

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2377/01-02  
(These minutes have been  
seen by the Administration)

Ref: CB1/BC/9/01

**Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2002**

**Meeting on  
Wednesday, 19 June 2002, at 8:30 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)  
Hon LEE Cheuk-yan  
Hon NG Leung-sing, JP  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN  
Hon CHAN Kam-lam  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai  
Dr Hon YEUNG Sum  
Hon YEUNG Yiu-chung, BBS  
Hon Andrew CHENG Kar-foo  
Hon LI Fung-ying, JP  
Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Member absent** : Hon Henry WU King-cheong, BBS
- Public officers  
Attending** : Miss Susie HO  
Deputy Secretary for Financial Services
- Mr Raymond TAM  
Executive Director (Policy and Development)  
Mandatory Provident Fund Schemes Authority
- Mr Geoffrey FOX  
Senior Assistant Law Draftsman

Ms Marie SIU  
Senior Government Counsel

**Clerk in attendance** : Miss Polly YEUNG  
Chief Assistant Secretary (1)3

**Staff in attendance** : Miss Connie FUNG  
Assistant Legal Adviser 3

Miss Yvonne YU  
Senior Assistant Secretary (1)4

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## **I. Meeting with the Administration**

### Matters arising

- LC Paper No. CB(1)2029/01-02(01) - The Administration's response to the issues arising from the meetings held on 11 June 2002 and 12 June 2002, and the relevant draft Committee Stage Amendments (CSAs)
- LC Paper No. CB(1)2029/01-02(02) - Letter dated 13 June 2002 from Assistant Legal Adviser 3 (ALA3) to the Administration to seek further clarification on proposed section 43B(3) relating to offences by employers who failed to enrol relevant employees into MPF schemes and on the drafting of proposed section 43(B)4 which deals with the six-month time-bar for prosecution of offences
- LC Paper No. CB(1)2029/01-02(03) - The Administration's response dated 17 June 2002 to ALA3's letter dated 13 June 2002
- LC Paper No. CB(1)2052/01-02(01) - A marked-up table prepared by the Legal Service Division setting out the relevant existing provisions of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), amendments

proposed by the Mandatory Provident Fund Schemes (Amendment) Bill 2002 and CSAs proposed by the Administration to relevant provisions in the Bill

Clause by clause examination of the Bill

*The Bill and related papers previously issued*

- LC Paper No. CB(3)560/01-02 - The Bill
- LC Paper No. CB(1)1833/01-02(02) - Marked-up copy of the Bill prepared by the Legal Service Division
- File Ref: G4/49C(2002)V - The Legislative Council Brief on the Bill issued by the Financial Services Bureau on 17 April 2002
- LC Paper No. CB(1)1986/01-02(01) - Letter dated 30 May 2002 from Assistant Legal Adviser 3 on the Bill to the Administration
- LC Paper No. CB(1) 1986/01-02(02) - The Administration's response dated 8 June 2002 to LC Paper No. CB(1)1986/01-02(01)
- LC Paper No. CB(1)2027/01-02(01) - Letter dated 5 June 2002 from ALA3 to the Administration for clarification on proposed section 12(2B)(a) relating to the proposed use of the interest derived from monies-in-transit
- LC Paper No. CB(1)2027/01-02(02) - The Administration's response dated 11 June 2002 to ALA3's letter dated 5 June 2002
- LC Paper No. LS83/01-02 - The Legal Service Division Report on the Bill
- LC Paper No. CB(1)1792/01-02(01) - Extract of the minutes of the meeting of the Financial Affairs Panel on 7 January 2002 re-circulated

- LC Paper No. CB(1)716/01-02(04) - Discussion paper provided by the Administration for the meeting of the Financial Affairs Panel on 7 January 2002
- LC Paper No. CB(1)1985/01-02 - The Administration's response to the issues arising from the meeting held on 3 June 2002
- LC Paper No. CB(1) 1992/01-02(01) - Illustrative examples on the current and proposed arrangement for employees' contribution holidays, and on the generic minimum and maximum relevant income level, as requested by members at the meeting on 11 June 2002

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration undertook to take the following actions and provide information as appropriate:

Further CSAs being prepared by the Administration

[Sections 13 and 14 of the Schedule to the Bill - proposed sections 145(7A) and 146(9A) of the Mandatory Provident Fund Schemes (General) Regulation] ; and

[Section 20 of the Schedule to the Bill - proposed section 8(1) of the Schedule 1 to the Mandatory Provident Fund Schemes (General) Regulation]

- (a) The Administration reported at the meeting that it was preparing CSAs which sought to further clarify the above provisions. At a member's request, the Administration would provide the relevant existing provisions and the CSAs proposed by the Administration to such provisions to facilitate members' reference.

