

# A BILL

## To

Amend the Education Ordinance and its subsidiary legislation to provide for protection to provident fund members, in case of bankruptcy, of their benefits in provident funds that are maintained under the Ordinance.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

**1. Short title**

This Ordinance may be cited as the Education (Amendment) Ordinance 2013.

**2. Enactments amended**

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

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## Part 2

### Amendment to Education Ordinance (Cap. 279)

#### 3. Section 85 amended (rules for provident funds)

After section 85(3)—

**Add**

- “(4) If a provident fund member is an undischarged bankrupt, the right or entitlement of the member to any benefits in the fund (whether accrued, accruing or to be accrued) is excluded from the property of the member for the purposes of the Bankruptcy Ordinance (Cap. 6).
- (5) Subsection (4) does not apply in relation to a provident fund member’s bankruptcy that is adjudicated before that subsection comes into operation.”.
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## **Part 3**

### **Amendments to Subsidiary Legislation**

#### **Division 1—Amendment to Grant Schools Provident Fund Rules (Cap. 279 sub. leg. C)**

**4. Rule 14 amended (payments out and pro rata of dividends)**

After rule 14(2)—

**Add**

“(2A) In working out the period of 3 years for paragraph (2), any time when the contributor is an undischarged bankrupt must be disregarded.

(2B) Paragraph (2A) does not apply in relation to a contributor’s bankruptcy that is adjudicated before that paragraph comes into operation.”.

#### **Division 2—Amendment to Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg. D)**

**5. Rule 14 amended (payments out and pro rata of dividends)**

After rule 14(2)—

**Add**

“(2A) In working out the period of 3 years for paragraph (2), any time when the contributor is an undischarged bankrupt must be disregarded.

(2B) Paragraph (2A) does not apply in relation to a contributor’s bankruptcy that is adjudicated before that paragraph comes into operation.”.

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### **Explanatory Memorandum**

This Bill adds new section 85(4) and (5) to the Education Ordinance (Cap. 279) so that if a provident fund member is an undischarged bankrupt of a bankruptcy adjudicated on or after the new section 85(4) comes into operation, the member's right or entitlement to any benefits in the fund is excluded from his or her property for the purposes of the Bankruptcy Ordinance (Cap. 6).

2. Under rule 14(2) of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg. C) and of the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg. D), if no lawful claim for the provident fund benefits is made within 3 years after the date on which a contributor's account is closed, the amount standing to the credit of the account is to be transferred to the credit of the reserve fund. The Bill adds new rule 14(2A) and (2B) to those 2 Rules, so that in relation to a bankruptcy adjudicated on or after the new rule 14(2A) comes into operation, in working out the period of 3 years for rule 14(2) of those 2 Rules, any time when the contributor is an undischarged bankrupt must be disregarded.