

## **Press Release**

### **LCQ10: Offsetting of severance payments and long service payments with accrued benefits of mandatory provident fund schemes**

Wednesday, May 27, 2015

Following is a question by the Hon James Tien and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (May 27):

Question:

At present, under the Mandatory Provident Fund Schemes Ordinance (MPFSO)(Cap. 485), an employer may use the accrued benefits derived from his contributions to a Mandatory Provident Fund (MPF) scheme for an employee to offset the severance payments or long service payments payable to that employee under the Employment Ordinance (Cap. 57) (the offsetting arrangement). Regarding the suggestion put forward by labour organisations that the offsetting arrangement be abolished, some members of the industrial and commercial sectors have pointed out that this suggestion not only deviates from the legislative intent of MPFSO but also is, in effect, an additional provision of "double benefit" to employees, which increases the burden on and is unfair to the employers. In this connection, will the Government inform this Council:

(1) given that at the meeting of the former Legislative Council on July 27, 1995 during the scrutiny of the Mandatory Provident Fund Schemes Bill, the then Secretary for Education and Manpower advised that "at present, the employers' contributions to a retirement scheme may be set off against any amount paid out for severance payments or long service payments. It is not appropriate to expect employers to pay twice", whether the authorities' current stance is consistent with that view; if it is not, of the reasons for that;

(2) given that before MPFSO was enacted, it had been stipulated in the law that employers' contributions to retirement schemes could be used to offset severance payments or long service payments, of the authorities' detailed justifications, including the factors considered and their respective weightings, for following this established practice when they subsequently enacted MPFSO;

(3) whether it has assessed (i) the percentage increase in staff costs for employers (especially those of small and medium enterprises), and (ii) the impacts on the business environment and economy of Hong Kong that the abolition of the offsetting arrangement will bring about; and;

(4) whether it has reviewed how to make optimal use of the Government's ample fiscal reserves to provide better support and protection to the grassroots' retirement life, instead of shifting the responsibility to employers; if it has, of the details; if not, the reasons for that?

Reply:

President,

Regarding the question raised by the Hon James Tien that employers may use the accrued benefits derived from their contributions made to Mandatory Provident Fund (MPF) schemes in respect of their employees to offset the Severance Payment (SP) or Long Service Payment (LSP) payable to their employees under the Employment Ordinance, the Government's reply is as follows:

(1) and (2) SP and LSP were introduced into the Employment Ordinance in 1974 and 1986 respectively, at the time when there was no mandatory retirement protection scheme. To encourage more employers to voluntarily provide their employees with termination or retirement benefits, the Employment Ordinance stipulates that an employer may offset the contributions made to a retirement scheme in respect of an employee or gratuity based on length of service paid to an employee against SP or LSP payable to the employee. Subsequently, the Government, balancing the interests of both employers and employees, adopted the long-established offsetting arrangement under the Employment Ordinance in the Mandatory Provident Fund Schemes Ordinance enacted in 1995, allowing employers to offset SP or LSP payable to employees against the accrued benefits derived from their contributions to MPF schemes.

The offsetting arrangement is a complicated issue. Before a consensus is reached among employers, employees and stakeholders on whether the

offsetting mechanism should be revised, the Government will not change the existing arrangement of which employers may offset SP and LSP against the accrued benefits derived from employers' contributions to MPF schemes.

(3) The Government has not conducted any assessment of the impact of abolition of offsetting arrangement on employers, the business environment and the economy.

(4) Retirement protection is a very important social issue. After the release of the report on the "Future Development of Retirement Protection in Hong Kong" submitted by a research team led by Professor Nelson Chow last August, there have been divergent views on the issue in the community. In this connection, the Commission on Poverty will conduct a public consultation on retirement protection, and is devising a framework and setting out the details. The public consultation is expected to be launched in the fourth quarter of this year. The Government looks forward to rational and pragmatic discussions with a view to arriving at a community consensus. The Government agrees that protection for needy citizens after retirement should be improved. To demonstrate its determination and commitment, the Government has earmarked \$50 billion to provide for future needs.

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