

**Bills Committee on
Employees Compensation Assistance (Amendment) Bill 2002**

The Administration's Response

Introduction

This paper provides information requested by members of the Bills Committee in its meeting held on 14 March 2002 on the following aspects –

- (a) the basis for projecting the liabilities of \$350 million arising from the injury claims referred to in paragraph 8 of the Legislative Council Brief;
- (b) a breakdown of the injury claims;
- (c) the dates when the respective accidents happened; and
- (d) when the claims payment were due.

(A) Basis for Projecting the HIH Liabilities

2. According to the provisional liquidators of the three local insurers of HIH Group, the estimated liabilities accruing from employment-related injury claims under the employees' compensation insurance policies written by the insolvent insurers was \$292 million as at 2 June 2001. To cater for the liabilities of cases which have yet to emerge, it is considered prudent to add another 20% on top of the estimate assessed by the provisional liquidators. Therefore, it is estimated that the total liability arising from the HIH insolvencies would be in the region of \$350 million (i.e. \$292 million x 120% = \$350 million).

3. We have just obtained the latest estimate from the provisional liquidators. The estimated total liabilities are revised to \$371.7 million.

(B) Breakdown of the Injury Claims Arising from the HIH Insolvencies

4. As at 22 March 2002, a total of 1 556 applications for assistance in respect of statutory compensation under the Employees' Compensation

Ordinance (ECO) and 94 cases for common law damages are known to the Employees Compensation Assistance Fund Board (the Board). In the case of an injured employee who is entitled to statutory compensation under the ECO and has made a claim in court for damages under common law in respect of the same employment-related accident, it will be counted as two applications to the Board.

(C) Dates when the Respective Accidents Happened

5. Breakdown of the accident dates of cases arising from the HIH insolvencies and which require assistance from the Board is given below –

Year of Accident	No. of Accident
1992	1
1995	4
1996	15
1997	60
1998	52
1999	151
2000	766
2001	416
Total	1 465

6. In addition, there are 8 cases in which the year of accident are to be confirmed with the applicant. It is noted that a number of accidents happened before April 2001 when the insolvent insurers were put under provisional liquidation. Detailed explanations are given in paragraphs 7 and 8 below.

(D) When the Claims Payments were Due

7. Under section 17 of the Employees Compensation Assistance Ordinance (ECAO), an employer whose insurer has become insolvent may apply to the Board for assistance if he has made payment of an amount of compensation or damages for which he would be liable in accordance with a judgment or order of a court or by virtue of a certificate of compensation assessment issued by Commissioner for Labour. In general, the court or the

Commissioner for Labour would not be able to assess the amount of compensation/damages until the condition of the injured employee has stabilised and suitable for assessment. In cases involving common law damages, court proceedings may take a few years to complete.

8. After the amount of compensation or damages has been determined, the employer makes payment to the injured employee. If the employer could not be indemnified due to default of his insurer, he may apply to the Board for assistance. As a result, the Board has received applications for assistance from employers whose employees were injured in accidents which happened before the relevant insurer is placed under provisional liquidation.