

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 1 March 2019**

**Legal Service Division Report on
Proposed Resolutions under the Employees' Compensation Ordinance,
the Pneumoconiosis and Mesothelioma (Compensation) Ordinance
and the Occupational Deafness (Compensation) Ordinance**

The Secretary for Labour and Welfare has given notice to move three motions at the Legislative Council ("LegCo") meeting of 20 March 2019 respectively under section 48A of the Employees' Compensation Ordinance (Cap. 282), section 40 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) and section 39(2) of the Occupational Deafness (Compensation) Ordinance (Cap. 469). The proposed resolutions seek to increase the amounts of 18 compensation items under the three Ordinances and to expand the list of medical appliances under Cap. 360 with effect from 12 April 2019.

Proposed resolution under the Employees' Compensation Ordinance (Cap. 282)

2. Cap. 282 provides for the payment of statutory compensation to employees injured at work or suffering from prescribed occupational diseases or to their family members (in fatal cases). The proposed resolution under Cap. 282 seeks to amend the Sixth Schedule (Specified Amount of Compensation) to Cap. 282 to make the following revisions:

Item	Existing amount (\$)	Proposed amount (\$)	Increase (%)
(a) Ceiling of the monthly earnings for calculating compensation for death and permanent total incapacity	28,360	30,530	+7.64%
(b) Minimum compensation for death	408,960	440,200	+7.64%
(c) Minimum compensation for permanent total incapacity	464,360	499,840	+7.64%

Item	Existing amount (\$)	Proposed amount (\$)	Increase (%)
(d) Compensation for employees requiring attention by another person	556,700	599,230	+7.64%
(e) Minimum surcharge on late payment of compensation:			
(i) initial surcharge	660	710	+7.64%
(ii) further surcharge	1,330	1,430	+7.64%
(f) Funeral expenses	83,700	87,330	+4.34%
(g) Maximum amount of the cost of supplying and fitting of a prosthesis or surgical appliance	40,010	41,750	+4.34%
(h) Maximum amount of the cost of the repair and renewal of a prosthesis or surgical appliance	121,230	126,490	+4.34%
(i) Minimum monthly earnings	4,090	4,500	+10.02%

Proposed resolution under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360)

3. Cap. 360 provides for the payment of statutory compensation to persons suffering from pneumoconiosis and/or mesothelioma or to family members of persons who died of the diseases. The proposed resolution under Cap. 360 seeks to amend the First Schedule (Amounts of Compensation) to Cap. 360 to make the following revisions:

Item	Existing amount (\$)	Proposed amount (\$)	Increase (%)
(a) Monthly compensation for pain, suffering and loss of amenities	5,110	5,330	+4.34%
(b) Compensation for bereavement	121,230	220,000	+81.47%
(c) Minimum compensation for death	121,230	220,000	+81.47%
(d) Funeral expenses	83,700	87,330	+4.34%
(e) Monthly compensation for care and attention	5,210	5,600	+7.49%

4. Under section 12A of Cap. 360, an eligible person is also entitled to the reasonable expenses of the use or supply of medical appliances of a kind

specified in Part II of the Second Schedule (Medical Expenses and Expenses for Medical Appliances) to Cap. 360 where such use or supply is reasonably necessary in connection with any incapacity arising from pneumoconiosis and/or mesothelioma suffered by the person. The proposed resolution under Cap. 360 also seeks to amend Part II of the Second Schedule to Cap. 360 by adding the following two medical appliances:

- (a) non-invasive positive pressure ventilation device (and humidifier when used with the device) and their accessories; and
- (b) sputum suction device and its accessories.

Proposed resolution under the Occupational Deafness (Compensation) Ordinance (Cap. 469)

5. Cap. 469 provides for the payment of statutory compensation to persons who suffer from noise-induced deafness by reason of employment in specified noisy occupations. The proposed resolution under Cap. 469 seeks to amend Schedule 5 (Amount of Compensation) and Schedule 7 (Limits of Direct Payment of Expenses and Reimbursement of Expenses) to Cap. 469 to make the following revisions:

Item	Existing amount (\$)	Proposed amount (\$)	Increase (%)
(a) Maximum sum for calculating compensation for permanent incapacity			
- Age under 40	2,722,560	2,930,880	+7.64%
- Age 40 to under 56	2,041,920	2,198,160	+7.64%
- Age 56 and above	1,361,280	1,465,440	+7.64%
(b) Minimum sum for calculating compensation for permanent incapacity	464,360	499,840	+7.64%
(c) First-time financing limit for hearing assistive devices ("HADs")	16,470	19,000	+15.36%
(d) Aggregate financing limit for HADs	57,110	79,000	+38.33%

6. The proposed increases in the amounts of the compensation items (last revised in 2017) under paragraphs 2, 3 and 5 above range from 4.34% to 81.47%. According to paragraphs 3 and 5 of the LegCo Brief (File Ref: LD

ECS2/50/2(C)) issued by the Labour and Welfare Bureau, and the Labour Department in February 2019, of the 18 compensation items proposed to be adjusted, 14 are proposed to be adjusted in accordance with the established indicators or factors, including the wage movement as reflected by the Nominal Wage Index and the price movement as reflected by the Consumer Price Index (A) in the period from 2016 to 2017. The remaining four items (items (b) and (c) under paragraph 3 and items (c) and (d) under paragraph 5 above) are proposed to be adjusted by taking into account other factors, including the latest amendment of the sum of damages for bereavement under the Fatal Accidents Ordinance (Cap. 22) (which has been increased to \$220,000) and the experience of the Occupational Deafness Compensation Board in administering the financing scheme on HADs. According to paragraph 4 of the LegCo Brief, the proposed expansion of the list of medical appliances (items (a) and (b) under paragraph 4 above) is proposed in response to views of patients and concern groups. According to the Administration, the Labour Advisory Board supported the above legislative proposals at its meeting on 30 November 2018.

Consultation with LegCo Panel

7. As advised by the Clerk to the Panel on Manpower, the Panel was consulted on the above proposals at its meeting on 18 December 2018. Members supported in principle the proposals and urged for their early implementation, though some members expressed concern about the adjustment cycle of the levels of compensation under the three Ordinances and the scope of compensation items covered by Cap. 360.

Concluding remarks

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

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