

立法會
Legislative Council

LC Paper No. CB(1)180/13-14
(These minutes have been seen
by the Administration)

Ref: CB1/SS/11/12

**Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund
Schemes Ordinance (Amendment of Schedule 3) Notice 2013**

**Minutes of the first meeting held on
Tuesday, 18 June 2013, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon CHUNG Kwok-pan

Members absent : Hon LEE Cheuk-yan
Hon TANG Ka-piu

Public Officers attending : **Agenda item II**
Mr Eddie CHEUNG Kwok-choi
Deputy Secretary for Financial Services and the
Treasury (Financial Services)

Miss Emmy WONG Kwok-ling
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services)

Ms Gabriella YEE
Head (Policy Development & Research)
Mandatory Provident Fund Schemes Authority

Miss Mandy NG Wing-man
Senior Government Counsel (Acting)
Department of Justice

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Macy NG
Senior Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr Tommy CHEUNG, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr Andrew LEUNG nominated Mr WONG Ting-kwong, and the nomination was seconded by Mr IP Kwok-him. Mr WONG Ting-kwong accepted the nomination.

3. There being no other nominations, Mr WONG Ting-kwong was elected Chairman of the Subcommittee.

4. Members agreed that there was no need to elect a deputy chairman of the Subcommittee.

Action

II Meeting with the Administration

(File Ref: G6/9/44/1C(2012)Pt.14
LC Paper No. LS58/12-13

- Legislative Council Brief
- Legal Service Division Report

LC Paper No. CB(1)1322/12-13(01)

- Marked-up copy of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 prepared by the Legal Service Division

LC Paper No. CB(1)1322/12-13(02)

- Marked-up copy of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 prepared by the Legal Service Division

LC Paper No. CB(1)1322/12-13(03)

- Paper on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 prepared by the Legislative Council Secretariat (background brief))

5. The Administration briefed members on the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 and the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 ("the two Notices").

6. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required of the Administration

Admin

7. The Administration was requested to provide an estimation of the total amount of mandatory provident fund contributions which employees or self-employed persons with income less than the current and proposed minimum level of relevant income were not required to make.

[*Post-meeting note* : The Administration's response was issued to members on 24 June 2013 via LC Paper No. CB(1)1362/13-13(01).]

Clause-by-clause examination of the two Notices

8. The Subcommittee completed clause-by-clause examination of the two Notices, and did not propose any amendment to them.

Legislative timetable

9. The Chairman advised that the earliest possible day for the Administration to move motions at the Legislation Council meeting on the two Notices would be 17 July 2013. In this connection, the Administration had to give notice to move the motions by 2 July 2013, and the deadline for giving notice of amendments to the two Notices by members would be 10 July 2013.

10. The Subcommittee completed scrutiny of the two Notices, and agreed that the Chairman would report to the House Committee ("HC") on the deliberations of the Subcommittee at the HC meeting on 28 June 2013.

III Any other business

11. There being no other business, the meeting ended at 11:30 am.

Council Business Division 1
Legislative Council Secretariat
23 October 2013

**Proceedings of the first meeting of
the Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 2) Notice 2013 and
Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013
on Tuesday, 18 June 2013, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
|---|--|--|-----------------|
| Agenda item I – Election of Chairman | | | |
| 000057-000254 | Mr Tommy CHEUNG Mr Andrew LEUNG Mr WONG Ting-kwong Mr IP Kwok-him | <ul style="list-style-type: none"> - Election of Chairman - Mr WONG Ting-kwong was elected Chairman of the Subcommittee - Members agreed that there was no need to elect a deputy chairman of the Subcommittee. | |
| Agenda item II – Meeting with the Administration | | | |
| 000255 – 000342 | Mr Andrew LEUNG Mr POON Siu-ping Chairman | <ul style="list-style-type: none"> - Mr LEUNG and Mr POON declared that they were directors of the Mandatory Provident Fund Schemes Authority ("MPFA"). - The Chairman declared that he was the Chairman of the Mandatory Provident Fund Schemes Advisory Committee ("MPFSAC"). | |
| 000343 – 000748 | Chairman Administration | <ul style="list-style-type: none"> - Briefing by the Administration on the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 ("the Schedule 2 Notice") and the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 ("the Schedule 3 Notice") (collectively referred to as "the two Notices"). - The Chairman invited members to note the Administration's respective target implementation dates of the revised minimum level of relevant income ("Min RI") on 1 November 2013 and the revised maximum level of relevant income ("Max RI") on 1 June 2014, and the relevant legislative timetable. | |
| 000749 – 001327 | Chairman Mr Ronny TONG Administration | <ul style="list-style-type: none"> - Mr TONG expressed concern over the reduced accrued benefits to low-income workers upon their retirement after the upward adjustment of Min RI from \$6,500 per month to \$7,100 per month. He suggested the Administration to make mandatory provident fund ("MPF") contributions on behalf of those low-income workers. | |

