For discussion on
20 April 2021

Legislative Council Panel on Manpower

Abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to "offset" severance payment and long service payment

Purpose

The Government is committed to abolishing the use of accrued benefits derived from employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP) and long service payment (LSP) (the "offsetting" arrangement). This paper explains to Members the work progress and the various mandatory requirements to be set out in the draft bills.

Background

2. The Chief Executive announced in the 2018 Policy Address the enhanced arrangements for abolishing the "offsetting" arrangement. Apart from providing a 25-year subsidy to share out employers' expenses on SP and LSP after the abolition of the "offsetting" arrangement, the Government will also mandate employers to set up Designated Savings Accounts (DSAs) under their own names to start and maintain sufficient savings so as to ensure full protection for the staff. The Government explained to the Panel the above enhanced arrangements for the abolition on 20 November 2018 (the paper is at **Annex 1**).

3. The Government is taking forward at full steam the preparatory work for abolishing the "offsetting" arrangement, including drafting the bills for abolishing the "offsetting" arrangement and implementing the DSA Scheme, and formulating the related operational arrangements as set out below.

Arrangements for Abolishing MPF "offsetting"

Abolition of "offsetting" arrangement

4. The abolition of the "offsetting" arrangement will commence on a date to be appointed after the passage of the relevant legislation by the Legislative Council (LegCo) (the Commencement Date), and thereafter employers can no longer use the accrued benefits derived from their mandatory MPF contributions to "offset" the SP/LSP entitlement under the Employment Ordinance in respect of an employee's employment period starting from the Commencement Date (post-Commencement Date SP/LSP). The accrued benefits derived from employers' contributions in excess of the mandatory contribution (5% of relevant income) may continue to be used to "offset" the employee's SP/LSP. Gratuities based on length of service as voluntary payment of employers to employees may also continue to be used to "offset" SP/LSP.

5. The abolition of the "offsetting" arrangement has no retrospective effect (the "grandfathering" arrangement), i.e. the above rule does not apply to SP/LSP in respect of an employee's employment period before the Commencement Date (pre-Commencement Date SP/LSP). In other words, employers may continue to use the accrued benefits derived from their MPF contributions (irrespective of contributions made before or after the Commencement Date, and irrespective of mandatory or voluntary contributions) to "offset" an employee's pre-Commencement Date SP/LSP. The "grandfathering" arrangement helps reduce the risk of large-scale dismissal before the Commencement Date, or else some employers would probably dismiss employees (particularly those with long years of service) before the abolition takes effect so that they can still use the accrued benefits derived from their MPF contributions to "offset" SP/LSP.

Calculation of SP/LSP

6. After the abolition of the "offsetting" arrangement, the rate for calculating SP/LSP remains unchanged, namely two-thirds of the monthly wage of the employee for each year of service. The post-Commencement Date SP/LSP would be calculated on the basis of the last month's wages[1] upon dismissal as at present. As regards the pre-Commencement Date SP/LSP, its calculation would be based on the monthly wages as at the

[1] The employee may also elect to have his/her wages averaged over the period of 12 months before dismissal for calculation of post-Commencement Date SP/LSP.

Commencement Date[2]. The maximum payment of SP/LSP that an employee may receive also remains unchanged, with the cap remaining at $390,000[3]. After the abolition, if an employer employs an employee who has commenced employment before the Commencement Date, the employer will be required to keep the employee's wage records as at the Commencement Date for calculation of pre-Commencement Date SP/LSP. The above arrangement should also help reduce the risk of large-scale dismissals that may otherwise take place before the abolition.

7. The labour sector expressed concerns over the special circumstances that the amount of aggregate benefits (SP/LSP together with the accrued benefits derived from the employers' mandatory contributions into their MPF accounts) of individual employees might be less than those received under the current "offsetting" regime[4]. In this regard, the Government already undertook to make up for the shortfall to ensure that employees would not be worse off due to change in policy.

Abolition arrangement for other occupational retirement schemes

8. The abolition of the "offsetting" arrangement will apply to the occupational retirement schemes under the Occupational Retirement Schemes Ordinance (ORSO) and the two school provident funds under the Grant/Subsidized Schools Provident Fund Rules governed by the Education Ordinance with the same Commencement Date as the abolition of the "offsetting" arrangement for the MPF System.

9. Since employers' contributions under the ORSO schemes and the school provident funds are not differentiated into mandatory and

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[2] The employees may also elect to have his/her wages averaged over the period of 12 months before the Commencement Date for calculation of the pre-Commencement Date SP/LSP. If an employee has worked for less than 12 months before the Commencement Date, the employee may also elect to have his wages averaged over that period which is less than 12 months for the calculation.

[3] Where the aggregate amount of pre-Commencement Date and post-Commencement Date SP/LSP exceeds $390,000, the post-Commencement Date SP/LSP will be the reminder of $390,000 after first deducting the pre-Commencement Date SP/LSP.

[4] Generally speaking, the amount of aggregate benefits received by employees after the abolition would be higher than that under the current "offsetting" regime. Nevertheless, under some special circumstances, the amount of aggregate benefits received by employees might be less, e.g. an employee with a relatively long employment period before the Commencement Date and a substantial pay rise after the Commencement Date; or in the case that the employee commences employment below the age of 18 or continues employment at the age of 65 or above, and thus only part of his employment period is covered by the MPF System. If the employment period not covered by the MPF System is relatively long and his pay rises substantially after the Commencement Date, the aggregate benefits received by the employee might be less than that under the current "offsetting" regime.

voluntary contributions, the following adapted abolition arrangements will be put in place:

(a) an employer may continue to use the vested benefits derived from his/her contributions to "offset" his/her employee's pre-Commencement Date SP/LSP;

(b) after "offsetting" the pre-Commencement Date SP/LSP in (a), the employer should carve out from the remaining vested benefits an amount of "Non-Offsettable Benefits"; and

(c) after carving out the "Non-Offsettable Benefits" in (b), the employer may use the remaining vested benefits to "offset" the employee's post-Commencement Date SP/LSP.

The amount of the above "Non-Offsettable Benefits" is devised with reference to an employer's mandatory MPF contributions to be calculated as below:

Final average monthly wage[5] $\times$ *Years of service after Commencement Date* $\times$ *5%* $\times$ *12*

10. If the vested benefits derived from the employer's contributions are less than the pre-Commencement Date SP/LSP payable under the circumstance in paragraph 9(a) above; or if, after carving out the "Non-Offsettable Benefits", the remaining vested benefits are less than the employee's post-Commencement Date SP/LSP payable under the circumstance in paragraph 9(c), top-up payment by employers will be needed.

Application of the abolition arrangement

11. For employees who are currently not covered by the MPF System (e.g. domestic helpers) and also not covered by other statutory retirement schemes, they are not affected by the "offsetting" arrangement and thus the arrangements for abolition of "offsetting" will not apply to them. Their SP/LSP (if eligible) will continue to be calculated on the basis of the last monthly wages (or the average monthly wages of the 12-month period) before the termination of employment.

[5] The maximum amount of the final average monthly wage is the same as the maximum level of relevant income as stipulated under the Mandatory Provident Fund Schemes Ordinance. The current maximum level of relevant income as stipulated by the Ordinance is $30,000 per month.

Tax exemption for employees' LSP

12. LSP received by employees from employment and derived from Hong Kong is an income assessable to salaries tax under the Inland Revenue Ordinance. Since employers can use accrued benefits of MPF contributions to "offset" LSP currently and the accrued benefits are generally non-taxable, LSP paid in accordance with the Employment Ordinance are not taxed by the Inland Revenue Department. Upon the abolition of the "offsetting" arrangement, to avoid employees being chargeable to tax in respect of LSP, the Government will amend the Inland Revenue Ordinance to provide tax exemption for LSP paid to employees in accordance with the Employment Ordinance.

Legislative amendments

13. To give effect to the above arrangements, the Government is required to amend a number ordinances with provisions relating to the "offsetting" arrangement, including:

(a) Employment Ordinance (Cap.57);

(b) Mandatory Provident Fund Schemes Ordinance (Cap.485);

(c) Mandatory Provident Fund Schemes (Exemption) Regulation (Cap.485B);

(d) Occupational Retirement Schemes Ordinance (Cap.426);

(e) Grant Schools Provident Fund Rules (Cap.279C);

(f) Subsidized Schools Provident Fund Rules (Cap.279D);

(g) Protection of Wages on Insolvency Ordinance (Cap.380); and

(h) Inland Revenue Ordinance (Cap.112).

Government Subsidy Scheme

14. To assist employers (particularly small and medium-sized enterprises) to adapt to the above policy change, the Government agreed to provide a 25-year subsidy to employers after the abolition of the "offsetting" arrangement with a view to sharing out their expenses in respect of employees' post-Commencement Date SP/LSP (details at **Annex 2**). The total Government commitment for the subsidy amounts to $29.3 billion (in 2016 prices).

15. The Government would review the operation of the subsidy scheme five years after implementation of the abolition of the "offsetting" arrangement.

DSA Scheme for Employers

16. Apart from providing subsidy to employers, the Government will also mandate employers to set up DSAs to ensure that, on one hand, they maintain sufficient savings for meeting their potential SP/LSP expenses to alleviate their financial pressure when such payment arises after the abolition, while on the other hand, ensure full protection for the staff's interest. The Government is currently drafting legislation to provide the legal framework for the implementation of the DSA Scheme.

