

**Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2014**

**The Administration's Responses to  
Follow-up Actions Arising from Discussion at Meeting on 27 October 2014**

	<b>Follow-up Action</b>	<b>The Administration's Response</b>
(a)	To advise the number of trustees of Mandatory Provident Fund ("MPF") schemes which did not charge scheme members any fees for the use of paper correspondence and the proportion of these MPF trustees	None of the current 38 MPF registered schemes impose any fees or charges on scheme members for provision of documents as required under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO"). Some schemes do require scheme members' payment of charges for requests for provision of additional services, such as requesting for a copy of the trust deed or an additional copy of a document that has been previously provided to scheme members. All such fees have to be specified in the fee table of the Offering Document that has to be approved by the Mandatory Provident Fund Schemes Authority ("MPFA"). MPFA is not aware of any differences in fees charged between providing such document through electronic means and doing so in paper form.
(b)	To provide the following documents:  (i) the current "Statutory Declaration for Claims for Payment of Accrued Benefits on Grounds of Early Retirement" ("Statutory Declaration"); and  (ii) the revised Statutory	Copies of documents (i) and (ii) are at <b><u>Annex A</u></b> and <b><u>Annex B</u></b> respectively.

	<b>Follow-up Action</b>	<b>The Administration's Response</b>
	<p>Declaration subsequent to the proposed amendment in the Mandatory Provident Fund Schemes (Amendment) Bill 2014 ("the Bill") (i.e. clarifying the meaning of permanently ceasing employment or self-employment).</p>	
(c)	<p>In the light of the use of the Chinese rendition “包括” for the English text “include” in sections 20(11), 20A(3), 20B(3), 21(10), 34(7) and 34B(7) of MPFSO, to advise the considerations of using the Chinese rendition “加入” for the English text “include” in the proposed section 21BB(8)(b).</p>	<p>According to the Department of Justice, both “包括” and “加入” used as the Chinese equivalent of “include” in the proposed section 21BB(8)(b) of the Bill have the same legal effect.</p> <p>That said, having considered the suggestion of the Assistant Legal Adviser of the Legislative Council, we are considering introducing committee stage amendment (“CSA”) to use “包括” as the Chinese equivalent of “include” instead to ensure consistency in the wording among provisions.</p>
(d)	<p>To advise whether the Commissioner for Labour (“the Commissioner”) had made any requests for information disclosure to MPFA under section 42 of MPFSO and whether MPFA had made the relevant disclosure.</p>	<p>MPFA has, in the past, received information disclosure requests from the Labour Department (“LD”) relating to the use of powers of the Commissioner vested under labour-related legislations (such as the Occupational Safety and Health Ordinance (Cap. 509) and the Protection of Wages on Insolvency Ordinance (Cap. 380)) for verification for ex-gratia payment under the Protection of Wages on Insolvency Fund or for the purposes of bringing criminal proceedings by LD.</p>

	<b>Follow-up Action</b>	<b>The Administration's Response</b>
		As such requests complied with the exceptions allowed under sections 41 and 42 of MPFSO, MPFA has disclosed the requested information to the Commissioner.
(e)	To clarify the factors which MPFA would take into account in deciding whether to give written consent in respect of the new section 42AAB(1)(a) proposed by the Bill.	<p>In considering giving written consent pursuant to the new section 42AAB(1)(a) proposed by the Bill for an MPF trustee or an Occupational Retirement Schemes Ordinance administrator to disclose information, MPFA may take into account the following criteria:</p> <ul style="list-style-type: none"> <li>(i) the information is to be disclosed to a person located in a place outside Hong Kong;</li> <li>(ii) the person exercises or performs in that place functions that correspond to those of the Commissioner of Inland Revenue; and</li> <li>(iii) MPFA is satisfied that the disclosure will enable or assist the person to exercise or perform the person's official functions.</li> </ul> <p>We are considering introducing CSAs to specify the above criteria in the law.</p>

**MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)  
("the Ordinance")**

**STATUTORY DECLARATION FOR CLAIMS FOR PAYMENT  
OF ACCRUED BENEFITS ON GROUNDS OF EARLY RETIREMENT**

I, \_\_\_\_\_ [name of the claimant], Hong Kong Identity Card/Passport\*

No.: \_\_\_\_\_ of \_\_\_\_\_

[address of the claimant], solemnly and sincerely declare that:

- (a) I have reached 60 years old on \_\_\_\_\_ [dd/mm/yyyy]; and
- (b) I have permanently ceased my employment and/or self-employment\* with effect from \_\_\_\_\_ [dd/mm/yyyy].

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance.

\_\_\_\_\_  
[Signature of the claimant]

Declared at \_\_\_\_\_, Hong Kong this \_\_\_\_\_ day of \_\_\_\_\_.

Before me,

Signature and company chop (if applicable) of  
the person administering the statutory declaration: \_\_\_\_\_

Name in block letters: \_\_\_\_\_

Designation: \_\_\_\_\_

\* *Delete whichever is inappropriate*

✦ **Warning:** Section 43E of the Ordinance makes it an offence punishable with a maximum of 1 year's imprisonment for the first occasion and 2 years' imprisonment on each subsequent occasion for a person who makes a false or misleading statement in a material respect.

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No.: \_\_\_\_\_ of \_\_\_\_\_

[address of the claimant], solemnly and sincerely declare that:

(a) I have reached 60 years old on \_\_\_\_\_ [dd/mm/yyyy];  
and

(b) I have permanently ceased my employment and/or self-employment\* ~~with effect~~  
~~from~~ \_\_\_\_\_ [dd/mm/yyyy] ~~with no intention of~~  
~~becoming employed or self-employed again.~~

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance.

\_\_\_\_\_  
[Signature of the claimant]

Declared at \_\_\_\_\_, Hong Kong this \_\_\_\_\_ day of \_\_\_\_\_.

Before me,

Signature and company chop (if applicable) of  
the person administering the statutory declaration: \_\_\_\_\_

Name in block letters: \_\_\_\_\_

Designation: \_\_\_\_\_

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