

For discussion  
on 18 November 2004

## **LegCo Panel on Manpower**

### **Proposal to add Severe Acute Respiratory Syndrome and Avian Influenza A as Occupational Diseases under the Employees' Compensation Ordinance**

#### **PURPOSE**

This paper seeks Members' views on the proposal to add two new diseases — severe acute respiratory syndrome (SARS) and avian influenza A — to the Second Schedule of the Employees' Compensation Ordinance (Cap. 282) (ECO) and Schedule 2 of the Occupational Safety and Health Ordinance (Cap. 509) (OSHO).

#### **BACKGROUND**

2. The Second Schedule of the ECO specifies, for the purpose of employees' compensation, a list of occupational diseases together with the details of the nature of the trade, industry or process associated with such diseases and their respective prescribed period of employment immediately preceding the incapacity or death of the employee. The schedule currently prescribes 46 occupational diseases.

3. The purpose of specifying a list of occupational diseases is to relieve an employee of the need to prove that the disease is due to the nature of employment, thereby expediting the compensation process. The schedule was introduced in 1964 with 21 specified occupational diseases.

4. Following a recent review, we consider it necessary and justified to expand the list of specified occupational diseases under the ECO and to make corresponding amendment to the list of notifiable occupational diseases in Schedule 2 of the OSHO.

## **PROPOSAL**

5. It is proposed –
- (a) to amend the Second Schedule of the ECO by adding two new diseases, namely, SARS and avian influenza A; and
  - (b) to amend Schedule 2 of the OSHO in line with the proposed amendments to the Second Schedule of the ECO.
6. A summary of the proposed amendments to the Second Schedule of the ECO and Schedule 2 of the OSHO is at the Appendix.

## **ARGUMENTS**

7. As has always been the case, the following criteria are adopted in determining whether a disease should be prescribed as a new occupational disease under the ECO –
- (a) the disease would impose significant recognized risk to workers of Hong Kong in a certain occupation; and
  - (b) the link between the disease and the occupation can be reasonably presumed or established in individual cases.

### *Severe acute respiratory syndrome*

8. SARS is an atypical pneumonia caused by SARS-associated coronavirus (SARS-CoV) infection. An initial outbreak of the disease began in mid-November 2002 in southern China and spread to other places in late February 2003. According to the World Health Organization, altogether 8,437 cases occurred in 29 countries, resulting in 917 fatalities. Confirmed instances of human-to-human transmission have been established and the risk of transmission is greatest in the medical and health care sectors and for laboratory workers. SARS was added to the list of infectious diseases specified in Schedule 1 of the Quarantine and Prevention of Disease Ordinance (Cap. 141) on 27 March 2003. Medical practitioners are required

to notify the Director of Health if they have reason to suspect the existence of any of the infectious diseases specified in the Schedule.

9. Employees infected with the disease at work are currently protected under section 36(1) of the ECO but the onus is on the employee to prove that the infection is by accident arising out of and in the course of employment. Compensation claims from 414 employees affected by the SARS outbreak last year are being processed in this way. However, in order to safeguard the interests of employees in specified high-risk trade, industry or process and to facilitate them in making compensation claims without having to prove that the injury is by accident arising out of and in the course of employment, it is proposed to prescribe SARS as an occupational disease under the ECO.

10. As the incubation period for the disease is not more than 14 days, the prescribed employment period is proposed to be set at one month.

11. The proposed amendment will expedite the compensation process for injured employees involving close and frequent contacts with a source or sources of SARS infection arising from their employment in specified high-risk occupations. These include medical and nursing staff, medical research and laboratory workers, pathologists, post-mortem or funeral services workers, etc. There are about 94,000 employees in these occupations.

