

**Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2021 (“the Bill”)**

Draft Committee Stage Amendments

At the meeting of the Bills Committee held on 23 August 2021, Members were advised of the Government’s intention to propose Committee Stage Amendments (“CSAs”) to the Bill. This paper sets out the relevant draft CSAs (see **Annex**).

2. As regards the draft amendments suggested by the Honourable Luk Chung-hung on 1 September 2021, the Government will take on board the suggestions, and is preparing additional draft CSAs for submission to the Bills Committee for examination.

**Financial Services and the Treasury Bureau
3 September 2021**

Mandatory Provident Fund Schemes (Amendment) Bill 2021

Committee Stage

Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)(a)	By adding “64A,” after “64,”.
19	<p>By deleting the proposed section 19P(2) and (3) and substituting—</p> <p>“(2) The Authority may, by written notice given to an approved trustee of a registered scheme—</p> <ul style="list-style-type: none">(a) require the approved trustee to take any action the Authority considers necessary for any of the purposes mentioned in subsection (1);(b) require the approved trustee to do either or both of the following—<ul style="list-style-type: none">(i) to take any action the Authority considers necessary for ensuring compliance by the approved trustee with section 19M;(ii) to comply with section 19M; and(c) if the system operator of an electronic MPF system has given the approved trustee a notice under section 19R(1), require the approved trustee to do either or both of the following—<ul style="list-style-type: none">(i) to take any action the Authority considers necessary for ensuring compliance by the approved trustee with section 19R(3);(ii) to comply with section 19R(3). <p>(3) An approved trustee of a registered scheme must—</p> <ul style="list-style-type: none">(a) take—<ul style="list-style-type: none">(i) actions that are reasonably required for any of the purposes mentioned in subsection (1); and(ii) other actions required by the Authority under subsection (2)(a);

- (b) comply with the requirements imposed on the approved trustee under subsection (2)(b); and
- (c) comply with the requirements imposed on the approved trustee under subsection (2)(c).”.

19 In the proposed section 19ZE, in the English text, in the heading, by deleting “**section**” and substituting “**sections**”.

34 In the proposed section 41B, by adding—

“(6) A person who uses or discloses any information in contravention of subsection (5) commits an offence and is liable on conviction to a fine at level 4.”.

New By adding—

“64A. Section 119 amended (definitions)

Section 119—

Repeal the definition of *defaulter*.”.

72 In the Chinese text, by deleting subclause (1) and substituting—

“(1) 第 136 條，標題 ——
廢除
在“局須”之後的所有字句
代以
“向欠款人給予通知”。”.

72(2) (a) By adding “serve on the defaulter” after “an approved trustee,”.

(b) By deleting everything after “of it), or” and substituting “any amount of a contribution surcharge liable to be paid by the employer or person under section 18(2) of the Ordinance, (*outstanding sum*) the Authority must as soon as practicable serve on the person (*defaulter*)”.”.

72 By adding—

“(2A) Section 136(1)(a)—

Repeal

“arrears and the contribution surcharge payable on the arrears”

Substitute

“outstanding sum”.

(2B) Section 136(1)—

Repeal paragraph (b)

Substitute

“(b) (regardless of whether the outstanding sum relates only to a contribution surcharge liable to be paid by the defaulter) to give to the Authority an explanation with respect to the failure to pay the arrears;”.

(2C) Section 136(1)(d)—

Repeal

everything after “paying”

Substitute

“the outstanding sum, a remittance statement.”.

72(4)

(a) By adding “are” after “subsection (1)”.

(b) By adding “are as follows” after “subsection (1AA)”.

72

By deleting subclause (5) and substituting—

“(5) Section 136(1A)(a) and (b), Chinese text—

Repeal

“拖欠供”

Substitute

“欠”.

(6) Section 136(1A)—

Repeal paragraphs (c), (d) and (e).

(7) Section 136—

Repeal subsection (2).

(8) Section 136(3)—

Repeal

“is in default”

Substitute

“has failed to pay the arrears”.

(9) Section 136—

Repeal subsections (4), (5), (6) and (9).

(10) Section 136(10), Chinese text—

Repeal

“拖欠供款人必須遵守根據本條向他”

Substitute

“欠款人須遵守根據本條向其”。”.

101(5) In the proposed item 2H—

- (a) by deleting “2H 19P(2)” and substituting “2H 19P(3)(a)”;
- (b) by deleting “Approved trustee to take actions required under section 19P(2)” and substituting “Approved trustee to take actions under section 19P(3)(a)”;
- (c) by deleting “fails to take actions required under section 19P(2)” and substituting “fails to comply with section 19P(3)(a)”.

101(5) By adding—

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| “2HA 19P(3)(b) Approved trustee to comply with requirements imposed under section 19P(2)(b) of the Ordinance | If approved trustee fails to comply with section 19P(3)(b) of the Ordinance— <ul style="list-style-type: none">(a) for the first occasion on which the trustee fails to do so—a daily penalty of \$10,000 for each day on which the failure continues;(b) for the second occasion on which the trustee fails to do so—a daily penalty of \$20,000 for each day on which the failure continues; and |
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			(c) for the third or subsequent occasion on which the trustee fails to do so—a daily penalty of \$50,000 for each day on which the failure continues
2HB	19P(3)(c)	Approved trustee to comply with requirements imposed under section 19P(2)(c) of the Ordinance	<p>If approved trustee fails to comply with section 19P(3)(c) of the Ordinance—</p> <p>(a) for the first occasion on which the trustee fails to do so—a daily penalty of \$10,000 for each day on which the failure continues;</p> <p>(b) for the second occasion on which the trustee fails to do so—a daily penalty of \$20,000 for each day on which the failure continues; and</p> <p>(c) for the third or subsequent occasion on which the trustee fails to do so—a daily penalty of \$50,000 for each day on which the failure continues”.</p>

In the proposed Schedule 5, in section 16(1), by deleting “section 72 of the 2021 Amendment Ordinance (*amendment provision*), section 136 as in force immediately before the commencement date applies” and

substituting “sections 64A and 72 of the 2021 Amendment Ordinance (*amendment provisions*), sections 119 and 136 as in force immediately before the commencement date apply”.

102 In the proposed Schedule 5, in the English text, in section 16(4), in the definition of *commencement date*, by deleting “provision comes” and substituting “provisions come”.

102 In the proposed Schedule 5, in section 17(1), by deleting “section 73 of the 2021 Amendment Ordinance (*amendment provision*), section 137 as in force immediately before the commencement date (*pre-amended section 137*) applies” and substituting “sections 64A and 73 of the 2021 Amendment Ordinance (*amendment provisions*), sections 119 and 137 as in force immediately before the commencement date (*pre-amended provisions*) apply”.

102 In the proposed Schedule 5, in section 17(2), by deleting “section 137 applies” and substituting “provisions apply”.

102 In the proposed Schedule 5, in the English text, in section 17(3), in the definition of *commencement date*, by deleting “provision comes” and substituting “provisions come”.

102 In the proposed Schedule 5, in the English text, in section 20(2), by deleting “date applies” and substituting “date apply”.

102 In the proposed Schedule 5, in the English text, in section 30(3), in the definition of *relevant provision*, in paragraph (b), by deleting “Schedule.” and substituting “Schedule.”.

104 In the proposed section 78B(3), by deleting “fails to comply with” and substituting “uses or discloses any information in contravention of”.