

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 empowers the Authority to 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 prescribe the form and contents of the statement to be used by employers for the purpose of section 7AB.

CONTRIBUTION ARRANGEMENTS

8. 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.

9. 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.

10. 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.

11. 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

12. 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.

13. 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.

14. 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

15. 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 prescribed 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.

16. A statement is not properly completed for the purpose of section 47A of the Ordinance if it is not completed in accordance with paragraph 15. In the circumstances, the employer concerned may be regarded as having failed to comply with section 7AB.

SUBMISSION OF STATEMENT AND PAYMENT OF CONTRIBUTIONS TO THE AUTHORITY

17. 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
25/F, Tower 1, Millennium City 1
388 Kwun Tong Road, Kwun Tong
Kowloon, Hong Kong

18. 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

19. 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.

MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
(“the Ordinance”)

STATEMENT REQUIRED UNDER SECTION 7AB OF THE ORDINANCE

NOTES:

1. *This statement should be completed by an employer who pays contributions under section 7AA of the Ordinance in respect of a relevant employee who is not a member of a registered scheme. The employer should send the duly completed statement together with the contributions to the Mandatory Provident Fund Schemes Authority (“the Authority”).*
 2. *Please read the Notes on Personal Information Collection before completing this statement.*
 3. *The payment of contributions and surcharge, if any, 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” and sent, together with the duly completed statement, to:*

*Mandatory Provident Fund Schemes Authority
25/F, Tower 1, Millennium City 1
388 Kwun Tong Road, Kwun Tong
Kowloon
Hong Kong*

(Please do not send cash or cash cheque by mail)
 4. *After the Authority receives the duly completed statement and the contributions from the employer, the Authority shall pass them to:*
 - (a) *the approved trustee of the registered scheme nominated by the employer; or*
 - (b) *if the employer has not nominated a registered scheme, the approved trustee of the registered scheme nominated by the employee; or*
 - (c) *if neither the employer nor the employee has nominated a registered scheme, the approved trustee of a registered scheme that the Authority considers appropriate*

for processing.
 5. *The employer is required to provide true and correct information in the statement. A person who 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, commits an offence under section 43E(1) of the Ordinance.*
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MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
(“the Ordinance”)
STATEMENT REQUIRED UNDER SECTION 7AB

Name of Nominated Registered Scheme (Note 1) :
Nominated Scheme Registration No. :
Employer Participation No. under Nominated Scheme (if any) :

Note: Contributions made under section 7AA of the Ordinance, together with this statement, should be submitted to the Mandatory Provident Fund Schemes Authority.

Employer

Name :
Business Registration No. :
Address :
Telephone No. :

Contact Person of Employer

Name :
Means of Contact (Note 2) :

For employees not registered as a scheme member (Note 3)

No.	Name of Employee (Surname first)	HKID Card No./ Passport No. & Issuing Agency	Relevant Contribution Period	Relevant Income (\$)	(a)	(b)	(c)	(a) + (b) + (c)	Date of Commencement of Employment (DD/MM/YY)	Last Date of Employment (if applicable) (DD/MM/YY)	Reason for Termination (if applicable) (Note 6)	Amount of Long Service Payment/ Severance Payment Paid by Employer (if applicable) (Note 7)
					Employer's Mandatory Contributions (\$) (Note 4)	Employee's Mandatory Contributions (\$) (Note 4)	Surcharge (\$) (if applicable)	Total Mandatory Contributions and Surcharge (\$) (Note 5)				
1			To									
2			To									
3			To									
Sub-total :												
								TOTAL :				

Date : _____

(Signature of the employer)

Note (i) : If the employer is not an individual, this statement must be signed by a duly authorised signatory.

Note (ii): In the absence of the employer's signature, this statement would be regarded as not properly completed and the employer concerned may be regarded as having failed to comply with section 7AB of the Ordinance.

Notes :

- (1) Please nominate a registered scheme to which the contributions are to be paid and state the name of the nominated registered scheme.
- (2) Please state the means by which the person can be contacted (e.g. by telephone, facsimile, letter or email) with relevant numbers/ addresses provided.
- (3) Employers should state clearly in this statement for each employee:
 - (a) the relevant income for each of the relevant contribution periods included in this statement; and
 - (b) the respective employer's and employee's contributions for each of these periods.
 Employees who do not have any relevant income (such as those on no pay leave) should also be reported in this statement.
- (4) When determining new employees' mandatory contributions, employers should take into account the following employee contribution holiday, i.e.
 - (a) waiver of contributions for the first 30 days of employment and for the first incomplete payroll period immediately following these 30 days for employees with monthly or more frequent than monthly payroll; or
 - (b) waiver of contributions for the first 30 days of employment and for the incomplete calendar month immediately following these 30 days for employees with less frequent than monthly payroll.
- (5) Please make the payment by a crossed cheque or bank draft in Hong Kong dollar made payable to "**Mandatory Provident Fund Schemes Authority – Benefits Protection Account**".
- (6) Reason for termination:

01 - Resignation	04 - Total Incapacity	07 - Early Retirement	10 - Termination before 60 days of Employment for Non-casual Employee
02 - Layoff/Redundancy	05 - Death	08 - Intra-group Transfer	11 - Others (please specify)
03 - Summary Dismissal	06 - Retirement (reaches age 65)	09 - Expiration of Employment Contract	
- (7) Please submit to the trustee of the nominated scheme the **original** acknowledgment receipt of long service payment/severance payment signed by the employee concerned as evidence of payment.

