

**LegCo Panel on Manpower
(For Meeting on 30 March 2000)**

**Protection of employees' retirement benefits
under existing occupational retirement schemes
after the implementation of the Mandatory Provident Fund (MPF) System**

**Legislative protection of employees' retirement benefits
under the existing occupational retirement schemes**

Under the Employment Ordinance, employers are not allowed to make, without the prior consent of the employees, unreasonable variation to the terms of employment contracts including reduction of employees' wages or benefits. An employee may claim for remedies against his employer if the terms of his employment contract have been unreasonably varied without his consent.

2. Occupational retirement schemes operated by employers are governed by the Occupational Retirement Schemes Ordinance (ORSO). Under the provisions of the ORSO, an employer must obtain not less than 90 per cent of the scheme members' consent before he can institute changes to the scheme's rules if such changes would result in detriment to scheme members' accrued benefits or vested interests.

Administrative and other measures

3. The Labour Department (LD) and the Mandatory Provident Fund Schemes Authority (MPFA) have set up a liaison group to coordinate work in handling enquiries and complaints from the public concerning the employment benefits of employees arising from the implementation of the MPF System.

4. If employers or employees have enquiries on their rights and obligations under the Employment Ordinance arising from the implementation of the MPF System, they may contact the LD's Telephone Enquiry Service which answers general enquiries on labour issues through a 24-hour computerised telephone system consisting of more than 120 lines. They may

also contact the MPFA for details of the implementation of the MPF System.

5. If an employer, in implementing the MPF Scheme, unilaterally introduces changes to the terms of employment, the employees may approach LD for advice and assistance. The LD has designated staff to work in close liaison with the MPFA to coordinate the handling of all complaints about employment terms arising from the implementation of the MPF System.

6. The Commissioner for Labour and the MPFA have issued letters to some 19,000 employers of existing occupational retirement schemes and the Commissioner for Labour has also issued a letter to major business chambers. The three letters call upon the employers to act in the best interests of their employees in considering options in the interface between their existing schemes and the MPF. The letters stressed the importance for employers and employees to maintain frank and sincere dialogue on the interface arrangement. Employers were strongly advised that they should not take the opportunity of the implementation of the MPF System to reduce their employees' benefits under the existing occupational retirement schemes. The MPFA has also urged that once a decision has been made by the employers, they should notify their employees in writing as to whether an exemption from the MPF System is to be sought. A copy each of the letter are at Appendix I, II and III.

7. Furthermore, the MPFA has issued another letter to the service providers urging them to assist the employers and employees in making such decisions and in preparing such notices. Besides, Announcements of Public Interest have been put/will be put on radio and TV on 22 March and 29 March respectively reminding employers of the deadline for submitting ORSO applications and encouraging employers to discuss with their employees in deciding whether to submit an exemption

Number of applications for exemption of occupational retirement schemes from the Mandatory Provident Fund Schemes Ordinance

8. Currently, there are about 2,000 exempted schemes and 17,000 registered schemes (covering over 900,000 members) governed under the ORSO. All of the 2,000 exempted schemes are eligible to apply for MPF exemption. It is estimated that about 11,000 out of the 17,000 registered

schemes are eligible to apply for MPF exemption.

9. As at 15 March 2000, a total of 616 MPF exemption applications have been received comprising 57 exempted schemes and 559 registered schemes (together covering about 700 employers and 32,000 members).

Number of complaints received by the Labour Department and MPFA

10. In the two months of January and February 2000, the LD handled a total of 41 consultations about variation of employment terms due to the MPF. There was one case involving the proposed replacement of an existing occupational retirement scheme by the MPF Scheme. LD has rendered conciliation services to the parties concerned.

11. The Financial Services Bureau has received one complaint and referred it to the LD for follow-up actions. As for the MPFA, about 20 to 30 enquiries relating to existing occupational retirement schemes are received everyday but there has not been any complaint so far.

Financial Services Bureau
Labour Department

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