

## **Procedures of Sick Leave Clearance and Assessment of Work Injury**

### **Sick Leave Clearance**

1. What is sick leave clearance?

A: Sick leave clearance refers to the vetting and recording of injured employees' sick leave certificates by staff of the Occupational Medicine Unit of the Labour Department and their arrangement for the injured employees to receive medical assessment if necessary.

2. What are the procedures of sick leave clearance?

A: Upon receipt of the work injury notification from the employer, the Employees' Compensation Division of the Labour Department will issue a Medical Clearance Form and other related information to the injured employee by post. The employee should approach the designated office of the Occupational Medicine Unit as soon as possible one month after the injury, bringing along the copies of all sick leave certificates, consultation cards and medical reports for sick leave clearance.

3. Why is an injured employee not notified by the Labour Department for sick leave clearance despite a lapse of time after injury? What should be done?

A: This is probably because either the employer has not notified the Labour Department of the work injury, or the employer/insurance company has cast doubt on the injury claim. As such, the injured employee should make enquiries with the Employees' Compensation Division of the Labour Department immediately for follow-up actions and assistance by the Division.

4. Why are some injured employees not required to go through the procedures of sick leave clearance?

A: For work injury involving sick leave not exceeding 7 days and with no permanent incapacity, the employer may agree with the employee to settle the injury case directly and make the sick leave payments on time, then the injured employee is not required to undergo the sick leave clearance procedures.

5. What is "Paper Sick Leave Clearance Scheme"?

A: If the injury of an employee involves sick leave for a period exceeding 7 days but not more than 30 days, the sick leave of the employee has ended, and the injury does not result in permanent incapacity, then the employer may fill in an application form for "Paper Sick Leave Clearance by Agreement of Employer and Employee" and send it by post with the relevant information to the Employees' Compensation Division of the Labour Department. By so doing, the employee is not required to complete the sick

leave clearance procedures in person. After verification, Labour Department will issue a Certificate of Compensation Assessment (Form 5) to settle the work injury case.

### **Essential Points on Assessment of Work Injury**

6. Why is an injured employee required to undergo a medical assessment of his injury ?

A: If a work injury is likely to result in permanent total or partial incapacity, the Occupational Medicine Unit of the Labour Department will arrange the injured employee to attend medical assessment at hospital for assessing the percentage of permanent loss of earning capacity caused by the injury and the period of absence from duty so required, which will serve as the basis for calculating the amount of compensation for the work injury.

7. When is an injured employee suitable for medical assessment of his injury ?

A: The suitable time for an injured employee to undergo medical assessment is a matter of professional medical opinion, usually determined by the attending doctor. After the injured employee has received the necessary treatment and his medical conditions and injury have stabilized, he is already suitable for medical assessment, despite he may still need to attend follow-up consultations. Where appropriate, the attending doctor would notify the Labour Department to make arrangement for assessment. Upon notification, the Labour Department would arrange for the assessment as soon as possible. If the employee does not hear from the Labour Department, he may contact the Occupational Medicine Unit of the Department by phone for enquiries.

8. If an injured employee is still issued sick leave certificates by a medical practitioner, does it mean that he is not yet suitable for medical assessment?

A: The fact that an injured employee continues to be granted sick leave certificates by a medical practitioner only suggests that the injured employee, by reason of his medical conditions and injury, is still not fit for work for the time being. But it does not mean that he is not yet suitable for medical assessment. Provided that his medical conditions and injury have stabilized, the injured employee is already suitable for medical assessment.

9. Is an injured employee unable to resume work prior to medical assessment?

A: Whether an injured employee can resume work prior to medical assessment mainly depends on his rehabilitation progress, confidence, capability and the nature of his work. If special arrangements for resumption of work are required, the employee should discuss them with his employer as soon as possible.

10. Should sick leave be granted to an injured employee until he is assessed for the work injury ?
- A: A medical practitioner will exercise professional judgment to determine whether the injured employee should be granted further sick leave, having regard to the medical conditions of the employee.
11. What should an injured employee do if he is not granted further sick leave by a medical practitioner ?
- A. An injured employee should in principle resume work as arranged by the employer if he is not granted further sick leave, but he may discuss other arrangements with the employer.
12. What are the procedures of medical assessment?
- A: If a work injury is likely to result in permanent total or partial incapacity to the injured employee and he is already suitable for medical assessment, the Occupational Medicine Unit of the Labour Department will arrange for him to attend medical assessment at a hospital and issue a Notification of Medical Assessment Appointment to him. The injured employee should notify his employer of the assessment date and time, and attend the designated hospital punctually on the appointed date and time for the assessment, bringing along with him the Notification of Medical Assessment Appointment, identity card and copies of all medical certificates.

