

立法會
Legislative Council

LC Paper No. LS75/19-20

**Paper for the House Committee Meeting
on 22 May 2020**

**Legal Service Division Report on
Proposed Resolution under section 4(5) of the
Fatal Accidents Ordinance (Cap. 22)**

The Secretary for Justice has given notice to move, at the Legislative Council ("LegCo") meeting of 3 June 2020, a motion under section 4(5) of the Fatal Accidents Ordinance (Cap. 22) to seek LegCo's approval to increase the statutory sum of damages which may be awarded for bereavement in an action under Cap. 22.

2. Under Cap. 22, an action for damages may be brought against a person for the benefit of the dependants of the deceased in respect of that person's wrongful act, neglect or default which has caused the death of the deceased. Such action may consist of or include a claim for damages for bereavement, which is a sum fixed at \$220,000 under section 4(3) of Cap. 22 ("bereavement sum"). Under section 4(5) of Cap. 22, LegCo may amend the bereavement sum by resolution. The bereavement sum was last raised from \$150,000 to the current amount of \$220,000 in 2018.

3. The proposed resolution seeks to amend section 4(3) of Cap. 22 to increase the bereavement sum from \$220,000 to \$231,000.¹

4. According to paragraphs 3 and 4 of the LegCo Brief (File Ref: LP 155/00C) issued by the Department of Justice in May 2020, the present cycle of biennial review examines the cumulative inflation from March 2018 to March 2020 ("reference period") by making reference to the Consumer Price Index (A) ("CPI(A)"). The cumulative rate of change of CPI(A) during the reference period was 5.0%. The Government thus proposes to make a commensurate increase for the bereavement sum from \$220,000 to \$231,000 to

¹ If the bereavement sum is increased to \$231,000, the maximum amount which may be awarded as damages for loss of society or services of an injured person under section 20C of the Law Amendment and Reform (Consolidation) Ordinance (Cap. 23) would correspondingly be increased to \$231,000 pursuant to section 20C(2)(a) of Cap. 23.

cover the cumulative inflation as measured by CPI(A) reckoned from the reference period.

5. According to paragraph 12 of the LegCo Brief, The Law Society of Hong Kong, the Hong Kong Bar Association and the Hong Kong Federation of Insurers have been informed of the outcome of the present biennial review and the Government's intention to make the proposed adjustments by making reference to CPI(A). Upon the enquiry of the Legal Service Division, the Administration replied that these stakeholders did not raise any comments on the outcome of the review.

6. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Administration provided an information paper entitled "Biennial review of the amount of damages for bereavement under the Fatal Accidents Ordinance (Cap. 22)" to the Panel on 12 May 2020, which was issued to Panel members via LC Paper No. CB(4)557/19-20(01) for reference on 13 May 2020. No comment has been received as at the date of this report.

7. The proposed resolution, if passed, would come into operation on the day on which it is published in the Gazette.

8. No difficulties relating to the legal and drafting aspects of the proposed resolution have been identified.

Prepared by

Cliff IP
Assistant Legal Adviser
Legislative Council Secretariat
20 May 2020