17. Although some organisations of the business sector had proposed setting up a "central fund pool" to replace the DSA Scheme, the Government has decided against the idea and explained the reasons. In short, the "central fund pool" proposal involves the problem of having other employers cross-subsidising employers who need to pay SP/LSP. It also gives rise to moral hazard and abuses. Besides, on top of payment of levy, employers will have to share a high proportion of SP/LSP upon dismissal. Detailed analysis of the "central fund pool" proposal and the Government's considerations are at **Annex 3**.

Operational arrangements

18. Every employer is required to set up DSAs under his/her own name and make a mandatory contribution equivalent to 1% of his/her employees' monthly relevant income to the DSA until the DSA balance has reached 15% of the annual total relevant income of all employees[6]. DSA savings can only be used to pay for employees' post-Commencement Date SP/LSP.

19. To facilitate employers in calculating and making DSA contributions, the definition of relevant income for calculating DSA contributions and its ceiling[7], as well as the contribution period and contribution day would be the same as those for mandatory contribution

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[6] "Annual total relevant income" includes the total amount of monthly relevant income of all employees whose employer is required to make DSA contributions multiplied by 12 times.

[7] The cap of relevant income as stipulated under the Mandatory Provident Fund Schemes Ordinance (i.e. the maximum level of relevant income) is currently set at $30,000 per month.

under the MPF System. Besides, the DSA scheme would ride on the eMPF Platform currently being developed by the Mandatory Provident Fund Schemes Authority (MPFA), so as to collect employers' DSA contributions and disburse monies in employers' DSAs to them when the need to pay SP/LSP arises. Employers will be able to handle DSA-related issues via the eMPF Platform, including setting up and closing their DSAs; submitting contribution data (including the wage amount and wage period of employees engaged in the contribution period) for calculating the amount of contribution; submitting withdrawal requests for payment of SP/LSP; and checking DSA balance, etc. This can avoid duplication of work and achieve data consistency.

20. To connect to the portal of the eMPF Platform, the Labour Department needs to develop and manage a separate back-end DSA System to process independently the information provided by employers for setting up and closing DSAs, making contributions, withdrawing DSA monies, etc., via the eMPF Platform, so as to support the day-to-day administration of the DSA Scheme. The development, daily management and maintenance of the DSA System, as well as the day-to-day administration of the DSA Scheme will come under LD's responsibility. Although LD has to outsource the daily operation of the DSA Scheme to an agent in the private sector, LD will ensure close oversight of the agent's operation and performance. The Government has consulted the Panel on 19 January 2021 on the above proposal and secured support from the Panel (the paper is at **Annex 4**).

21. As announced before, the majority of employers' savings in DSAs, together with the Government's possible financial commitment to the scheme, will be placed with the Exchange Fund to share a return similar to the investment return of the Exchange Fund.

22. Since the DSA Scheme is to assist employers to save in advance for meeting their potential SP/LSP payout, the actual expenses of the operation/management of the DSA Scheme should be borne by the employers as a matter of principle. That said, to assist employers to accumulate their DSA balance in the initial years after the abolition of the "offsetting" arrangement, the Government would provide financial support for building the various DSA functionalities on the eMPF Platform and the development of the DSA System. The Government would also bear the daily operating expenses of the DSA Scheme in the first five years of operation. The expenses of the daily operation of the DSA Scheme will only be recouped from the DSA employers on a cost recovery basis from the sixth year onwards.

Exemption

23. The Government proposes exempting employers from making DSA contributions in respect of the following two categories of employees:

(a) employees who are currently not covered by the MPF System, including persons covered by statutory retirement schemes or provident fund schemes (e.g. civil servants or teachers of grant/subsidized schools), members enrolled in occupational retirement schemes with MPF exemption certificate, domestic employees, employees aged under 18 or aged 65 or above, etc.; and

(b) other exempted employees, including employees whose employers are making voluntary contributions at 1% or above of their relevant income on top of the 5% mandatory MPF contributions, or employees whose employers are making additional contributions to other occupational retirement schemes on top of the 5% mandatory MPF contributions, etc.

Tax deduction for employer's DSA contributions

24. Currently, provision made for LSP and SP obligations in accordance with the Hong Kong Accounting Standards can be deducted in calculating employers' chargeable profits. The Government proposes amending the Inland Revenue Ordinance to provide tax deduction for DSA contributions made by employers. To avoid double tax deductions, employers could only deduct the excess of the accounting provision over the DSA contributions previously allowed for deduction. Any DSA contributions previously allowed for deduction and subsequently withdrawn by employers for other purposes (i.e. not for paying SP/LSP, such as withdrawals of all DSA monies after closure of DSA) would be treated as trading receipts and chargeable to tax.

Penalties for contravention of the requirements

25. To ensure effective implementation of the DSA scheme, the Government proposes to introduce penalties in the bill. These include mainly offences of an employer's failure to set up DSA, to provide the required contribution data, or make DSA contribution within the specified time limit, etc. After making reference to penalties for offences under the Employment Ordinance, we propose that an employer who contravenes the relevant requirements above shall be liable to a maximum fine of $50,000.

Besides, if the court has made an order requiring an employer to pay any outstanding contributions but the employer fails to comply, or an employer provides false and misleading information in relation to DSAs, in view of the more serious nature of the offences, the proposed maximum fine is $100,000.

Way Forward

26. The Government is working at full steam in the drafting work with the aim to introduce the bills into LegCo in the next legislative year as early as possible. The Government is also pressing ahead with other preparatory work, including working closely with MPFA and its contractor in developing the functionalities on the eMPF Platform to support the DSA Scheme; developing an IT system to support the daily operations of DSAs; and formulating the operational details of the Government subsidy scheme, etc. The Government plans to implement the abolition of "offsetting" arrangement in tandem with the full implementation of the eMPF Platform in 2025.

Advice Sought

27. Members are invited to give their views on the content of this paper.

Labour and Welfare Bureau
Labour Department
April 2021

For discussion on
20 November 2018

Legislative Council Panel on Manpower

Arrangements
for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment and long service payment

Purpose

This paper briefs Members on the arrangements announced by the Chief Executive in the 2018 Policy Address for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP)/long service payment (LSP), and the preparatory work to be actively taken forward.

Background

The preliminary idea

2. In March 2018, the Government put forth a "preliminary idea" on abolishing the "offsetting" arrangement (key features at Annex A). Since then, we met with major stakeholders, including major employers' associations/business chambers, labour unions and political groups etc., and listened to their views on the preliminary idea. We consulted this Panel on 15 May and the Labour Advisory Board (LAB) on 13 June on the preliminary idea. The Legislative Council (LegCo) Panel on Commerce and Industry also discussed the issue on 19 June.

Views of major stakeholders on the preliminary idea

The labour sector

3 The labour sector in general welcomes the Government's preliminary idea, not least with regard to keeping the formula for calculating SP/LSP at two-thirds of the eligible employee's monthly wages for each year of service, as opposed to the previous-term Government's proposal to reduce the rate to one-half. On the other hand, some have continued to express concern that in certain extreme

circumstances, individual employees might receive less than what they do now notwithstanding the abolition of the "offsetting" arrangement[1]. Some have expressed reservation about the proposal of allowing employers to continue to use their MPF contributions made after the effective date of abolition (hereafter referred to as "effective date") to offset the pre-effective date SP/LSP.

The business sector

4. Most of the major business chambers understand the Government's determination to abolish the "offsetting" arrangement, but maintain that this policy change violates the Government's promise that employers would not be required to pay twice when soliciting their support for introducing the MPF System. They reiterate the need to address the overlapping functions among SP, LSP and MPF and consider that restoring the SP/LSP rate to two-thirds of the monthly wages unjustified. They remain highly concerned over the possible financial impact of discharging the SP/LSP responsibilities on cash-tight establishments, notably the micro-sized enterprises with less than ten employees or outsourcing contractors in the cleaning and security industries.

5. Many employers have accepted the need to save up in advance to meet their SP/LSP liabilities by way of the proposed designated saving account (DSA). However, they are concerned that the 1% saving under DSA would not be sufficient to meet their SP/LSP incidental liabilities in full. Such concern is particularly prevalent among micro-sized enterprises and establishments that have less control over their staff turnover (e.g. outsourcing contractors).

6. The increase in Government's financial commitment from the previous-term Government's $7.9 billion for ten years to $17.2 billion for 12 years under the preliminary idea has been considered inadequate to help enterprises meet their SP/LSP liabilities in the long run. The business sector is of the view that retirement protection is a matter for the

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[1] To guard against the risk of large-scale dismissals before the abolition of the "offsetting" arrangement, it was proposed under the preliminary idea to adopt the last month's wages before the effective date of abolition as opposed to the last month's wages at the time of dismissal (if the dismissal is after the effective date) for calculating the SP/LSP entitlement for the employment period before the effective date. This may result in some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date receiving a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers' mandatory contributions to their MPF accounts) than they would otherwise receive under the current "offsetting" regime.

employers, employees and Government to address together, and it is unfair to place the responsibility on employers alone. There is a strong demand from employer groups for the Government to play a longer-term or even perpetual role in sharing part of the SP/LSP responsibility following abolition of the "offsetting" arrangement. Some have requested the Government to review the subsidy scheme after its implementation. That said, many welcome the second-tier subsidy which is targeted more at the needs of micro, small and medium-sized enterprises (MSMEs) or establishments with problems in paying SP/LSP even with the help of DSA.