The Employees' Compensation (Ordinary Assessment) Board, established in accordance with provisions of the Employees' Compensation Ordinance (ECO), comprises two registered medical practitioners, registered Chinese medicine practitioners<sup>(Note)</sup> and a Labour Officer appointed by the Commissioner for Labour. The Assessment Board will examine carefully the medical records and reports of the injured employee, and, in the light of the actual medical conditions and state of recovery of the injured employee, assess the percentage of permanent loss of earning capacity caused by the injury and the period of absence from work required in accordance with the provisions of the ECO, and issue a Certificate of Assessment (Form 7) to the employer and the employee.

13. Will the injured employee be paid wages for attending the medical assessment?
- A: The Labour Officer will issue a Notice to Employer to the injured employee on the spot during the medical assessment to certify the employee's attendance at the medical

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(Note) The appointment of registered Chinese medicine practitioners as members of the Employees' Compensation (Ordinary Assessment) Board only applies to the work injuries caused by accidents happening or prescribed occupational diseases contracted on or after 1 September 2008.

assessment that day. The half day required for attending the medical assessment shall not be regarded as absence from work. If the injured employee still works with the same employer as when he was injured and has not received a payment for the sick leave that day, the employer should pay the half-day wages to the employee.

14. When will the assessment result be known?

A: About two weeks after the Assessment Board has completed the assessment, the Labour Department will send by post a Certificate of Assessment (Form 7) issued by the Assessment Board to the injured employee and his employer, together with information on the procedures for settling the employees' compensation claim and raising an objection to the assessment result.

15. What are the procedures for raising an objection to the assessment result?

A: An objection to the assessment result by either party should be made in writing to the Commissioner for Labour within 14 days after the issue of the Certificate of Assessment (Form 7), with a copy of the notice to the other party. Unless there are significant changes to the medical conditions or treatment of the injured employee at the time he raises an objection, the Labour Department will, on receipt of the objection notice, arrange an Assessment Board to review the assessment as early as possible. The Assessment Board will issue a Certificate of Review of Assessment (Form 9) upon completion of the review. Further objection by either party to the review result should be made to the District Court within 6 months after the issue of the Certificate of Review of Assessment.

16. If an objection is raised to the assessment result, will the result of the review assessment (the period of absence from work required and the percentage of permanent loss of earning capacity) be an upward adjustment only?

A: No, the result of the review assessment could be an upward or downward adjustment or no change. It depends mainly on the actual medical conditions and state of recovery of the injured employee.

17. What are the consequences if an injured employee fails to attend a medical assessment?

A: If an injured employee fails to attend a medical assessment without good cause, the Labour Department will presume that the employee does not wish to have medical assessment and has abandoned his claim for compensation for permanent incapacity, and the injured employee may only get the work injury sick leave payments without other compensation. Therefore, if an injured employee is unable to attend a medical assessment due to special reasons, he must notify the Occupational Medicine Unit of the Labour Department promptly and provide good reasons and supporting evidence. The Unit will consider granting a change in the assessment date in accordance with the

actual circumstances.

### **Other Points to Note**

18. What should an employee do after sustaining a work injury?

A: An employee who sustains a work injury should promptly take the following actions, which serve to expedite the processing of his compensation claim and avoid unnecessary dispute caused by delay:

- (1) To notify the employer or supervisor of the injury immediately by providing, in writing as far as possible, accurate and full details, including the date, time and place of the accident, eyewitnesses, the injury and other relevant information.
- (2) To seek medical examination or treatment by registered medical practitioners, registered Chinese medicine practitioners<sup>(Note)</sup> or registered dentists at hospitals or clinics as soon as possible. Consultation documents (such as consultation cards or receipts) should be retained for evidence purpose.
- (3) To forward the original copy of sick leave certificates to the employer as soon as possible and keep a photocopy. This practice could facilitate timely settlement of periodical payments by the employer.
- (4) To undergo the sick leave clearance procedures at the Occupational Medicine Unit of the Labour Department or attend medical assessment at a hospital timely as directed by the Labour Department.
- (5) If the injured employee has doubt as to whether his employer has reported the work injury to the Labour Department, he can make direct enquiries with the Employees' Compensation Division so that the Division can follow up the case and provide assistance immediately.