★ **Warning:** Section 43E(1) of the Ordinance makes it an offence punishable with a maximum of 1 year's imprisonment and a fine of \$100,000 for the first occasion and 2 years' imprisonment and a fine of \$200,000 on each subsequent occasion for a person who makes a false or misleading statement in a material respect.

Example

ABC Company makes contributions for the contribution period of 1 December 2008 to 31 January 2009 in respect of two employees (not being casual employees) who are not members of a registered scheme. Employment information of the two employees is as follows:

		Employee A		Employee B	
Date of Commencement of Employment		1 December 2008		1 December 2008	
Name/Number of Nominated Registered Scheme		MT Scheme/MT12345		MT Scheme/MT12345	
Contribution Period	- For employer	- On calendar month basis		- On calendar month basis	
	- For employee	- On calendar month basis excluding the first 30 days and the first incomplete payroll period		- On calendar month basis excluding the first 30 days and the first incomplete payroll period	
Contribution Period in which the Permitted Period ends		January 2009		January 2009	
Relevant Income for Mandatory Contribution Purposes		December 2008	HK\$20,000	December 2008	HK\$10,000
		January 2009	HK\$20,000	January 2009	HK\$12,000

Sample of the Statement to be submitted to the Authority by ABC Company is as follows:

MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
(“the Ordinance”)

STATEMENT REQUIRED UNDER SECTION 7AB OF THE ORDINANCE

NOTES:

1. *This statement should be completed by an employer who pays contributions under section 7AA of the Ordinance in respect of a relevant employee who is not a member of a registered scheme. The employer should send the duly completed statement together with the contributions to the Mandatory Provident Fund Schemes Authority (“the Authority”).*
 2. *Please read the Notes on Personal Information Collection before completing this statement.*
 3. *The payment of contributions and surcharge, if any, 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” and sent, together with the duly completed statement, to:*

*Mandatory Provident Fund Schemes Authority
25/F, Tower 1, Millennium City 1
388 Kwun Tong Road, Kwun Tong
Kowloon
Hong Kong*

(Please do not send cash or cash cheque by mail)
 4. *After the Authority receives the duly completed statement and the contributions from the employer, the Authority shall pass them to:*
 - (a) *the approved trustee of the registered scheme nominated by the employer; or*
 - (b) *if the employer has not nominated a registered scheme, the approved trustee of the registered scheme nominated by the employee; or*
 - (c) *if neither the employer nor the employee has nominated a registered scheme, the approved trustee of a registered scheme that the Authority considers appropriate*

for processing.
 5. *The employer is required to provide true and correct information in the statement. A person who 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, commits an offence under section 43E(1) of the Ordinance.*
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MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
(“the Ordinance”)
STATEMENT REQUIRED UNDER SECTION 7AB

Name of Nominated Registered Scheme (Note 1) : MT Scheme
Nominated Scheme Registration No. : MT12345
Employer Participation No. under Nominated Scheme (if any) : 135792468

Note: Contributions made under section 7AA of the Ordinance, together with this statement, should be submitted to the Mandatory Provident Fund Schemes Authority.

Employer

Name : ABC Company
Business Registration No. : BR12345678-000-00-00-1
Address : Room 1A, 1 Happy Street, Hong Kong
Telephone No. : 21234567

Contact Person of Employer

Name : Mr XYZ
Means of Contact (Note 2) : 98765432 (mobile) / 23456789 (office)

For employees not registered as a scheme member (Note 3)

No.	Name of Employee (Surname first)	HKID Card No./ Passport No. & Issuing Agency	Relevant Contribution Period	Relevant Income (\$)	(a)	(b)	(c)	(a) + (b) + (c)	Date of Commencement of Employment (DD /MM/YY)	Last Date of Employment (if applicable) (DD/MM/YY)	Reason for Termination (if applicable) (Note 6)	Amount of Long Service Payment/ Severance Payment Paid by Employer (if applicable) (Note 7)
					Employer's Mandatory Contributions (\$)	Employee's Mandatory Contributions (\$) (Note 4)	Surcharge (\$) (if applicable)	Total Mandatory Contributions and Surcharge (\$) (Note 5)				
1	Employee A	A123456(1)	01/12/08 To 31/12/08	20,000.00	1,000.00	-		1,000.00	01/12/08			
			01/01/09 To 31/01/09	20,000.00	1,000.00	1,000.00		2,000.00				
2	Employee B	B123456(1)	01/12/08 To 31/12/08	10,000.00	500.00	-		500.00	01/12/08			
			01/01/09 To 31/01/09	12,000.00	600.00	600.00		1,200.00				
Sub-total :					3,100.00	1,600.00						
								TOTAL :				4,700.00

Date : 7 February 2009

Chan Tai Man

(Signature of the employer)

Note (i) : If the employer is not an individual, this statement must be signed by a duly authorised signatory.

