

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1022/20-21  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/4/20

**Bills Committee on Employees' Compensation (Amendment) Bill 2021**

**Minutes of meeting**  
**held on Friday, 12 March 2021, at 10:45 am**  
**in Conference Room 2B of the Legislative Council Complex**

**Members present** : Hon LUK Chung-hung, JP (Chairman)  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon CHAN Kin-por, GBS, JP  
Hon YIU Si-wing, BBS  
Hon POON Siu-ping, BBS, MH  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Jimmy NG Wing-ka, BBS, JP  
Hon SHIU Ka-fai, JP  
Dr Hon CHENG Chung-tai  
Hon Vincent CHENG Wing-shun, MH, JP

**Public Officers attending** : Item II  
  
Mr Simon LI Chi-chung, JP  
Assistant Commissioner for Labour  
(Employees' Rights & Benefits)  
  
Ms Kate TAM Wing-tsz  
Senior Labour Officer (Employees' Compensation)  
(Central Services 1)  
Labour Department  
  
Mr Vincent WAI Yun-lam  
Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Mr Alvin CHUI  
Assistant Legal Adviser 3

Ms Priscilla LAU  
Council Secretary (2)1

Ms Kiwi NG  
Legislative Assistant (2) 1

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## **I. Election of Chairman (and Deputy Chairman)**

Mr LUK Chung-hung was elected Chairman of the Bills Committee.

2. Members agreed that there was no need for the Bills Committee to elect a Deputy Chairman.

## **II. Meeting with the Administration**

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).

### Follow-up action required of the Administration

4. The Bills Committee requested the Administration to provide further information on how to activate the mechanism for the Steering Committee for Handling Super Typhoons (or other natural disasters of a substantial scale) chaired by the Chief Secretary for Administration to make an announcement stating the existence of extreme conditions that arose from a super typhoon or other natural disaster of a substantial scale.

5. Members agreed that the Administration's response to the above issue would be circulated to members for consideration.

### **III. Any other business**

#### Invitation of public views

6. Members noted that the Labour Advisory Board was in support of the legislative proposal to extend the coverage of the Employees' Compensation Ordinance (Cap. 282) to the situation where an employee sustained an injury or died as a result of an accident when commuting to or from work during the period of "extreme conditions". Members agreed that it was not necessary to receive views from the public on the Employees' Compensation (Amendment) Bill 2021 ("the Bill").

#### Legislative timetable

7. The Chairman concluded that, pending the Administration's provision of written response to issues in paragraph 4 above, the Bills Committee had completed scrutiny of the Bill.

8. Members noted the Administration's intention to resume the Second Reading debate on the Bill at the Council meeting of 28 April 2021. The Bills Committee would then report its deliberations to the House Committee at its meeting on 16 April 2021. Members also noted that the deadline for giving notice for moving amendments to the Bill, if any, would be 19 April 2021.

9. There being no other business, the meeting ended at 12:07 pm.

Council Business Division 2  
Legislative Council Secretariat  
23 April 2021

**Proceedings of meeting of the  
Bills Committee on Employees' Compensation (Amendment) Bill 2021  
held on Friday, 12 March 2021, at 10:45 am  
in Conference Room 2B of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000354 - 000610	Mr Jeffrey LAM Mr POON Siu-ping Mr Jimmy NG Mr LUK Chung-hung	Election of Chairman	
000611 - 000649	Chairman	Opening remarks	
000650 - 001139	Chairman Admin	Briefing by the Administration on the Employees' Compensation (Amendment) Bill 2021 ("the Bill").	
001140 - 002037	Chairman Mr Jeffrey LAM Admin	<p>Mr Jeffrey LAM sought information on (a) the making of an extreme conditions announcement by the Steering Committee for Handling Super Typhoons (or other natural disasters of a substantial scale) ("Steering Committee"); and (b) the possible impact on the premium level of employees' compensation ("EC") insurance brought by the legislative proposal to extend EC protection to employees travelling to or from their places of work under extreme conditions.</p> <p>The Administration advised that:</p> <p>(a) having regard to the views of the Steering Committee, the Chief Secretary for Administration ("CS") might make a territory-wide extreme conditions announcement before Typhoon Warning Signal No.8 ("T8") was replaced with No.3 if the situation warranted. During the first two-hour period when the extreme conditions existed, CS and the Steering Committee would continue to review the situation and CS would consider whether the period of extreme conditions should be extended; and</p> <p>(b) the insurance sector was consulted on the legislative proposal, but the Accident Insurance Association of the Hong Kong Federation of Insurers considered not in the position to advise on the possible impact of the legislative proposal on the premium of EC insurance in view of the Competition Ordinance (Cap. 619). However, making reference to the experience of extending the coverage of the Employees' Compensation Ordinance (Cap. 282) ("ECO") to employees</p>	