7 Some employer groups have expressed grave concern that abolition of the "offsetting" arrangement would hamper harmonious labour relations and increase disputes between employers and employees over SP/LSP entitlements. Some also consider the two-tier subsidy scheme too complicated to understand.

Others

8. LAB employer and employee representatives have reached a consensus that the employer representatives would not oppose to abolishing the "offsetting", and both sides urged the Government to come up with a revised proposal to provide long-term support to employers and address the concerns of MSMEs.

Government's decision to enhance the arrangements for abolishing the "offsetting"

9. The Government has, after carefully considered the views expressed by the business and labour sectors, LAB and other stakeholders, decided to enhance the arrangements for abolishing the "offsetting" and significantly increase the financial commitment to strengthen the financial assistance to MSMEs so as to address the concerns of different sectors of the community. The Chief Executive announced in the 2018 Policy Address the enhanced arrangements as follows –

(a) the major features of the preliminary idea at Annex A would form the basis of the arrangements for abolishing the "offsetting";

(b) while keeping the first-tier of the Government subsidy scheme at 12 years, the duration of the second-tier subsidy would be extended from 12 years to 25 years with the rate of subsidy scaling back according to the schedule at Annex B. This would substantially increase the total Government commitment from $17.2 billion proposed in the preliminary idea to $29.3 billion[2] in the 25-year subsidy period;

(c) the Government would make up for the shortfall in case an employee receives a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits attributable to the employer's mandatory contributions to his/her MPF account) than what he/she would otherwise receive under the current "offsetting" regime (see paragraph 13 below); and

(d) the enhanced Government subsidy scheme would be reviewed five years after abolition of the "offsetting" arrangement (see paragraph 14 below).

10. Our analysis shows that DSA would work better for employers with larger employment size. For micro-sized employers (i.e. employers with less than ten employees), should they need to initiate dismissals which necessitate SP/LSP payment in Year 20 after the abolition, more than half of them would have sufficient balance in their DSA to meet the SP/LSP expenses[3]. It is worth noting that, based on the "offsetting" claim data provided by the Mandatory Provident Fund Schemes Authority (MPFA), around 7 000 micro-sized enterprises were involved in "offsetting" every year in the past few years, representing only about 4% of all micro-sized enterprises with employees in Hong Kong.

11. To strike an appropriate balance between the two objectives of better helping enterprises adapt to the policy change of abolishing the "offsetting" arrangement and ensuring the proper use of public funds, the duration of the 12-year first-tier subsidy would not be extended under the enhanced government subsidy scheme as the majority of large enterprises should be able to accrue enough savings in their DSAs to cope with their

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2 The crude estimate is calculated based on an average saving balance in DSAs of incident employers which is less than 15% of the annual relevant income, having taken into account that in reality some incident firms would have operated for less than 15 years in Year 20 after the abolition.

3 The crude estimate has assumed that the incident employers have accumulated an amount up to the cap of 15% of the annual relevant income of their employees in their DSAs and has excluded closure cases of micro-sized firms.

SP/LSP liabilities. On the other hand, extending significantly the period of the second-tier subsidy from 12 years to 25 years could better focus the resources in assisting MSMEs or enterprises which are more prone to large-scale retrenchment as the chances of their having inadequate savings in their DSAs and hence requiring the second-tier subsidy is envisaged to be far greater than large enterprises. A comparison of the maximum subsidy rate under the enhanced subsidy scheme with that under the preliminary idea is set out at Annex C.

12. The enhanced second-tier subsidy would help alleviate the financial burden of micro-sized incident employers who have inadequate savings in their DSAs. A crude estimate is that the average amount of top-up to be made by these micro-sized employers for each incident employee would be reduced from $86,000 under the preliminary idea to $69,000 at Year 20 after the abolition while the total top-up amount for each incident employer would be lowered from $219,000 under the preliminary idea to $179,000. As noted in paragraph 10 above, statistics in past few years show that the number of micro-sized enterprises involved in “offsetting” accounted for a small proportion of all the micro-sized enterprises. Of these, only a proportion had to make top-up payments to incident employees.

Other implementation and technical details

Employees being worse off after abolition of the “offsetting” arrangement

13. As mentioned in paragraph 3 above, there is a possibility that some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date might receive a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers’ mandatory contributions to their MPF accounts) than what they would otherwise receive under the current “offsetting” regime. Taking heed of the concerns expressed by the labour sector, the Government would make up for the shortfall should such cases, which we do not expect to be many, arise so as to ensure that employees would not be worse off. Otherwise it would go against the policy objective of improving employees’ benefits by abolishing the “offsetting” arrangement. Details of the arrangement would be worked out in the implementation stage.

Review of the subsidy scheme

14. To allay the concerns of some employers that the subsidy scheme is too complicated and may not render adequate assistance to MSMEs, we plan to review the operation of the subsidy scheme five years after implementation of the abolition of the “offsetting” arrangement.

DSA

15. There is a need for the collection of funds from employers and their disbursement from DSA. We would make use of the e-MPF platform for the collection of employers’ contributions to their respective DSAs and for subsequent payment of SP/LSP for more cost-effective administration.

16. As for employers’ savings in DSAs, we will explore the feasibility of having them, together with the Government’s possible financial commitment to the scheme, placed with the Hong Kong Monetary Authority (HKMA). This should enable the funds to be treated in the same manner as other government or public placements, which share the return of the Exchange Fund without any charge or management fees. Details of the arrangement will be worked out with HKMA later.

Preparatory work

17. This Panel apart, we are also conducting briefings for major business chambers/employers’ associations and labour groups on the above-mentioned enhanced arrangements for abolishing the “offsetting” arrangement.

18. Taking into account the complexities of the legislative amendments involved, the Government will strive to introduce the enabling bill into the LegCo in 2020 with a view to securing its passage by 2022. In the interim, we will work out the implementation details of the supporting measures including setting up of DSA and the disbursement of Government subsidy with relevant parties including MPFA. Our target is to implement the abolition two years after passage of the enabling legislation.

Advice sought

19. Members are invited to give their views on the content of this paper.

Labour and Welfare Bureau
Labour Department
November 2018

Annex A

Major Features of the Preliminary Idea Proposed in March 2018 on the Abolition of Using Employers' Mandatory Contributions under the Mandatory Provident Fund System to Offset Severance Payment and Long Service Payment

(a) The rate for calculating SP and LSP reverts to two-thirds of the monthly wages of the employee for each year of service (as opposed to 50% under the previous-term Government's proposal), and the maximum payment of SP/LSP keeps at $390,000;

(b) Each employer sets up a DSA under his/her own name and contributes 1% of his/her employees' monthly income to the DSA until reaching 15% of the employees' annual income for payment of SP/LSP. Employers making voluntary MPF contributions at 1% or above, in addition to the 5% mandatory contribution stipulated by the Mandatory Provident Fund Schemes Ordinance may be exempted from setting up their DSAs. Likewise, employers with contributions in excess of 5% under the Occupational Retirement Schemes Ordinance (ORSO) and school provident funds under the Grant/Subsidized Schools Provident Fund Rules of the Education Ordinance would also be exempted;

(c) Government provides a two-tier subsidy with duration extended to 12 years and the quantum increases to $17.2 billion to help share employers' expenses on SP/LSP in respect of the employment period after the effective date of abolition within the 12-year transitional period. The first-tier subsidy is available for all incident employers (i.e. those who need to pay SP/LSP to their employees). The maximum rate of subsidy would be pitched at 50% of the SP/LSP payable in the first three years after abolition of the "offsetting" arrangement and reduced progressively thereafter until it is diminished to 5% in the 12th year. Should an employer's DSA accrued balance be insufficient to pay SP/LSP after netting the first-tier subsidy, the second-tier subsidy would kick in to share the outstanding amount at the same rate as the first-tier in the relevant year. Government's share of SP/LSP in the 12-year subsidy period is as follows–

Year after the abolition	**Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting" arrangement**	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)**
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	40%
6	35%	35%
7	30%	30%
8	25%	25%
9	20%	20%
10	15%	15%
11	10%	10%
12	5%	5%
13	-	-

(d) The "offsetting" arrangement will be abolished as from a future effective date with no retrospective effect (the "grandfathering" arrangement), while the SP/LSP entitlement for an employee's employment period before the effective date of abolition could continue to be offset by the employer's contributions under the MPF System made both before and after the effective date; and

(e) Other technical features as embodied in the previous-term Government's proposal should remain. These include–

(i) the abolition of the "offsetting" should also be applicable to the occupational retirement schemes under the ORSO and the two school provident funds under the Grant/Subsidized Schools Provident Fund Rules governed by the Education Ordinance with the same effective date set for the MPF System;

(ii) voluntary contributions under the MPF System in excess of the mandatory 5% and the accrued benefits can continue to be used for offsetting SP/LSP. Likewise, gratuity based on length of service as voluntary payment of employers to employees can also continue to be used to offset SP/LSP;

(iii) for employees not covered by the MPF System (currently domestic helpers, whether foreign or local, and employees aged below 18 or aged 65 or above) or other statutory retirement schemes, their employers will not be reimbursed with any subsidy from Government for payment of any SP/LSP; and

(iv) any SP/LSP payable for the employment period up to the effective date would be calculated on the basis of the monthly wages as at the effective date, as opposed to the last monthly wages at the time of dismissal (if the dismissal is after the effective date) as presently provided under the Employment Ordinance.

