

MANDATORY PROVIDENT FUND SCHEMES
(AMENDMENT) BILL 2007

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>By deleting the clause and substituting –</p> <p>“2. Commencement</p> <p>(1) Subject to subsection (2), this Ordinance shall come into operation on the day on which it is published in the Gazette.</p> <p>(2) Sections 35, 36, 37, 38, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72 shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.”.</p>
3	<p>By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.</p>
4	<p>By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.</p>

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- 5 By deleting everything after “amended” and substituting “by repealing “a written undertaking to the Authority” and substituting “an undertaking to the Authority by deed, or by a document of like effect acceptable to the Authority,”.”.
- 6 By deleting everything after “amended” and substituting “by repealing “a written undertaking to the Authority” and substituting “an undertaking to the Authority by deed, or by a document of like effect acceptable to the Authority,”.”.
- 7(1) By deleting everything after “amended” and substituting “by repealing “a written undertaking” and substituting “an undertaking by deed, or by a document of like effect,”.”.
- 7(2) By deleting everything after “amended” and substituting “by repealing “a written undertaking” and substituting “an undertaking by deed, or by a document of like effect,”.”.
- 8 By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 9 By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 10 In the proposed section 7(3A) of Schedule 3, by deleting “like form” and substituting “a document of like effect”.

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- 15 In the proposed section 20(6)(b), by deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 16 In the proposed section 21(8), by deleting “a written undertaking with respect to the administration of the scheme by deed, or by like form” and substituting “an undertaking with respect to the administration of the scheme by deed, or by a document of like effect”.
- 17 In the proposed section 21A(8), by deleting “a written undertaking with respect to the administration of the scheme by deed, or by like form” and substituting “an undertaking with respect to the administration of the scheme by deed, or by a document of like effect”.
- 19(4) In the proposed section 14(3), in the English text, by adding “is or” before “are”.
- Part 7 By deleting the Part.
- 23 By deleting the clause and substituting –
- “23. Section added**
- The Mandatory Provident Fund Schemes Ordinance (Cap. 485) is amended by adding –
- “7D. Application of Ordinance to certain employees and self-employed persons**
- (1) If –
- (a) an employer enters into a

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contract of employment with an employee who is less than 18 years of age; and

- (b) the employee reaches 18 years of age on or after the date of commencement of this section; and
- (c) the employer continues to employ the employee after he reaches 18 years of age,

then this Ordinance applies to the employer and the employee as if they had entered into the contract of employment on the day on which the employee reaches 18 years of age and the employment had begun or commenced on that day.

(2) If –

- (a) a person is self-employed before he is 18 years of age; and
- (b) he reaches 18 years of age on or after the date of commencement of this section; and
- (c) he continues to be self-employed after reaching 18 years of age,

then this Ordinance applies to him as if he had become a self-employed person on the day on which he reaches 18 years of age.”.”.

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- 24 By deleting the clause.
- 37 (a) In the proposed section 172C, by adding –
“(3A) The register is to be made available for inspection to enable a person who may be entitled to benefits in a registered scheme to ascertain whether he has any unclaimed benefits in the scheme.”.
- (b) In the proposed section 172C(4), by deleting “to ascertain whether he has any unclaimed benefits in the scheme”.
- 41 By adding –
“(5) Section 42 is amended by adding –
“(5A) The information that may be disclosed under subsection (1)(g) includes (but is not limited to) information relating to –
- (a) the investment portfolios and investment policies of provident fund schemes, constituent funds or approved pooled investment funds;
 - (b) the investment performances of provident fund schemes, constituent funds or approved pooled investment funds;
 - (c) the risks associated with investing in provident fund schemes, constituent funds or approved pooled investment

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funds;

- (d) the fees and charges payable under provident fund schemes, constituent funds or approved pooled investment funds; and
- (e) the types of services available to members of provident fund schemes.”.”.

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By deleting the proposed section 43C(3) and substituting –

“(3) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against this section –

- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
- (b) within 3 years of the commission of the offence,

whichever period expires first.”.

48(2)

By deleting the proposed section 43E(2) and substituting –

“(2) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against this section –

- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
- (b) within 3 years of the commission of the offence,

whichever period expires first.”.

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- 49(2) By deleting the proposed section 26(2) and substituting –
- “(2) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against subsection (1)(a) consisting of a failure to comply with section 4(1) or 15(1) –
- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
- (b) within 3 years of the commission of the offence,
- whichever period expires first.”.
- 54 (a) By renumbering the clause as clause 54(1).
- (b) By adding –
- “(2) Section 56(5) is amended by repealing “(f)” and substituting “(fa)”.”.
- 58 (a) In the English text, by adding “a” before “related”.
- (b) In the English text, by adding “an” before “associated”.
- New By adding immediately after clause 60 –
- “60A. Application of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2007**
- The Mandatory Provident Fund Schemes Ordinance (Cap. 485) as amended by section 60 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2007 (of 2007) applies in relation to a contribution period that begins on or after the date of

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commencement of that section.”.

63(6)

By deleting the proposed section 18(5) and substituting –

“(5) The Authority must pay any arrears or contribution surcharge paid to or recovered by the Authority –

- (a) in the case of an employee who is still employed by the employer concerned at the time the Authority makes payment –
 - (i) to the approved trustee of the registered scheme nominated by the employer for this purpose; or
 - (ii) if the employer has not nominated a registered scheme, to the approved trustee of the registered scheme nominated by the employee for this purpose; or
 - (iii) if neither the employer nor the employee has nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate; or
- (b) in the case of an employee who has ceased to be employed by the employer concerned at the time the Authority makes payment –

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- (i) to the approved trustee of the registered scheme nominated by the employee for this purpose; or
 - (ii) if the employee has not nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate; or
- (c) in the case of a self-employed person –
 - (i) to the approved trustee of the registered scheme nominated by the self-employed person for this purpose; or
 - (ii) if the self-employed person has not nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate.”.

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