

**立法會**  
**Legislative Council**

LC Paper No. LS39/20-21

**Paper for the House Committee Meeting  
on 26 February 2021**

**Legal Service Division Report on  
Employees' Compensation (Amendment) Bill 2021**

**I. SUMMARY**

- 1. The Bill**                                      The Bill proposes to amend the Employees' Compensation Ordinance (Cap. 282) to extend the coverage of employees' compensation to the situation where an employee sustains an injury or dies as a result of an accident when commuting to or from work during the period of extreme conditions that arise from a super typhoon or other natural disaster of a substantial scale.
- 2. Public Consultation**                      According to the Administration, the Labour Advisory Board was consulted on the proposal at its meeting on 25 November 2020. After deliberation, all members present unanimously supported the proposal.
- 3. Consultation with  
LegCo Panel**                                      The Panel on Manpower was consulted on the legislative proposal on 7 January 2021. Members were generally supportive of the proposal but expressed concerns on a few issues.
- 4. Conclusion**                                      No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

## **II. REPORT**

The date of First Reading of the Bill is 24 February 2021. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: LD ECS1/50/27 (C)) issued by the Labour and Welfare Bureau on 17 February 2021 for further details.

### **Object of the Bill**

2. The Bill proposes to amend the Employees' Compensation Ordinance (Cap. 282) to provide that an accident that happens to an employee when the employee is travelling between the employee's place of residence and place of work within the period specified in an extreme conditions announcement is deemed to arise out of and in the course of the employee's employment, as in the case where the employee so travels within the duration of a gale warning or rainstorm warning (as provided in Cap. 282).

### **Provisions of the Bill**

#### Amendments to extend the coverage of employees' compensation under section 5 of the Employees' Compensation Ordinance (Cap. 282)

3. Under the existing section 5 of Cap. 282, if in any employment, personal injury by accident arising out of and in the course of the employment is caused to an employee, his employer shall be liable to pay compensation in accordance with Cap. 282. Under section 5(4)(f) of Cap. 282, an accident to an employee shall be deemed to arise out of and in the course of the employee's employment if it happens to an employee when, within the duration of a gale warning (i.e. a Typhoon Warning Signal No. 8 or above is in force) or of a rainstorm warning (i.e. a Red or Black Rainstorm Warning is in force), the employee is travelling from his place of residence to his place of work by a direct route within a period of four hours before the time of commencement of his working hours for that day, or from his place of work to his place of residence within a period of four hours after the time of cessation of his working hours for that day.

4. The Bill proposes to amend section 5(4)(f) of Cap. 282 to extend the coverage of employees' compensation to the situation where an employee sustains an injury or dies as a result of an accident when the employee is travelling between the employee's place of residence and his place of work

within the period during which extreme conditions exist as specified in an extreme conditions announcement.

5. Under the Bill, "extreme conditions announcement" is defined to mean an announcement made by the Chief Secretary for Administration stating the existence of extreme conditions that arise from a super typhoon or other natural disaster of a substantial scale during the period (including any extended period) specified in the announcement. The term "super typhoon" refers to a typhoon that has a maximum sustained wind speed of 185km/h or above near its centre.

6. According to paragraphs 5 and 6 of the LegCo Brief, the Bill, if enacted, would afford employees' compensation protection to employees travelling to or from their workplaces during the extreme conditions on par with that under Typhoon Warning Signal No. 8 or above or the Red or Black Rainstorm Warning as provided under the existing Cap. 282.

### Commencement

7. The Bill, if passed, would come into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.

### **Public Consultation**

8. According to paragraph 11 of the LegCo Brief, the Labour Advisory Board was consulted on the proposal at its meeting on 25 November 2020. After deliberation, all members present unanimously supported the proposal.

### **Consultation with LegCo Panel**

9. As advised by the Clerk to the Panel on Manpower, the Panel was briefed on the proposal on 7 January 2021. Members were generally supportive of the proposal, though some members expressed concerns about the impact of the proposal on the premium level of employees' compensation insurance and the work arrangements under extreme conditions.

## **Conclusion**

10. No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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