Where an employee has entered into concurrent contracts of service with 2 or more employers, in case an employee is working in his full-time employment (full-time employment means employment for not less than 40 hours during a minimum period of 5 days in any 1 week) at the time of the accident, the monthly earnings of such employee shall be his earnings in such full-time employment. However, if the employee is working in his part-time employment at the time of the accident, and he is incapacitated from performing the concurrent full-time or other part-time contracts, the employer should compute his monthly earnings by including his earnings under all such contracts.

VII. Compensation under the Employees’ Compensation Ordinance

In general, injured employees are eligible for the following compensation according to the ECO and as the case may be. For details, please refer to full text of the ECO or the Concise Guide.

(i) Periodical Payments

According to Section 10 of the ECO, an employer is obliged to pay his injured employee periodical payments at the rate of four-fifths of the difference between the employee’s monthly earnings at the time of the accident and his monthly earnings during the period of temporary incapacity. The periodical payments shall be payable on the same days as wages would have been payable to the employee. The employee is not entitled to claim sickness allowance under the Employment Ordinance from other employer(s) concurrently.

(ii) Employees’ Compensation Payment

For injury which would likely result in permanent incapacity, the Labour Department will, on the basis of the assessment result, issue a Certificate of Compensation Assessment (Form S) under Section 16A of the ECO after completion of the medical assessment. The certificate will state, among others, the compensation amount for the employee’s permanent loss of earning capacity assessed, if any. The employer must pay the compensation amount stated in the certificate or any outstanding amount to the employee within 21 days from the date of issue of the certificate, or he must pay the employee a surcharge of the amount of compensation unpaid.

(iii) Medical Expenses

Section 10A of the ECO stipulates that unless an employer has provided adequate free medical treatment to the injured employee, the employer is liable to pay medical expenses in respect of the period during which the employee receives medical treatment from a registered medical practitioner, a registered Chinese medicine practitioner, a registered dentist, a registered physiotherapist, a registered occupational therapist or a registered chiropractor (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). The employer should pay the employee medical expenses within 21 days after the employee has submitted the receipts for payment of medical treatment. The daily maximum of medical expenses payable by the employer are as follows:

- The medical expense for each day of stay in the hospital where an employee is given medical treatment as an in-patient: $300
- The medical expense for each day on which an employee is given medical treatment other than as an in-patient in a hospital: $300
- The medical expense for each day on which an employee is given medical treatment both as an in-patient in a hospital and other than as an in-patient in a hospital: $370

(iv) Prostheses and Surgical Appliances

According to the ECO, if an employee sustains an injury by accident arising out of and in the course of employment and requires a prosthesis or surgical appliance, his employer is liable to pay the initial costs of supplying and fitting the prosthesis or surgical appliance, and the probable costs of repair and renewal of such an item during a period of 10 years after the initial fitting of the item.

VIII. Enquiries

For enquiries on the ECO, please contact the Labour Department at 2717 1771 (the hotline is handled by the ‘1823’). For enquiries on individual employees’ compensation cases, please approach the offices of the ECO of the Labour Department in person.

<table>
<thead>
<tr>
<th>Branch Office</th>
<th>Address</th>
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</thead>
<tbody>
<tr>
<td>Employees’ Compensation Division Operations - Team A</td>
<td>Room 1605, 16/F, Southorn Centre, 130 Hennessy Road, Wanchai, Hong Kong</td>
</tr>
</tbody>
</table>
| - Cases in Hong Kong Island, outlying Islands and outside Hong Kong
| Employees’ Compensation Division Operations - Team B | Room 1007, 10/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon |
| - Cases in Kwai Chung, Tin Shui Wai, Sha Tin, and Yuen Long
| Employees’ Compensation Division Operations - Team C | Room 239, 2/F, Shatin Government Offices, 1 Shuen Wo Che Road, Shatin, New Territories |
| - Cases in Sha Tin, Tai Po, Fanling and North District
| Employees’ Compensation Division Operations - Team D | Room 239, 2/F, Shatin Government Offices, 1 Shuen Wo Che Road, Shatin, New Territories |
| - Cases in Sha Tin, Tai Po, Fanling and North District

