

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.22 Guidelines on Statement Required under Section 7AB of the Mandatory Provident Fund Schemes Ordinance

INTRODUCTION

Section 7 of the Mandatory Provident Fund Schemes Ordinance (the Ordinance) provides for the enrolment of relevant employees in registered schemes. Section 7A of the Ordinance provides for the making of mandatory contributions to the approved trustees of the registered schemes.

2. Section 7AA of the Ordinance requires an employer to pay mandatory contributions to the Mandatory Provident Fund Schemes Authority (the Authority) on or before the contribution day for each contribution period during which the employee is not a member of a registered scheme as required under section 7 of the Ordinance.

3. Section 7AB of the Ordinance requires an employer to ensure, when paying contributions to the Authority under section 7AA of the Ordinance, that the contributions are accompanied by a statement, in a form specified or approved by the Authority, for the contribution period or periods to which the contributions relate.

4. Section 7AC of the Ordinance requires the Authority to pay any contributions that are paid to it in respect of relevant employees under section 7AA to an approved trustee of a registered scheme to be determined in accordance with section 7AC for processing the contributions.

5. Section 47A of the Ordinance provides that the Authority may specify or approve the form and contents of documents required for the purposes of the Ordinance.

6. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons, regulated persons and other persons concerned with the Ordinance.

7. The Authority hereby issues guidelines to specify the form and contents of the statement to be used by employers for the purpose of section 7AB.

EFFECTIVE DATE

8. These revised Guidelines (Version 3 – April 2023) shall become effective on 24 April 2023. The previous version of these Guidelines (Version 2 – February 2016) shall be superseded on that day.

CONTRIBUTION ARRANGEMENTS

9. An employer has to enrol each relevant employee in a registered scheme within the permitted period after the relevant time and make mandatory contributions to the registered scheme for and in respect of the employees on or before the contribution day as required under sections 7 and 7A of the Ordinance. Guidelines IV.8 “Guidelines on Enrolment and Contribution Arrangements for Relevant Employees Other Than Casual Employees” and Guidelines IV.9 “Guidelines on Enrolment and Contribution Arrangements for Casual Employees” set out the enrolment and contribution arrangements in relation to the respective employees.

10. In the event that an employer fails to comply with sections 7 and 7A

of the Ordinance concerning enrolment and contribution requirements in respect of its employee, the employer is required under section 7AA of the Ordinance to pay the mandatory contributions for and in respect of the employee to the Authority on or before the contribution day for each contribution period during which the employee is not a member of a registered scheme. For the purpose of section 7AA, the term “contribution day” is defined as follows:

“Contribution day”

- (a) in relation to a contribution payable for a contribution period by an employer in respect of a relevant employee who is not a casual employee, means, subject to section 7AA(12):
 - (i) where the contribution period is wholly or partly within the permitted period after the relevant time, the tenth day after:
 - (A) the last day of the month in which the permitted period ends; or
 - (B) the last day of the month in which the contribution period ends, whichever is the later; or
 - (ii) where the contribution period is not wholly or partly within the permitted period after the relevant time, the tenth day after the last day of the month in which the contribution period ends; and
- (b) in relation to a contribution payable for a contribution period by an employer in respect of a relevant employee who is a casual employee, means, subject to section 7AA(12):
 - (i) where the contribution period is wholly or partly within the permitted period after the relevant time, the tenth day after the last day of the contribution period in which the permitted period ends; or
 - (ii) where the contribution period is not wholly or partly within the permitted period after the relevant time, the tenth day after the last day of the contribution period.

11. When the employer pays the contributions to the Authority under section 7AA of the Ordinance, the employer is required under section 7AB of the Ordinance to ensure that the contributions are accompanied by a statement setting out the information in respect of each contribution period of each relevant employee. The Authority shall pay the contributions that are paid to it to an approved trustee of a registered scheme to be determined in accordance with section 7AC of the Ordinance for processing the contributions. Section 7AC allows an employer to nominate a registered scheme to which contributions paid to the Authority under section 7AA are to be paid where the employee is still employed by the employer.

12. For the avoidance of doubt, if contributions are payable for a contribution period under section 7AA of the Ordinance by an employer in respect of an employee, the employer is not required to make mandatory contributions in respect of the employee under section 7A of the Ordinance for the contribution period concerned.

STATEMENT REQUIRED UNDER SECTION 7AB

13. The form and contents of the statement are set out in Annex A. An example is also shown at Annex B for reference. The information provided in the statement should be provided in respect of each contribution period of each relevant employee.

14. Contributions for employees having different contribution periods should be reported in separate statements. For example, an employer should report contributions for his weekly-paid and monthly-paid employees in two separate statements.

15. Section 47A of the Ordinance provides that if the Authority has

specified or approved a form for the purposes of the Ordinance, strict compliance with the form is not necessary and substantial compliance is sufficient. Accordingly, a statement may be in any format provided that the format must include all information as required by section 7AB of the Ordinance and provide a designated area for the signature of the employer or the authorized person(s) of the employer.

EMPLOYER'S SIGNATURE REQUIREMENT FOR THE STATEMENT

16. An employer is required to confirm the accuracy and completeness of the information in a statement required under section 7AB of the Ordinance by signing in such area(s) as designated in the specified statement or by submitting the statement in such manner as the Authority may reasonably require. If an employer is not an individual, the statement has to be signed by a duly authorized signatory.

17. A statement is not properly completed for the purpose of section 47A of the Ordinance if it is not completed in accordance with paragraph 16. In the circumstances, the employer concerned may be regarded as having failed to comply with section 7AB of the Ordinance.

SUBMISSION OF STATEMENT AND PAYMENT OF CONTRIBUTIONS TO THE AUTHORITY

18. The duly completed statement required under section 7AB of the Ordinance should be submitted in hard copy and sent, together with the contributions required to be paid under section 7AA of the Ordinance, to:

Mandatory Provident Fund Schemes Authority
Level 12, Tower 1, The Millennium
98 How Ming Street, Kwun Tong
Hong Kong

19. The contributions required to be paid under section 7AA of the Ordinance should be made by a crossed cheque or bank draft in Hong Kong dollar and made payable to “Mandatory Provident Fund Schemes Authority – Benefits Protection Account”.

DEFINITION OF TERMS

20. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.

WARNING

21. It is an offence under section 43E of the Ordinance if a person, in any document given to a prescribed person¹ in connection with the Ordinance, makes a statement that the person knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

¹ Prescribed person means (a) the Authority; (b) a system operator of an electronic MPF system; (c) an approved trustee; (d) a trustee of a relevant scheme; or (e) an auditor of an approved trustee or of a registered scheme.