

File Reference: G6/9/32C(2000)

Legislative Council Brief

Mandatory Provident Fund Schemes Ordinance
(Chapter 485)

MANDATORY PROVIDENT FUND SCHEMES RULES

INTRODUCTION

Annex

The Mandatory Provident Fund Schemes Authority (MPFA) has made the Mandatory Provident Fund Schemes Rules (the Rules) at Annex under section 47 of the Mandatory Provident Fund Schemes Ordinance (MPFSO) to provide for the calculation of the total amount of accrued benefits vested in a scheme member and to prescribe the information and documents that should accompany applications for merger or division of registered schemes. The Rules are subject to the approval of the Legislative Council.

BACKGROUND AND ARGUMENT

General Background

2. Section 47 of the MPFSO empowers the MPFA to make rules, not inconsistent with the MPFSO or the regulations, providing for matters relating to the administration of registered schemes and prescribing measures to facilitate the compliance with the MPF legislative requirements. Rules made under the section shall be subject to the approval of the Legislative Council.

Rules made by the MPFA

3. It is considered that for the purposes of sections 12(3), 34B and 34C, rules should be made by the MPFA under section 47 to provide

for the calculation of the total accrued benefits vested in a scheme member from time to time, and to prescribe the documents and information to be accompanied with the applications for merger/division of registered schemes.

A. Calculation of total amount of accrued benefits

4. Sections 12(1) and (2) of the MPFSO provides, inter alia, that contributions and income or profits derived from the investment of accrued benefits in respect of a scheme member are to be vested in that member as accrued benefits.

5. Section 12(3) of the MPFSO further provides that the total amount of accrued benefits vested in a scheme member from time to time is to be calculated as provided by **the rules** made under section 47. It is therefore necessary for the MPFA to make rules to provide for the purpose of section 12(3).

6. Apart from sections 12(1) and (2) which set out the principles in respect of the vesting of accrued benefits, section 78 of the Mandatory Provident Fund Schemes (General) Regulation (the General Regulation) further specifies the items to be included in calculating the accrued benefits in a separate account for each scheme member.

7. For consistency, it is important that the proposed rules should fully reflect the items specified in section 78.

B. Applications for merger/division of registered schemes

8. In accordance with sections 34B and 34C of the MPFSO, applications for merger/division of registered schemes can be made under certain circumstances as set out in those sections.

9. The sections also specify that the relevant applications must -

- (a) be in a form approved by the MPFA;

- (b) contain such information, and be accompanied by such documents, as are prescribed by **the rules** made under section 47; and
- (c) be accompanied by an application fee of such amount as is so prescribed.

It is therefore necessary for the MPFA to make rules for the purposes of sections 34B and 34C.

10. The MPFA is required under the MPFSO to consider the applications made under sections 34B and 34C as soon as practicable after receiving the applications. Besides, the MPFA may consent to the applications only if it is satisfied -

- a) that the interests of the relevant scheme members will be adequately protected and that their accrued benefits will be transferred to the new schemes;
- b) that the new schemes will be governed by the law of Hong Kong; and
- c) that the new schemes will comply with such requirements and standards as are required for registered schemes under the MPFSO.

11. The information and documents as set out in the proposed rules are considered necessary to enable and facilitate the MPFA to consider the applications in respect of the conditions mentioned above, and should be contained in or accompanied with the applications made under sections 34B and 34C.

THE RULES

12. **Section 3** of the rules provides for the calculation of the total amount of accrued benefits vested in a member of a registered scheme from time to time for the purposes of section 12(3) of the MPFSO. The provisions are consistent with those accrued benefits relating to the

calculating of section 78 of the General Regulation. A trustee who fails to ensure that the accrued benefits of a scheme member are calculated in accordance with section 3 commits an offence [section 3(4)].

13 **Sections 4 and 5** set out the information and documents required to be submitted to the MPFA on application for its consent to the merger and division of registered schemes under sections 34B and 34C of the MPFSO respectively.

LEGISLATIVE TIMETABLE

14. Section 47 of the MPFSO provides that rules made by the MPFA under that section shall be subject to the approval of the Legislative Council. A notice has been given to the Legislative Council to move a motion for the passage of the Rules on 24 May 2000.

15. This brief sets out additional background for Members' information.

PUBLICITY

16. The MPFA will publicize the proposed rules through its homepage.

ENQUIRIES

17. Enquiries on this Brief may be directed to Miss Maureen To, Principal Assistant Secretary for Financial Services (Retirement Schemes and Insurance), at 2528 9016.

Financial Services Bureau
9 May 2000