

A BILL

To

Amend the Mandatory Provident Fund Schemes Ordinance to provide explicitly that the statutory protection of accrued benefits under section 16 of the Ordinance covers the bankruptcy of a scheme member and to rectify a clerical error.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Mandatory Provident Fund Schemes (Amendment) Ordinance 2011.

2. Mandatory Provident Fund Schemes Ordinance amended

The Mandatory Provident Fund Schemes Ordinance (Cap. 485) is amended as set out in sections 3 and 4.

Clause 3

3. Section 2 amended (Interpretation)

Section 2(1), Chinese text, definition of 近親—

Repeal

“祖” (wherever appearing)

Substitute

“祖”.

4. Section 16 amended (Protection of accrued benefits)

(1) After section 16(1)—

Add

“(1A) To avoid doubt, if a scheme member is adjudicated bankrupt, the right or entitlement of the scheme member to any accrued benefits in a registered scheme is excluded from the property of the scheme member for the purposes of the Bankruptcy Ordinance (Cap. 6).”.

(2) Section 16(2)—

Repeal

“Subsection (1) applies”

Substitute

“Subsections (1) and (1A) apply”.

Explanatory Memorandum

Section 16 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (*principal Ordinance*) provides that no part of any accrued benefits derived from mandatory contributions in a registered scheme in respect of a scheme member shall be taken in execution of a judgment debt or be the subject of any charge, pledge, lien, mortgage, transfer, assignment or alienation by or on behalf of the scheme member and any purported disposition to the contrary is void.

2. This Bill amends section 16 of the principal Ordinance to provide in explicit terms, for the sake of clarity, that the statutory protection of accrued benefits (as defined in the principal Ordinance) derived from mandatory contributions under that section covers the bankruptcy of a scheme member. If a scheme member is adjudicated bankrupt, the member's right or entitlement to such accrued benefits is excluded from the member's property for the purposes of the Bankruptcy Ordinance (Cap. 6) and shall not vest in the trustee-in-bankruptcy.
3. The Bill also rectifies a clerical error in the Chinese text of the definition of *close relative* in section 2(1) of the principal Ordinance.