

**Legislative Council Panel on
Administration of Justice and Legal Services**

**Biennial review of the amount of damages for bereavement
under the Fatal Accidents Ordinance (Cap. 22)**

This paper briefs Members on the following:-

- (a) the outcome of the biennial review conducted by the Government on the statutory sum to be awarded as damages for bereavement (“**bereavement sum**”) under section 4(3) of the *Fatal Accidents Ordinance* (Cap. 22) (“**the Ordinance**”); and
- (b) the Government’s proposal that a resolution be moved by the Secretary for Justice, within the current legislative session, to increase the bereavement sum from \$242,500 to \$ 253,500 to reflect the impact of inflation experienced over the reference period from 2022 to 2024 (“**reference period**”).

Background

2. 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 Legislative Council may by resolution vary the sum. Since the enactment of the Ordinance, the bereavement sum was adjusted in 1991, 1997, 2018, 2020 and 2023. The current bereavement sum is \$242,500.

3. In 1997, the Government undertook to review the statutory bereavement sum biennially to reflect inflation.¹ In the review in 2018, the Government renewed its commitment to review the bereavement sum every two years to take into account inflation by making reference to the Consumer Price Index (A) (“**CPI(A)**”).² The present cycle of biennial review examines the inflation

¹ Legislative Council of Hong Kong, Official Record of Proceedings, *Hong Kong Hansard: Reports of the Sitting of the Legislative Council of Hong Kong*, 16 April 1997, at p. 97.

² Legislative Council of Hong Kong, Official Record of Proceedings, *Hong Kong Hansard: Reports of the Meetings of the Legislative Council of Hong Kong*, 11 July 2018, at p. 14361; see also Legislative Council Brief, *Review Of The Amount Of Damages For Bereavement Under The Fatal Accidents Ordinance (Chapter 22)*, May 2018, at paragraph 9, https://www.legco.gov.hk/yr17-18/english/subleg/brief/sc110_brf.pdf.

during the reference period by making reference to the CPI(A).

Biennial review for the present cycle

4. For the present cycle, the Government proposes to compare the 12-month average CPI(A) figures ending December 2022 and the one ending December 2024 (which is the most up-to-date figure within the reference period). The use of the 12-month average CPI(A) figures provides a robust calculation which is less affected by erratic fluctuations. The rate of change between the two figures was 4.4%.

5. The Government proposes to move a resolution to make a commensurate increase for the bereavement sum from \$242,500 to \$ 253,500 to cover inflation as measured by the CPI(A) during the reference period.³ The details of the calculation are set out at **Annex**.

Engagement with the stakeholders

6. The Law Society of Hong Kong, the Hong Kong Bar Association and the Hong Kong Federation of Insurers have been informed of the outcome of the present biennial review and the Government's intention to make the proposed adjustments.

Way forward

7. Members are invited to take note of the proposal in this paper. Comments or requests for information may be directed to Ms Agnes Liu, Senior Assistant Solicitor General (Policy Affairs)¹ (tel. no.: 3918 4018; e-mail: cpad@doj.gov.hk) or Mr Christopher Ng, Senior Government Counsel (tel. no.: 3918 4030; e-mail: cpad@doj.gov.hk). Given the technical, straightforward and time-sensitive nature of the proposal, it is the Government's intention to move the motion for a resolution as soon as practicable within this legislative session.

Department of Justice
March 2025

³ With the adjustment of the bereavement sum to \$253,500, the maximum amount which may be awarded as damages for loss of society of an injured person pursuant to section 20C of the *Law Amendment and Reform (Consolidation) Ordinance* (Cap. 23) will correspondingly be increased to \$253,500 by operation of section 20C(2)(a) of that Ordinance.

**Calculation of the bereavement sum
by making reference to the CPI(A)**

The current bereavement sum and the relevant CPI(A) figures are as follows:

- | | |
|--|--------------------|
| (a) Current bereavement sum: | \$242,500 |
| (b) 12-month average of CPI(A) ending December 2022: | 104.9 ⁴ |
| (c) 12-month average of CPI(A) ending December 2024: | 109.5 ⁵ |
| (d) The rate of change from (b) to (c): | +4.4% ⁶ |

The new bereavement sum is calculated by applying the formula below:

New bereavement sum

= Current bereavement sum x (1 + percentage change of the relevant CPI(A) figures)

= \$242,500 x (1 + 4.4%)

= \$253,170 say \$253,500 (rounded up to the nearest \$500)

⁴ Index base: October 2019 – September 2020 = 100

⁵ Ibid.

⁶ The percentage change is derived from CPI(A) figures taken to more than one decimal place and is presented with one decimal place.