

立法會
Legislative Council

LC Paper No. CB(1)928/19-20
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/19/2

**Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2019**

**Minutes of the second meeting on
Tuesday, 26 May 2020, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Christopher CHEUNG Wah-fung, SBS, JP
(Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Kin-por, GBS, JP
Hon Paul TSE Wai-chun, JP

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon CHUNG Kwok-pan
Hon CHAN Chun-ying, JP
Hon LUK Chung-hung, JP

Public officers attending : Mr Aaron LIU, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)²

Ms Joan HUNG
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services) Mandatory
Provident Fund Reform

Ms Phyllis POON
Senior Government Counsel
Department of Justice

Ms Marie SIU
Government Counsel
Department of Justice

Attendance by invitation : Mr CHENG Yan-chee
Chief Corporate Affairs Officer and Executive Director
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Executive Director (Policy)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Hugo CHIU
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Meeting with the Administration

Matters arising from the previous meeting

(LC Paper No. CB(1)631/19-20(02) — Letter dated 13 May 2020
from the Legal Service
Division to the Administration

LC Paper No. CB(1)675/19-20(01) — Administration's response to
the letter dated 13 May 2020
from the Legal Service
Division)

Action

Clause-by-clause examination of the Bill

- (LC Paper No. CB(3)773/18-19 — The Bill
- File Ref: MPF/2/1/42C — Legislative Council Brief
- LC Paper No. LS6/19-20 — Legal Service Division Report
- LC Paper No. CB(1)631/19-20(01) — Marked-up copy of the Mandatory Provident Fund Schemes (Amendment) Bill 2019 prepared by the Legal Service Division (Restricted to members only)
- LC Paper No. CB(1)631/19-20(03) — Background brief prepared by the Legislative Council Secretariat)

Amendments to the Bill proposed by the Administration

- (LC Paper No. CB(1)675/19-20(02) — Draft Committee Stage amendments proposed by the Administration)

Discussion

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

II Any other business

Legislative timetable

2. The Chairman concluded that the Bills Committee had completed the scrutiny of the Mandatory Provident Fund Schemes (Amendment) Bill 2019 ("the Bill").
3. Members noted that the Administration would advise on the date of the Council meeting for the resumption of the Second Reading debate on the Bill in due course. If the Administration planned to resume the Second Reading

Action

debate on the Bill at the Council meeting of 24 June 2020, the Chairman would report the Bills Committee's deliberations at the House Committee meeting on 12 June 2020 and the deadline for giving notice of resumption and amendments to the Bill would be 15 June 2020.

4. Members also noted that the Bills Committee had posted a notice on the Legislative Council's website to invite interested parties to give written views on the Bill by 29 May 2020. Submissions received by the Secretariat would be forwarded to the Administration for written response.

(Post-meeting note: The Secretariat received two submissions by the deadline of 29 May 2020. The submissions and the Administration's written response were circulated to members vide LC Paper Nos. CB(1) 714/19-20(01) to (03) on 3 June 2020.)