Annex B

Further Enhanced Government Subsidy
for Sharing Employers' Expenses on SP/LSP

Year after the abolition	**Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting"**	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)**
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	45%
6	35%	45%
7	30%	40%
8	25%	40%
9	20%	40%
10	15%	35%
11	10%	35%
12	5%	35%
13	-	30%
14	-	30%
15	-	30%
16	-	25%
17	-	25%
18	-	25%
19	-	20%
20	-	20%
21	-	20%
22	-	15%
23	-	15%
24	-	10%
25	-	10%
26	-	-

Annex C

A Comparison of the Government's Maximum Subsidy to Employers under the Enhanced Abolition Arrangements and the Preliminary Idea

Year after the abolition	Government's maximum[Note 1] subsidy to employers as % of SP/LSP payable in respect of the employment period after the abolition of the "offsetting"					
	Government subsidy under the enhanced abolition arrangements			Government subsidy under the preliminary idea		
	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)
1	50%	25%	**75%**	50%	25%	75%
2	50%	25%	**75%**	50%	25%	75%
3	50%	25%	**75%**	50%	25%	75%
4	45%	24.75%	**69.75%**	45%	24.75%	69.75%
5	40%	27%	**67%**	40%	24%	64%
6	35%	29.25%	**64.25%**	35%	22.75%	57.75%
7	30%	28%	**58%**	30%	21%	51%
8	25%	30%	**55%**	25%	18.75%	43.75%
9	20%	32%	**52%**	20%	16%	36%
10	15%	29.75%	**44.75%**	15%	12.75%	27.75%
11	10%	31.5%	**41.5%**	10%	9%	19%
12	5%	33.25%	**38.25%**	5%	4.75%	9.75%
13	-	30%	**30%**	-	-	-
14	-	30%	**30%**	-	-	-
15	-	30%	**30%**	-	-	-
16	-	25%	**25%**	-	-	-
17	-	25%	**25%**	-	-	-
18	-	25%	**25%**	-	-	-
19	-	20%	**20%**	-	-	-
20	-	20%	**20%**	-	-	-
21	-	20%	**20%**	-	-	-
22	-	15%	**15%**	-	-	-
23	-	15%	**15%**	-	-	-
24	-	10%	**10%**	-	-	-
25	-	10%	**10%**	-	-	-
26	-	-	**-**	-	-	-

Notes:

1. This shows the maximum Government subsidy share. As most employers would probably have savings accrued in their DSAs, it is likely that in most cases requiring the second-tier subsidy, the Government only needs to share part of the employer's remaining SP/LSP after discounting the first-tier subsidy.

2. The figure of Government's maximum share of SP/LSP payment under the second-tier subsidy in the relevant year is calculated by multiplying the remaining percentage of SP/LSP after netting the first-tier subsidy in that year by the sharing percentage of the second-tier subsidy in the same year. For example, under the enhanced abolition arrangements, in the fifth year after the abolition of the "offsetting", the Government's shares in the first-tier subsidy and the second-tier subsidy are 40% and 45% respectively (see Annex B). The second-tier subsidy is derived by [100% - 40% (the first-tier subsidy)] x 45%, i.e. 27% of the SP/LSP payment of the incident employer.

Annex 2

Government Subsidy Scheme
Government's Share of post- Commencement Date SP/LSP

Year after the abolition	Government's share of post-Commencement Date SP/LSP	
	First-tier subsidy (as % of SP/LSP payable)	Second-tier subsidy (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)
1 - 3	50%	50%
4	45%	45%
5	40%	45%
6	35%	45%
7	30%	40%
8	25%	40%
9	20%	40%
10	15%	35%
11	10%	35%
12	5%	35%
13 - 15	-	30%
16 - 18	-	25%
19 - 21	-	20%
22 - 23	-	15%
24 - 25	-	10%
26	-	-

Annex 3

Analysis on "Central Fund Pool" Proposal

Introduction

Regarding the arrangement for abolishing the use of the accrued benefits derived from mandatory contributions made by the employer in respect of an employee under the Mandatory Provident Fund (MPF) System to "offset" severance payment (SP) and long service payment (LSP) (the "offsetting" arrangement), some organisations of the business sector have proposed setting up a "central fund pool", under which employers are required to pay every month a flat-rate levy equivalent to 1% of each of his employees' monthly salary for paying SP/LSP. The proposal has the support of some small- and medium-sized enterprise (SME) associations and employers of some industries, but there has been strong opposition from many organisations of the business sector in the society. This annex aims to set forth society's concerns on the "central fund pool" proposal and analyse its financial sustainability.

2. A "central fund pool" is essentially an insurance-type arrangement by which a central risk pool would be set up. Financed by mandatory levy contributions from all employers, the dismissal cost of individual employers would be borne, in full or in part, by the central risk pool.

Major Concerns

Equity consideration

3. One of the major concerns of employer organisations about the "central fund pool" proposal is whether it is an equitable arrangement. At present, only a small portion of employers and employees are involved in the "offsetting" arrangement as compared with the total number of employers and employees. According to figures of the Mandatory Provident Fund Scheme Authority (MPFA), from 2017 to 2019, among employers and employees enrolled under MPF schemes, about 5% and 2% were respectively involved in the "offsetting" arrangement each year. Details are shown below-

Year	Number of enrolled employers*	Number of employers involved in "offsetting"	Number of enrolled employees*	Number of employees involved in "offsetting"
2017	280 000	14 600 (5.2%)	2 581 000	50 000 (1.9%)
2018	290 000	13 600 (4.7%)	2 633 000	48 100 (1.8%)
2019	290 000	14 400 (5.0%)	2 631 000	50 300 (1.9%)

Notes: Figures in brackets denote the percentages of enrolled employers and employees involved in the "offsetting" arrangement. The percentages are calculated using the rounded figures as shown in the table.

* Estimated figures as at year end.

4. The operation mode of the "central fund pool" is that all employers have to contribute a pre-set rate of levy in respect of each employee for the purpose of paying SP/LSP when dismissal takes place. This implies cross-subsidisation from firms or industries who pay less SP/LSP to those who pay more, and from firms with lower staff turnover rates to those with higher turnover rates. Some employer organisations are particularly concerned that employers in industries in which employees are mainly employed on fixed-term contracts may draw from the "central fund pool" frequently to pay SP/LSP. The "central fund pool" would increase the cost burden of the vast majority of employers who rarely need to pay SP/LSP. It would also be less equitable to most employees who seldom receive SP/LSP upon termination of service as their employers may seek to absorb the levy contribution through a lower pay increase. Many employers consider that the fund set aside by individual employers for SP/LSP should be used for paying their own employees, rather than paying to a shared "central fund pool" to cross subsidise other employers in paying SP/LSP arising from dismissal of employees.

5. Some employer organisations have proposed capping the levy rate in respect of high-income employees to minimise cross-subsidisation by large enterprises to micro, small- and medium-sized enterprises (MSMEs). On the other hand, MSMEs consider that they would cross subsidise large enterprises as the amount to be drawn from the "central fund pool" for payment of SP due to large scale retrenchment by large enterprises could be huge. Capping the levy rate does not seem to be able

to resolve the problem of cross-subsidisation among different employers or industries.

Abuse

6. While the proposal of having the "central fund pool" bearing SP/LSP in full can help address employers' concern over risks, employers may become more ready to dismiss employees even if they need to pay SP/LSP. This is because they would not have any extra cost in dismissing employees other than the levy, which is already paid to the "central fund pool". Besides, employers and employees may be tempted to collude for the employer to dismiss the employee, so as to claim SP/LSP from the "central fund pool". Such moral hazard and possible abuse will lead to a significant increase in the number of SP/LSP claims, which would necessitate an increase in the levy rate, or else the "central fund pool" would not be sustainable. If employers are required to shoulder a higher portion of SP/LSP, say 50%, moral hazard may be reduced but still cannot be eliminated.

7. There are also opinions in the labour sector opposing the idea of having the "central fund pool" bearing SP/LSP in full. If SP/LSP payable upon dismissal of employees is to be paid by the "central fund pool" in full, employers may dismiss employees more readily and the protection to employees will be reduced. They propose that the concerned employers should bear half of the SP/LSP with the remaining half to be paid by the "central fund pool" so as to avoid irresponsible dismissal. However, requiring employers to bear 50% of SP/LSP to reduce moral hazard would be against the intention of setting up a "central fund pool". Nor would it be attractive to employers.

