

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.8 Guidelines on the Intended Enrolment and Contribution Arrangements for Relevant Employees other than Casual Employees

INTRODUCTION

Sections 7, 7A and 7B (collectively “the Sections”) of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provide for the enrolment of relevant employees in Registered Schemes and the making of mandatory contributions.

2. Section 6H of the Ordinance provides that the Mandatory Provident Fund Schemes Authority (“the Authority”) may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

3. The Authority hereby issues guidelines setting out the intended arrangements for the commencement of those provisions in relation to Non-casual Employees who participate or are going to participate in Registered Schemes.

PROPOSED AMENDMENTS TO THE LEGISLATION

4. The Authority is proposing amendment to the legislation to change the definition of “Contribution Day” in respect of a Non-casual Employee. These Guidelines are prepared based on the assumption that the proposed amendment will be enacted.

PROPOSED IMPLEMENTATION

5. It is the current intention of the Authority to commence the provisions on enrolment and contribution with effect from 1 December 2000. The intended implementation arrangements relating to the commencement of enrolment and contribution provisions in the Ordinance are outlined below.

CLARIFICATION OF THE RELEVANT TERMS

6. Except otherwise specified in these Guidelines, the terms common to the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as those defined in the Ordinance and the subsidiary legislation. Reference should be made to the Ordinance and the subsidiary legislation, where necessary.

7. Relevant terms which appear in the Guidelines are defined as follows:-
- (a) **“Non-casual Employee”** means a relevant employee other than a Casual Employee.
 - (b) **“Registered Scheme”** means an employer sponsored scheme, a master trust scheme or an industry scheme.
 - (c) **“Commencement Day”** means the day of commencement of the Sections. It is intended that the Commencement Day will be 1 December 2000.
 - (d) **“Permitted Period”** is the period within which an employer must enrol the Non-casual employees into Registered Schemes. It is intended that the Permitted Period will be 60 days for Non-casual Employees. If the last day of the Permitted Period is a public holiday, a gale warning day or a black rainstorm warning day, then it shall mean the next following

day which is not a public holiday, a gale warning day or a black rainstorm warning day.

(e) **“Contribution Day”**¹ –in respect of a Non-casual Employee means the tenth 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.

If the Contribution Day is a public holiday, a gale warning day or a black rainstorm warning day, then it shall mean the next following day which is not a public holiday, a gale warning day or a black rainstorm warning day.

(f) **“Casual Employee”** means a relevant employee who is employed on a day to day basis or for a fixed period of less than 60 days, and engaged in an industry² for which an industry scheme is registered.

(g) **“Existing Employee”** means a Non-casual Employee who enters into a contract of employment before the Commencement Day and remains in the same employment on the Commencement Day.

(h) **“New Employee”** means a Non-casual Employee whose employment commences on or after the Commencement Day.

¹ Amendment will be introduced to the legislation to reflect such intention.

² The catering industry and the construction industry at the initial stage.

INTENDED ARRANGEMENT

8. The intended enrolment and contribution arrangements for Non-casual Employees are specified below.

Existing Employees

9. Based on the intended Commencement Day of 1 December 2000 and Permitted Period of 60 days, an employer has to enrol each Existing Employee into a Registered Scheme on or before 29 January 2001. If an Existing Employee remains in the same employment on 29 January 2001, the first mandatory contribution should be made on or before the tenth day after the last day of the contribution period in which 29 January 2001 falls (i.e. in accordance with paragraph 7(e)(ii)). In the event that the Existing Employee ceases employment before 29 January 2001, both the employer and the employee would be exempted from making mandatory contributions.

10. For example, if an Existing Employee is remunerated on a calendar month basis and remains in the same employment on 29 January 2001, the first mandatory contribution should be made no later than 10 February 2001 (being the tenth day after 31 January 2001, the last day of the contribution period in which the 60-day period ends). Of course, the employer may enrol the employee before 29 January 2001 and make the mandatory contributions before 10 February 2001 provided that the amounts have been ascertained.

New Employees

11. Based on the intended Commencement Day and Permitted Period, an employer has to enrol each New Employee into a Registered Scheme within the first 60 days of his employment. If a New Employee remains in the same employment for not less than 60 days, the first mandatory contribution should be made on or

before the tenth day after the last day of the contribution period in which the 60-day period ends (i.e. in accordance with paragraph 7(e)(ii)). In the event that the New Employee ceases employment before the end of the 60-day period, both the employer and the employee would be exempted from making mandatory contributions.

12. For example, if a New Employee remunerated on a calendar month basis commences employment on 11 December 2000 and remains in the same employment on 8 February 2001 (i.e. the 60th day of employment), the first mandatory contribution should be made no later than 10 March 2001 (being the tenth day after 28 February 2001, the last day of the contribution period in which the 60-day period ends).

13. An employer may enrol a New Employee before the end of the 60-day period. Mandatory contributions may also be made before the end of the 60-day period provided that the amounts have been ascertained.

VOLUNTARY CONTRIBUTIONS

14. For the avoidance of doubt, subject to the governing rules of the scheme concerned, an employer may make voluntary contributions for and on behalf of a relevant employee during the Permitted Period.