5. There being no other business, the meeting ended at 8:50 am.

Council Business Division 1
Legislative Council Secretariat
5 August 2020

**Proceedings of the second meeting of the
Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2019
on Tuesday, 26 May 2020, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Meeting with the Administration			
000506 – 001131	Chairman Assistant Legal Adviser 10 ("ALA10") Administration	<p data-bbox="619 595 1184 734"><u>The Legal Adviser's letter dated 13 May 2020 and the Administration's response</u> [LC Paper Nos. CB(1)631/19-20(02) and CB(1)675/19-20(01)]</p> <p data-bbox="619 779 1184 992">On the Administration's response regarding the scope and explanation on immunity from civil liability provided under the Bill (i.e. paragraphs 2 and 3 of the Administration's response paper), ALA10's raised enquiries as follows:</p> <p data-bbox="619 1037 1184 1693">(a) given that the proposed new section 42B(1A) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") seeks to provide for immunity from civil liability to be incurred by the wholly owned subsidiary (i.e. "the eMPF Platform Company") established under the proposed new section 6DA of MPFSO and the eMPF Platform Company's directors and employees in the performance of their functions delegated by the Mandatory Provident Fund Schemes Authority ("MPFA"), how an aggrieved party could seek remedy for the actions of the eMPF Platform Company, its directors and employees; and</p> <p data-bbox="619 1738 1184 2056">(b) whether the eMPF Platform Company would undertake commercial activities, and if so, whether similar immunity from civil liability would be granted to it for such activities, and whether this would be covered in the next phase of legislative exercise (which would deal with the future operations of the eMPF Platform Company).</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration responded as follows:</p> <p>(a) the existing MPFSO provided MPFA with immunity from civil liability in the performance of statutory functions under MPFSO in good faith. The arrangement was similar to other financial regulators such as the Insurance Authority and the Securities and Futures Commission. Under the proposed new section 42B(1A) of MPFSO, such immunity was extended to the eMPF Platform Company, its directors and employees in the performance of the statutory functions delegated by MPFA (i.e. to promote and encourage the development of the retirement scheme industry in Hong Kong). The provision of immunity from civil liability under the proposed section 42B(1A) of MPFSO would not bar any party to apply for judicial review; and</p> <p>(b) details on the future operation of the eMPF Platform Company such as the implementation of the eMPF Platform would be dealt with in the second phase legislative exercise. As the eMPF Platform Company would be run as a non-profit making entity to operate the eMPF Platform as a public utility, it was envisaged that even when it undertook commercial activities, such activities would not be for profit making purposes.</p>	
001132 – 001722	Chairman Administration	<p><u>Clause-by-clause examination of the Mandatory Provident Fund Schemes (Amendment) Bill 2019</u></p> <p>Part 1</p> <p>Preliminary</p> <p><u>Clause 1 – Short title</u></p> <p><u>Clause 2 – Enactments amended</u></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Part 2</p> <p>Amendments to Mandatory Provident Fund Schemes Ordinance (Cap. 485)</p> <p><u>Clause 3 – Section 2 amended (interpretation)</u></p> <p><u>Clause 4 – Section 6 amended (establishment of Mandatory Provident Fund Schemes Authority).</u></p> <p><u>Clause 5 – Section 6DA added</u></p> <p><i>6DA. Authority may establish wholly owned subsidiary</i></p> <p><u>Clause 6 – Section 6F amended (Authority may delegate functions)</u></p> <p><u>Clause 7 – Section 6G amended (power to appoint staff and consultants)</u></p> <p><u>Clause 8 – Section 6KA amended (designation of electronic system by Authority)</u></p> <p><u>Clause 9 – Section 22C added</u></p> <p><i>22C. Approved trustee must not charge certain fees</i></p> <p><u>Clause 10 – Section 42B amended (immunity)</u></p> <p>Part 3</p> <p>Amendment to Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)</p> <p><u>Clause 11 – Schedule 4 amended (financial penalties)</u></p> <p>Part 4</p> <p>Amendments to Mandatory Provident Fund Schemes (Fees) Regulation (Cap. 485 sub. leg. C)</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><u>Clause 12 – Section 1A added</u></p> <p><i>1A. Interpretation</i></p> <p><u>Clause 13 – Schedule 1 amended (fees prescribed for the purposes of the Mandatory Provident Fund Schemes Ordinance (Cap. 485))</u></p> <p>Members raised no question on the clauses in the Bill.</p>	
001723 – 001839	Chairman Administration	<p><u>Administration's proposed amendments to the Bill</u></p> <p>Briefing by the Administration on its proposed amendments to the Bill. [LC Paper No. CB(1)675/19-20(02)]</p> <p>Members raised no question on the Administration's proposed amendments.</p>	
Agenda item II — Any other business			
001840 – 002350	Chairman Mr WONG Ting-kwong Mr CHAN Kin-por Administration Mr Paul TSE Clerk	<p><u>Progress of invitation of views, legislative timetable and concluding remarks</u></p> <p>Mr WONG's and Mr TSE's view that the Administration should resume the Second Reading debate on the Bill within the current session as soon as possible.</p>	