

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

**Application for assistance in relation to  
statutory compensation where the injured employee dies  
before the compensation is determined**

**Introduction**

This paper provides information, as requested by Members of the Bills Committee at the meeting held on 3 June 2002, on which party shall be eligible to apply for assistance in relation to statutory compensation where an injured employee in a non-fatal injury dies before the compensation is determined.

**Response**

2. The new section 16(1) of the Employees Compensation Assistance (Amendment) Bill 2002 provides that **a person** who is unable to recover from an employer an amount of compensation may apply for payment of that amount from the Employees Compensation Assistance Fund (the Fund). For a non-fatal injury, the injured employee himself will be the person eligible for making application for assistance from the Fund since he will be the one to whom the employer is liable to pay the statutory compensation.

3. However, if such an injured employee dies before the statutory compensation is determined either by the Court or the Commissioner for Labour, the personal representative of the deceased employee shall step into the shoes of the deceased employee to pursue the compensation against the employer. When such personal representative is unable to recover the amount of statutory compensation from the employer, the personal representative shall be entitled to apply for the payment of the amount from the Fund for the benefit of the estate of the deceased employee.

4. If the Employees Compensation Assistance Fund Board (the Board) has determined in favour of an application made by the personal representative of the deceased employee, the new section 35(1) will allow the Board to make payment to the estate of the deceased employee.