Admin

Consequential CSA which might be moved by the Administration

[Clause 1(3)]

- (b) As the implementation of the accountability system would result in the re-organization of a number of policy bureaux including the Financial Services Bureau, the Administration advised that it might need to move a consequential CSA to reflect the new nomenclature of the Head of Bureau after the relevant resolution to effect the transfer

Admin of statutory functions under section 54A of Cap 1 had been passed by the Legislative Council on 19 June 2002. The Administration would provide the relevant CSA for members' reference as soon as possible.

Admin The Administration would provide the CSAs under (a) and (b) not later than 21 June 2002 for members' consideration at the meeting on 24 June 2002. The Chairman also invited Mr Andrew CHENG to provide his proposed CSA early for members' consideration.

Minimum level of relevant income for Mandatory Provident Fund (MPF) contributions (Clause 12 - proposed Schedule 2)

Admin (c) Members noted that if the minimum level of relevant income for MPF contributions was adjusted from \$4,000 to \$6,000 per month, the reduction in MPF contributions in the first year would amount to less than 2.5% of the total annual contribution, or some \$583 million, but the effect on the increase in consumer spending was estimated at about 0.01 of a percentage point of private consumption expenditure or Gross Domestic Product in the year of incidence. At a member's request, the Administration said that the Government Economist would be consulted on whether more specific economic analysis on the impact on the consumption expenditure could be provided.

Age profiles of MPF scheme members

Admin (d) At the meeting on 11 June 2002, a member requested a further breakdown of the age profile of  $\geq 30$  and  $< 50$  into two categories: first,  $\geq 30$  and  $< 40$ , second,  $\geq 40$  and  $< 50$ , as well as the relevant income profiles of the age groups. The Mandatory Provident Fund Schemes Authority would explore the feasibility of providing the requested information in consultation with the trustee industry.

**II Any other business**

3. The Committee agreed that the meeting originally scheduled for 21 June 2002 at 10:45 am would not be held and the next meeting would be held on Monday, 24 June 2002 at 4:30 pm to continue discussion with the Administration.

*(Post-meeting note: Members were informed of the above re-scheduling of meeting vide LC Paper No. CB(1)2050/01-02 dated 19 June 2002.)*

4. There being no other business, the meeting ended at 9:50 am.

**Proceedings of the meeting of the Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2002**

**on Wednesday, 19 June 2002 at 8:30 am  
in the Chamber of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000119	Chairman Mandatory Provident Fund Schemes Authority (MPFA)	<u>Clause by clause examination of the Bill</u> <u>Clause 13</u> - Section 9 of Schedule to the Bill	
000119 - 000202	Chairman Administration	- Section 10 of Schedule to the Bill	
000202 - 000307	Chairman MPFA	- Section 11 of Schedule to the Bill	
000307 - 000356	Chairman MPFA	- Section 12 of Schedule to the Bill	
000356 - 000749	Chairman MPFA	- Section 13 of Schedule to the Bill	
000749 - 000837	Chairman MPFA	- Section 14 of Schedule to the Bill	
000837 - 000920	Chairman MPFA	- Section 15 of Schedule to the Bill	
000920 - 001035	Chairman MPFA	- Section 16 of Schedule to the Bill	
001035 - 001749	Chairman MPFA Mr LEUNG Yiu-chung Ms LI Fung-ying	- Section 17 of Schedule to the Bill - Claim for payment on ground of total incapacity - Flexibility of requiring a scheme member to provide the trustee with a medical certificate certifying that he was permanently unfit to perform the work - Reasons for requiring the scheme member to be unemployed for more than 7 years if he was unable to provide a letter from his past employer certifying that their contract of employment had been terminated	
001749 - 001940	Chairman MPFA	- Section 18 of Schedule to the Bill	
001940 - 002117	Chairman MPFA	- Section 19 of Schedule to the Bill	