Note (ii): In the absence of the employer's signature, this statement would be regarded as not properly completed and the employer concerned may be regarded as having failed to comply with section 7AB of the Ordinance.

Notes :

- (1) Please nominate a registered scheme to which the contributions are to be paid and state the name of the nominated registered scheme.
- (2) Please state the means by which the person can be contacted (e.g. by telephone, facsimile, letter or email) with relevant numbers/addresses provided.
- (3) Employers should state clearly in this statement for each employee:
 - (a) the relevant income for each of the relevant contribution periods included in this statement; and
 - (b) the respective employer's and employee's contributions for each of these periods.
 Employees who do not have any relevant income (such as those on no pay leave) should also be reported in this statement.
- (4) When determining new employees' mandatory contributions, employers should take into account the following employee contribution holiday, i.e.
 - (a) waiver of contributions for the first 30 days of employment and for the first incomplete payroll period immediately following these 30 days period for employees with monthly or more frequent than monthly payroll; or
 - (b) waiver of contributions for the first 30 days of employment and for the incomplete calendar month immediately following these 30 days for employees with less frequent than monthly payroll.
- (5) Please make the payment by a crossed cheque or bank draft in Hong Kong dollar made payable to "**Mandatory Provident Fund Schemes Authority – Benefits Protection Account**".
- (6) Reason for termination:

01 - Resignation	04 - Total Incapacity	07 - Early Retirement	10 - Termination before 60 days of Employment for Non-casual Employee
02 - Layoff/Redundancy	05 - Death	08 - Intra-group Transfer	11 - Others (please specify)
03 - Summary Dismissal	06 - Retirement (reaches age 65)	09 - Expiration of Employment Contract	
- (7) Please submit to the trustee of the nominated scheme the **original** acknowledgment receipt of long service payment/severance payment signed by the employee concerned as evidence of payment.

✦ **Warning:** Section 43E(1) of the Ordinance makes it an offence punishable with a maximum of 1 year's imprisonment and a fine of \$100,000 for the first occasion and 2 years' imprisonment and a fine of \$200,000 on each subsequent occasion for a person who makes a false or misleading statement in a material respect.

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

NOTES ON PERSONAL INFORMATION COLLECTION

The Personal Data (Privacy) Ordinance came into force on 20 December 1996. These Notes are prepared to assist you in understanding your rights and obligations in relation to the supply of personal data by you to the Mandatory Provident Fund Schemes Authority (“the Authority”) (which data may relate to yourself or other persons) and the manner in which the Authority may use or deal with such data (in connection with application and other matters). You are strongly advised to read these Notes carefully.

1. The provision of personal data is required pursuant to various provisions of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) and of the regulations and rules made under the Ordinance, including the following:
 - (a) Section 20 of the Ordinance, Part II of the Mandatory Provident Fund Schemes (General) Regulation (“the General Regulation”), and sections 42A, 42B, 42C and 42D of the General Regulation in relation to the application for approval as trustees and the application for approval as controllers of approved trustees;
 - (b) Section 21 of the Ordinance and Part III of the General Regulation in relation to the application for registration of schemes;
 - (c) Section 36 of the General Regulation in relation to the approval of constituent funds;
 - (d) Section 6 of the General Regulation in relation to the approval of pooled investment funds;
 - (e) Section 7AB of the Ordinance in relation to submission of statements;
 - (f) Section 5 of the Ordinance, and sections 5, 14 and 16 of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) in relation to the application for exemption from MPF requirements;
 - (g) Section 7(3) of Schedule 3 to the Exemption Regulation in relation to the application for appointment of trustees/directors of trustees for MPF exempted ORSO registered schemes;
 - (h) Section 8 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO exempted schemes; and
 - (i) Section 19 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO registered schemes.

Provision of such personal data is necessary for the exercise or performance of the functions of the Authority conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder). Failure to supply the requested personal data may result in delay or refusal of the application if it affects the Authority’s ability to assess the applicant’s compliance with the applicable criteria.

2. The personal data supplied by you shall be used by the Authority for the purposes of exercising or performing its functions conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder), including whatever surveillance, investigation, inspection or enforcement action necessary to the discharge of such functions.
3. In the course of exercising or performing its functions, the Authority may, as permitted by law, match, compare, transfer or exchange the data provided by you with data held, or hereafter obtained, for these or any other purposes by the Authority, government bodies, other regulatory authorities, corporations, organizations or individuals in Hong Kong or overseas for the purposes of the Ordinance.
4. Specified data relating to approved trustees, registered schemes and MPF exempted ORSO registered/exempted schemes are kept open for public inspection pursuant to sections 20C, 21B and 5A of the Ordinance respectively.
5. You may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied by you, in the manner and subject to the limitations prescribed therein. All enquiries should be directed to:

Personal Data Privacy Officer
Mandatory Provident Fund Schemes Authority
Level 8, Tower 1, Kowloon Commerce Centre
51 Kwai Cheong Road, Kwai Chung
Hong Kong