

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.9 Guidelines on the Intended Enrolment and Contribution Arrangements for 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 (including Casual 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 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 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) **“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 industry¹ for which an industry scheme is registered.
- (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.

¹ The catering industry and the construction industry at the initial stage.

- (d) **“Permitted Period”** is the period within which an employer must enrol the Casual Employee into a Registered Scheme. It is intended that the Permitted Period will be 10 days for 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”**², in respect of a Casual Employee who is not a member of an industry scheme, 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) **“Contribution Day”**², 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 day on which the relevant income for the relevant contribution period is paid to the Casual Employee;
 - (ii) the tenth day after the last day of the relevant contribution period.

² Amendment will be introduced to the legislation to reflect such intention.

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.

- (g) ***“Existing Casual Employee”*** means a 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 Casual Employee”*** means a Casual Employee whose employment commences on or after the Commencement Day.

INTENDED ARRANGEMENT

8. The intended enrolment and contribution arrangements for Casual Employees are specified below. Decision trees which illustrate the arrangements for Existing Casual Employees and New Casual Employees are set out in Annexes A and B respectively.

Existing Casual Employees

Enrolment in respect of an Existing Casual Employee

9. Based on the intended Commencement Day of 1 December 2000 and Permitted Period of 10 days, an employer has to enrol each Existing Casual Employee into a Registered Scheme on or before 11 December 2000 (as 10 December 2000 is a Sunday). Of course, the employer may enrol the employee before the above due date.

Contribution in respect of an Existing Casual Employee who is not a member of an industry scheme (i.e. the Casual Employee is a member of a master trust scheme or an employer sponsored scheme)

10. If an Existing Casual Employee who is not going to be enrolled into an industry scheme remains in the same employment on 11 December 2000, the first mandatory contribution should be made on or before the tenth day after the last day of the contribution period in which 11 December 2000 falls (i.e. in accordance with paragraph 7(e)(ii)). In the event that the Existing Casual Employee ceases employment before 11 December 2000, 11 December 2000 will not be falling within a contribution period and therefore paragraph 7(e)(ii) will not be applicable. The first mandatory contribution should be made on or before the tenth day after the last day of the first contribution period (i.e. in accordance with paragraph 7(e)(i)).

11. For example, if an Existing Casual Employee (not being a member of an industry scheme) is remunerated on a daily basis and remains in the same employment on 11 December 2000, the first mandatory contribution should be made no later than 21 December 2000 (being the tenth day after 11 December 2000, the last day of the contribution period in which the 10-day period ends). Of course, the employer may make the mandatory contributions before 21 December 2000.

12. However, if the same Existing Casual Employee (as referred to in paragraph 11) ceases employment on 5 December 2000 (i.e. before the end of the 10-day period), the first mandatory contribution on his relevant income for 1 December 2000 (being the first contribution period) should be made no later than 11 December 2000 (being the tenth day after 1 December 2000). Of course, the employer may make the mandatory contributions before the above due date.

Contribution in respect of an Existing Casual Employee who is a member of an industry scheme

13. If the employer of an Existing Casual Employee wishes to enrol the employee into an industry scheme and agree with the scheme trustee to make mandatory contributions on the day on which relevant income is paid to that employee (i.e. in accordance with paragraph 7(f)(i)), the employer should enrol the Existing Casual Employee on or before the first pay day of relevant income on or after 1 December 2000, or 11 December 2000, whichever is earlier. For example, for an Existing Casual Employee who is remunerated on a daily basis, if mandatory contributions are going to be paid on the day on which relevant income is paid to the employee, the employer should enrol the employee into an industry scheme and make the first mandatory contribution on 1 December 2000 (i.e. the first pay day of relevant income on or after 1 December 2000).

14. Alternatively, the employer may agree with the scheme trustee to make mandatory contributions on or before the tenth day after the last day of the relevant contribution period (i.e. in accordance with paragraph 7(f)(ii)). The first mandatory contribution should be made on or before the tenth day after the last day of the first contribution period. The due date for payment of mandatory contributions will not be affected even if the employee ceases employment before 11 December 2000.

15. For example, for an Existing Casual Employee who is remunerated on a daily basis, if the employer wishes to make mandatory contributions on or before the tenth day after the last day of the relevant contribution period, the first mandatory contribution on his relevant income for 1 December 2000 (being the first contribution period) should be made no later than the tenth day after the end of the first contribution period (i.e. on or before 11 December 2000). The due date for payment of mandatory contributions will not be affected even if the employee ceases

employment before 11 December 2000.

New Casual Employees

Enrolment in respect of a New Casual Employee

16. Based on the intended Commencement Day and Permitted Period, an employer has to enrol each New Casual Employee into a Registered Scheme within the first 10 days of his employment.

Contribution in respect of a New Casual Employee who is not a member of an industry scheme

17. If a New Casual Employee who is not going to be enrolled into an industry scheme remains in the same employment for not less than 10 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 10-day period ends (i.e. in accordance with paragraph 7(e)(ii)). In the event that the New Casual Employee remains in the same employment for less than 10 days, the 10-day period will not be ending in a contribution period and paragraph 7(e)(ii) will not be applicable. The first mandatory contribution should therefore be made on or before the tenth day after the last day of the first contribution period (i.e. in accordance with paragraph 7(e)(i)).

