

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1242/15-16  
(These minutes have been seen  
by the Administration)

Ref : CB2/PS/2/14

**Panel on Manpower and Panel on Financial Affairs**

**Joint Subcommittee to Study the Arrangement of  
Offsetting Severance Payments and Long Service Payments  
against Mandatory Provident Fund Accrued Benefits**

**Minutes of meeting  
held on Tuesday, 23 February 2016, at 11:00 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon SIN Chung-kai, SBS, JP (Chairman)  
Hon TANG Ka-piu, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon CHEUNG Kwok-che  
Hon WONG Kwok-kin, SBS  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon LEUNG Kwok-hung  
Hon CHAN Yuen-han, SBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan

**Member attending** : Hon Frankie YICK Chi-ming, JP

**Members absent** : Hon Abraham SHEK Lai-him, GBS, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG

**Public Officers attending** : Item I

Mr Matthew CHEUNG Kin-chung, GBS, JP  
Secretary for Labour and Welfare

Ms Melody LUK Wai-ling  
Assistant Commissioner for Labour  
(Labour Relations)

Ms Esther CHAN Lai-heung  
Senior Labour Officer (Labour Relations)  
Labour Department

Miss Wendy CHUNG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Mr Raymond LAM  
Senior Council Secretary (2) 7

Miss Lulu YEUNG  
Clerical Assistant (2) 1

---

**I. The arrangement of offsetting severance payments and long service payments against Mandatory Provident Fund accrued benefits**

The Joint Subcommittee deliberated (index of proceedings attached at **Annex**).

2. Members requested the Administration to provide :
  - (a) information on the total number and amount of claims for offsetting severance payment ("SP") and long service payment ("LSP") against Mandatory Provident Fund ("MPF") accrued benefits of employees of government outsourced contractors and non-civil service contract staff; and
  - (b) information supporting the statement in paragraph 5.22 of the consultation document "Retirement Protection Forging Ahead" issued by the Commission on Poverty that "If the 'offsetting' arrangement is abolished, enterprises will need to make additional reserve to meet financial accounting requirements".

## **II. Any other business**

3. Members noted that the next meeting had been scheduled for 7 March 2016 at 2:30 pm to receive the views of the public on the arrangement of offsetting SP and LSP against MPF accrued benefits.
4. There being no other business, the meeting ended at 12:46 pm.

