



**Mandatory Provident Fund Schemes (Amendment) Bill 2007**  
**Comments from Law Society**

Section in Bill	Provision being amended	Comment
<b>Part 2</b>		
<b>Sections 3 to 10</b> <b>Various provisions concerning undertakings</b>	Sections 12, 17(12), 22, 46(3)(c), 47(3)(a) & (b), 68(5), 69(2) of General Regulation and Schedule 3 Exemption Regulation	Why does the written undertaking have to be in the form of a deed? What is the meaning of a document in "like form" of a deed and who decides?
<b>Part 8</b>		
<b>Section 24</b> <b>Duty of self-employed person to become scheme member</b>	Section 7C MPFSO	<p>Since the new sub-paragraph (2A) is inserted in the middle of the section, this should read "Section 7C is amended by adding the following immediately following Section 7C(2)". This follows through several places throughout the Bill.</p> <p>The new sub-section is numbered 7C(2A), but why it is not inserted as 7C(7).</p>
<b>Part 9</b>		

Section in Bill	Provision being amended	Comment
<b>Section 28</b> <b>Transfer of accrued benefits of member of employer sponsored scheme</b>	Section 145 General Regulation	Amended 145(8) - consider changing "has been notified" to "has been notified by the employee or employer or former employer of the employee in accordance with this Section 145".
<b>Section 29</b> <b>Transfer of accrued benefits of member of master trust scheme or industry scheme (other than a causal employee who is a member of an industry scheme)</b>	Section 146 General Regulation	Amended 146(1) - similar to the above, consider amending to make it clear who should give the notice.
<b>Part 11</b>		
<b>Section 33</b> <b>What is an approved pooled investment fund for the purposes of this Regulation?</b>	Section 6 General Regulation	Under new 6(7), the words "determine the application" this would read better as "consider the application made under subsection (5)".
<b>Section 34</b> <b>Scheme may consist of a single constituent fund or of separate constituent funds</b>	Section 36 General Regulation	As for section 33 above.
<b>Part 12</b>		
<b>Section 36</b>	Section 172 General Regulation	New 172(5)(b)(ii) - will the benefit statement literally need to

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<b>Approved trustee to notify scheme member of entitlement</b>		state that the member "may at any time lodge with the approved trustee...a claim...in accordance with section 159"? The member will not understand the reference to section 159.
<b>Section 37 Sections added</b>	Sections 172A, B & C General Regulation	Should the register under 172C indicate whether benefits have already been paid into court?
<b>Part 14</b>		
<b>Section 41 Authority may disclose certain information despite section 41</b>	Section 42 MPFSO	New s42(1)(g) - This new power is very broad. Suggest make Authorities power subject to it "reasonably considering ...".
<b>Part 22</b>		
<b>Section 54 Approved trustee to provide scheme members with annual benefit statements</b>	Section 56(3) General Regulation	New para. (fa), replace "contain such information" by "contain such further information" and "reasonably specified by the Authority".
<b>Part 23</b>		
<b>Section 57 Eligibility of delegate of custodian</b>	Section 71 General Regulation	Under both sub-paragraphs (1) and (3), the reference to "related company" in the proposed amendment should be changed to "associated company".

Section in Bill	Provision being amended	Comment
<b>Part 26</b>		
<b>Section 61</b> <b>Section added</b>	New section 19A MPFSO	The newly added section 19A provides the MPFA with too extensive a power to require not only the employer or the self-employed person, but "any other person" as well to produce record for inspection. This should be limited to relevant persons.

**The Law Society of Hong Kong**  
**Retirement Schemes Committee**  
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