

立法會
Legislative Council

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 3 April 2019

**Three proposed resolutions to be moved by
the Secretary for Labour and Welfare and
debate and voting arrangements**

The Secretary for Labour and Welfare (“SLW”) will move the following three proposed resolutions at the above meeting:

- (a) the proposed resolution under section 48A of the Employees’ Compensation Ordinance (Cap. 282) (“the first proposed resolution”) (**Appendix 1**);
- (b) the proposed resolution under section 40 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (“the second proposed resolution”) (**Appendix 2**); and
- (c) the proposed resolution under section 39(2) of the Occupational Deafness (Compensation) Ordinance (Cap. 469) (“the third proposed resolution”) (**Appendix 3**).

The President has directed that the proposed resolutions be printed in the terms in which they were handed in on the Agenda of the Council. The speech which SLW will deliver when moving the proposed resolutions is in **Appendix 4**.

2. The above three proposed resolutions seek to increase the amounts of a total of 18 compensation items under the above Ordinances based on the established indicators (i.e. wage movement and price movement) and/or other relevant factors, and to expand the list of medical appliances under Cap. 360. To make more effective use of the Council’s time and avoid repetition of arguments, the President has decided that **a joint debate** be held on the proposed resolutions and then they be **voted upon one by one**. The President will:

- (a) first call upon SLW to speak and move the first proposed resolution, and then propose the question on the proposed resolution for kicking off the joint debate;
- (b) invite Members to speak;
- (c) call upon SLW to reply and order that the debate will come to a close;
- (d) put to vote the question on the first proposed resolution;
- (e) irrespective of whether the first proposed resolution is passed, invite SLW to move the second proposed resolution and forthwith propose and put to vote the question on it; and
- (f) irrespective of whether the second proposed resolution is passed, invite SLW to move the third proposed resolution and forthwith propose and put to vote the question on it.

3. Members are invited to note that each Member may only speak once in the above joint debate and the time limit is 15 minutes. The public officer will not be subject to any speaking time limit.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

Employees' Compensation Ordinance

Resolution

(Under section 48A of the Employees' Compensation Ordinance (Cap. 282))

Resolved that, with effect from 26 April 2019, the Employees' Compensation Ordinance (Cap. 282) be amended as set out in the Schedule.

Schedule

Amendments to Employees' Compensation Ordinance

1. Sixth Schedule amended (specified amount of compensation)

- (1) Sixth Schedule, entry relating to section 6(1)(a)—

Repeal

"28,360"

Substitute

"30,530".

- (2) Sixth Schedule, entry relating to section 6(1)(b)—

Repeal

"28,360"

Substitute

"30,530".

- (3) Sixth Schedule, entry relating to section 6(1)(c)—

Repeal

"28,360"

Substitute

"30,530".

- (4) Sixth Schedule, entry relating to section 6(2)—

Repeal

"408,960"

Substitute

"440,200".

- (5) Sixth Schedule, entry relating to section 6(5)—

- Repeal**
“83,700”
Substitute
“87,330”.
- (6) Sixth Schedule, entry relating to section 6C(8)(a)—
Repeal
“660”
Substitute
“710”.
- (7) Sixth Schedule, entry relating to section 6C(8)(b)—
Repeal
“1,330”
Substitute
“1,430”.
- (8) Sixth Schedule, entry relating to section 6D(3)(a)—
Repeal
“660”
Substitute
“710”.
- (9) Sixth Schedule, entry relating to section 6D(3)(b)—
Repeal
“1,330”
Substitute
“1,430”.
- (10) Sixth Schedule, entry relating to section 6E(9)(a)—
Repeal

- “660”
Substitute
“710”.
- (11) Sixth Schedule, entry relating to section 6E(9)(b)—
Repeal
“1,330”
Substitute
“1,430”.
- (12) Sixth Schedule, entry relating to section 7(1)(a)—
Repeal
“28,360”
Substitute
“30,530”.
- (13) Sixth Schedule, entry relating to section 7(1)(b)—
Repeal
“28,360”
Substitute
“30,530”.
- (14) Sixth Schedule, entry relating to section 7(1)(c)—
Repeal
“28,360”
Substitute
“30,530”.
- (15) Sixth Schedule, entry relating to section 7(2)—
Repeal
“464,360”

Substitute

"499,840".

