

立法會
Legislative Council

LC Paper No. LS137/99-00

**Paper for the House Committee Meeting of the
Legislative Council
on 12 May 2000**

**Legal Service Division Report on
Resolution under section 47 of the Mandatory Provident
Fund Schemes Ordinance (Cap. 485)**

The Acting Secretary for Financial Services has given notice to move a motion at the Legislative Council meeting of 24 May 2000 to pass the above resolution. By the resolution, the Administration is seeking the Legislative Council's approval of the Mandatory Provident Fund Schemes Rules made by the Mandatory Provident Fund Schemes Authority ("the Authority") on 8 May 2000. The purpose of these Rules is to supplement the provisions of the Mandatory Provident Fund Schemes Ordinance ("the Ordinance") in order to facilitate the operation of the Mandatory Provident Fund System.

2. Members may note that in various parts of the Ordinance, technical or operational details are to be provided for by rules made by the Authority. Section 47 of the Ordinance empowers the Authority to make rules for or in respect to any matter which the Ordinance requires or permits to be prescribed by rules. A rule made under section 47 is subject to the approval of the Legislative Council.

3. The Mandatory Provident Fund Schemes Rules ("the Rules"), the subject of this resolution, provide for three aspects :-

- (a) **Calculation of accrued benefits vested in a member of a registered scheme.** Under section 12(3) of the Ordinance, the total amount of accrued benefits vested in a scheme member from time to time is to be calculated as provided by the rules. Section 3 of the Rules provides for the formula of calculation for the purposes of section 12(3) of the Ordinance. The formula is the same as that prescribed for the calculation of accrued benefits in a scheme member's account under section 78 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg.). It is an offence under the Rules for a registered trustee to fail to ensure that the calculation formula is complied with.

- (b) **Information to be contained, and the documents to be accompanied, in an application for the merger of registered schemes.** Section 34B of the Ordinance provides that the approved trustees of 2 or more registered schemes that are employer sponsored schemes or master trust schemes may apply to the Authority to consent to the merger of those schemes into a single new scheme of the same kind. The merger application must contain such information, and be accompanied by such documents, as are prescribed by the rules. By section 4 of these Rules, the Authority prescribes the required information and documents.
- (c) **Information to be contained, and the documents to be accompanied, in an application for the division of a registered scheme.** Section 34C of the Ordinance provides that the approved trustees of a registered scheme that is an employer sponsored scheme or a master trust scheme may apply to the Authority to consent to the division of the schemes into two or more new schemes of the same kind. Again, the division application must contain such information, and be accompanied by such documents, as are prescribed by the rules. By section 5 of these Rules, the Authority prescribes the required information and documents.

4. Background and details are contained in the LegCo Brief dated 9 May 2000 issued by the Financial Services Bureau (file reference: FSB CR G6/9/32C(2000)). As provided for in section 1, these Rules, if approved by LegCo, will come into operation on 1 December 2000.

5. The Legal Service Division is still scrutinizing the Rules and will issue a further report in due course.

Prepared by

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