8. Some employer organisations have suggested requiring employers not to re-engage the dismissed employees for a certain period after dismissal so as to alleviate the moral hazard of a "central fund pool". While this arrangement may reduce the risk of collusion between employers and employees for an employer to dismiss the employee so as to claim SP/LSP from the "central fund pool", the proposal is difficult to implement in practice. This will also affect the mobility and flexibility of the labour market and is not consistent with the free market principle. In addition, it may contravene the obligation to promote full and freely chosen

employment[1] under the Employment Policy Convention (International Labour Convention No. 122).

Financial Analysis

9. To assess the financial sustainability of the "central fund pool" proposal, crude estimates were conducted based on the following settings:

(a) the rate for calculating SP/LSP is two-thirds (i.e. for employees eligible for SP/LSP, the amount of SP/LSP is two-thirds of the employee's monthly wages in the last month for each year of service);

(b) employers are required to pay a flat-rate levy for each of their employees annually as a steady income source of the "central fund pool";

(c) two scenarios are set based on the share of SP/LSP to be borne by employers and the "central fund pool": (i) to be paid in full by the "central fund pool"; and (ii) employers and the "central fund pool" each sharing 50%;

(d) having regard to employers' share of SP/LSP in (c) above, take into account the increase in SP/LSP cases as a result of the possible moral hazard and abuse; and

(e) the "central fund pool" is to be financially sustainable for 30 years.

10. Based on the above settings, the crude estimates on the annual levy per employee payable by employers are tabulated below.

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[1] The Convention applies to the Hong Kong Special Administrative Region. Article 1 states that:

(1) With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.
(2) The said policy shall aim at ensuring that--
(a) there is work for all who are available for and seeking work;
(b) such work is as productive as possible;
(c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.

Scenario	Share of SP/LSP between employers and the "central fund pool"	Percentage increase in SP/LSP cases(1) due to moral hazard and abuse	Annual levy(2) payable per employee(3) by employers (in 2019 prices)
1	0% : 100%	50% to 100%	$4,500 to $5,800
2	50% : 50%	25% to 60%	$1,900 to $2,400

Notes:

(1) The crude estimates are based on MPFA's administrative records of SP/LSP "offsetting" cases in 2019, with suitable adjustments to take into account, among others, (i) those cases which are not subject to MPF "offsetting"; (ii) normal economic fluctuations; (iii) the projected demographic profile of the labour force; and (iv) assumed wage growth and investment return in real terms. Besides, periodic economic downturn is also assumed.

(2) Rounded figures.

(3) The number of employees over the assessment period is assumed to follow broadly the latest projected trend of the local labour force, as published by the Census and Statistics Department in September 2020.

11. In estimating the levy rate of the "central fund pool", it is necessary to take into account that the possible increase in SP/LSP cases owing to moral hazard and abuse may lead to an increase in the levy rate payable by employers. As shown in the table above, if SP/LSP is to be borne by the "central fund pool" in full and assuming that SP/LSP incidence rate would increase by 50% to 100% owing to moral hazard and abuse, it is crudely estimated that the annual levy per employee payable by an employer would range from $4,500 to $5,800, which is equivalent to 2.1% to 2.7% of the median wage of employees[2]. This is much higher than the 1% levy rate as proposed by some employers.

12. Employers would have to bear a much larger share of SP/LSP if moral hazard is to be mitigated. Even if employers are required to share 50% of SP/LSP, the annual levy per employee payable by an employer would need to be in the range of $1,900 to $2,400 (which is 0.9% to 1.1% of the median wage of employees) in order to maintain the operation of the "central fund pool". Apart from the levy, employers are also required to pay SP/LSP amounting to one-third of the eligible employee's monthly

[2] The ratio of the annual levy per employee payable by an employer to the median wage of employees is calculated based on 12 times the median monthly wage ($18,200) of employees in Hong Kong, according to the 2019 Annual Earnings and Hours Survey of the Census and Statistics Department.

salary for each year of service. This level of pay-out is more than triple the median SP in developed countries with an unemployment insurance system[3]. At the same time, employers are required to make provisions for potential SP/LSP liability, and may face the risk of bankruptcy if they are unable to pay SP when laying off employees due to financial difficulties.

Conclusion

13. In conclusion, while the "central fund pool" proposal can share out employers' SP/LSP expenses, it has the problem of having some employers cross-subsidising those who dismiss employees. Moreover, the moral hazard and abuse thus arisen will significantly increase the number of SP/LSP cases and, in turn, the cost of the "central fund pool". Requiring employers dismissing employees to shoulder a portion of SP/LSP may help reduce moral hazard and abuse. Nonetheless, all employers would still be required to pay the levy. Those who dismiss employees will have to pay a significant portion of SP/LSP on top of the levy, which is against the intention of setting up a "central fund pool".

[3] According to the Information Note published by the Research Office of the Information Services Division of Legislative Council Secretariat on 26 February 2021, International Labour Organization noted that for the advanced places studied, the median SP for a worker with one year of service amounted to less than 10% of the monthly salary.

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Legislative Council Panel on Manpower

Funding for Building Designated Savings Accounts Functionalities on the eMPF Platform and Developing the Designated Savings Accounts Information Technology System

Introduction

To assist employers to meet the potential severance payment ("SP") and long service payment ("LSP") liabilities after the abolition of the arrangement of using the accrued benefits attributable to employers' mandatory contributions under the Mandatory Provident Fund ("MPF") System to "offset" the SP and LSP (here below referred to as the "offsetting" arrangement), the Government will implement the employers' Designated Savings Account ("DSA") Scheme[1]. This paper explains to Members the funding proposal for building DSA functionalities on the eMPF Platform[2] of the Mandatory Provident Fund Schemes Authority ("MPFA"), and the development and management of the DSA Information Technology ("IT") System ("DSA System") in the Labour Department ("LD").

Background

2. The Chief Executive ("CE") announced in the 2018 Policy Address the enhanced arrangements for abolishing the "offsetting" arrangement. Apart from providing a 25-year subsidy to share employers' expenses on SP and LSP after the abolition of the "offsetting" arrangement, the Government will also assist employers to set up DSAs under their own names to save up in advance to

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[1] Under the DSA Scheme, unless exempted, each employer will be required to make contribution equivalent to 1% of the monthly relevant income of his/her employees to his/her DSA after the abolition of the "offsetting" arrangement. The mandatory contributions in the DSA can only be withdrawn for the purpose of paying SP/LSP.

[2] The eMPF Platform is a common electronic platform which seeks to standardise, streamline and automate the administration processes of the MPF System to improve the accuracy and operational efficiency of MPF schemes, thereby making room for fee reduction for the benefit of scheme members and creating a predominantly paperless MPF experience.

meet the potential SP and LSP expenses with a view to alleviating their financial pressure when such payment arises.

3. The Government is working at full steam in taking forward the preparatory work for abolishing the "offsetting" arrangement, including drafting the bills for abolishing the "offsetting" arrangement and implementing the DSA Scheme, and formulating the related operational arrangements and details. The Government plans to introduce the bills into the Legislative Council ("LegCo") in the next legislative year, and to implement the abolition of "offsetting" arrangement after the passage of the bills by LegCo and in tandem with the full implementation of the eMPF Platform.

Justifications

Building functionalities on the eMPF Platform to support the DSA Scheme

4. In order to assist employers to set up their DSAs, the Government needs to collect regularly contributions from over 300 000 employers[3] to their DSAs, and disburse monies in their DSAs to them when the need to pay SP/LSP arises. The Government plans to ride on the eMPF Platform to be built by MPFA to collect employers' contributions and disburse DSA monies to them in order to achieve better cost-effectiveness.

5. MPFA made a conditional award to the successful tenderer at end-December last year and will enter into a formal contract to build and operate the eMPF Platform with the successful tenderer early this year to kick-start the hardware and software development for the eMPF Platform. MPFA's targets are to complete the development of the eMPF Platform by the end of 2022 at the earliest, and then to migrate the data from the operation systems of the 14 MPF trustees to the eMPF Platform in batches with a view to achieving the full implementation of the Platform in around 2025 at the earliest.

6. The Government has reached a consensus with MPFA on the DSA functionalities and services to be provided on the eMPF Platform for collecting

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[3] According to the statistics kept by MPFA, the number of employers enrolled in the MPF schemes was around 306 300 as at end-November 2020.

employers' contributions and disbursing DSA monies, and the relevant specifications have been incorporated into the tender documents and the contract for the eMPF Platform. LD will work closely with MPFA as well as its contractor in developing the functionalities on the eMPF Platform to support the DSA Scheme. The Platform, which will serve as the front-end portal for employers, will be connected to LD's back-end DSA System (with details set out in paragraph 7 below). Employers will be able to perform the following activities on the front-end portal of the eMPF Platform –

(a) setting up and closing their DSAs: After employers submit the necessary information for setting up DSA (e.g. name of the company and the responsible person, registered and business addresses, etc.) or closing DSA (e.g. reason(s) for closure), the eMPF Platform will conduct preliminary verification and transmit the data to the DSA System for vetting and approval;

(b) calculating the amount of contribution: After employers submit the contribution data, including the wage amount and wage period of employees engaged in the contribution period, the eMPF Platform will calculate employers' contribution amount based on the information provided and issue the payment bills to the employers. If an employer fails to make contribution within the contribution timeframe, the eMPF Platform will issue a reminder to the employer;

(c) submitting withdrawal requests: After employers submit the necessary information (e.g. the termination date of the employment contract of dismissed employees, and the amount of SP/LSP payable, etc.) for their withdrawal requests, the eMPF Platform will conduct preliminary verification and transmit the information to the DSA System for vetting and approval;

(d) checking DSA balance: Employers can check their DSA balance maintained in the DSA System via the eMPF Platform; and

(e) receiving DSA statements: DSA statements will be generated by the DSA System and issued to employers via the eMPF Platform.

