

Increase in amount of damages for bereavement under Fatal Accidents Ordinance proposed

The Department of Justice (DoJ) today (May 28) gave notice to the Legislative Council (LegCo) that it will move a resolution to increase the statutory sum to be awarded as damages for bereavement (bereavement sum) under the Fatal Accidents Ordinance (Cap 22) to \$220,000.

The increased sum will be capable of reflecting the cumulative impact of inflation over the period from March 1997 to March 2018.

The DoJ also proposed a review of the bereavement sum to reflect inflation by making reference to the Consumer Price Index (A) (CPI(A)) every two years.

A spokesman for the DoJ said, "The Ordinance was enacted in 1986. It allows an action for damages to be brought against a person for the benefit of the dependants of the deceased in respect of that person's wrongful act, neglect or default which has caused the death of the deceased. An action under the Ordinance may include a claim for damages for bereavement in the sum as prescribed in section 4(3). Section 4(5) of the Ordinance provides that the LegCo may by resolution vary the sum.

"Since the enactment of the Ordinance, the bereavement sum was adjusted in 1991 and 1997. The current sum is set at \$150,000."

In mid-2014, the DoJ reviewed the bereavement sum and proposed to increase the sum to \$190,000, having made reference to the cumulative inflation as measured by the CPI(A), and consulted the Law Society of Hong Kong (LawSoc) and the Hong Kong Bar Association (the Bar).

In response, the LawSoc and the Bar proposed that the amount be adjusted to \$250,000. The reason is that the increase should take into account not only inflation but also "changing social and economic conditions of Hong Kong".

"The DoJ then thoroughly considered the issues and studied the methodology adopted in other common law jurisdictions. The Census and Statistics Department and the Government Economist were consulted. It was concluded that the 'social and economic conditions' of an economy could embrace many different aspects, including a host of factors such as population growth and structure, housing and economic growth. Therefore, there is no single indicator that can serve the purpose of manifesting the changing social and economic conditions in a nutshell," the spokesman explained.

In the DoJ's view, an adjustment based on inflation by making reference

to the CPI(A) could provide a simple and objective methodology for the coming and future reviews of the bereavement sum.

The DoJ proposed to move a resolution to increase the bereavement sum to \$220,000 which would be more than sufficient to cover the cumulative inflation reckoned from March 1997 to March 2018 after making reference to the CPI(A).

The DoJ today gave notice to the LegCo that it would move the related resolution under section 4(5) of the Ordinance at the LegCo sitting on June 13.