Council Business Division 2  
Legislative Council Secretariat  
8 April 2016

**Proceedings of meeting of the  
Joint Subcommittee to Study the Arrangement of  
Offsetting Severance Payments and Long Service Payments  
against Mandatory Provident Fund Accrued Benefits  
held on Tuesday, 23 February 2016, at 11:00 am  
in Conference Room 1 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000929	Chairman	Opening remarks	
000930 - 001659	Chairman Admin	Briefing by the Administration on its paper on the arrangement of offsetting severance payments ("SP") and long service payments ("LSP") against Mandatory Provident Fund ("MPF") accrued benefits ("the offsetting arrangement") (LC Paper No. CB(2)923/15-16(01)).	
001700 - 002840	Chairman Mr LEE Cheuk-yan Mr CHEUNG Kwok-che Admin	<p>Mr LEE Cheuk-yan's view that the launching by the Commission on Poverty ("CoP") of a public consultation on retirement protection, which covered the offsetting issue, reflected that the Administration had no intention to abolish the offsetting arrangement.</p> <p>Mr LEE's concerns regarding :</p> <p>(a) whether the Administration intended to provide financial assistance to employers for the settlement of SP, if the offsetting arrangement was to be abolished; and</p> <p>(b) whether the Administration would undertake not to abolish LSP.</p> <p>Mr CHEUNG Kwok-che's concerns that :</p> <p>(a) it could be noted from the Administration's paper that the total amount of claims for offsetting SP and LSP against MPF accrued benefits in the past 15 years was substantial and a majority of the employees affected were elementary workers aged 48 to 54;</p> <p>(b) employers should be aware of the requirements regarding SP and LSP from the time they started their businesses; and</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(c) the Administration should provide a routemap on the abolition of the offsetting arrangement.</p> <p>Administration's response that :</p> <p>(a) the Administration maintained an open mind towards the offsetting issue, which was one of the core issues under CoP's public consultation on retirement protection, that had commenced recently;</p> <p>(b) after the completion of the consultation period on 21 June 2016, the views received would be analysed and the way forward was expected to be announced in the Chief Executive("CE")'s 2017 Policy Address; and</p> <p>(c) the offsetting issue was a complex one and should be examined holistically.</p>	
002841 - 003353	Chairman Mr POON Siu-ping Admin	<p>Mr POON Siu-ping's concern regarding :</p> <p>(a) whether and how the Administration would persuade the business sector to accept abolition of the offsetting arrangement;</p> <p>(b) whether the Administration would come up with any proposal on abolition of the offsetting arrangement; and</p> <p>(c) whether the Administration would consider abolishing the offsetting arrangement for employees of government outsourced contractors and Member's assistants as a first step to take forward the issue.</p> <p>Administration's response that :</p> <p>(a) it was aware of the divergent views of employers and employees on the offsetting issue. The Administration maintained an open mind towards the offsetting issue;</p> <p>(b) CoP was conducting a six-month public consultation on retirement protection and the way forward in respect of the offsetting issue was expected to be announced in CE's 2017 Policy Address;</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(c) the offsetting issue was not simply a choice between "keeping" or "abolishing" the arrangement. The community should take the opportunity offered by the consultation to conduct thorough and in-depth discussions on the feasible options for addressing the offsetting issue; and</p> <p>(d) as the offsetting issue should be considered holistically, the Administration considered it inappropriate to abolish the offsetting arrangement for employees of government outsourced contractors and Member's assistants at the moment.</p>	
003354 - 003856	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's concern that :</p> <p>(a) as any retirement protection scheme to be introduced by the Administration would likely be a mean-tested one, employees would have to rely on MPF accrued benefits for supporting their living after retirement. However, such accrued benefits might be substantially reduced by the offsetting arrangement; and</p> <p>(b) CE had indicated in his election manifesto that the offsetting issue would be dealt with progressively, the Administration should make clear its stance regarding the offsetting issue, including whether it was opposed to the abolition of offsetting arrangement.</p> <p>Administration's response that :</p> <p>(a) a retired employee whose MPF accrued benefits were offset by SP or LPS was entitled to Old Age Living Allowance ("OALA") if :</p> <p>(i) the total value of his/her asset did not exceed \$219,000; and</p> <p>(ii) his/her monthly income was not more than \$7,340;</p> <p>(b) about 40% of the elderly were currently receiving OALA; and</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		(c) CE had indicated in his election manifesto that he would progressively reduce the proportion of the offsetting amount. The Administration had an open mind on the offsetting issue. The community should make good use of the opportunity offered by the consultation to conduct thorough and in-depth discussion on the feasible options for addressing the offsetting issue.	
003857 - 004413	Chairman Deputy Chairman Admin	<p>Deputy Chairman's question on the Administration's views regarding the recent suggestions of an academic Dr LAW Chi-kwong on the abolition of the offsetting arrangement.</p> <p>Administration's response that :</p> <p>(a) it maintained an open mind towards the offsetting issue;</p> <p>(b) it was aware of the divergent views of labour unions and employer groups on the offsetting issue; and</p> <p>(c) it hoped that the community would, during the consultation period, carry out thorough and in-depth discussions on the feasible options for addressing the offsetting issue to facilitate determination of the way forward.</p> <p>Deputy Chairman's request for the Administration to provide information on the total number and amount of claims for offsetting SP and LSP against MPF accrued benefits of employees of government outsourced contractors and non-civil service contract staff.</p>	<b>Admin</b>
004414 - 004932	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-kwong's view that :</p> <p>(a) as the purposes of SP and LSP were different from the purpose of MPF, it was wrong to offset SP or LSP against accrued benefits arising from employers' contribution to MPF;</p> <p>(b) it could be noted from the Administration's paper that about 45% and 64% of</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>employees whose SP and LSP had been offset against their MPF accrued benefits in 2014 were aged 50 and above; and</p> <p>(c) the Administration should provide a timetable on its consultation on the offsetting issue.</p> <p>Administration's response that after the six-month public consultation on retirement protection which would end in late June 2016, the views received would be analysed and the way forward in respect of the offsetting issue would be set out in CE's 2017 Policy Address.</p>	
004933 - 005448	Chairman Miss CHAN Yuen-han Admin	<p>Miss CHAN Yuen-han's view that the way forward in respect of the offsetting issue should be announced in June 2016 after the consultation exercise instead of in CE's 2017 Policy Address.</p> <p>Administration's response that the public consultation exercise sought to identify the way forward for retirement protection and included the offsetting issue. As the consultation period would end on 21 June 2016, it was not viable to come to a conclusion on the way forward shortly after June 2016.</p>	
005449 - 005954	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-kei's concern that it could be noted from the Administration's paper that the SP and LSP of many employees had been offset against their respective MPF accrued benefits in 2014.</p> <p>Dr KWOK's concern regarding whether the Administration would facilitate abolition of the offsetting arrangement by establishing a fund to assist small and medium enterprises to meet the extra payment arising from the abolition.</p> <p>Administration's response that it had an open mind on the offsetting issue. It hoped that the community would, during the consultation period, carry out thorough and in-depth discussion on the feasible options for addressing the offsetting issue to facilitate determination of the way forward.</p>	