- (16) Sixth Schedule, entry relating to section 8(1)(a)—

Repeal

"556,700"

Substitute

"599,230".

- (17) Sixth Schedule, entry relating to section 8(1)(b)—

Repeal

"556,700"

Substitute

"599,230".

- (18) Sixth Schedule, entry relating to section 11(5)—

Repeal

"4,090"

Substitute

"4,500".

- (19) Sixth Schedule, entry relating to section 16A(10)(a)—

Repeal

"660"

Substitute

"710".

- (20) Sixth Schedule, entry relating to section 16A(10)(b)—

Repeal

"1,330"

Substitute

"1,430".

- (21) Sixth Schedule, entry relating to section 36C—

Repeal

"40,010"

Substitute

"41,750".

- (22) Sixth Schedule, entry relating to section 36J—

Repeal

"121,230"

Substitute

"126,490".

Pneumoconiosis and Mesothelioma (Compensation) Ordinance

Resolution

(Under section 40 of the Pneumoconiosis and Mesothelioma
(Compensation) Ordinance (Cap. 360))

Resolved that, with effect from 26 April 2019, the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) be amended as set out in the Schedule.

Schedule

Amendments to Pneumoconiosis and Mesothelioma (Compensation) Ordinance

1. First Schedule amended (amounts of compensation)

(1) First Schedule, Part IIA—

Repeal

“\$5,110”

Substitute

“\$5,330”.

(2) First Schedule, Part IV—

Repeal

“\$5,210”

Substitute

“\$5,600”.

(3) First Schedule, Part V—

Repeal

“\$121,230”

Substitute

“\$220,000”.

(4) First Schedule, Part VI—

Repeal

“\$83,700”

Substitute

“\$87,330”.

2. Second Schedule amended (medical expenses and expenses for medical appliances)

Second Schedule, Part II, after item 3—

Add

- “4. Non-invasive positive pressure ventilation device (and humidifier when used with the device) and their accessories.
- 5. Sputum suction device and its accessories.”.

Occupational Deafness (Compensation) Ordinance

Resolution

(Under section 39(2) of the Occupational Deafness (Compensation) Ordinance (Cap. 469))

Resolved that, with effect from 26 April 2019, the Occupational Deafness (Compensation) Ordinance (Cap. 469) be amended as set out in the Schedule.

Schedule

Amendments to Occupational Deafness (Compensation) Ordinance

1. Schedule 5 amended (amount of compensation)

(1) Schedule 5, section 1(a)(ii)—

Repeal

“\$464,360”

Substitute

“\$499,840”.

(2) Schedule 5, section 1(b)—

Repeal

“\$2,722,560”

Substitute

“\$2,930,880”.

(3) Schedule 5, section 1(b)—

Repeal

“\$2,041,920”

Substitute

“\$2,198,160”.

(4) Schedule 5, section 1(b)—

Repeal

“\$1,361,280”

Substitute

“\$1,465,440”.

2. **Schedule 7 amended (limits of direct payment of expenses and reimbursement of expenses)**

(1) Schedule 7, section 1—

Repeal

“\$16,470”

Substitute

“\$19,000”.

(2) Schedule 7, section 2—

Repeal

“\$57,110”

Substitute

“\$79,000”.

DRAFT

Speech by the Secretary for Labour and Welfare in moving the Resolutions under the Employees' Compensation Ordinance, the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and the Occupational Deafness (Compensation) Ordinance at the Legislative Council meeting on 3 April 2019

(This is a draft; please check against actual delivery.)

