

立法會
Legislative Council

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**Paper for the House Committee meeting
on 31 March 2000**

**Report of the Subcommittee on Mandatory Provident Fund
Schemes (Exemption) Regulation (Specification of
Date under sections 5 and 16) Notice**

Purpose

This paper reports on the deliberations of the Subcommittee on Mandatory Provident Fund (Exemption) Regulation (Specification of Date under sections 5 and 16) Notice.

The Notice

2. The Notice specifies 4 May 2000 as the date by which an application for an exemption certificate has to be made in respect of a scheme exempted or registered under the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO scheme).
3. The legal effect of the exemption certificate is to exempt the relevant employer as well as the existing and new members of the ORSO scheme from the requirements in Part III of the Mandatory Provident Fund Schemes Ordinance (Cap 485) (MPFSO). That Part stipulates, among other things, the duty of employers and employees to contribute to a provident fund scheme registered under that Ordinance.

The Subcommittee

4. The House Committee agreed at its meeting on 17 March 2000 to form a Subcommittee to examine the Notice. The Subcommittee met on 27 March 2000 and Hon Ronald ARCULLI was elected Chairman. The membership of the Subcommittee is in the Appendix.

Deliberations of the Subcommittee

5. The Administration has informed members that more than 11 000 existing schemes are qualified for exemption from joining Mandatory Provident Fund (MPF) schemes. Employers who want to be exempted from joining MPF schemes by continuing existing retirement schemes will have to seek exemption on or before 3 May 2000. Up to the date of the meeting, the MPF Schemes Authority (MPFA) has received about 800 applications for exemption.

6. Members note that the MPFA has issued questionnaires to all the employers concerned. Of the some 1 000 questionnaires returned so far, 70% of them have indicated that they will retain the present level of contributions and 90% of them have indicated that they have already made their decision. Members also note that there is publicity on the radio to promote awareness of the deadline date.

7. Members are concerned whether the employees concerned are able to find out whether their employers have applied for exemption. MPFA representatives have informed members that the preservation of secrecy provisions in section 77 of the ORSO and in section 41 of the MPFSO prohibit the disclosure of information. Therefore, scheme members are not able to obtain such information from the MPFA or the trustees even with the consent of their employers. However, the employees concerned could seek information from their employers if they are in doubt about their future benefits.

8. The representatives have also informed members that the MPFA has convened a meeting with the 10 largest retirement schemes companies recently to draw their attention to the need to remind the employers concerned of their responsibility to their staff.

9. Members also note that if existing scheme contributions are lower than 5%, MPFA would ask the employers concerned whether they are aware that their employees have the right to opt for a MPF scheme after the commencement of the MPF schemes. Such information will also be included at the back of each exemption certificate to serve as a reminder to the employers. Although it is not anticipated that there will be many cases in this category, there will be publicity to highlight the employees' right of choice.

10. Members observe that most of the publicity so far is in the form of advertisements by the administrators of MPF schemes. They urge the MPFA to step up publicity regarding the need to apply for exemption before the deadline. MPFA representatives have pointed out that on top of the radio advertisement, there will also be publicity on the television starting from the following week. In addition, letters have been sent to all the employers concerned to invite their attention to the date and meetings have been held with labour unions and District Councils to promote awareness of the matter.

11. As regards the choice of the date of 4 May 2000, MPFA representatives have pointed out that since the date was first announced on 3 January 2000, a period of four months should allow enough time for employers to make their decision. It is anticipated that even though most of the employers concerned have already made their decision, they are likely to wait until close to the deadline before submitting their applications for exemption. Time has then to be allowed for processing the applications, for appeals, and for choosing a new plan if the appeal is rejected before the commencement date of the MPF schemes on 1 December 2000.

12. Members have no problem with the specified deadline date. They emphasize the need for more publicity regarding the deadline to ensure that all employers are aware of the need to apply for exemption.

13. At the request of the Chairman, the Administration has agreed to provide a progress report on the position of application for exemption to the LegCo Panel on Financial Affairs before its next meeting on 13 April 2000.

Recommendation

14. The Subcommittee supports the specified date in the Notice.

Advice sought

15. Members are invited to note the recommendation in paragraph 14 above.

Legislative Council Secretariat
30 March 2000

**Subcommittee on Mandatory Provident Fund Schemes (Exemption)
Regulation (Specification of Date under sections 5 and 16) Notice**

Membership List

Hon Ronald ARCULLI, JP (Chairman)

Hon David CHU Yu-lin

Hon HO Sai-chu, SBS, JP

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon NG Leung-sing

Hon CHAN Yuen-han

Hon Bernard CHAN

Hon CHAN Kam-lam

Hon LEUNG Yiu-chung

Hon SIN Chung-kai

Hon Andrew CHENG Kar-foo

Total : 12 Members