Developing and managing the DSA System

7. To implement the DSA Scheme, apart from building the related functionalities on the eMPF Platform, LD needs to develop and manage a separate back-end DSA System for connecting to the front-end portal of the eMPF Platform. The DSA System will process the information provided by employers for setting up and closing DSAs, making contributions, withdrawing DSA monies, etc., via the eMPF Platform to support the day-to-day administration of the DSA Scheme. LD proposes that the development, daily management and maintenance of the DSA System, as well as the day-to-day administration of the DSA Scheme be outsourced to an agent in the private sector to achieve better cost-effectiveness. The scope of work of the outsourced agent will include –

(a) developing, operating and maintaining a back-end computer system to support and automate the following work processes of DSA –

   (i) managing individual DSAs: Setting up and closing DSAs, recording contributions and withdrawals, conducting payment reconciliation with the eMPF Platform and banks, updating account balance, identifying abnormal transactions, generating DSA statements, etc.;

   (ii) computing the share of investment returns/administrative costs amongst individual DSAs;

   (iii) maintaining operation of the interfaces with the eMPF Platform, banks and other related IT systems to perform real-time or scheduled data transmission; and properly managing the information and documents stored in the system to ensure their security and integrity for supporting the operation of the DSA Scheme and related enforcement work; and

   (iv) generating management statistical reports and providing statistical analysis and reports on applications received and processed, and other follow-up actions for monitoring the implementation of the DSA Scheme;

(b) providing account management services, including taking follow-up actions on irregularities such as employers failing to set up DSAs or making contributions within the specified timeframe, and payment reconciliation errors;

(c) handling employers' applications, including –

  (i) vetting and approving applications for withdrawing DSA monies and closing DSAs (i.e. checking information of each application, clarifying details with employers, screening out ineligible applications, verifying the amount to be withdrawn/account balance, etc. by vetting officers; and reviewing and approving payment/account closure, or refusal recommendation by approving officers);

  (ii) obtaining further information and documents from employees or other relevant parties to verify the eligibility for application to prevent abuse;

  (iii) notifying employers of the vetting results via the eMPF Platform; and

  (iv) handling review/appeal cases;

(d) conducting necessary follow-up actions in respect of individual DSAs, such as issuing payment bills to employers;

(e) handling enquiries and complaints lodged by employers, and conducting investigation and submitting reports on individual complaints to LD;

(f) reporting suspected cases of non-compliance to LD and assisting LD in taking enforcement actions where necessary; and

(g) submitting regular and ad hoc management reports to LD, and providing statistical analysis and reports on applications received and processed as required by LD.

8. Since the DSA Scheme is to assist employers to save up in advance to meet their potential SP/LSP payout, the expenses of the DSA Scheme should be borne by the employers as a matter of principle. That said, to assist employers to accumulate their DSA balance in the initial years after the abolition of the "offsetting" arrangement, we suggest the Government to provide financial support for the building of the DSA functionalities on the eMPF Platform and the development of the DSA System. Besides, we also propose the Government to bear the daily operating expenses of the DSA Scheme in the first five years of operation. From the sixth year onwards, the recurrent operating expenses of the daily operation of the DSA Scheme will be recouped from the DSA employers on a cost recovery basis.

Anticipated benefits

9. Riding on the eMPF Platform and commissioning of an outsourced agent to administer the DSA System will facilitate the implementation of the DSA Scheme and enhance the operation efficiency of the related work in the following aspects. The envisaged major benefits are as below –

(a) Facilitating employers to handle MPF and DSA matters on one single platform

By handling both MPF and DSA matters on one single platform, employers will not need to get acquainted with and adapt to two different sets of administrative procedures and user interfaces, thereby simplifying the work relating to the management of DSAs. In particular, employers can avoid duplication of work and achieve data consistency by submitting employees' income data via the same platform for calculating the amount of MPF and DSA contributions.

For employers and human resources management practitioners, online transaction, standardised administrative procedures and automation can reduce paper work, human errors as well as inadvertent delay and default on making contributions. In general, the use of eMPF Platform (with the back-end support of the DSA System) will help employers save their time and efforts. Simple and user-friendly administrative procedures can also further boost the digital take-up rate of employers, which will in turn enhance the cost-effectiveness of the eMPF Platform and the DSA System in the long run.

(b) Speeding up the processing of employers' applications and disbursement of payments

Employers may withdraw their DSA monies for paying SP/LSP. Handling the relevant applications involves a number of procedures, including submission and vetting of applications, clarification and verification of information with employers and employees (if necessary), arrangement of payment, and handling review and appeal of application results, etc. Without the aid of the DSA System, all applications will have to be processed manually and the processing time will also be substantially lengthened.

(c) Enhancing reliability, accuracy and efficiency of the administration work

The eMPF Platform and the DSA System will keep all DSA transaction records, employers' application details and documents, thereby obviating the need for manual search of voluminous paper records and reducing the lead time for manual transfer of information in the workflow, thereby enhancing the operational efficiency. An automatic workflow management system will facilitate the communication between the outsourced agent and LD, and reduce the need to manually compile the statistical returns and general documentation. In addition, the database of the DSA System will enable a more effective and speedy identification of duplicate and dubious applications for withdrawal of DSA monies or account closure, thus enhancing the efficiency and consistency of the vetting and approval process as well as strengthening the supervision.

(d) Leveraging the experience of private enterprises in developing and operating financial related systems and services

Outsourcing the development and management of the DSA System can fully tap the professional knowledge and experience of the private enterprises in building financial related systems, and their expertise and experience in providing customer services, audit and compliance of financial regulations, thereby improving the cost-effectiveness and flexibility in resource deployment in the implementation and administration of the DSA Scheme.

(e) Environmental-friendly work environment

The use of an IT system will reduce the storage space for paper forms, documents and manual records, as well as consumption of paper.

Implementation Plan

10. Subject to the support of Members and the funding approval from LegCo, our proposed way forward is as follows –

		Activity	Target completion date
(a)		eMPF Platform	
	(i)	Building the related functionalities on the eMPF Platform to support the DSA Scheme	End-2022 at the earliest
	(ii)	Full implementation (including hardware and software development, data migration of MPF trustees, etc.) of the eMPF Platform (including the DSA functionalities)	Around 2025 at the earliest

	Activity	Target completion date
(b)	Development and management of the DSA System	
	(i) Invitation to tender and award of contract	2023
	(ii) System design, and hardware and software development	2024
	(iii) Interfacing with the eMPF Platform and integration test	2025
(c)	Implementation of the DSA Scheme	2025

Financial Implications

Non-recurrent expenditure

11. The implementation of the proposal set out in paragraph 10 above will incur an estimated non-recurrent expenditure of $447.23 million spanning from 2021-22 to 2029-30 by LD. The breakdown is as follows –

	Item	2021-22 $'000	2022-23 $'000	2023-24 $'000	2024-25 $'000	2025-26 $'000	2026-27 to 2029-30 $'000	Total[4] $'000
(a)	**Building of DSA functionalities on the eMPF Platform**	3,440	5,188	1,889	3,232	-	-	13,749
(b)	**Development and management of the DSA System**							
(i)	Developing the DSA System							
	(1) Hardware	-	-	-	3,343	335	1,517	5,195
	(2) Software	-	-	522	1,891	579	2,615	5,607

4 Individual figures may not add up exactly to the total owing to rounding.

Item	2021-22 $'000	2022-23 $'000	2023-24 $'000	2024-25 $'000	2025-26 $'000	2026-27 to 2029-30 $'000	Total[4] $'000
(3) System implementation and maintenance services	-	-	30,260	4,657	6,296	27,165	68,378
(4) Cloud services	-	-	5,532	5,809	6,099	26,316	43,756
(5) Communication network	-	-	-	6,899	2,052	9,289	18,240
(6) IT contract staff	-	144	902	1,588	4,840	20,883	28,357
(7) Contingency fee		14	3,722	2,419	2,020	8,778	16,953
Subtotal[4]	-	158	40,938	26,606	22,221	96,562	186,485
(ii) Daily management of DSA Scheme (in the initial five years)							
(1) Office rent and related expenses	-	-	-	10,442	4,490	18,290	33,222
(2) Administration, staff and other costs	-	-	-	12,542	44,934	156,298	213,774
Subtotal[4]	-	-	-	22,984	49,424	174,588	246,996
Subtotal for (b)[4]	-	158	40,938	49,590	71,645	271,150	433,481
Total[4]	3,440	5,346	42,827	52,822	71,645	271,150	447,230

12. On paragraph 11(a) above, the estimated expenditure of $13,749,000 is to pay for the contractor's services for developing the DSA functionalities on the eMPF Platform as well as hiring IT contract staff to provide internal technical support and to assist in managing and monitoring the contractor's performance.