President,

I move that the first resolution, as printed on the Agenda, be passed to increase the amounts of nine compensation items under the Employees' Compensation Ordinance (ECO). I will also shortly be moving the second and the third resolutions as printed on the Agenda be passed to increase the amounts of five compensation items under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (PMCO) and expand the list of medical appliances under this Ordinance, and to increase the amounts of four compensation items under the Occupational Deafness (Compensation) Ordinance (ODCO) respectively.

I. Proposed Resolution under Section 48A of ECO

2. The purpose of this resolution is to increase the amounts of nine compensation items under ECO. ECO provides for the payment of statutory compensation to injured employees and family members of deceased employees for prescribed occupational diseases, injuries or deaths caused by accidents

arising out of and in the course of employment. According to the established mechanism, the levels of compensation under ECO, together with those under the PMCO and the ODCO, are adjusted every two years where appropriate. Adjustments, if required, are generally made with reference to the wage movement or the price movement in the relevant period and having regard to other relevant factors.

3. According to the information from the Census and Statistics Department, the Nominal Wage Index (NWI) and the Consumer Price Index (A) recorded a cumulative increase of 7.64% and 4.34% respectively in 2016 and 2017.

4. We propose to increase the amounts of five compensation items under ECO by 7.64% in line with the aforesaid wage movement. The proposed revisions include increasing the ceiling of the monthly earnings for calculating compensation for death and permanent total incapacity from \$28,360 to \$30,530. We also propose to increase the minimum amounts of compensation for death from \$408,960 to \$440,200 and for permanent total incapacity from \$464,360 to \$499,840. In addition, we propose that the maximum amount of compensation for employees injured at work who require the attention of another person be increased from \$556,700 to \$599,230. As for the surcharge on late payment of compensation, we propose to increase the minimum amount of surcharge imposed upon expiry of the payment period from \$660 to \$710 and the minimum amount of a further surcharge imposed three months after the expiry of the payment period from \$1,330 to \$1,430.

5. At the same time, we also propose to increase the amounts of three compensation items by 4.34% in line with the abovementioned price movement. The proposed changes include increasing the maximum amount of funeral expenses from \$83,700 to \$87,330, and increasing the maximum payments to be made by an employer towards the cost of supplying and fitting a prosthesis or surgical appliance from \$40,010 to \$41,750 and towards the cost of the repair and renewal of a prosthesis or surgical appliance from \$121,230 to \$126,490.

6. Moreover, we propose to increase the amount of minimum monthly earnings specified in ECO for the purpose of calculating periodical payments during work injury sick leave from \$4,090 to \$4,500, with reference to the relevant items provided under the Comprehensive Social Security Assistance Scheme as at April 2018.

II. Proposed Resolution under Section 40 of PMCO

7. Mr President, I will now address the proposed increase of the amounts of five compensation items and expansion of the list of medical appliances under PMCO. PMCO provides for the payment of compensation to persons or their family members in respect of incapacity or death as a result of pneumoconiosis or mesothelioma.

8. According to the established mechanism, we propose to increase the levels of compensation for two items under PMCO by 4.34% in accordance with the cumulative increase of CPI(A) in 2016 and 2017. The proposed revisions include increasing the monthly amount of compensation for pain, suffering and loss of amenities from \$5,110 to \$5,330 and increasing the maximum

amount of funeral expenses from \$83,700 to \$87,330.

9. Regarding the amount of compensation for bereavement under PMCO, we propose to adjust the level of compensation with reference to the latest sum of damages for bereavement under the Fatal Accidents Ordinance (FAO). The Legislative Council passed on 11 July 2018 the Government's resolution to increase the sum of damages for bereavement under FAO to \$220,000 which took effect from 13 July 2018. In view of this, we propose to adjust the level of bereavement compensation under PMCO from \$121,230 by 81.47% to \$220,000. As the minimum amount of compensation for death under PMCO is pegged to the level of compensation for bereavement, we also proposed that the minimum amount of compensation for death be revised from \$121,230 to \$220,000.