Employees’ Compensation Division
Labour Department
Aug 2018
(Batch No August 19)
Handling of Employees’ Compensation Case Points to Note for Employees

I. What is work injury / occupational disease?

According to the Employees’ Compensation Ordinance (ECO), if an employee sustains an injury as a result of an accident arising out of and in the course of his employment, his employer is in general liable to pay compensation under the ECO even if the employee might have committed acts of fault or negligence when the accident occurred. Besides, Section 2 Schedule annexed to the ECO specifies the occupational disease covered by the ECO and its prescribed period. If an employee suffers incapacity arising from an occupational disease, which is specified in the Second Schedule, the employee is entitled to receive the same compensation as that payable to an employee injured in an accident arising out of and in the course of employment. If the disease is due to the nature of any occupation in which he was employed at any time within the period immediately preceding the incapacity caused as prescribed.

II. Important information injured employees must take note of

- Notify the employer of the work injury / occupational disease immediately in verbal or in writing (e.g., using Form I or Form 1A).
- Submit the employer’s discharge certificate and medical expenses in relation to medical consultation and follow-up treatment as soon as possible. Remember to keep copies for the reference of the Labour Department.
- Follow the instructions of medical practitioners to recuperate and rest during sick leave so as to speed up recovery and to make it easier to accommodate on return-to-work.
- For cases with no dispute, attend medical clearance at Occupational Medicine Unit according to the “Medical Clearance Notification” issued by the Labour Department.
- When necessary, the employer may, within 7 days from the time at which the notice of an accident is given, require the employee to undergo free medical examinations by a registered medical practitioner, a registered Chinese medicine practitioner or a registered dentist named by the employer. The employer may also require the employee to undergo such examination who is in receipt of periodical payment to undergo such examination. If the employee refuses, the employer may, within 7 days from the time at which the notice of an accident is given, require the employee to undergo such examination.

III. Procedures on handling normal work injury cases

- Sick leave for not more than 3 days and with no permanent incapacity

The employer should make payment for temporary incapacity (e.g. periodical payment for the sick leave required) on the same day or wages would have been payable to the employee and also pay the medical expenses concerned as to settle the case.

- Sick leave for over 3 days but not more than 7 days and with no permanent incapacity

The employer may directly agree with the employee as to the compensation payable under the ECO and make such payment on the same day or before which

IV. Procedures on handling doubtful cases/cases in dispute

The ECO of the Labour Department assists employer and employee in resolving disputes. If the employee is still in doubt about the work injury case and/or medical conditions of the employee after internal investigation, he may pass the relevant information to ECO for advice. However, please note that according to the ECO, the Labour Department does not have the authority to adjudicate on any dispute of the case. If the employer and the employee could not reach any settlement with the assistance of the Department, the case shall be determined by the Court.

V. Time limitation for application to the Court

Section 14(1) of the ECO stipulates that application to Court for employees’ compensation has to be made within 24 months from the date of the accident causing the injury. If the employee does not seek legal advice and assistance to file the claim on time, the Labour Department will give its views to both parties upon completion of investigation. Should the employee wish to know the investigation progress, he may approach the handling office of ECO for enquiry when necessary.

VI. Calculation of earnings

According to the ECO, the amount of employees’ compensation payable (including temporary and permanent incapacity to the injured employee) is calculated with reference to his “monthly earnings”.

- “Monthly earnings” includes cash wages, the value of any privilege or benefit which can be estimated in cash (e.g. food), if as a result of the accident the injured employee is deprived of any of them, overtime payments or other special remuneration, whether by way of bonus, allowance (but not travelling allowance) or otherwise, if it is of a constant nature; and customary tips. “Monthly earnings” is to be taken as the earnings for the 12 months immediately preceding the date of accident, or the average monthly earnings for the previous 12 months (or any lesser period if the employee has not been so long employed), whichever calculation is more favourable to the employee.