13. On paragraph 11(b)(i) above, the estimated expenditure of $186,485,000 is for developing the DSA System and maintaining the DSA System in the initial five years of operation of the DSA Scheme. The

expenditure comprises the service fee for engaging the outsourced agent to design, build and maintain the DSA System (including the acquisition of computer hardware, system software, network equipment and cloud infrastructure and the related maintenance, etc.), and the expenses for LD to hire contract IT staff to provide internal technical support.

14. On paragraph 11(b)(ii) above, the estimated expenditure of $246,996,000 is for engaging the outsourced agent to provide services for the daily administration of the DSA Scheme in the initial five years of its operation. The service fee will include the office rent, and the administrative and staffing expenses involved in managing the daily operation of the DSA Scheme, etc.

15. When preparing the above estimates on the building of DSA functionalities on the eMPF Platform, LD has made reference to the information obtained from the Request for Proposal exercise for the eMPF Platform project conducted by MPFA in December 2019. LD is currently conducting a feasibility study ("FS") on the development of the DSA System so as to formulate the technical specifications of the system. In working out the cost estimates in this regard, we have taken into account the following factors: the range of functions to be undertaken by the outsourced agent, preliminary results of the FS, the need to maintain a close interface with the eMPF Platform and other related systems and the voluminous data transmission, the importance of service quality, and the obligation to ensure compliance with relevant laws in the operation of the DSA Scheme. The above estimated figures mainly serve for financial planning. The actual amount of service fee will be confirmed upon completion of an open and competitive tendering process.

Recurrent expenditure

16. From the sixth year after the implementation of the DSA Scheme onwards, the recurrent operating cost of the DSA Scheme will be recouped from the DSA employers on a cost recovery basis.

Public Consultation

17. After CE's announcement of the enhanced arrangements for the

abolition of the "offsetting" arrangement in the 2018 Policy Address, the Labour and Welfare Bureau and LD have briefed the major stakeholders, including the Labour Advisory Board, major employers' associations/business chambers and labour unions on the details of the arrangements. We have also briefed this Panel[5] on the arrangements, including the DSA Scheme, on 20 November 2018. The relevant Panel paper is at Annex.

Advice Sought

18. Members are invited to give views on the above funding proposal for implementing the DSA Scheme.

Labour and Welfare Bureau
Labour Department
January 2021

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[5] Members of the Panel on Commerce and Industry, members of the Panel on Financial Affairs and all other Members of LegCo were invited to join the discussion relating to this item.

For discussion on
20 November 2018

Legislative Council Panel on Manpower

Arrangements
for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment and long service payment

Purpose

This paper briefs Members on the arrangements announced by the Chief Executive in the 2018 Policy Address for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP)/long service payment (LSP), and the preparatory work to be actively taken forward.

Background

The preliminary idea

2. In March 2018, the Government put forth a "preliminary idea" on abolishing the "offsetting" arrangement (key features at Annex A). Since then, we met with major stakeholders, including major employers' associations/business chambers, labour unions and political groups etc., and listened to their views on the preliminary idea. We consulted this Panel on 15 May and the Labour Advisory Board (LAB) on 13 June on the preliminary idea. The Legislative Council (LegCo) Panel on Commerce and Industry also discussed the issue on 19 June.

Views of major stakeholders on the preliminary idea

The labour sector

3 The labour sector in general welcomes the Government's preliminary idea, not least with regard to keeping the formula for calculating SP/LSP at two-thirds of the eligible employee's monthly wages for each year of service, as opposed to the previous-term Government's proposal to reduce the rate to one-half. On the other hand, some have continued to express concern that in certain extreme

circumstances, individual employees might receive less than what they do now notwithstanding the abolition of the "offsetting" arrangement[1]. Some have expressed reservation about the proposal of allowing employers to continue to use their MPF contributions made after the effective date of abolition (hereafter referred to as "effective date") to offset the pre-effective date SP/LSP.

The business sector

4. Most of the major business chambers understand the Government's determination to abolish the "offsetting" arrangement, but maintain that this policy change violates the Government's promise that employers would not be required to pay twice when soliciting their support for introducing the MPF System. They reiterate the need to address the overlapping functions among SP, LSP and MPF and consider that restoring the SP/LSP rate to two-thirds of the monthly wages unjustified. They remain highly concerned over the possible financial impact of discharging the SP/LSP responsibilities on cash-tight establishments, notably the micro-sized enterprises with less than ten employees or outsourcing contractors in the cleaning and security industries.

5. Many employers have accepted the need to save up in advance to meet their SP/LSP liabilities by way of the proposed designated saving account (DSA). However, they are concerned that the 1% saving under DSA would not be sufficient to meet their SP/LSP incidental liabilities in full. Such concern is particularly prevalent among micro-sized enterprises and establishments that have less control over their staff turnover (e.g. outsourcing contractors).

6. The increase in Government's financial commitment from the previous-term Government's $7.9 billion for ten years to $17.2 billion for 12 years under the preliminary idea has been considered inadequate to help enterprises meet their SP/LSP liabilities in the long run. The business sector is of the view that retirement protection is a matter for the

[1] To guard against the risk of large-scale dismissals before the abolition of the "offsetting" arrangement, it was proposed under the preliminary idea to adopt the last month's wages before the effective date of abolition as opposed to the last month's wages at the time of dismissal (if the dismissal is after the effective date) for calculating the SP/LSP entitlement for the employment period before the effective date. This may result in some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date receiving a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers' mandatory contributions to their MPF accounts) than they would otherwise receive under the current "offsetting" regime.

employers, employees and Government to address together, and it is unfair to place the responsibility on employers alone. There is a strong demand from employer groups for the Government to play a longer-term or even perpetual role in sharing part of the SP/LSP responsibility following abolition of the "offsetting" arrangement. Some have requested the Government to review the subsidy scheme after its implementation. That said, many welcome the second-tier subsidy which is targeted more at the needs of micro, small and medium-sized enterprises (MSMEs) or establishments with problems in paying SP/LSP even with the help of DSA.

7 Some employer groups have expressed grave concern that abolition of the "offsetting" arrangement would hamper harmonious labour relations and increase disputes between employers and employees over SP/LSP entitlements. Some also consider the two-tier subsidy scheme too complicated to understand.

Others

8. LAB employer and employee representatives have reached a consensus that the employer representatives would not oppose to abolishing the "offsetting", and both sides urged the Government to come up with a revised proposal to provide long-term support to employers and address the concerns of MSMEs.

Government's decision to enhance the arrangements for abolishing the "offsetting"

9. The Government has, after carefully considered the views expressed by the business and labour sectors, LAB and other stakeholders, decided to enhance the arrangements for abolishing the "offsetting" and significantly increase the financial commitment to strengthen the financial assistance to MSMEs so as to address the concerns of different sectors of the community. The Chief Executive announced in the 2018 Policy Address the enhanced arrangements as follows –

(a) the major features of the preliminary idea at Annex A would form the basis of the arrangements for abolishing the "offsetting";

(b) while keeping the first-tier of the Government subsidy scheme at 12 years, the duration of the second-tier subsidy would be extended from 12 years to 25 years with the rate of subsidy scaling back according to the schedule at Annex B. This would substantially increase the total Government commitment from $17.2 billion proposed in the preliminary idea to $29.3 billion[2] in the 25-year subsidy period;

(c) the Government would make up for the shortfall in case an employee receives a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits attributable to the employer's mandatory contributions to his/her MPF account) than what he/she would otherwise receive under the current "offsetting" regime (see paragraph 13 below); and

(d) the enhanced Government subsidy scheme would be reviewed five years after abolition of the "offsetting" arrangement (see paragraph 14 below).

10. Our analysis shows that DSA would work better for employers with larger employment size. For micro-sized employers (i.e. employers with less than ten employees), should they need to initiate dismissals which necessitate SP/LSP payment in Year 20 after the abolition, more than half of them would have sufficient balance in their DSA to meet the SP/LSP expenses[3]. It is worth noting that, based on the "offsetting" claim data provided by the Mandatory Provident Fund Schemes Authority (MPFA), around 7 000 micro-sized enterprises were involved in "offsetting" every year in the past few years, representing only about 4% of all micro-sized enterprises with employees in Hong Kong.

11. To strike an appropriate balance between the two objectives of better helping enterprises adapt to the policy change of abolishing the "offsetting" arrangement and ensuring the proper use of public funds, the duration of the 12-year first-tier subsidy would not be extended under the enhanced government subsidy scheme as the majority of large enterprises should be able to accrue enough savings in their DSAs to cope with their

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2 The crude estimate is calculated based on an average saving balance in DSAs of incident employers which is less than 15% of the annual relevant income, having taken into account that in reality some incident firms would have operated for less than 15 years in Year 20 after the abolition.

3 The crude estimate has assumed that the incident employers have accumulated an amount up to the cap of 15% of the annual relevant income of their employees in their DSAs and has excluded closure cases of micro-sized firms.

SP/LSP liabilities. On the other hand, extending significantly the period of the second-tier subsidy from 12 years to 25 years could better focus the resources in assisting MSMEs or enterprises which are more prone to large-scale retrenchment as the chances of their having inadequate savings in their DSAs and hence requiring the second-tier subsidy is envisaged to be far greater than large enterprises. A comparison of the maximum subsidy rate under the enhanced subsidy scheme with that under the preliminary idea is set out at Annex C.

