

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

**Definition of Eligible Persons**

**Introduction**

This paper sets out the Administration's views on the suggestion to adopt the definition of "dependants" under the Fatal Accident Ordinance (FAO) as "eligible persons" for entitlement to relief payment in fatal injuries under the Employees Compensation Assistance (Amendment) Bill 2002 (the Amendment Bill).

**Eligible Person for Fatal Injuries**

2. At the meeting held on 23 May 2002, we explained to Members the definition of "eligible person" for relief payment in respect of fatal injury.

3. It is the consensus of the Labour Advisory Board (LAB) that the relief payment in fatal injury should only be payable to the immediate family members i.e. the spouse and children under the age of 21 of a deceased employee and who have obtained an award of damages from the Court. In drafting the legislative amendments, we have defined "family members" with the same scope as that under the Employees' Compensation Ordinance on the basis of legal advice. The LAB has not raised objection to the Administration's proposal to adopt the same definition of family members as in the ECO.

4. It should be noted that the definition of "dependants" under the FAO also include persons who are outside the scope of family members under the ECO. These persons include:

- (a) former spouse of the deceased employee;
- (b) any ascendant (other than the parents or grandparents) of the deceased employee;
- (c) any descendant (other than the children and grandchildren of the deceased) of the deceased employee;
- (d) any godchild and godparent of the deceased employee according to the Chinese custom.

### The Administration's views

5. There is no agreement in the LAB that the persons who are eligible for relief payment in fatal injuries should include any of the persons listed in paragraph 4(a) to (d) above. It should also be noted that the relief payment is ex gratia in nature and the Employees Compensation Assistance Fund does not replace the employer in respect of the latter's liabilities to the deceased employee and his dependants. The Administration considers the present definition of "eligible persons" for entitlement to relief payment in fatal injuries is appropriate.