

**House Committee of the Legislative Council**

**Response to motions of the Special Meeting on 28 August 2020**

**To include Coronavirus Disease 2019 (COVID-19) as an occupational disease in the Second Schedule of the Employees' Compensation Ordinance and Schedule 2 of the Occupational Safety and Health Ordinance**

Prescription of occupational diseases

In considering whether a particular disease should be prescribed as a statutory occupational disease, the Labour Department (LD) generally makes reference to the criteria promulgated by the International Labour Office (ILO). According to the definition of ILO, occupational disease refers to a disease which has a causal relationship with specific exposure in the working environment or work activity, and the incidence rate of the disease among the exposed workers is significantly higher than that in the rest of the population, so that the occupational origin of the disease in an exposed worker can be reasonably presumed.

2. Based on the above criteria, there should be sufficient evidence showing that Coronavirus Disease 2019 (COVID-19) occurs among workers engaged in specific industries or processes in Hong Kong with a frequency significantly above the average morbidity of the rest of the population to justify prescription of the disease as a statutory occupational disease. The high-risk industries and processes should also be clearly specified in the legislation. If employees engaged in the specified industries or processes contracted COVID-19, it can be reasonably presumed that their disease is caused by infection during work, and the employers have to pay compensation accordingly.

3. LD has been keeping a close watch on the development of the COVID-19 epidemic. Based on the information announced by the Centre for Health Protection, local confirmed cases were mostly infected in the community. Cases that were possibly work-related had a wide industry distribution and were often associated with individual workplace clusters and outbreaks that involved cross infection among employees. Such cases can occur in any places where there are people working together and not from the specific risk of the work itself. Changes in disease prevention measures and testing strategies also affected the number of cases in individual industries. So far, the information held by LD has not clearly shown that the risk of COVID-19 occurring in employees engaged in certain industries or processes in Hong Kong and attributable to the nature of their work is significantly higher than that of the general public.

4. As the outbreak situation of COVID-19 is still evolving and changing in Hong Kong and globally, LD will continue to watch closely on relevant medical and epidemiological data, especially the number of cases originated from work and their industry distribution, and review the needs and justifications for occupational disease prescription. If there is any specific recommendation, appropriate follow-up actions will be taken as soon as possible, including consultation with relevant stakeholders.

#### Provisions of Employees' Compensation Ordinance on compensation for diseases other than occupational diseases

5. Although COVID-19 is currently not a compensable occupational disease prescribed under the Employees' Compensation Ordinance ("ECO"), Section 36 of ECO stipulates that if an employee contracts a disease not prescribed as an occupational disease and it is an injury or death by accident arising out of and in the course of employment, then the employer is in

general still liable to pay compensation under ECO. If an employee contracts or suspects having contracted COVID-19 by accident arising out of and in the course of employment, the employee should inform the employer as soon as possible so that the employer can report the injury to LD. Alternatively, the employee can approach the Employees' Compensation Division of LD for assistance direct.

**Labour and Welfare Bureau**  
**November 2020**