

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

**Minutes of meeting
held on Monday, 27 March 2000 at 2:30 pm
in the Chamber of the Legislative Council Building**

Members Present : Hon Ronald ARCULLI, JP (Chairman)
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon SIN Chung-kai

Members Absent : Hon Albert HO Chun-yan
Hon NG Leung-sing
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Andrew CHENG Kar-foo

Public Officers Attending : Item II
Ms Susie HO
Deputy Secretary for Financial Services

Mr Alan WONG
Managing Director, Mandatory Provident Fund Schemes Authority

Ms Henden YU
Executive Director (Occupational Retirement Schemes),
Mandatory Provident Fund Schemes Authority

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Mr Ronnie LAI
Senior Manager (Occupational Retirement Schemes),
Mandatory Provident Fund Schemes Authority

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mr Stanley MA
Senior Assistant Secretary (2) 6

I. Election of Chairman

Nominated by Mr SIN Chung-kai and seconded by Mr HO Sai-chu, Mr Ronald ARCULLI was elected chairman of the Subcommittee.

II. Meeting with the Administration

2. The Chairman welcomed representatives of the Administration and the Mandatory Provident Fund Schemes Authority (MPFA) to the meeting.

Application for exemption

3. At the invitation of the Chairman, Deputy Secretary for Financial Services (DS(FS)) said that employers who wished to continue existing retirement schemes exempted or registered under the Occupational Retirement Schemes Ordinance (ORSO) should apply to the Mandatory Provident Fund Schemes Authority on or before 3 May 2000 for exemption from joining Mandatory Provident Fund (MPF) schemes. She added that the MPFA had so far received some 800 applications for an exemption. Of these applications, only one had made adjustments to the benefits while all others retained the existing level of benefits.

4. DS(FS) added that MPFA had written to more than 11 000 employers with registered ORSO schemes to remind them of the deadline for lodging an application for exemption. The opportunity was also taken to request the employers concerned to complete and return a questionnaire on the subject before the end of March 2000. Of the 1 032 questionnaires returned so far, 90% of them indicated that they had already made their decision on whether to

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apply for exemption and 70% indicated that they would not change the terms and conditions of the existing ORSO schemes.

Retirement benefits of registered ORSO and new MPF schemes

5. Mr LEE Cheuk-yan asked how many registered ORSO schemes had better terms and conditions than the prescribed requirements for MPF schemes. DS(FS) replied that more than 50% of such registered schemes had better benefits than those of a MPF scheme.

Provision of information to employees

6. Mr LEE Cheuk-yan expressed concern that some employees would not be able to continue as a member of a registered ORSO scheme and be forced to accept a MPF scheme at less favourable terms and conditions if the employers did not submit an application for exemption on or before 3 May 2000. He asked how employees could know whether their employers had submitted applications for exemption under the Mandatory Provident Fund Schemes Ordinance (MPFSO). He enquired whether the MPFA or the trustees of the registered schemes could respond to these employees' enquiries on telephone hotlines and provide relevant details on their websites on the Internet.

7. DS(FS) responded that the MPF legislation did not specify that employers should consult employees before deciding to discontinue existing ORSO schemes after the commencement of the MPF schemes on 1 December 2000.

8. Assistant Legal Adviser 1 pointed out that under section 4 of the Mandatory Provident Fund Schemes (Exemption) Regulation (the Regulation), employers who had lodged an application for exemption should provide the eligible employees with the information as specified in Part 1 of Schedule 1 of the Regulation 50 days before the commencement of section 7 of the MPFSO.

9. Managing Director of the MPFA (MD(MPFA)) said that the preservation of secrecy provisions in section 77 of the ORSO prohibited the disclosure of information except under the circumstances and for the purposes as specified in section 78 of the ORSO. Therefore scheme members could not 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 should have any doubt about their future benefits.

10. MD(MPFA) further said that employers ultimately had to determine the level of retirement benefits given to their employees. They could select a MPF scheme and make contributions above the minimum requirement to improve retirement benefits for their staff. He pointed out that the MPFA actually encouraged employers to contribute more than the prescribed minimum

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of 5% of employees' salaries. At a recent meeting with 10 major MPF scheme administrators, the MPFA had urged them to advise employers to observe the deadline for submitting applications, and to remind them of their responsibility to their staff.