#### *Avian influenza A*

12. Avian influenza A is an infectious disease of poultry and birds caused by Type A influenza viruses. Avian influenza A viruses do not usually directly infect humans or circulate among humans. There is no established evidence that avian influenza A causes human-to-human transmission. However, several instances of human infections and outbreaks have been reported. The first documented infection of humans with avian influenza A virus occurred in Hong Kong in 1997, when the virus caused severe respiratory disease in 18 people, of whom six died. The risk of transmission of avian influenza A viruses to humans is greatest in persons having close and frequent contacts with infected poultry or birds. Workers exposed to materials or substances from poultry or birds that are a source of avian influenza A viruses will also have a high risk of infection.

13. In the latest outbreak that has swept through Asia since mid-December 2003, there were 44 confirmed cases of avian influenza A viruses infecting humans, resulting in 32 deaths, according to information of the World Health Organization as at 25 October 2004. To facilitate the early detection and implementation of appropriate public health control measures to guard against avian influenza, Hong Kong made influenza A (H5) a statutorily notifiable disease on 30 January 2004 by adding it to Schedule 1 of the Quarantine and Prevention of Disease Ordinance.

14. It is proposed to prescribe avian influenza A as an occupational disease under the ECO in order to safeguard the interests of the employees concerned. Given that the incubation period for the virus is not more than seven days, the prescribed employment period is proposed to be set at 14 days.

15. The proposal will expedite the compensation process for injured employees involving close and frequent contacts with a source or sources of avian influenza A infection by reason of their employment in specified high-risk occupations. These include those engaged in the handling of poultry or birds and as research or laboratory workers. There are about 5,000 employees in these occupations.

*Related amendments to the Occupational Safety and Health Ordinance (OSHO)*

16. Section 15 of the OSHO requires medical practitioners to notify cases of occupational diseases to the Commissioner for Labour. The list of notifiable occupational diseases, which is provided for in Schedule 2 of the OSHO, now covers 49 diseases which are identical to the 46 diseases prescribed under the ECO, the two diseases of silicosis and asbestosis under the Pneumoconiosis (Compensation) Ordinance (Cap. 360) and noise-induced deafness under the Occupational Deafness (Compensation) Ordinance (Cap. 469).

17. If the list of prescribed occupational diseases under the ECO is expanded to include SARS and avian influenza A, the list of notifiable occupational diseases under the OSHO should be correspondingly amended.

This will facilitate the Labour Department in collecting information about these two diseases and in monitoring the occupational health of affected workers.

## **CONSULTATION**

18. The Hong Kong Medical Association has been consulted and supports the proposal.

19. The Labour Advisory Board first discussed the proposal in April 2004 and endorsed it at its meeting in October 2004.

## **ECONOMIC IMPLICATION**

20. The economic implication of the proposed additions to the Second Schedule of the ECO should be insignificant. First, the risk of SARS has already been taken into account in the premium rate for employees' compensation insurance policies issued in 2004. Second, the number of human infections for avian influenza A is limited. Finally, even if the diseases are not prescribed under the Second Schedule, an employee may still claim compensation under Section 36(1) of the ECO if he/she can prove that such a disease is a personal injury by accident arising out of and in the course of employment. The Accident Insurance Association has advised that the impact on employees' compensation insurance premium is unlikely to be significant.

21. The proposed amendments to the OSHO do not carry any economic implication on employers.

## **FINANCIAL AND STAFFING IMPLICATIONS**

22. The proposal is not expected to bring about additional financial implication on the Government as it has to pay compensation to staff who have contracted one of the above diseases in the employment context whether or not the diseases are prescribed under the Second Schedule of the ECO.

23. There will not be any staffing implication on the Government.

## **WAY FORWARD**

24. Subject to Members' views on the proposal as set out in paragraph 5, the Administration will proceed with the legislative amendments. Our aim is to bring the amendment into effect as soon as practicable.

