

Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment)  
Bill 2022

Committee Stage

Amendments to be moved by the Secretary for Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
32(1)	In the proposed section 70A(1AA), in paragraph (b) of the definition of <b>Cap. 57 payment reduction provision</b> , by deleting the full stop and substituting a semicolon.
32(1)	In the proposed section 70A(1AA), by adding in alphabetical order—  “ <b>employer-funded ORS benefit</b> (僱主供款職業退休計劃利益) has the meaning given by section 2(1) of the Employment Ordinance (Cap. 57);  <b>employer-funded (specified) ORS benefit</b> (僱主供款(指明)職業退休計劃利益) has the meaning given by section 2(1) of the Employment Ordinance (Cap. 57);  <b>post-transition portion</b> (轉制後部分) has the meaning given by section 1(1) of Schedule 11 to the Employment Ordinance (Cap. 57);  <b>pre-transition portion</b> (轉制前部分) has the meaning given by section 1(1) of Schedule 11 to the Employment Ordinance (Cap. 57);  <b>specified employee</b> (指明僱員) has the meaning given by section 2(1) of the Employment Ordinance (Cap. 57).”.
32(3)	By deleting the proposed section 70A(2A) and substituting—  “(2A) However, if the employer has only paid a part of the severance payment or long service payment ( <b>paid Cap. 57 payment</b> ), the payment under subsection (2) must be of an amount equal to—  (a) if the employee is not a specified employee—the lesser of the following—  (i) the amount of the removable benefits;

- (ii) so much of the vested benefits mentioned in subsection (1)(b) that are employer-funded (specified) ORS benefits and that would remain if they were to be reduced by an amount of the unpaid part of the severance payment or long service payment (*unpaid Cap. 57 payment*) under the benefits reduction provision; or
- (b) if the employee is a specified employee—the sum of the amounts under subparagraphs (i) and (ii)—
  - (i) the lesser of the following—
    - (A) so much of the removable benefits that are such benefits because of a reduction by an amount of the pre-transition portion of the paid Cap. 57 payment;
    - (B) so much of the vested benefits mentioned in subsection (1)(b) that are employer-funded ORS benefits and that would remain if they were to be reduced by an amount of the pre-transition portion of the unpaid Cap. 57 payment under the benefits reduction provision;
  - (ii) the lesser of the following—
    - (A) so much of the removable benefits that are such benefits because of a reduction by an amount of the post-transition portion of the paid Cap. 57 payment;
    - (B) so much of the vested benefits mentioned in subsection (1)(b) that are employer-funded (specified) ORS benefits and that would remain if they were to be reduced by an amount of the post-transition portion of the unpaid Cap. 57 payment under the benefits reduction provision.
- (2B) For the purposes of subsection (2A)(a)(ii) and (b)(i)(B) and (ii)(B), a reduction under the benefits reduction provision is a reduction under the provision that applies on the basis that the unpaid Cap. 57 payment had also been paid.”.

33(1) In the proposed section 12A(1AA), in the English text, in paragraph (b) of the definition of *Cap. 57 payment reduction provision*, by deleting the full stop and substituting a semicolon.

- 33(1) In the proposed section 12A(1AA), in the Chinese text, in paragraph (b) of the definition of *扣減權益條文*, by deleting the full stop and substituting a semicolon.
- 33(1) In the proposed section 12A(1AA), by adding in alphabetical order—
- “*employer-funded MPFS benefit* (僱主供款強積金計劃權益) has the meaning given by section 1(1) of Schedule 11 to the Employment Ordinance (Cap. 57);
  - employer-funded (voluntary) MPFS benefit* (僱主供款(自願性)強積金計劃權益) has the meaning given by section 2(1) of the Employment Ordinance (Cap. 57);
  - post-transition portion* (轉制後部分) has the meaning given by section 1(1) of Schedule 11 to the Employment Ordinance (Cap. 57);
  - pre-transition portion* (轉制前部分) has the meaning given by section 1(1) of Schedule 11 to the Employment Ordinance (Cap. 57);
  - specified employee* (指明僱員) has the meaning given by section 2(1) of the Employment Ordinance (Cap. 57).”.
- 33(4) By deleting the proposed section 12A(2A) and substituting—
- “(2A) However, if the employer has only paid a part of the severance payment or long service payment (*paid Cap. 57 payment*), the payment under subsection (2) must be of an amount equal to—
- (a) if the employee is not a specified employee—the lesser of the following—
    - (i) the amount of the removable benefits;
    - (ii) so much of the accrued benefits mentioned in subsection (1)(b) that are employer-funded (voluntary) MPFS benefits and that would remain if they were to be reduced by an amount of the unpaid part of the severance payment or long service payment (*unpaid Cap. 57 payment*) under the benefits reduction provision; or
  - (b) if the employee is a specified employee—the sum of the amounts under subparagraphs (i) and (ii)—
    - (i) the lesser of the following—

- (A) so much of the removable benefits that are such benefits because of a reduction by an amount of the pre-transition portion of the paid Cap. 57 payment;
  - (B) so much of the accrued benefits mentioned in subsection (1)(b) that are employer-funded MPFS benefits and that would remain if they were to be reduced by an amount of the pre-transition portion of the unpaid Cap. 57 payment under the benefits reduction provision;
- (ii) the lesser of the following—
- (A) so much of the removable benefits that are such benefits because of a reduction by an amount of the post-transition portion of the paid Cap. 57 payment;
  - (B) so much of the accrued benefits mentioned in subsection (1)(b) that are employer-funded (voluntary) MPFS benefits and that would remain if they were to be reduced by an amount of the post-transition portion of the unpaid Cap. 57 payment under the benefits reduction provision.
- (2B) For the purposes of subsection (2A)(a)(ii) and (b)(i)(B) and (ii)(B), a reduction under the benefits reduction provision is a reduction under the provision that applies on the basis that the unpaid Cap. 57 payment had also been paid.”.