Time marker	Speaker(s)	Subject(s)	Action Required
005955 - 010551	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan's concern that :</p> <ul style="list-style-type: none"> <li>(a) according to the Administration's paper, a considerable number of employees whose SP and LSP had been offset by their MPF accrued benefits in 2014 were employed by larger companies with more than 50 employees;</li> <li>(b) the monthly wage cap for calculating SP or LSP, which was currently \$22,500, should be raised to \$30,000 to bring it in line with the maximum level of relevant monthly income for mandatory MPF contribution; and</li> <li>(c) with the abolition of the offsetting arrangement, a means-tested retirement protection scheme would result in less people meeting the asset limit for entitlement to OALA.</li> </ul> <p>Administration's response that :</p> <ul style="list-style-type: none"> <li>(a) it could be noted from the Administration's paper that more than 50% of employees whose SP and LSP had been offset by their MPF accrued benefits in 2014 were employed by companies with one to 50 employees;</li> <li>(b) the current maximum and minimum levels of relevant monthly income for mandatory MPF contribution were \$30,000 and \$7,100 respectively. Employees or self-employed persons earning less than the minimum relevant income level did not need to contribute but employers still needed to make their contributions for the employees. For employees or self-employed persons earning more than the maximum relevant income level, the employees and their employers or the self-employed persons did not need to make contributions for the part of the income above this level; and</li> <li>(c) the subject of raising the wage cap for calculating SP or LSP had been discussed by the Panel on Manpower and it had been</li> </ul>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>noted that before the offsetting issue was tackled, an increase in the wage cap for calculating SP or LSP would result in an increase in the amount of accrued benefits in the employees' account subject to offsetting.</p>	
010552 - 013535	<p>Chairman Miss CHAN Yuen-han Mr LEUNG Kwok-hung Mr POON Siu-ping Mr LEE Cheuk-yan Admin</p>	<p>Miss CHAN Yuen-han's view that :</p> <ul style="list-style-type: none"> <li>(a) the Administration should, as in the introduction of legislation on a statutory minimum wage, play a more active role in the abolition of the offsetting arrangement; and</li> <li>(b) the Administration should provide a timetable on the abolition of the offsetting arrangement.</li> </ul> <p>Mr LEUNG Kwok-hung's view that :</p> <ul style="list-style-type: none"> <li>(a) if SP and LSP could be offset against MPF accrued benefits, the function of MPF would be defeated; and</li> <li>(b) the Administration should abolish the offsetting arrangement or at least abolish the offsetting arrangement by stages.</li> </ul> <p>Mr POON Siu-ping's view that the Administration should :</p> <ul style="list-style-type: none"> <li>(a) provide a timetable on the series of steps to be taken after the end of the consultation period; and</li> <li>(b) consider, as in the introduction of paternity leave, abolishing the offsetting arrangement for the public sector as a first step.</li> </ul> <p>Mr LEE Cheuk-yan's view that if the way forward regarding the offsetting issue was to be announced in CE's 2017 Policy Address, there would be insufficient time left for implementation by the current term government and there was no guarantee that the government of the next term would continue with the work concerned.</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>Administration's response that :</p> <ul style="list-style-type: none"> <li>(a) it was playing an active role in tackling the offsetting issue. All the views received in the consultation exercise would be studied by the Administration;</li> <li>(b) the views received would be collated and analysed to facilitate thorough and in-depth discussions on the feasible options and way forward. Such a process would inevitably take some time;</li> <li>(c) if the way forward had been arrived at after extensive public consultation as well as thorough and in-depth discussion and was widely accepted by different sectors of the community, the Government of the next term would be unlikely not to consider it; and</li> <li>(d) it would be more appropriate to determine the way forward in respect of the offsetting issue before taking any steps in the public sector.</li> </ul>	
013536 - 013813	Chairman Admin	<p>The Chairman's view that if the way forward was to be determined shortly after the consultation period ended in late June 2016, the relevant legislative amendments could be introduced in October 2016 and enacted around mid-2017. On the other hand, if the way forward was to be announced in CE's 2017 Policy Address, there would not be sufficient time for the current term government to complete the process.</p> <p>Administration's response that any legislative amendments would inevitably take some time. It was important for the way forward to be acceptable to different sectors of the community.</p>	
013814 - 014712	Chairman Dr CHIANG Lai-wan Mr LEE Cheuk-yan Admin	<p>Dr CHIANG Lai-wan's view that :</p> <ul style="list-style-type: none"> <li>(a) the respective concerns of employees and employers were understandable;</li> <li>(b) there was a need to rationalise the relationship among SP, LSP and MPF; and</li> </ul>	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(c) consideration might be given to abolishing LSP while at the same time increasing the respective mandatory contributions of employers and employees under MPF.</p> <p>Mr LEE Cheuk-yan's view that LSP should not be abolished.</p> <p>Administration's remark that it welcomed views on the offsetting issue. It was aware of the respective concerns of employers and employees and hoped that the community would arrive at a consensus on the way forward.</p> <p>Mr LEE's request for the Administration to provide information supporting the statement in paragraph 5.22 of the consultation document "Retirement Protection Forging Ahead" issued by CoP that "If the 'offsetting' arrangement is abolished, enterprises will need to make additional reserve to meet financial accounting requirements".</p>	<b>Admin</b>
014713 - 014748	Chairman	Date of next meeting	