

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.9 Guidelines on Enrolment and Contribution Arrangements for Casual Employees

INTRODUCTION

Sections 7, 7A and 7AA of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”), section 122 of the Mandatory Provident Fund Schemes (General) Regulation, and section 1 of the Mandatory Provident Fund Schemes (Specification of Permitted Periods) Notice provide for the enrolment of relevant employees (including casual employees) in registered schemes and the making of mandatory contributions.

2. Section 47A of the Ordinance empowers the Mandatory Provident Fund Schemes Authority (“the Authority”) to specify or approve the form and contents of documents required for the purposes of the Ordinance.

3. 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.

4. The Authority hereby issues guidelines setting out the enrolment and contribution arrangements in relation to casual employees who participate in registered schemes.

EFFECTIVE DATE

5. These revised Guidelines (Version 5 – June 2015) shall become effective on the date of commencement of operation of sections 4, 21(1), 32 and 54 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (i.e. 1 August 2015) (“the Date of Operation”). The previous version of these Guidelines (Version 4 – July 2009) shall be superseded on that day.

ENROLMENT AND CONTRIBUTION ARRANGEMENTS

6. The enrolment and contribution arrangements for casual employees are specified below. Examples which illustrate the arrangements are set out in the Annex.

Enrolment Arrangements for a Casual Employee

7. An employer has to enrol a casual employee into a registered scheme within a period, that is, the first 10 days of his employment (“permitted period”). Casual employees are relevant employees who are engaged in either the Construction Industry or the Catering Industry, and are employed in any of those industries by an employer on a day to day basis or for a fixed period of less than 60 days. If the 10th day of employment of a casual employee is –

- (i) a Saturday;
- (ii) a public holiday; or
- (iii) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap.1) (“G/BR warning day”),

the permitted period is extended to end on the next following day which is not a Saturday, a public holiday, or a G/BR warning day. For a casual employee employed before the Date of Operation, if the 10th day of employment of the casual employee is a public holiday or a G/BR warning day, the permitted period is extended to end on the next following day which is not a public

holiday or a G/BR warning day.

8. If the enrolment of a casual employee is made by the employer for participating in a master trust scheme, the employer is required to confirm the accuracy and completeness of the enrolment information by signing in such area(s) as designated in the enrolment form or in such manner or form as the approved trustee may reasonably require. If an employer is not an individual, the remittance statement has to be signed by a duly authorized signatory.

9. An enrolment form is not properly completed for the purpose of section 47A of the Ordinance if it is not completed in accordance with paragraph 8. In such circumstances, the approved trustee should follow up with the employer on the application for enrolment of the concerned casual employee.

Contribution Arrangements for a Casual Employee

10. An employer must ensure that contributions required to be made in respect of a casual employee are paid to the approved trustee of the registered scheme (of which the casual employee is a member) on or before the contribution day of each contribution period. If the contribution day falls on a Saturday, a public holiday, or a G/BR warning day, the contribution day is extended to the next following day which is not a Saturday, a public holiday, or a G/BR warning day.

Casual Employee who is Not a Member of an Industry Scheme

11. The contribution day in respect of a casual employee who is not a member of an industry scheme, means the 10th day after the last day of:

- (i) the relevant contribution period; or
- (ii) the contribution period in which the permitted period ends,

whichever is the later.

In computing a period of time for the definition of permitted period for the purpose of paragraph 11(ii), the permitted period ends on the 10th day of his employment even if it is a Saturday, a public holiday, or a G/BR warning day.

12. If a casual employee remains in the same employment for not less than 10 days, the first payment of mandatory contribution should be made on or before the 10th day after the last day of the contribution period in which the 10-day permitted period ends (i.e. in accordance with paragraph 11(ii)).

13. In the event that the casual employee remains in the same employment for less than 10 days, the 10-day permitted period will not be ending in a contribution period and paragraph 11(ii) will not be applicable. The first payment of mandatory contribution should therefore be made on or before the 10th day after the last day of the first contribution period (i.e. in accordance with paragraph 11(i)).

Casual Employee who is a Member of an Industry Scheme

14. The contribution day in respect of a casual employee who is a member of an industry scheme, means whichever of the following days is agreed by the employer and the approved trustee of the scheme concerned:

- (i) the next working day (other than a Saturday) immediately subsequent to the payment of relevant income for the relevant contribution period; or
- (ii) the 10th day after the last day of the relevant contribution period.

15. If the employer of a casual employee wishes to make mandatory contributions on the next working day (other than a Saturday) immediately subsequent to the payment of relevant income for the relevant contribution

period (i.e. in accordance with paragraph 14(i)), the employer should make the first payment of mandatory contribution on the next working day (other than a Saturday) of the first pay day of relevant income.

16. If the employer wishes to make mandatory contributions on or before the 10th day after the last day of the relevant contribution period (i.e. in accordance with paragraph 14(ii)), the first payment of mandatory contribution should be made on or before the 10th day after the last day of the first contribution period. The due date for payment of the mandatory contributions will not be affected even if the employee ceases employment before the 10th day from the commencement of employment.

DEFINITION OF TERMS

17. 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.