

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.2 Guidelines on Reports Relating to Payment of Mandatory Contributions

INTRODUCTION

The Mandatory Provident Fund Schemes (Amendment) Bill 2007 was passed by the Legislative Council on 9 January 2008. The Mandatory Provident Fund Schemes (Amendment) Ordinance 2008 (“Amendment Ordinance 2008”) was gazetted on 18 January 2008. Part 26 of the Amendment Ordinance 2008, which amends the provisions in the MPF legislation relating to payment and recovery of mandatory contributions¹, shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Sections 7A and 7C of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provide for the making of mandatory contributions. Section 122 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides for a mandatory contribution to be paid to the approved trustee of a registered scheme on or before the contribution day. Section 135 of the Regulation (as amended by the Amendment Ordinance 2008) requires that, if a participating employer or self-employed person fails to pay a mandatory contribution in full to the approved trustee of the registered scheme concerned by the contribution day, the trustee must submit a written notice to the Mandatory Provident Fund Schemes Authority (“the Authority”) within 10 days after the contribution day.

¹ Part 26 of the Amendment Ordinance 2008 includes provisions to amend sections 132 to 136 of the Mandatory Provident Fund Schemes (General) Regulation by mainly removing the “settlement period”, which is a period of 30 days following the contribution day for the payment of a mandatory contribution.

3. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

4. The Authority hereby issues guidelines to approved trustees specifying the information required to be included in the notice to be given to the Authority under section 135 of the Regulation (as amended by the Amendment Ordinance 2008).

EFFECTIVE DATE

5. These revised Guidelines (Version 4 – January 2008) shall become effective on the date of commencement of the operation of Part 26 of the Amendment Ordinance 2008 and are applicable to contribution periods beginning on or after that date of commencement. Version 3 – August 2002 of the Guidelines shall be superseded on that day.

NOTICE TO BE GIVEN UNDER SECTION 135 OF THE REGULATION

6. The notice to be given to the Authority under section 135 of the Regulation should include the following information:

Date of Report	
Scheme Registration Number	
Approval Number of the Trustee	
English Name of the Defaulter (if applicable)	
Chinese Name of the Defaulter (if applicable)	
Participation Number (for employer only)	
HKID / Passport Number (for self-employed person only)	
Address of the Defaulter	
Phone Number of the Defaulter (if known)	
Fax Number of the Defaulter (if known)	

Start Date of the Contribution Period concerned (DDMMYYYY)	
End Date of the Contribution Period concerned (DDMMYYYY)	
Contribution Day concerned (DDMMYYYY)	
Amount in Arrears (up to 2 decimal places)	
Number of Employees/Self-employed Person concerned	
Any other remark the trustee would like to bring to the attention of the Authority	
Number of Report (1 st or 2 nd)	
English Name of the Employer's Contact Person (if applicable)	
Chinese Name of the Employer's Contact Person (if applicable)	
Industry Type of the Defaulter	
Untraceable Address Indicator	
Number of Enrolled Employee(s)	
Default Contribution Reason(s)	

7. In case that the trustee has no knowledge of the amount of arrears in respect of a defaulter, the trustee should report HK\$0.01 as the amount in arrears in the notice for easy identification by the Authority.

8. For those employers who have not enrolled any employee into the scheme, the trustee should exclude them or should file them separately for default contribution reporting purposes.

9. In view of the fact that the data required under paragraph 6 above may be voluminous, the approved trustee of a registered scheme should submit the notice to the Authority by electronic means. The trustee should also comply with the requirements for electronic interface as informed by the Authority from time to time (current reporting requirement is set out in the circular letter issued on 16 August 2006) and enclose a covering letter with a summary of information submitted when submitting the notice. The summary should include the following information:

- (a) the name of the trustee;
- (b) the name of the scheme together with the scheme registration number;
- (c) the date of submission;
- (d) the total number of files submitted;
- (e) the total number of records in each file;
- (f) the name of each file submitted; and
- (g) the total sum of amount in arrears.

DEFINITIONS OF TERMS

10. Except where otherwise specified in the Guidelines, the terms common to the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as defined in the Ordinance and the subsidiary legislation. Approved trustees of registered schemes should make appropriate reference to the Ordinance and the subsidiary legislation, where necessary.