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		<p>commuting to and from work under T8 or above or Red or Black Rainstorm Warning, and considering the rare occurrence of extreme conditions, it was expected that the impact on EC insurance premium would be fairly nominal.</p>	
002038 - 002414	Chairman Mr CHAN Kin-por Admin	<p>Mr CHAN Kin-por expressed support for the legislative proposal. To his understanding, the Labour Advisory Board ("LAB") also supported the proposal. In his view, the extreme conditions announcement would unlikely be frequent and the actual number of employees to be required to travel to and from work under extreme conditions would not be substantial. The resultant increase in EC insurance premium should not be significant.</p> <p>In response to Mr CHAN's enquiry, the Administration advised that during the consultation with the insurance sector, no particular concern was raised.</p>	
002415 - 002850	Chairman Mr POON Siu-ping Admin	<p>While welcoming the legislative proposal, Mr POON Siu-ping expressed concern about the cases of withholding/deduction of wage, good attendance bonus and leave of those employees who could not resume work in time due to the serious disruption of public transport services caused by adverse weather conditions. Mr POON called on the Administration to better protect employees' rights and benefit under extreme conditions.</p> <p>Mr POON enquired about the frequency of existence of extreme conditions and the number of essential staff who would be on duty under extreme conditions. The Administration advised that:</p> <p>(a) while T8 or above was issued nine times in the past four years, no extreme conditions announcement was made since its introduction in 2019. On the definition of a super typhoon, it referred to a typhoon that had a maximum sustained wind speed of 185 km/h or above near its centre; and</p> <p>(b) employers should assess whether there was any need for requiring employees to report duty during the period of extreme conditions. The number of essential staff should be kept to the minimum as far as possible.</p>	

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002851 - 003340	Chairman Admin	<p>The Chairman expressed support for the legislative proposal. However, given that the work arrangements under extreme conditions stipulated in the revised Code of Practice in Times of Typhoons and Rainstorms ("CoP") were not mandatory, he called on the Administration to consider the implementation of suspension of work during natural disasters and emergency situations as proposed in his Member's Bill being discussed at the meeting of the Panel on Manpower in June 2019.</p> <p>In response to the Chairman's enquiry, the Administration advised that there were 31 days in which T8 or above or Red or Black Rainstorm Warning was issued in the past four years (January 2017 to December 2020). Among those 170 reported cases of employees claiming compensation for injuries happened while travelling to and from the places of work in the past four years (accounted for less than 0.1% of total cases of work injuries), 145 cases were settled as at the end of December 2020. The number of working days lost and the amount of compensation for these cases were similar to that of work injuries of other nature.</p>	
003341 - 003809	Chairman Mr Jimmy NG Admin	<p>Citing different scenarios of accidents, Mr Jimmy NG sought information as to whether employers were liable for compensation for those injuries which were self-inflicted by employees during the travelling to and from their places of work.</p> <p>The Administration explained that the EC regime under ECO followed the "no-fault" compensation principle, whereby compensation was payable by the employer even if the employee might have committed acts of faults or negligence when the accident occurred. However, an employer was not held liable if an accident was caused by the employee's addiction to drugs or under the influence of alcohol.</p>	
003810 - 004644	Chairman Mr YIU Si-wing Admin	<p>Given the diversity in nature and requirements of different jobs in various trades and industries, Mr YIU Si-wing considered that a flexible approach should be adopted in drawing up the work arrangements under extreme conditions between employers and employees. In his view, the Administration should provide clear guidelines on the above work arrangements for employers, especially small and medium enterprises.</p>	

