

LCQ17: Injuries sustained to an employee when travelling between his place of residence and his place of work

Following is a question by the Hon Luk Chung-hung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (January 23):

Question:

Under the Employees' Compensation Ordinance (Cap. 282), when a Tropical Cyclone Warning Signal No. 8 or above or a Red/Black Rainstorm Warning Signal is in force, an employer is liable to pay compensation if his employee sustains an injury or dies as a result of an accident while travelling by a direct route from his place of residence to his place of work 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. In this connection, will the Government inform this Council:

(1) whether the Labour Department will compile statistics on the following: the respective numbers of accidents occurring to employees while (i) at work and (ii) commuting to and from work when the aforesaid warning signal(s) is/are in force, and a breakdown of those numbers by type of accidents as well as by the industry and type of work in which the employees are engaged; and

(2) given that the aforesaid requirement is applicable only to accidents occurring while such warning signal(s) is/are in force but employees often need to, upon cancellation of the warning signal(s), commute to and from work when the safety of the roads has yet to be ascertained, whether the authorities will extend the ambit of the requirement concerned to cover accidents occurring within a period of four hours after the cancellation of the warning signal(s); if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the Member's question is as follows:

(1) The Labour Department does not keep statistics involving cases on injuries or fatalities sustained by employees as a result of accidents arising out of employment during the time when Tropical Cyclone Warning Signal No. 8 or above or a Red/Black Rainstorm Warning Signal is in force, or

cases on accidents happened to employees whilst travelling to and from work.

(2) According to the Employees' Compensation Ordinance (ECO), if an employee sustains an injury or dies as a result of an accident arising out of and in the course of employment, the employer is in general liable to pay compensation under ECO.

ECO provides that when Tropical Cyclone Warning Signal No. 8 or above or a Red/Black Rainstorm Warning Signal is in force, if an employee sustains an injury or dies as a result of an accident while travelling from his/her place of residence to his/her place of work by a direct route within a period of four hours before the time of commencement of his/her working hours for that day, or from his/her place of work to his/her place of residence within a period of four hours after the time of cessation of his/her working hours for that day, the accident shall be deemed to arise out of and in the course of employment. The employer is liable to pay compensation in accordance with ECO.

ECO adopts a "no-fault" principle, whereby employers are in general liable to pay compensation under the Ordinance even if their employees might have committed acts of faults or negligence when the accidents occurred. It is hence necessary to take into account the interests of employees and the affordability of employers concurrently in determining the statutory liability for compensation of employers. The suggestion of further extending the coverage of ECO to accidents happened to employees whilst travelling to and from work after the cancellation of the abovementioned warning signals would involve a significant change to the current employees' compensation system with far-reaching implications. We do not plan to pursue such an amendment to ECO at present.