adopted by the injured employee after the occurrence of the accident as an eligible person for relief payment	

Time	Speaker	Subject(s)	Action required
014725 - 014736	Admin	- ditto -	
014736 - 014748	Chairman	- ditto -	
014748 - 014930	Admin	- ditto -	
014930 - 015027	Chairman	Apportionment of relief payment in the case of non-fatal injury	
015027 - 015119	Mr LEE Cheuk-yan	- ditto -	
015119 - 015122	Admin	- ditto -	
015122 - 015140	Chairman	- ditto -	
015140 - 015216	Mr LEE Cheuk-yan	- ditto -	
015216 - 015240	Chairman	- ditto -	
015240 - 015318	Mr LEE Cheuk-yan	- ditto -	
015318 - 015328	Chairman	- ditto -	
015328 - 015340	Mr LEE Cheuk-yan	- ditto -	
015340 - 015346	Chairman	Definition of "eligible person" in a fatal injury	
015346 - 015521	Admin	- ditto -	
015521 - 015546	Mr Andrew CHENG	Apportionment of relief payment in the case where the court had not apportioned damages amongst the eligible persons	
015546 - 015650	Admin	- ditto -	
015650 - 015712	Chairman	- ditto -	
015712 - 015732	Admin	- ditto -	
015732 - 015808	Mr LEE Cheuk-yan	Apportionment of relief payment in the case where the deceased employee had a spouse and a cohabitee	
015808 - 015850	Admin	- ditto -	
015850 - 015858	Mr LEE Cheuk-yan	- ditto -	
015858 - 015908	Admin	- ditto -	
015908 - 015936	Ms LI Fung-ying	- ditto -	
015936 - 020012	Admin	- ditto -	
020012 - 020053	Chairman	Date of next meeting	

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