

立法會
Legislative Council

LC Paper No. LS75/08-09

**Paper for the House Committee Meeting
on 5 June 2009**

**Legal Service Division Report on
Occupational Deafness (Compensation) (Amendment) Bill 2009**

I. SUMMARY

- 1. Object of the Bill** To improve the compensation for persons with occupational deafness under the Occupational Deafness (Compensation) Ordinance (Cap. 469), and to adjust the rate and proportion of distribution of the levy payable under the Employees' Compensation Insurance Levies Ordinance (Cap. 411).
- 2. Comments** To improve occupational deafness compensation, the Bill proposes to introduce the following additional benefits:-

 - (a) extend the coverage of compensation to a person who has suffered from monaural hearing loss;
 - (b) provide for the payment of further compensation for additional hearing loss sustained as a result of continued employment in a noisy occupation; and
 - (c) increase the maximum reimbursable amount for the expenses on hearing assistive devices.

In view of the financial position of the statutory bodies to which the levy is distributed, the Bill also purposes to reduce the overall Employees' Compensation Insurance Levy rate and adjust how the net resources of the Employees' Compensation Insurance Levies Management Board are to be distributed.
- 3. Public Consultation** The relevant statutory bodies were consulted and agreed to the proposal. The Labour Advisory Board was also consulted at its meeting held on 16 April 2008 and endorsed the proposal.
- 4. Consultation with LegCo Panel** The Panel on Manpower was consulted on the Administration's proposal at its meeting on 27 May 2008. Some members supported in principle the Administration's proposal.
- 5. Conclusion** Members may wish to consider setting up a Bills Committee to consider the Bill in detail.

II. REPORT

Object of the Bill

To improve the compensation for persons with occupational deafness under the Occupational Deafness (Compensation) Ordinance (Cap. 469), and to adjust the rate and proportion of distribution of the levy payable under the Employees' Compensation Insurance Levies Ordinance (Cap. 411).

LegCo Brief Reference

2. File Ref.: LD CR 98/706 issued by the Labour and Welfare Bureau in May 2009.

Date of First Reading

3. 3 June 2009.

Comments

Improvement of the Occupational Deafness Compensation Scheme (the Scheme)

4. The Occupational Deafness (Compensation) Ordinance (Cap. 469) was passed in 1995 to set up a scheme for paying compensation to employees suffering from occupational deafness due to prolonged exposure to excessive noise in the workplace. It also establishes the Occupational Deafness Compensation Board to administer the Scheme.

5. In the past few years, employee unions and organizations with an interest in occupational deafness compensation have been requesting the Government to improve the Scheme. Upon reviewing the financial position of the Occupational Deafness Compensation Board and taking into account the views of employee unions and interested organizations, the Administration proposes that additional benefit items should be introduced to the Scheme.

6. The major proposals in the Bill are to amend the Occupational Deafness (Compensation) Ordinance (Cap. 469) to improve the Scheme by:-

- (a) providing compensation for employees suffering from monaural hearing loss such that people who have only one ear with sensorineural hearing loss of 40 dB or above owing to employment in specified noisy occupations are also entitled to compensation;

- (b) increasing the maximum reimbursable amount for the expenses reasonably incurred in the acquisition, fitting, repair or maintenance of a hearing assistive device from the current level of \$18,000 to \$36,000;
- (c) providing further compensation for employees whose hearing deteriorates as a result of continued employment in noisy occupations; and
- (d) providing for the direct payment of the expenses on a hearing assistive device for an eligible person to a supplier of the device or a person who provides maintenance services for the device, as an alternative to the existing reimbursement arrangement.

Adjustment of the overall rate and proportions of distribution of the Employees' Compensation Insurance Levy

7. Under the Employees' Compensation Insurance Levies Ordinance (Cap. 411), employers are charged a Levy at the rate of 6.3% on the premium of every employees' compensation insurance policy taken out by employers, and collected via the insurers. The Levy collected is distributed to the Occupational Deafness Compensation Board, the Employees Compensation Assistance Fund Board, and the Occupational Safety and Health Council in accordance with the proportions of 18/63, 25/63 and 20/63 respectively.

8. According to the LegCo Brief, the Levy distributed by the Employees' Compensation Insurance Levies Management Board is the main source of income of the three statutory bodies concerned. It is important that the Levy distributed to each of the statutory bodies should be sufficient to ensure their financial viability and ability to perform their statutory functions without any interruption. On the other hand, employers have expressed concerns that the overall Levy rate should be reduced when the financial positions of the statutory bodies permit.

9. According to the Administration, the respective financial position of the three statutory bodies is as follows:-

- (a) with the current Levy rate for the Employees Compensation Assistance Fund Board, the Board is expected to be in operating deficits in the next ten years. By projection, the Board would likely face cash flow problems in 2014-2015 and thereafter. To ensure its long-term financial viability and its continued ability to provide statutory payments for employees, there is a need for the Board to receive a higher proportion of the Levy to increase its operating income;
- (b) the Occupational Deafness Compensation Board has accumulated a healthy reserve of \$511.7 million as at 31 December 2008. In the past five years, on average it has an operating surplus of \$33.2 million per year. At the current Levy rate, it will continue to accumulate surplus; and

- (c) in respect of the Occupational Safety and Health Council, it has been able to effectively perform its functions at the current Levy rate during the past three years.

10. In view of the financial position of the three statutory bodies, the Bill also purposes to amend the Employees' Compensation Insurance Levies Ordinance (Cap. 411) and the Employees' Compensation Insurance Levy (Rate of Levy) Order (Cap. 411 sub. leg. A) to adjust the overall rate and proportions of distribution of the Levy by:-

- (a) adjusting the rate of the Levy for distribution to the Employees Compensation Assistance Fund Board, the Occupational Deafness Compensation Board and the Occupational Safety and Health Council from 25/63, 18/63 and 20/63 (i.e. 2.5%, 1.8% and 2%) to 31/58, 7/58 and 20/58 (i.e. 3.1%, 0.7% and 2%) respectively; and
- (b) reducing the overall Levy rate from 6.3% to 5.8%, as a result of the proposed adjustments under subparagraph (a) above.

Public Consultation

11. According to paragraph 22 of the LegCo Brief, the Employees Compensation Assistance Fund Board, the Occupational Deafness Compensation Board and the Employees' Compensation Insurance Levies Management Board were consulted and agreed to the proposal. The Labour Advisory Board was also consulted at its meeting held on 16 April 2008 and endorsed the proposal.

Consultation with LegCo Panel

12. The Panel on Manpower was consulted on the Administration's proposal to adjust the rate and proportions of distribution of the Employees' Compensation Insurance Levy and improve compensation for persons with occupational deafness at its meeting on 27 May 2008. Some members supported in principle the Administration's proposal.

13. Members made enquiries on issues such as the transitional arrangements for workers who had monaural hearing loss and had left employment to claim compensation retrospectively, whether the Administration would consider reviewing the list of noisy occupations in future so as to include other occupations prone to cause noise-induced deafness, and whether the Administration would consider removing the cap of the reimbursable amount for expenses incurred in the purchasing and repair of hearing assistive devices.

14. Members may wish to refer to the minutes of the meeting (LC Paper No. CB(2)2716/07-08) for further information.

Conclusion

15. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Members may wish to consider setting up a Bills Committee to consider the Bill in detail.

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