Economic Development and Labour Bureau  
Labour Department  
November 2004

**Proposed Amendments to the  
Second Schedule of the Employees' Compensation Ordinance  
and Schedule 2 of the Occupational Safety and Health Ordinance**

***I. Amendments to the Second Schedule of the Employees' Compensation Ordinance by order of the Commissioner for Labour under Section 35***

(A) To add the following item after item B10 –

| <u>Item</u> | <u>Description of occupational disease</u> | <u>Nature of trade, industry or process</u>  | <u>Prescribed period for purpose of Section 32</u> |
|-------------|--|--|--|
| B11         | Severe acute respiratory syndrome          | Any occupation involving close and frequent contacts with a source or sources of severe acute respiratory syndrome infection by reason of employment –<br>(a) in the medical treatment or nursing of a person suffering from severe acute respiratory syndrome, or in a service ancillary to that treatment or nursing;<br>(b) in attending to a person suffering from severe acute respiratory syndrome, where the need for attendance arises by reason of the person's physical or mental infirmity;<br>(c) in identifying, detecting, tracing, isolating, detaining, supervising or surveillance of a person suffering from severe acute respiratory syndrome;<br>(d) as a research worker engaged in research in connection with severe acute respiratory syndrome, or in a service ancillary to that research; or | 1 month  |

- (e) as a laboratory worker, pathologist, post-mortem worker or funeral services worker, where the employment involves the handling of any human body or other materials that are a source of severe acute respiratory syndrome infection, or in any occupation ancillary to those employments.

(B) To add the following item after item B11 –

| <u>Item</u> | <u>Description of occupational disease</u> | <u>Nature of trade, industry or process</u>  | <u>Prescribed period for purpose of Section 32</u> |
|-------------|--|--|--|
| B12         | Avian influenza A                          | <p>Any occupation involving close and frequent contacts with a source or sources of avian influenza A infection by reason of employment –</p> <ul style="list-style-type: none"><li>(a) as a worker engaged in the handling of poultry or birds, their remains, residues or untreated products, that are a source of avian influenza A infection, or in any occupation ancillary to that employment;</li><li>(b) as a research worker engaged in research in connection with avian influenza A, or in a service ancillary to that research; or</li><li>(c) as a laboratory worker involved in the handling of materials that are a source of avian influenza A infection, or in any occupation ancillary to that employment.</li></ul> | 14 days  |



**II. Amendments to Schedule 2 of the Occupational Safety and Health Ordinance by order of the Commissioner for Labour under Section 43**

(A) To add the following item after item 49 –

| <u>Item</u> | <u>Disease</u>                    | <u>Occupation</u>   |
|-------------|-----------------------------------|---|
| 50          | Severe acute respiratory syndrome | <p>Any occupation involving close and frequent contacts with a source or sources of severe acute respiratory syndrome infection that is attributable to employment –</p> <ul style="list-style-type: none"><li>(a) in the medical treatment or nursing of a person suffering from severe acute respiratory syndrome, or in a service ancillary to that treatment or nursing;</li><li>(b) in attending to a person suffering from severe acute respiratory syndrome, where the need for attendance arises because of the person’s physical or mental infirmity;</li><li>(c) in identifying, detecting, tracing, isolating, detaining, supervising or surveillance of a person suffering from severe acute respiratory syndrome;</li><li>(d) as a research worker engaged in research in connection with severe acute respiratory syndrome, or in a service ancillary to that research; or</li><li>(e) as a laboratory worker, pathologist, post-mortem worker or funeral services worker, where the employment involves the handling of any human body or other materials that are a source of severe acute respiratory syndrome infection, or in any occupation ancillary to those employments.</li></ul> |

(B) To add the following item after item 50 –

| <u>Item</u> | <u>Disease</u>    | <u>Occupation</u>   |
|-------------|-------------------|---|
| 51          | Avian influenza A | <p>Any occupation involving close and frequent contacts with a source or sources of avian influenza A infection that is attributable to employment –</p> <ul style="list-style-type: none"><li>(a) as a worker engaged in the handling of poultry or birds, their remains, residues or untreated products, that are a source of avian influenza A infection, or in any occupation ancillary to that employment;</li><li>(b) as a research worker engaged in research in connection with avian influenza A, or in a service ancillary to that research; or</li><li>(c) as a laboratory worker involved in the handling of materials that are a source of avian influenza A infection, or in any occupation ancillary to that employment.</li></ul> |