12. The enhanced second-tier subsidy would help alleviate the financial burden of micro-sized incident employers who have inadequate savings in their DSAs. A crude estimate is that the average amount of top-up to be made by these micro-sized employers for each incident employee would be reduced from $86,000 under the preliminary idea to $69,000 at Year 20 after the abolition while the total top-up amount for each incident employer would be lowered from $219,000 under the preliminary idea to $179,000. As noted in paragraph 10 above, statistics in past few years show that the number of micro-sized enterprises involved in "offsetting" accounted for a small proportion of all the micro-sized enterprises. Of these, only a proportion had to make top-up payments to incident employees.

Other implementation and technical details

Employees being worse off after abolition of the "offsetting" arrangement

13. As mentioned in paragraph 3 above, there is a possibility that some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date might receive a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers' mandatory contributions to their MPF accounts) than what they would otherwise receive under the current "offsetting" regime. Taking heed of the concerns expressed by the labour sector, the Government would make up for the shortfall should such cases, which we do not expect to be many, arise so as to ensure that employees would not be worse off. Otherwise it would go against the policy objective of improving employees' benefits by abolishing the "offsetting" arrangement. Details of the arrangement would be worked out in the implementation stage.

Review of the subsidy scheme

14. To allay the concerns of some employers that the subsidy scheme is too complicated and may not render adequate assistance to MSMEs, we plan to review the operation of the subsidy scheme five years after implementation of the abolition of the "offsetting" arrangement.

DSA

15. There is a need for the collection of funds from employers and their disbursement from DSA. We would make use of the e-MPF platform for the collection of employers' contributions to their respective DSAs and for subsequent payment of SP/LSP for more cost-effective administration.

16. As for employers' savings in DSAs, we will explore the feasibility of having them, together with the Government's possible financial commitment to the scheme, placed with the Hong Kong Monetary Authority (HKMA). This should enable the funds to be treated in the same manner as other government or public placements, which share the return of the Exchange Fund without any charge or management fees. Details of the arrangement will be worked out with HKMA later.

Preparatory work

17. This Panel apart, we are also conducting briefings for major business chambers/employers' associations and labour groups on the above-mentioned enhanced arrangements for abolishing the "offsetting" arrangement.

18. Taking into account the complexities of the legislative amendments involved, the Government will strive to introduce the enabling bill into the LegCo in 2020 with a view to securing its passage by 2022. In the interim, we will work out the implementation details of the supporting measures including setting up of DSA and the disbursement of Government subsidy with relevant parties including MPFA. Our target is to implement the abolition two years after passage of the enabling legislation.

Advice sought

19. Members are invited to give their views on the content of this paper.

Labour and Welfare Bureau
Labour Department
November 2018

Annex A

Major Features of the Preliminary Idea Proposed in March 2018 on the Abolition of Using Employers' Mandatory Contributions under the Mandatory Provident Fund System to Offset Severance Payment and Long Service Payment

(a) The rate for calculating SP and LSP reverts to two-thirds of the monthly wages of the employee for each year of service (as opposed to 50% under the previous-term Government's proposal), and the maximum payment of SP/LSP keeps at $390,000;

(b) Each employer sets up a DSA under his/her own name and contributes 1% of his/her employees' monthly income to the DSA until reaching 15% of the employees' annual income for payment of SP/LSP. Employers making voluntary MPF contributions at 1% or above, in addition to the 5% mandatory contribution stipulated by the Mandatory Provident Fund Schemes Ordinance may be exempted from setting up their DSAs. Likewise, employers with contributions in excess of 5% under the Occupational Retirement Schemes Ordinance (ORSO) and school provident funds under the Grant/Subsidized Schools Provident Fund Rules of the Education Ordinance would also be exempted;

(c) Government provides a two-tier subsidy with duration extended to 12 years and the quantum increases to $17.2 billion to help share employers' expenses on SP/LSP in respect of the employment period after the effective date of abolition within the 12-year transitional period. The first-tier subsidy is available for all incident employers (i.e. those who need to pay SP/LSP to their employees). The maximum rate of subsidy would be pitched at 50% of the SP/LSP payable in the first three years after abolition of the "offsetting" arrangement and reduced progressively thereafter until it is diminished to 5% in the 12th year. Should an employer's DSA accrued balance be insufficient to pay SP/LSP after netting the first-tier subsidy, the second-tier subsidy would kick in to share the outstanding amount at the same rate as the first-tier in the relevant year. Government's share of SP/LSP in the 12-year subsidy period is as follows–

Year after the abolition	Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting" arrangement	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy** (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	40%
6	35%	35%
7	30%	30%
8	25%	25%
9	20%	20%
10	15%	15%
11	10%	10%
12	5%	5%
13	-	-

(d) The "offsetting" arrangement will be abolished as from a future effective date with no retrospective effect (the "grandfathering" arrangement), while the SP/LSP entitlement for an employee's employment period before the effective date of abolition could continue to be offset by the employer's contributions under the MPF System made both before and after the effective date; and

(e) Other technical features as embodied in the previous-term Government's proposal should remain. These include–

(i) the abolition of the "offsetting" should also be applicable to the occupational retirement schemes under the ORSO and the two school provident funds under the Grant/Subsidized Schools Provident Fund Rules governed by the Education Ordinance with the same effective date set for the MPF System;

(ii) voluntary contributions under the MPF System in excess of the mandatory 5% and the accrued benefits can continue to be used for offsetting SP/LSP. Likewise, gratuity based on length of service as voluntary payment of employers to employees can also continue to be used to offset SP/LSP;

(iii) for employees not covered by the MPF System (currently domestic helpers, whether foreign or local, and employees aged below 18 or aged 65 or above) or other statutory retirement schemes, their employers will not be reimbursed with any subsidy from Government for payment of any SP/LSP; and

(iv) any SP/LSP payable for the employment period up to the effective date would be calculated on the basis of the monthly wages as at the effective date, as opposed to the last monthly wages at the time of dismissal (if the dismissal is after the effective date) as presently provided under the Employment Ordinance.

Annex B

Further Enhanced Government Subsidy
for Sharing Employers' Expenses on SP/LSP

Year after the abolition	**Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting"**	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)**
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	45%
6	35%	45%
7	30%	40%
8	25%	40%
9	20%	40%
10	15%	35%
11	10%	35%
12	5%	35%
13	-	30%
14	-	30%
15	-	30%
16	-	25%
17	-	25%
18	-	25%
19	-	20%
20	-	20%
21	-	20%
22	-	15%
23	-	15%
24	-	10%
25	-	10%
26	-	-

Annex C

A Comparison of the Government's Maximum Subsidy to Employers under the Enhanced Abolition Arrangements and the Preliminary Idea

Year after the abolition	Government's maximum (Note 1) subsidy to employers as % of SP/LSP payable in respect of the employment period after the abolition of the "offsetting"					
	Government subsidy under the enhanced abolition arrangements			Government subsidy under the preliminary idea		
	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)
1	50%	25%	**75%**	50%	25%	75%
2	50%	25%	**75%**	50%	25%	75%
3	50%	25%	**75%**	50%	25%	75%
4	45%	24.75%	**69.75%**	45%	24.75%	69.75%
5	40%	27%	**67%**	40%	24%	64%
6	35%	29.25%	**64.25%**	35%	22.75%	57.75%
7	30%	28%	**58%**	30%	21%	51%
8	25%	30%	**55%**	25%	18.75%	43.75%
9	20%	32%	**52%**	20%	16%	36%
10	15%	29.75%	**44.75%**	15%	12.75%	27.75%
11	10%	31.5%	**41.5%**	10%	9%	19%
12	5%	33.25%	**38.25%**	5%	4.75%	9.75%
13	-	30%	**30%**	-	-	-
14	-	30%	**30%**	-	-	-
15	-	30%	**30%**	-	-	-
16	-	25%	**25%**	-	-	-
17	-	25%	**25%**	-	-	-
18	-	25%	**25%**	-	-	-
19	-	20%	**20%**	-	-	-
20	-	20%	**20%**	-	-	-
21	-	20%	**20%**	-	-	-
22	-	15%	**15%**	-	-	-
23	-	15%	**15%**	-	-	-
24	-	10%	**10%**	-	-	-
25	-	10%	**10%**	-	-	-
26	-	-	**-**	-	-	-

Notes:

1. This shows the maximum Government subsidy share. As most employers would probably have savings accrued in their DSAs, it is likely that in most cases requiring the second-tier subsidy, the Government only needs to share part of the employer's remaining SP/LSP after discounting the first-tier subsidy.

2. The figure of Government's maximum share of SP/LSP payment under the second-tier subsidy in the relevant year is calculated by multiplying the remaining percentage of SP/LSP after netting the first-tier subsidy in that year by the sharing percentage of the second-tier subsidy in the same year. For example, under the enhanced abolition arrangements, in the fifth year after the abolition of the "offsetting", the Government's shares in the first-tier subsidy and the second-tier subsidy are 40% and 45% respectively (see Annex B). The second-tier subsidy is derived by [100% - 40% (the first-tier subsidy)] x 45%, i.e. 27% of the SP/LSP payment of the incident employer.