



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : L/M(1) to EDB(SA)/F&A/65/24/1 (pt.5)
本函檔號 OUR REF : LS/B/10/12-13
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By Fax (3427 9178)
26 March 2013

Mrs Michelle WONG
Deputy Secretary for Education
Education Bureau
11/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Mrs WONG,

Education (Amendment) Bill 2013

I am scrutinizing the above Bill with a view to advising Members.

According to the LegCo Brief, the retirement benefits of teachers in government schools under the Pensions Ordinance (Cap. 89) or Pension Benefits Ordinance (Cap. 99) and that of the major workforce under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) are under protection in the event of bankruptcy. Noting that, the Education Bureau has reviewed the relevant provisions under the Grant Schools Provident Fund (GSPF) and Subsidized Schools Provident Fund (SSPF) and considers that legislative amendment is necessary to effect similar protection to the benefits of GSPF and SSPF contributors in the event of bankruptcy.

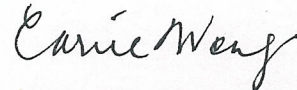
In this connection, please clarify the reasons for adopting a different condition (i.e. if a provident fund member is an undischarged bankrupt) from that in MPFSO (i.e. if a scheme member is adjudicated bankrupt). It seems that an undischarged bankrupt may retain that status over a period of time but a scheme member is adjudicated bankrupt only at a specific point of time.

It is noted that in the MPFSO, the expression "any accrued benefits in a registered scheme" is used and "accrued benefits" is defined. Please clarify –

- (a) why a definition is considered unnecessary for " benefits accrued";
- (b) why the protection in the proposed section 85(4) of the Education Ordinance (Cap. 279) is extended to benefits "accruing" and "to be accrued";
- (c) how the right or entitlement of a provident fund member to any benefits in the fund which has not yet accrued (i.e. "accruing" and "to be accrued") could be excluded from the property for the purposes of the Bankruptcy Ordinance (Cap. 6).

I would be grateful if you would let me have the Administration's reply in both languages by 8 April 2013.

Yours sincerely,



(Miss Carrie WONG)
Assistant Legal Adviser

c.c. Clerk to House Committee