

立法會
Legislative Council

LC Paper No. LS24/17-18

**Paper for the House Committee Meeting
on 19 January 2018**

**Legal Service Division Report on
Proposed Resolutions under section 48A of the Employees' Compensation
Ordinance (Cap. 282) and section 40 of the Pneumoconiosis and
Mesothelioma (Compensation) Ordinance (Cap. 360)**

The Secretary for Labour and Welfare ("SLW") has given notice to move two motions at the Legislative Council ("LegCo") meeting of 31 January 2018 respectively under section 48A of the Employees' Compensation Ordinance (Cap. 282) and section 40 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) to seek LegCo's approval to amend the maximum daily rates of medical expenses under Cap. 282 and Cap. 360.¹

2. Under section 10A of Cap. 282, an employer is liable to pay the medical expenses for the medical treatment in respect of the personal injury caused to an employee by accident arising out of and in the course of his employment. The maximum daily rates of medical expenses payable by an employer pursuant to section 10A of Cap. 282 are specified in the Third Schedule to Cap. 282.

3. Under section 12 of Cap. 360, a person who suffers from pneumoconiosis and/or mesothelioma ("the disease") and to whom compensation is payable under Cap. 360 is entitled to the reasonable medical expenses in respect of such medical treatment as is reasonably necessary in connection with the disease suffered by him. The maximum daily rates of medical expenses payable to a person who suffers from the disease under section 12 of Cap. 360 are specified in Part I of the Second Schedule to Cap. 360.

4. The proposed resolutions seek to amend the Third Schedule to Cap. 282 and Part I of the Second Schedule to Cap. 360 respectively to make the following adjustments to the maximum daily rates of medical expenses:

¹ These two motions are the same as those notice of which had been withdrawn by SLW on 30 October 2017.

Treatment	Existing maximum daily rates of medical expenses under Cap. 282 or Cap. 360	Proposed maximum daily rates of medical expenses under Cap. 282 or Cap. 360
In-patient treatment	\$200	\$300
Out-patient treatment	\$200	\$300
In-patient and out-patient treatment received on the same day	\$280	\$370

5. According to the LegCo Brief (File Ref: LD ECS2/50/2 (C)) issued by the Labour and Welfare Bureau and the Labour Department in January 2018, the maximum rates of medical expenses under Cap. 282 and Cap. 360 are linked to public healthcare service fees and charges in accordance with the established mechanism. The increase in the maximum daily rates of medical expenses under Cap. 282 and Cap. 360, which were last revised in 2003, are proposed having regard to the implementation of the new fees and charges for public healthcare services which were published in the Gazette on 16 June 2017 and have taken effect since 18 June 2017.

6. According to paragraphs 10 and 16 of the LegCo Brief, both the Pneumoconiosis Compensation Fund Board and the Labour Advisory Board supported the proposal.

7. As advised by the Clerk to the Panel on Manpower, the Panel was consulted at its meeting on 18 July 2017 on the proposal to increase the daily maximum rates of medical expenses under Cap. 282 and Cap. 360. Members supported in principle the Administration's proposal to increase the maximum daily rates of medical expenses as soon as practicable but some members raised concern about the amount of reimbursable medical expenses and list of medical appliances covered under Cap. 282 and Cap. 360.

8. The proposed resolutions, if approved, will come into operation on the day on which they are published in the Gazette.

9. No difficulties in relation to the legal and drafting aspects of the proposed resolutions have been identified.

Prepared by

Rachel DAI
Assistant Legal Adviser
Legislative Council Secretariat
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