

立法會
Legislative Council

LC Paper No. CB(1)2326/01-02
(These minutes have been
seen by the Administration)

Ref: CB1/BC/9/01

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2002**

**Meeting on
Tuesday, 11 June 2002, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)
Hon NG Leung-sing, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon SIN Chung-kai
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP
- Member attending** : Hon James TIEN Pei-chun, GBS, JP
- Members absent** : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
- Public officers attending** : Miss Susie HO
Deputy Secretary for Financial Services
- Mr Geoffrey FOX
Senior Assistant Law Draftsman
- Ms Marie SIU
Senior Government Counsel

Mr Raymond TAM
Executive Director (Policy and Development)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Miss Polly YEUNG
Chief Assistant Secretary (1)3

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Miss Yvonne YU
Senior Assistant Secretary (1)

I. Meeting with the Administration

Matter arising

LC Paper No. CB(1)1985/01-02 - The Administration's response to the issues arising from the meeting held on 3 June 2002

The Bill and related papers

LC Paper No. CB(3)560/01-02 - The Bill

LC Paper No. CB(1)1833/01-02(02) - Marked-up copy of the Bill prepared by the Legal Service Division

File Ref: G4/49C(2002)V - The Legislative Council Brief on the Bill issued by the Financial Services Bureau on 17 April 2002

LC Paper No. LS83/01-02 - The Legal Service Division Report on the Bill

LC Paper No. CB(1)1792/01-02(01) - Extract of the minutes of the meeting of the Financial Affairs Panel on 7 January 2002 re-circulated

LC Paper No. CB(1)716/01-02(04) - Discussion paper provided by the Administration for the meeting of the Financial Affairs Panel on 7 January 2002

The Committee deliberated (Index of proceedings attached at **Annex A**).

- Admin 2. The Administration undertook to take the following actions and provide information as appropriate:

Provisions on contribution holiday (Clause 4 - proposed section 7A)

- (a) To simplify the present requirement for the employer to undertake the cumbersome exercise of prorating the relevant income and comparing it against the correspondingly prorated minimum and maximum levels of relevant income, the Mandatory Provident Fund Schemes Authority (MPFA) advised that the proposed amendments would reduce the administrative work and minimize the risk of error. To facilitate members' understanding, the Administration would provide an example to illustrate how the proposed amendments would simplify the process.

Streamlining measure (Clause 12 - proposed Schedules 2 and 3)

- (b) Members referred to the Administration's proposal to adopt the generic minimum (currently \$130 to be adjusted to \$160 per day) and maximum (\$650 per day) levels of relevant income for payroll cycle that was more frequent than monthly to simplify the prorating arrangements for the purpose of calculating Mandatory Provident Fund (MPF) contributions. While the Administration would provide an example to illustrate how the proposed amendments would simplify the process, a member also reminded the Administration to enhance its publicity on the calculation method of the MPF contributions after the Bill had been passed to facilitate understanding by the public.

Age profiles of MPF scheme members

- (c) Members noted the age profiles of MPF scheme members according to the latest annual returns submitted by approved trustees to the MPFA. On the age profile of 30 and <50, a member requested a further breakdown into two categories: first, 30 and <40, second, 40 and <50, as well as the relevant income profiles of the age groups. MPFA would explore the feasibility of providing the requested information.

Impact on the consumption expenditure (Clause 12 - proposed Schedule 2)

- (d) Members noted that if the minimum level of relevant income for MPF contributions was adjusted from \$4,000 to \$5,000 per month, the reduction in MPF contributions in the first year would amount to less than 1%, or some \$145 million, and the effect on the increase in consumer spending was estimated at less than 0.01 of a percentage point of private consumption expenditure or Gross Domestic Product in the year of incidence. At a member's request, the Administration was

requested to provide relevant statistics if the minimum level of relevant income was adjusted from \$5,000 to \$6,000 per month.

Consultation

- (e) Members noted that the Administration was seeking the views of the Chinese General Chamber of Commerce, Federation of Hong Kong Industries, Hong Kong General Chamber of Commerce and the Chinese Manufacturers' Association of Hong Kong on the provisions in the Bill. The Administration would consolidate the views received and provide members the information in due course.
- (f) A member referred to widespread concerns of both employees and employers about the MPF System and suggested that the Labour Advisory Board should be consulted on future changes to the MPF System. The Administration noted his suggestion for consideration.