| Time marker | Speaker | Subject(s) | Action required |
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| | | <ul style="list-style-type: none"> - The Administration replied that after the adjustment of Min RI, employers still had to make MPF contributions for those whose income were less than Min RI. Whilst deciding to increase Min RI, the Administration had considered the need to lessen the financial burden of MPF contributions on lower-paid employees and self-employed persons ("SEPs"). In addition, under the three-pillar model for retirement protection, the social security system (comprising the Comprehensive Social Security Assistance) provided the safety net as the last resort for all. - As regards the suggestion of the Administration to make MPF contributions on behalf of those low-income workers, the Administration was of the view that MPF system was to assist the working population to prepare for retirement through contribution by themselves and their employers and the Government helped address the retirement protection of those in need of subsidies through the non-contributory social security system as the safety net. The three pillars complemented each other. - At the request of Mr TONG, the Administration agreed to provide an estimation of the total amount of MPF contributions which employees or SEPs with income less than the current and proposed Min RI were not required to make. | <p>Administration to provide information/response (paragraph 7 of minutes)</p> |
| 001328 – 001756 | Chairman Ms Cyd HO Administration | <ul style="list-style-type: none"> - Ms HO said that although she was dissatisfied with the two Notices, she would not object to them. She considered that the commencement dates of the two Notices, particularly in respect of the revised Max RI, should be set earlier. She asked why the revised Min RI and Max RI could not be effected simultaneously and whether it was due to legislative restriction. - The Administration explained that the MPF Schemes Ordinance (Cap 485) ("MPFSO") only required MPFA to conduct a review on Min RI and Max RI at least once in every four years but there was no requirement on when Min RI and Max RI should be adjusted. The original plan of the Administration was to commence the revised Min RI and Max RI simultaneously. However, in the course of consulting the relevant | |

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| | | <p>stakeholders, there were diverse views on when the revised Max RI should take effect. Employer representatives and an employee representative were against early implementation on account of the fact that the last adjustment was introduced no more than a year ago and that the increase in Max RI would increase the staff cost of employers. The Administration's current proposal balanced the views of different sectors of the community.</p> <p>- In response to the Chairman's enquiry, the Administration replied that Max RI was last adjusted in June 2012.</p> | |
| 001757 – 002207 | Chairman Mr Andrew LEUNG Administration Ms Cyd HO | <p>- Mr LEUNG invited members to note that MPFA's 2010 review findings showed that consideration should be given to increasing Max RI from \$20,000 to \$30,000. However, to balance the views of different sectors of the community, Max RI was last increased to \$25,000 only. Legislative Council Members were aware that the Administration would take an opportunity to increase Max RI to \$30,000 at a later stage. He also noted that apart from employer representatives who were against early implementation of the increase of Max RI, some employees were also against the proposal as it would reduce their disposable income.</p> <p>- The Administration confirmed that there were divergent views on when the revised Max RI should take effect. While some employee representatives agreed to the revised Max RI and its simultaneous commencement with Min RI, some had different views.</p> <p>- Ms HO maintained her view that the revised Min RI and Max RI should be effected simultaneously to enhance the overall retirement protection.</p> | |
| 002208 – 003004 | Chairman Mr CHUNG Kwok-pan Administration | <p>- Mr CHUNG expressed concern over the frequent increases in Max RI as Max RI was last revised in June 2012 and the Administration had currently proposed to revise Max RI again in June 2014. He asked whether it was due to the requirements under MPFSO.</p> | |

| Time marker | Speaker | Subject(s) | Action required |
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| | | <ul style="list-style-type: none"> - The Administration responded that MPFSO did not prescribe the frequency of the adjustment of Max RI, and that while there was general consensus to increase the level \$25,000 to \$30,000, there were divergent views on the effective date of the revised Max RI. The Administration's proposal to effect the revised Max RI in June 2014 balanced the views of different sectors in the community. - Mr CHUNG asked if the Administration had consulted the employees' representatives in respect of the revised Max RI. - The Chairman informed members that MPFSAC, which was comprised of both employers and employees' representatives, had been consulted on the two Notices. - The Administration also advised that Labour Advisory Board, which comprised representatives of both employers' and employees' unions/associations, had been consulted on the two Notices. The Administration also invited members to note that the 90th percentile of income intended in MPFSO for Max RI had indeed reached \$35,000 as at Q3 2012. The Administration's current proposal to increase Max RI from \$25,000 to \$30,000 took into account the diverse views of different sectors. | |
| 003005– 003114 | Chairman Ms Cyd HO Administration | <ul style="list-style-type: none"> - Ms HO asked whether the 90th percentile of income was stipulated in MPFSO. - The Administration advised that the 90th percentile of income was stipulated in MPFSO. MPFA was currently reviewing the statutory adjustment mechanism under MPFSO and the matter of achieving the 90th percentile of income would be covered in the review. - In response to Ms HO's enquiry on the completion date of the review and the Administration's approach, the Administration advised that MPFA would consult stakeholders at an appropriate juncture. | |

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| <i>Clause-by-clause examination of the two Notices</i> | | | |
| 003115 – 003844 | Chairman Administration | <ul style="list-style-type: none"> - Examination of the Schedule 2 Notice (LC Paper No. CB(1)1322/12-13(01)) - The Chairman enquired how the relevant income of an employee would be determined if such employee was remunerated once every two months, with the salary of a month more than Min RI and that of the other month less than Min RI. - The Administration responded that an average of the remuneration could be taken for calculation of the monthly income in regard to the above case. | |
| 003845 – 004117 | Chairman Administration | <ul style="list-style-type: none"> - Examination of the Schedule 3 Notice (LC Paper No. CB(1)1322/12-13(02)) - The Chairman asked why the Administration adopted a 26-day basis in converting the monthly Min RI into a daily income level, whereas a 30-day basis was used for conversion in respect of Max RI. - The Administration advised that MPFSO did not stipulate the basis for calculation of the daily income level. Before the implementation of the Statutory Minimum Wage, a 30-day basis was adopted for both Min RI and Max RI for calculating the daily income level. The proposed adoption of a 26-day basis for Min RI and 30-day basis for Max RI for calculation of daily income level followed the practice adopted in the last amendment in 2011. - No members had adverse views on the above arrangement. | |
| 004118 – 004323 | Chairman | - Legislative timetable | The Clerk to prepare a report for submission to the House Committee |