10. Furthermore, making reference to the latest minimum allowable monthly wage and food allowance for a foreign domestic helper working in Hong Kong in September 2018, we propose to adjust upwards the monthly amount of compensation for care and attention from \$5,210 to \$5,600.

11. Moreover, under PMCO, an eligible person who suffers from pneumoconiosis or mesothelioma is entitled to the reasonable expenses of the use or supply of medical appliances specified in Part II of the Second Schedule to the Ordinance. In response to views of patients and concern groups on expanding the list of medical appliances under PMCO to cover breathing apparatus and sputum suction device, the Labour Department has, in collaboration with the Pneumoconiosis Compensation Fund Board (PCFB), undertaken a study which involved collection of information from patients, relevant associations and trade unions and consultation with the

Department of Health and the Hospital Authority for their expert advice. Subsequent to the study, it is proposed to expand the list of medical appliances specified in Part II of the Second Schedule to PMCO by including two more items, namely, 1) non-invasive positive pressure ventilation device (and humidifier when used with the device) and their accessories; and 2) sputum suction device and its accessories.

III. Proposed Resolution under Section 39(2) of ODCO

12. Mr President, lastly, I will address the proposed increase of the amounts of four compensation items under ODCO. ODCO provides for the payment of compensation to persons who suffer from noise-induced deafness (OD persons) by reason of employment in the noisy occupations specified under the Ordinance.

13. According to the established mechanism, we propose to increase the maximum and minimum sums for calculating the amount of compensation for permanent incapacity under ODCO by 7.64% in accordance with the cumulative increase of NWI in 2016 and 2017. Specifically, the proposed revisions include increasing the maximum sum for calculating the amount of compensation for permanent incapacity for employees aged under 40 from \$2,722,560 to \$2,930,880; for employees aged 40 to under 56 from \$2,041,920 to \$2,198,160, and for employees aged 56 or above from \$1,361,280 to \$1,465,440. As for the minimum sum for calculating the amount of compensation for permanent incapacity, we propose to increase the amount from \$464,360 to \$499,840.

14. Moreover, under ODCO, any person who has at any time been entitled to compensation for permanent incapacity may apply to the Occupational Deafness Compensation Board (ODCB) for the direct payment or reimbursement of expenses reasonably incurred in the acquisition, fitting, repair or maintenance of hearing assistive devices (HADs). In the current exercise, with a view to enhancing protection for OD persons under the HAD financing scheme, we propose to take into account the experience of ODCB in administering the financing scheme for the adjustment of the relevant financing limits.

15. To allow OD persons to have a wider choice of HADs to cater for their individual needs, we propose adjusting upwards the financing limit for first-time HAD applications by 15.36% from \$16,470 to \$19,000. In addition, taking into account the estimated average annual HAD expenses of an OD person as well as the biennial adjustment where appropriate, we propose raising the aggregate financing limit from \$57,110 to \$79,000 by 38.33%, such that those OD persons who have exhausted the aggregate financing limit can have their entitlement to the financial assistance revived, whereas those approaching the limit can continue to be benefited from the financial assistance.

16. PCFB and ODCB have endorsed the respective parts of the proposal regarding PMCO and ODCO. The Labour Advisory Board has also endorsed the proposal on the three Ordinances, and the Legislative Council Panel on Manpower has supported in principle the proposal and urged for its early implementation. We propose that the revised levels of compensation and the new list of medical appliances should become effective from 26 April 2019.

17. I hope that Members will support and pass the three resolutions so as to enhance the protection for injured employees, sufferers of occupational diseases, and family members of employees or persons who die of work injuries or occupational diseases as early as possible.

18. Thank you, Mr President.

- End -