

ummary

of the New Amendments made to
the Employees' Compensation Ordinance



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Labour Department

Introduction

Amendments to the Employees' Compensation Ordinance ("the ECO") (Cap.282) made under the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 ("the Amendment Ordinance") become effective on **1 September 2008**. The amendments apply to claims for compensation or other rights, obligations or liabilities in respect of the employee's injuries (including occupational diseases as prescribed by this Ordinance, similarly hereafter) caused by **accidents arising out of and in the course of employment happening on or after 1 September 2008**.

The objective of the amendments is to recognise the medical treatment, examination and certification given by **registered Chinese medicine practitioners** for the purpose of employees' entitlement to benefits under the ECO.

This leaflet sets out in simple terms the **major amendments** to the ECO. For information on the major provisions of the ECO, please refer to "A Concise Guide to the Employees' Compensation Ordinance" published by the Labour Department, which can be downloaded from <http://www.labour.gov.hk/eng/public/>. For full text of the ECO, please refer to <http://www.legislation.gov.hk/eng/home.htm>.

Major amendments to the Employees' Compensation Ordinance

Legend: ◆ denotes the relevant provision of the ECO prior to the amendments (i.e. before 1 September 2008)

⇒ denotes the relevant provision of the ECO subsequent to the amendments (i.e. on or after 1 September 2008)

1 | The amendments apply to the work injuries caused by accidents happening on or after 1 September 2008

1 Certification for the period of temporary incapacity

- ◆ If an employee sustains an injury as a result of an accident arising out of his employment, the employer shall pay the injured employee periodical payments during the period of temporary incapacity, if such period is certified by a registered medical practitioner or a registered dentist.
- ⇒ Registered Chinese medicine practitioner is recognised for certifying the period of absence from duty as a result of temporary incapacity caused by work injury.

2 Medical expenses

- ◆ Unless an employer has provided adequate free medical treatment to the employee, the employer is liable to pay medical expenses (including fees for consultation, any surgical or therapeutic treatment, cost of nursing attendance, hospital accommodation as an in-patient, medicines, curative materials and medical dressings, etc) for medical treatment in respect of the work injury sustained by the employee.

The daily maximum of medical expenses payable are as follows:

In-patient treatment:	\$200
Out-patient treatment:	\$200
Both in-patient and out-patient treatment on the same day:	\$280

- ⇒ Apart from the original provisions, medical treatment given to an injured employee by a registered Chinese medicine practitioner shall be payable to the employee.
- ⇒ An employer is liable to pay the medical expenses in respect of medical treatment of any description received by an employee unless the free medical treatment provided by the employer covers medical treatment of the same description.
- ⇒ Where the medical expenses for the medical treatment of an employee include the cost of medicines, the medicines shall be prescribed by a registered medical practitioner, a registered dentist or a registered Chinese medicine practitioner and prescribed for the direct treatment of the employee's personal injury.
- ⇒ Unless the prescription contains a direction that the medicines are to be dispensed for a stated number of times and the medicines are dispensed in accordance with that direction, the employee shall not be reimbursed any cost of medicines relating medicines dispensed pursuant to the same prescription on the subsequent occasions.

3 Medical examination

- ◆ The ECO stipulates that the employer may, within 7 days from the time at which the notice of an accident is given, require the employee to undergo a medical examination. The employer may also require an employee who is in receipt of a periodical payment to undergo a medical examination. The employee shall undergo the examination without expense.

- ⇒ If a medical examination is arranged for the injured employee, the examination shall be conducted by a practitioner from the medical treatment of the same description as that received by the employee. For example, if the employee is attended by a registered Chinese medicine practitioner, the employer shall name a registered Chinese medicine practitioner to conduct the medical examination, and so on.
- ⇒ The registered medical practitioner, registered Chinese medicine practitioner or registered dentist who conducts the examination shall prepare a report on the examination and send it to the employer at the employer's expense.
- ⇒ The employee may in writing request the employer to send to him, free of charge, a copy of the report. The employer commits an offence and is liable on conviction to a fine if he fails, without reasonable excuse, to comply with such request before the later of the following —
 - (a) the expiry of 21 days after the employer receives the request;
or
 - (b) the expiry of 14 days after the report concerned is received by the employer.

Others

- ⇒ Apart from major amendments above, other amendments provide a registered Chinese medicine practitioner to have similar functions as registered medical practitioner and registered dentist in the relevant aspects. Such include the supplying and fitting of surgical appliance and the appointment of members of boards.

« Enquiries »

- Enquiry Hotline: 2717 1771 (the hotline is handled by “the Integrated Call Centre”)
- Website of the Labour Department: <http://www.labour.gov.hk>

Please note that the above information is for reference only. The Amendment Ordinance and the Employees' Compensation Ordinance remain the sole authority for the provisions of the law explained.

Other reference information

« Registered Chinese medicine practitioners »

A registered Chinese medicine practitioner refers to a person who is registered under section 69 or 85 of the Chinese Medicine Ordinance (Cap.549) and whose name appears on the Register of Chinese Medicine Practitioners (“the Register”).

A person is entitled to be known as “registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong” or the abbreviation “registered Chinese medicine practitioner” only if his name appears on the Register.

The Chinese Medicine Council (“the CMC”) has uploaded a list of the registered Chinese medicine practitioners onto the homepage of the CMC for public consumption. The website of the CMC is <http://www.cmchk.org.hk>.

Code of Practice and Reference Guide for registered Chinese medicine practitioners

The CMC has issued a Code of Practice for Registered Chinese Medicine Practitioners in Hong Kong ("the Code") to uphold the professional ethics and set standards for the practice of registered Chinese medicine practitioners. The Code requires registered Chinese medicine practitioners to be professionally responsible to patients and should not issue untruthful or misleading documents. It also lays down requirements on keeping medical records and issuing prescriptions.

The CMC has also drawn up a Reference Guide on Issuance of Sick Leave Certificates by Registered Chinese Medicine Practitioners ("the Reference Guide") which sets out the common diseases/injuries and corresponding suggestions on the duration of sick leave. Registered Chinese medicine practitioners have a duty to issue appropriate sick leave certificates in accordance with their professional judgment with due regard to the circumstances of individual patients. The Code and the Reference Guide can be downloaded from the homepage of the CMC.

Retailers of Chinese herbal medicines

Chinese herbal medicines prescribed by a registered Chinese medicine practitioner shall be sold by a retailer of Chinese herbal medicines with license or by a registered Chinese medicine practitioner to a patient under his direct care. The retailer's licenses of Chinese herbal medicines are classified into (i) licensed retailers of Chinese herbal medicines and (ii) retailers of Chinese herbal medicines (Transitional Licensing). The lists of licensed retailers are uploaded onto the homepage of the CMC.

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