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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 17 March 2021

**Debate and voting arrangements for
three proposed resolutions to be moved by
the Secretary for Labour and Welfare**

Members have been informed vide LC Paper No. CB(3) 355/20-21 issued on 22 February 2021 that 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”);
- (b) the proposed resolution under section 40 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (“the second proposed resolution”); and
- (c) the proposed resolution under section 39(2) of the Occupational Deafness (Compensation) Ordinance (Cap. 469) (“the third proposed resolution”).

The speech which SLW will deliver when moving the above proposed resolutions is in the **Appendix**.

2. Given that 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, to make 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**.

3. To assist Members in considering the proposed resolutions, I set out the relevant proceedings under which the President will:

- (a) first call upon SLW to speak and move the first proposed resolution, and then propose the question on it to kick off the joint debate;
- (b) invite other Members to speak;
- (c) call upon SLW to reply and order that the debate comes 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 first and/or second proposed resolution(s) is/are passed, invite SLW to move the third proposed resolution and forthwith propose and put to vote the question on it.

4. 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.

(Miranda HON)
for Clerk to the Legislative Council

Encl.

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 17 March 2021

(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 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 (CPI) (A) recorded a cumulative increase of 7.59% and 6.11% respectively in 2018 and 2019.

4. We propose to increase the amounts of four compensation items under ECO by 7.59% in line with the aforesaid wage movement reflected by NWI. The proposed revisions include increasing the minimum amounts of compensation for death from \$440,200 to \$473,610 and for permanent total incapacity from \$499,840 to \$537,780. 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 \$599,230 to \$644,710. 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 \$710 to \$760 and the minimum amount of a further surcharge imposed three months after the expiry of the payment period from \$1,430 to \$1,540.

5. At the same time, we propose to increase the amounts of three compensation items by 6.11% in line with the aforesaid price movement reflected by CPI(A). The proposed changes include increasing the maximum amount of funeral expenses from \$87,330 to \$92,670, and increasing the maximum

payments to be made by an employer towards the cost of supplying and fitting a prosthesis or surgical appliance from \$41,750 to \$44,300 and towards the cost of the repair and renewal of a prosthesis or surgical appliance from \$126,490 to \$134,220.

6. Furthermore, 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 \$4,500 to \$5,310, with reference to the relevant items provided under the Comprehensive Social Security Assistance Scheme as at July 2020.

7. Moreover, taking into consideration the employees' compensation protection accorded to employees with higher monthly earnings, we propose a one-off arrangement in adjusting upwards the ceiling of the monthly earnings for the purpose of calculating compensation for death and permanent total incapacity under ECO, by making reference to the wage level of non-fatal (excluding those cases with work injury sick leave not exceeding three days and not resulting in permanent incapacity) and fatal EC cases settled through Labour Department in 2019, from \$30,530 to \$35,600.

II. Proposed Resolution under Section 40 of PMCO

8. President, I will now address the proposed increase of the amounts of five compensation items 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.

9. According to the established mechanism, we propose to

increase the levels of compensation for four items under PMCO by 6.11% in accordance with the cumulative price movement reflected by CPI(A) in 2018 and 2019. The proposed revisions include increasing the monthly amount of compensation for pain, suffering and loss of amenities from \$5,330 to \$5,660 and increasing the amount of compensation for bereavement from \$220,000 to \$233,440. As the minimum amount of compensation for death is pegged to the amount of compensation for bereavement, the revision of the amount of compensation for bereavement will automatically adjust the minimum amount of compensation for death from \$220,000 to \$233,440. We also propose to increase the maximum amount of funeral expenses from \$87,330 to \$92,670.

10. Furthermore, making reference to the existing minimum allowable monthly wage and food allowance for a foreign domestic helper working in Hong Kong, we propose to adjust upwards the monthly amount of compensation for care and attention from \$5,600 to \$5,750.

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

11. 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.

12. According to the established mechanism, we propose to increase the minimum sum for calculating the amount of compensation for permanent incapacity under ODCO from \$499,840 to \$537,780 by 7.59% in accordance with the

cumulative rate of wage movement reflected by NWI in 2018 and 2019.

13. The maximum sum for calculating the amount of compensation for permanent incapacity under ODCO has been adjusted with reference to the ceiling of the monthly earnings under ECO. On par with the proposed increase in the ceiling of monthly earnings under ECO, we propose that the maximum sum for calculating the amount of compensation for permanent incapacity under ODCO be adjusted upwards correspondingly to \$35,600. Specifically, the proposed revisions include increasing the maximum sum for calculating the amount of compensation for permanent incapacity for employees aged under 40 from \$2,930,880 to \$3,417,600; for employees aged 40 to under 56 from \$2,198,160 to \$2,563,200, and for employees aged 56 or above from \$1,465,440 to \$1,708,800.

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).

15. According to the established mechanism, we propose to increase the levels of compensation for two items under ODCO by 6.11% in accordance with the cumulative rate of price movement reflected by CPI(A) in 2018 and 2019. The proposed revisions include adjusting upwards the financing limit for first-time applications for HADs from \$19,000 to \$20,160 and raising the aggregate financing limit for HADs from \$79,000 to \$83,830.

16. The Pneumoconiosis Compensation Fund Board and ODCB have endorsed the respective parts of the proposals regarding PMCO and ODCO. The Labour Advisory Board has been consulted for views on the aforementioned proposals on the three Ordinances. All members present agreed in general to the proposals after deliberation. The Legislative Council Panel on Manpower has also expressed support to the proposals. We propose that the new levels of compensation shall come into effect on 15 April 2021.

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, President.

- End -