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		<p>The Administration advised that, in light of the introduction of the extreme conditions announcement in 2019, CoP had been revised to provide relevant guidelines to employers and employees on the work and resumption of work arrangements in the event of the Government issuing the extreme conditions announcement. Employers were advised to consult employees as soon as possible on the work and resumption of work arrangements at times of adverse weather conditions before typhoon season.</p> <p>The Chairman requested the Administration to step up its publicity efforts to promote better understanding of the revised CoP among employers.</p>	<b>Admin</b>
004645 - 004921	Chairman Admin	<p>The Chairman considered that while the revised CoP was only a set of reference guidelines, the Administration should make it mandatory that wages, allowance, good attendance bonus and leave should not be deducted or affected under the resumption of work after typhoon, rainstorm and extreme conditions announcement.</p> <p>The Administration advised that the employees' rights and benefits were protected under the Employment Ordinance (Cap. 57). Employers should adopt a sympathetic and flexible approach and formulate prior work arrangements under adverse weather conditions in consultation with their employees. In case of any disputes over the work arrangements, the Labour Department would provide conciliation service for both employers and employees.</p>	
004922 - 005903	Chairman Admin Mr YIU Si-wing	<p>Commencement of clause-by-clause examination of the Bill.</p> <p>Examination of the long title and clause 1 of the Bill.</p> <p>The Chairman was concerned about the commencement date which was not specified in the Bill. The Administration advised that the Bill would come into operation on the day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette, so as to allow sufficient time for the stakeholders to make necessary preparation in respect of EC insurance and work arrangements. In this connection, the Administration intended to resume the Second Reading debate on the Bill in April 2021, such that the relevant Commencement Notice, which would be a piece of subsidiary legislation subject to negative</p>	

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		<p>vetting, could come into operation before the typhoon season, i.e. by end of June or early July 2021.</p> <p>Mr YIU Si-wing's concern and the Administration's response on the mechanism for making an extreme conditions announcement by CS.</p>	
005904 - 012311	<p>Chairman Admin Dr CHENG Chung-tai Mr POON Siu-ping Ir Dr LO Wai-kwok</p>	<p>Examination of clauses 2 and 3 of the Bill.</p> <p>Dr CHENG Chung-tai and the Chairman enquired about "other natural disaster of a substantial scale" that would constitute the existence of "extreme conditions" under the proposed new section 5(4)(f)(C). The Administration advised that "extreme conditions" referred to the state of adverse conditions arising from a super typhoon or other natural disaster of a substantial scale which included, among others, extensive flooding and major landslides.</p> <p>Dr CHENG Chung-tai, the Chairman, Mr POON Siu-ping and Ir Dr LO Wai-kwok expressed grave concern about the mechanism for the Steering Committee to make a territory-wide extreme conditions announcement. Ir Dr LO Wai-kwok remarked that apart from a serious impediment to traffic and public transport services, a super typhoon and natural disaster would also bring different degrees of damage to a wide range of public facilities. The Administration should take prompt precautionary measures and response under the mechanism.</p> <p>The Chairman requested the Administration to provide further information on how to activate the mechanism for the Steering Committee chaired by CS to make an announcement stating the existence of extreme conditions that arise from a super typhoon or other natural disaster of a substantial scale.</p>	<p><b>Admin</b></p>
012312 - 012554	<p>Chairman ALA3</p>	<p>Completion of the clause-by-clause examination of the Bill</p> <p>Invitation for public views on the Bill</p> <p>Legislative timetable</p>	