19. What should an injured employee take note during the sick leave period?

A: During the sick leave period:

- (1) the employee should have good rest, take medication according to doctors' instructions, receive relevant treatment (such as physiotherapy and occupational therapy) and attend follow-ups timely. He should also follow doctors' and therapists' instructions to make the best efforts for recovery with a view to re-entering the workforce as soon as possible.
- (2) the employee may participate, on a voluntary basis, in the Voluntary Rehabilitation Programme launched by the employer/insurer and approved by the Labour Department in order to receive free rehabilitation services (such as

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(Note) The concerned medical functions of registered Chinese medicine practitioners only apply to the work injuries caused by accidents happening or prescribed occupational diseases contracted on or after 1 September 2008.

specialist treatment, physiotherapy and occupational therapy) provided by the employer's insurer. With timely medical intervention, the injured employee can recover faster and the resulting permanent impairment can likely be reduced. Leaflets on details of the Voluntary Rehabilitation Programme can be obtained at the branch offices of the Employees' Compensation Division of the Labour Department.

- (3) if the attending doctor issues certificates that the employee is fit for light work or work trial, the employee may, having regard to his own capability, try some light work of shorter durations to facilitate recovery and build up confidence in resuming work, which will enable him to return to work more easily.
- (4) the employee may also consider enrolling in some suitable retraining schemes to enhance his capability to return to work or seek a new job in the future.
- (5) the employee should not work for other employers to earn remuneration without the consent of the original employer.

20. Can an injured employee refuse to undergo medical examination by a doctor named by his employer when the employer requests him to do so?

A: Section 16 of the Employees' Compensation Ordinance stipulates that an employer may, within 7 days of receipt of the notice of accident from an employee, require the employee to attend a medical examination by a registered medical practitioner, a registered Chinese medicine practitioner<sup>(Note)</sup> or a registered dentist named by the employer. The employee must comply with the request. The employer has to pay all the expenses. An employee who is receiving sick leave payments from his employer shall submit himself for medical examination from time to time as required by his employer. If an employee fails without reasonable cause to submit himself for such examination, his right to compensation shall be suspended.

## **Enquiries**

- For general enquiries on work injury legislation, please call 2717 1771(the hotline is handled by "the Integrated Call Centre"), or browse the homepage of the Labour Department at : <http://www.labour.gov.hk> .
- For enquiries on individual injury case, please contact staff of the branch office of the Employees' Compensation Division of the Labour Department handling the injury case, using the telephone number provided on the Notification of Medical Clearance and quoting the injury case reference number.

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(Note) The medical functions of registered Chinese medicine practitioners under Section 16 of the Employees' Compensation Ordinance only apply to the work injuries caused by accidents happening or prescribed occupational diseases contracted on or after 1 September 2008.

- For arrangement concerning medical clearance procedures and medical assessment, please contact staff of the Occupation Medicine Unit of the Labour Department.

Offices of the Employees' Compensation Division of the Labour Department :

<b>Branch Office of the Employees' Compensation Division, Labour Department [ Place of Accident (Form 2, 2B) / Place of Employment (Form 2A) ]</b>	<b>Address</b>
<b>Hong Kong Offices</b> (cases in Hong Kong Island, outlying Islands and outside Hong Kong)	Rm 1605, 16/F, Southorn Centre, 130 Hennessy Road, Hong Kong
<b>Kowloon Offices</b> (cases in Kowloon, Sai Kung and cases involving seamen and government employees)	Rm 1007, 10/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon
<b>Tsuen Wan &amp; Kwai Chung Offices</b> (cases in Kwai Chung, Tsing Yi, Tsuen Wan, Tuen Mun and Yuen Long)	6/F, Tsuen Wan Government Offices, 38 Sai Lau Kok Road, Tsuen Wan, New Territories
<b>Shatin Office</b> (cases in Shatin, Taipo, Fanling and Northern District)	Rm 239, 2/F, Shatin Government Offices, 1 Sheung Wo Che Road, Shatin, New Territories
<b>Fatal Cases Office</b>	Rm 601, 6/F, Harbour Building, 38 Pier Road, Central, Hong Kong

Offices of the Occupational Medicine Unit of the Labour Department :

<b>Hong Kong Office</b>	22/F, Southorn Centre, 130 Hennessy Road, Hong Kong
<b>Kowloon Office</b>	10/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon

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