

Mandatory Provident Fund Schemes (Amendment) Bill 2014
Debate and voting arrangements

First debate : Clauses with no amendment – Clauses 1 to 6, 8, 9, 10, 12 to 21, 23, 24, 26 to 48, 50, 52, 53, 54, 56 and 57

Voting: To vote on the above clauses standing part of the Bill

Second debate : Clauses with amendments proposed by the Secretary for Financial Services and the Treasury – Clauses 7, 11, 22, 25, 49, 51 and 55

Joint debate on the original clauses and the amendments thereto.

Clauses 7, 22 and 49

- to render the meanings of relevant sections clearer or align their Chinese and English texts.

Clauses 11 and 55

- to add subsection (1A) to the proposed section 42AAB of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) to specify the criteria on which the Mandatory Provident Fund Schemes Authority may give consent to Mandatory Provident Fund trustees or Occupational Retirement Scheme administrators for disclosure of information, and to make the same amendment to the proposed section 78A of the Occupational Retirement Schemes Ordinance (Cap. 426).

Clause 25

- to amend section 35B(2) of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) (“the General Regulation”) to facilitate trustees’ payment of accrued benefits by instalment and ensure consistency with other similar expressions in the General Regulation in relation to trustees’ processing of claims / applications from scheme members; and
- to amend section 35B(3) of the General Regulation to reduce the number of times a trustee handles free-of-charge scheme members’ requests for withdrawal of accrued benefits from 12 to 4 times a year.

Clause 51

- section 1(1) of Schedule 2 to the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485B) (“the Exemption Regulation”) provides for the definition of “minimum MPF benefits” (“MMB”) (including its calculation method), as well as the definitions of “years of post-MPF service” and “final average monthly relevant income”. The amendment seeks to set out an additional scenario in the definitions of “final average monthly relevant income” and “years of post-MPF service” (i.e. a member requests to withdraw MMB on the ground of terminal illness under the proposed section 6(9A) of Schedule 2 to the Exemption Regulation in clause 51 of the Bill) to facilitate the calculation of the amount of MMB.

Voting: To vote on the above amendments together

Third debate : New clauses proposed by the Secretary for Financial Services and the Treasury
– New Clauses 26A and 27A, and heading and Clause 58 of new Part 8

Joint debate on the new clauses

Clause 26A

- the current section 31(4) of the General Regulation requires trustees to give a “Notice of Acceptance” to a scheme applicant within a specified time period. Clause 22 of the Bill proposes to substitute the current section 31(4) with a new section 31(4) to remove the requirement for the “Notice of Acceptance”, and require trustees to give the scheme applicant a “Notice of Participation” which includes information as set out in the “Membership Certificate” specified in section 55(1) of the General Regulation. New clause 26A seeks to introduce a transitional provision for clause 22 of the Bill, which aims to set out clearly that if a trustee has not given a “Notice of Acceptance” to a scheme applicant under the current section 31(4) of the General Regulation before the commencement date of clause 22 of the Bill, it is required to give a “Notice of Participation” to the scheme applicant after the commencement date.

Clause 27A

- the current section 55(1) of the General Regulation requires trustees to give a “Membership Certificate” to an employee who is a member of a registered scheme within a specified time period. Clause 27 of the Bill proposes to remove the requirement by deleting the section. New clause 27A seeks to introduce a transitional provision for clause 27 of the Bill, which aims to set out clearly that if a trustee has given a “Notice of Acceptance” under section 31(4) of the General Regulation but not the above “Membership Certificate” to an employee before the commencement date of clause 27 of the Bill, it is required to give a “Notice of Participation” under clause 22 of the Bill to the employee after the commencement date.

Clause 58

- consequential to clauses 4, 21(1), 30, 32, 52 and 53 of the Bill which aim to clarify the definitions of “permitted period” and “contribution day” for employees and self-employed persons in different contexts as appropriate, to make the transitional provisions setting out clearly the application of the provisions before and after their commencement date.

Voting: To vote on the above new clauses together

The Secretary for Financial Services and the Treasury’s amendments
(Issued under LC Paper No. CB(3) 351/14-15 on 15 January 2015)

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