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
002117 - 002345	Chairman MPFA	- Section 20 of Schedule to the Bill	
002345 - 002517	Chairman MPFA	- Section 21 of Schedule to the Bill	
002517 - 002754	Chairman MPFA	- Section 22 of Schedule to the Bill	
002754 - 002914	Chairman MPFA	- Section 23 of Schedule to the Bill	
002914 - 002956	Chairman MPFA	- Section 24 of Schedule to the Bill	
002956 - 003020	Chairman MPFA	- Section 25 of Schedule to the Bill	
003020 - 003103	Chairman MPFA	- Section 26 of Schedule to the Bill	
003103 - 003526	Chairman MPFA	Clause 14	
003526 - 004326	Chairman Administration	<u>Draft Committee Stage Amendments (CSAs) proposed by the Administration</u> (LC Paper Nos. CB(1)2029/01-02(01) and CB(1)2052/01-02(01))	
004326 - 004532	Mr Andrew CHENG Administration	- CSA to the Chinese text of proposed section 164 of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation)	
004532 - 005120	Chairman Administration MPFA	- The Administration's response to the issues arising from the meetings held on 11 June 2002 and 12 June 2002 (LC Paper No. CB(1)2029/01-02(01)) - Further CSAs being prepared by the Administration [Sections 13 and 14 of Schedule to the Bill - proposed sections 145(7A) and 146(9A) of the Regulation; and Section 20 of Schedule to the Bill - proposed section 8(1) of Schedule 1 to the Regulation] (LC Paper No. CB(1)2029/01-02(01))	
005120 - 005601	Miss CHAN Yuen-han Chairman Mr Andrew CHENG	- Miss CHAN requested the Administration to provide the relevant existing provisions	Admin





Time	Speaker	Subject(s)	Action required
		<p>consumption expenditure or Gross Domestic Product in the year of incidence</p> <ul style="list-style-type: none"> <li>- At Mr CHENG's request, the Administration said that the Government Economist would be consulted on whether more specific economic analysis on the impact on the consumption expenditure could be provided</li> </ul>	Admin
010352 – 011056	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> <li>- Drafting of the Chinese text of Clause 6 - proposed section 12(2A)</li> </ul>	
011056 – 011258	Chairman Administration	<ul style="list-style-type: none"> <li>- Letter dated 13 June 2002 from the Assistant Legal Adviser (ALA3) to the Administration to seek further clarification on proposed section 43B(3) relating to offence of employers' failure to enrol relevant employees into MPF schemes and on the drafting of proposed section 43B(4) which dealt with the six-month time-bar for prosecution of offences (LC Paper No. CB(1) 2029/01-02(02))</li> <li>- The Administration's response dated 17 June 2002 to ALA3's letter dated 13 June 2002 (LC Paper No. CB(1)2029/01-02(03))</li> <li>- The Administration confirmed that proposed section 43B(3)(b) dealt with the subsequent offence of the failure of an employer to comply with a requirement imposed by section 7(1A).</li> </ul>	
011258 – 011656	Chairman Administration	<ul style="list-style-type: none"> <li>- The Bills Committee would report to the House Committee on 28 June 2002</li> <li>- The Administration intended to resume the Second Reading debate on 10 July 2002</li> <li>- The deadline for giving notice of resumption of Second Reading debate was 24 June 2002</li> <li>- The deadline for giving notice to move CSAs was 29 June 2002</li> </ul>	

Time	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- The Administration would provide the outstanding proposed CSAs not later than 21 June 2002 for members' consideration at the next meeting on 24 June 2002</li> <li>- The Chairman also invited Mr Andrew CHENG to provide his proposed CSA early for members' consideration</li> <li>- The Committee agreed that the meeting originally scheduled for 21 June 2002 would not be held and the next meeting would be held on 24 June 2002</li> <li>- Invited the Administration and ALA3 to screen the proposed amendments very carefully as a lot of consequential amendments were involved</li> <li>- Closing remarks</li> </ul>	Admin

**Note: The audio records of the above proceedings are kept at the LegCo Library**

Legislative Council Secretariat

30 July 2002