Other concern

- (g) As a general practice, a member considered that for members' easy reference, the Administration should indicate in the relevant paragraphs of the Legislative Council Brief describing the proposed amendments the corresponding proposed provisions of the Bill which sought to give effect to such amendments.

II Any other business

3. The Chairman reminded members that the next meeting would be held on Wednesday, 12 June 2002 at 8:30 am to continue discussion with the Administration.

4. There being no other business, the meeting ended at 10:30 am.

Legislative Council Secretariat

18 July 2002

**Proceedings of the meeting of the Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2002
on Tuesday, 11 June 2002 at 8:30 am
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000205	Chairman	- To continue discussion in the order of the topics in the LegCo Brief (File Ref: G4/49C(2002)V)	
000205 - 000747	Mandatory Provident Fund Schemes Authority (MPFA)	<u>Simplifying Mandatory Provident Fund (MPF) Scheme Administration</u> - Provisions on contribution holiday - Annual notices - Other streamlining measures	
000747 - 001118	Chairman Ms Audrey EU MPFA	- At Ms EU's suggestion, the Administration agreed to consider that for members' easy reference, the Administration should as a general practice indicate in the relevant paragraphs of the LegCo Brief describing the proposed amendments the corresponding proposed provisions of the Bill which sought to give effect to such amendments	Admin
001118 - 001734	Mr CHAN Kam-lam MPFA	<u>Streamlining measure</u> (Clause 12 - proposed Schedules 2 and 3) - In response to Mr CHAN's concern, the Administration would provide an example to illustrate how its proposal to adopt the generic minimum (currently \$130 to be adjusted to \$160 per day) and maximum (\$650 per day) levels of relevant income for payroll cycle that was more frequent than monthly would simplify the prorating arrangements for the purpose of calculating MPF contributions - Mr CHAN also reminded the Administration to step up	Admin Admin

Time	Speaker	Subject(s)	Action required
		publicity on the new arrangements after the enactment of the Bill to facilitate understanding by the public	
001734 - 001954	Mr Henry WU Chairman Administration Ms Audrey EU MPFA	<u>Provisions on contribution holiday</u> (Clause 4 - proposed section 7A) - In response to Mr WU's concern, the Administration would provide an example to illustrate how the present requirement for the employer to undertake the cumbersome exercise of prorating the relevant income and comparing it against the correspondingly prorated minimum and maximum levels of relevant income could be simplified	Admin
001954 - 002712	Chairman MPFA	<u>Improving the system of regulating MPF schemes</u> - Proposal to streamline the requirements imposed upon approved trustees (Section 62 of the MPF Schemes (General) Regulation) (the Regulation) - Proposal to facilitate different forms of schemes restructuring (Clause 9 - proposed section 34B) - Proposal on the payment notice served by MPFA (Section 10 of Schedule to the Bill)	
002712 - 003448	Ms LI Fung-ying MPFA Chairman	- Deterrent effect of imposing a surcharge at a flat rate of 5% of the contribution in arrears - Elaboration on the follow-up actions, including prosecution by MPFA, which would be triggered off if there was continuing default at the end of the payment period	
003448 - 003626	Mr Henry WU MPFA	- Payment notice which demanded payment of contributions in arrears and imposed a surcharge at a flat rate of 5%	

Time	Speaker	Subject(s)	Action required
003626 - 004236	Mr CHAN Kam-lam MPFA	- Forms of registered schemes restructuring	
004236 - 004621	Ms Audrey EU MPFA	- Power to restructure registered schemes (Clause 9 - proposed section 34B(5) and (6))	
004621 - 005100	Mr CHAN Kam-lam Mr Henry WU MPFA	<ul style="list-style-type: none"> - Administrative cost and switching charges upon restructuring of registered schemes - Arrangements to be made by MPFA if the scheme members opposed to the restructuring of the registered schemes - MPFA assured members that one of its major considerations in deciding whether a proposed restructuring should be consented to was whether the interests of the members of the scheme(s) would be adequately protected 	
005100 - 011547	Chairman Mr Henry WU Ms Audrey EU Miss CHAN Yuen-han MPFA Administration	<p><u>Provisions on MPF Investment</u></p> <ul style="list-style-type: none"> - Members noted that the proposed amendments were to provide wider choices of investment vehicles and remove unnecessary restrictions on the investment of funds - While members expressed understanding that there should be enough flexibility in the legislation to allow the funds to be invested in and capitalized on quality products, members were concerned that scheme members' interests might be compromised as a result, in particular where the scheme members were not familiar with the investment funds - MPFA assured members that its prior approval was required for relaxing the restriction on investment of funds such as in the index-tracking collective investment schemes. The Administration and MPFA considered that the proposed 	