Employees' right of choice

11. In response to the Chairman's question, Executive Director (Occupational Retirement Schemes) ED(ORS) said that the MPFA would ask employers with existing ORSO schemes with contributions lower than 5% whether they were aware that their employees had the option to opt for a MPF scheme. Such information would also be included at the back of the exemption certificate to serve as a reminder to the employees. MD(MPFA) supplemented that MPFA was not empowered to impose additional conditions on granting exemption to existing ORSO schemes. However, in view of the small number of such schemes, MPFA would remind the employers concerned of the need to inform their employees of their decision to apply for exemption.

Exemption criteria for registered ORSO schemes

12. The Chairman and Mr LEE Cheuk-yan enquired about the criteria for granting exemption to existing ORSO schemes, given that the terms and conditions of such schemes need not be more favourable than the provisions of a MPF scheme.

13. ED(ORS) responded that the main requirements for granting exemption were that the registered ORSO schemes should be governed by a trust, were established on or before 15 October 1995 and registered on or before 15 January 1996. ORSO schemes not meeting these requirements would be considered on individual merits.

Deadline for exemption application

14. The Chairman asked how the specified date of 4 May 2000 was decided and whether late applications would be accepted.

15. MD(MPFA) responded that the MPFA could not accept late applications. He explained that as the application for exemption in respect of existing ORSO Schemes commenced on 3 January 2000, it was considered that a period of four months should allow enough time for employers of registered ORSO schemes to decide whether to apply for an exemption or to join a new MPF scheme. He said that even though over 90% of the employers concerned had already made their decision, most of them would wait until close to the deadline date before submitting their applications. He pointed out that the MPFA aimed to complete the vetting process by the end of July 2000. Section 35 of the MPFSO provided that an applicant could appeal against a decision of the MPFA to refuse his application for an exemption certificate within two months

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after the date of the relevant notice. If the appeal was subsequently overruled, the applicant would still have a period of about two months to opt for a new MPF scheme before the commencement of MPF schemes on 1 December 2000.

16. Mr LEE Cheuk-yan said that he still had some reservations about the situation. In particular he was concerned whether employers would consult their employees should they decide not to lodge an application to the MPFA before 4 May 2000. Mr HO Sai-chu considered that the deadline for submitting exemption applications should not be postponed as it would delay the commencement of the MPF schemes on 1 December 2000. He suggested that the MPFA could call or write to employers concerned if the response rate was not satisfactory.

Publicity on the deadline

17. Mr LEUNG Yiu-chung observed that most of the publicity in respect of the MPF so far was in the form of advertisement by the fund administrators. He urged the MPFA to step up publicity of the deadline for applying an exemption certificate as he was worried that many employers might confuse the deadline date with the commencement date of the MPF schemes and cause delay.

18. In response, ED(ORS) said that the Authority had conducted a series of seminars with employers' associations and employees' unions to explain the procedures and options available to employers of existing ORSO schemes and advised them of the deadline for application for exemption. MD(MPFA) said that there was already publicity regarding the deadline on the radio and advertisements on the matter would also appear on the television shortly. In addition, MPFA had written to all the employers concerned to invite their attention to the deadline date. It had also held meetings with labour unions and District Councils to promote public awareness of the matter.

Progress on application for exemption

19. The Chairman urged the media to publicize the deadline date. He considered that it was important for employers to be aware of the matter and apply for exemption, which was quite a simple process, before the deadline.

20. As regards the processing of applications for exemption, ED(ORS) said that the work in respect of the applications received was already in progress. In anticipation of a large number of applications coming in close to the deadline date, the MPFA had recruited temporary staff who were being trained for the purpose. It was aimed to complete the process by the end of July 2000.

21. Members agreed to accept 3 May 2000 as the deadline for submission of application for exemption to the Authority. To keep members informed of the progress, the Chairman requested and the Administration agreed to provide a

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progress report on the position of application for exemption to the LegCo Panel on Financial Affairs before its next meeting on 13 April 2000. The Chairman would mention such arrangement when reporting the deliberations of the Subcommittee to the House Committee on 31 March 2000.

22. There being no other business, the meeting ended at 3:20 pm.

Legislative Council Secretariat

13 April 2000