Time	Speaker	Subject(s)	Action required
		amendments had taken into account the dual need for flexibility and prudence	
011547 - 012043	Chairman MPFA	<u>Technical amendments</u> - Miscellaneous amendments to the principal ordinance and its subsidiary legislation to enhance efficiency and effectiveness of the MPF System	
012043 - 013135	Chairman Administration MPFA	The Administration's response to the issues arising from the meeting held on 3 June 2002 (LC Paper No. CB(1) 1985/01-02) <u>Minimum and maximum levels of relevant income for MPF contributions</u> - Monthly median employment earnings and monthly employment earnings at 90 th percentile of monthly employment earnings distribution - Additional retirement protection enjoyed by employees with income higher than \$20,000 per month - Number of employed persons affected if the minimum level of relevant income was \$4,000, \$5,000, \$6,000 or \$7,000 - Age profiles of MPF scheme members	
013135 - 013435	Miss CHAN Yuen-han MPFA	- On the age profile of ≥ 30 and <50, Miss CHAN requested a further breakdown into two categories: first, ≥ 30 and <40, second, ≥ 40 and <50, as well as the relevant income profiles of the age groups. MPFA would explore the feasibility of providing the requested information in consultation with the trustee industry	Admin
013435 - 013641	Mr CHAN Kam-lam MPFA Mr Henry WU	- Age profiles of MPF scheme members	

Time	Speaker	Subject(s)	Action required
013641 - 014001	Chairman MPFA Administration	<ul style="list-style-type: none"> - Projection on accrued benefits for employees approaching retirement - The impact of reduction in MPF contributions for relevant employees earning between \$5,000 and \$6,000 	
014001 - 014232	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - At Mr CHENG's request, the Administration would provide more detailed statistics on the impact on the private consumption expenditure and Gross Domestic Product if the minimum level of relevant income for MPF contributions was adjusted from \$5,000 to \$6,000 	Admin
014232 - 014512	Chairman MPFA Administration	<p><u>Enhanced protection for scheme members</u></p> <ul style="list-style-type: none"> - Cases for which prosecution could not be taken out because of expiry of the six-month time-bar - Cases in which employers still failed to take remedial action after conviction - Provisions in other Ordinances in which the six-month prosecution time-bar started from the discovery of the offences by the enforcing authority - Feasibility of imposing a fixed penalty on the offence of non-enrolment in MPF schemes - Discretion of the court in awarding the level of penalty 	
014512 - 014639	Mr CHAN Kam-lam MPFA	<ul style="list-style-type: none"> - Complaints on non-enrolment in MPF schemes received by MPFA 	
014639 - 014715	Dr YEUNG Sum MPFA	<ul style="list-style-type: none"> - Complaints lodged by employees that their employers forced them to change to self-employed persons 	
014715 - 015048	Administration Mr James TIEN	<p><u>Consultation</u></p> <ul style="list-style-type: none"> - The Administration would consolidate the views of the Chinese General Chamber of Commerce, Federation of Hong 	Admin

Time	Speaker	Subject(s)	Action required
		Kong Industries, Hong Kong General Chamber of Commerce and the Chinese Manufacturers' Association of Hong Kong on the provisions in the Bill, and inform members accordingly - Mr TIEN referred to the widespread concerns of both employees and employers about the MPF System and suggested that the Labour Advisory Board should be consulted on future changes to the MPF System. The Administration noted his suggestion for consideration	Admin
015048 - 015107	Chairman	- The next meeting would be held on 12 June 2002 at 8:30 am - Closing remarks	

Note: The audio records of the above proceedings are kept at the LegCo Library

Legislative Council Secretariat

18 July 2002