18. For example, if a New Casual Employee (not being a member of an industry scheme) who is remunerated on a daily basis, commences employment on 11 December 2000 and remains in the same employment on 20 December 2000 (i.e. the 10th day of employment), the first mandatory contribution on his relevant income for the period from 11 December 2000 to 20 December 2000 (being the last day of the contribution period in which the 10-day period ends) should be made no later than the tenth day after 20 December 2000 (i.e. on or before 30 December 2000). Of course, the employer may enrol the employee and make the mandatory contributions before

20 December 2000.

19. However, if the same New Casual Employee ceases employment on 15 December 2000 (i.e. remains in the same employment for less than 10 days), the employer should still enrol the employee into a registered scheme other than an industry scheme on or before 20 December 2000. The first mandatory contribution on his relevant income for 11 December 2000 (being the first contribution period) should be made no later than the tenth day after 11 December 2000 (i.e. 21 December 2000).

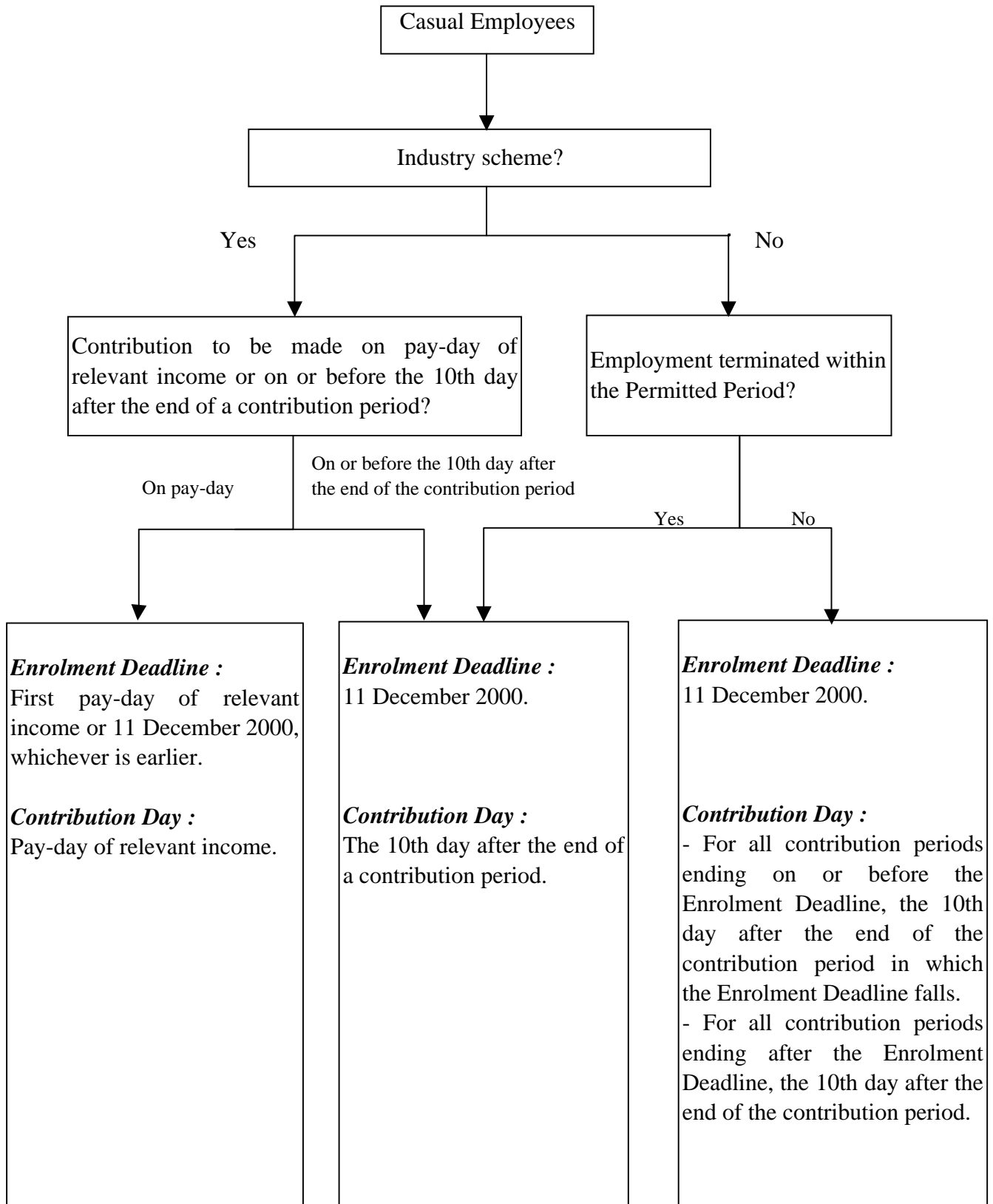
Contribution in respect of a New Casual Employee who is a member of an industry scheme

20. If the employer of a New Casual Employee wishes to enrol the employee into an industry scheme and make mandatory contributions on the day on which relevant income is paid to that employee (i.e. in accordance with paragraph 7(f)(i)), the employer should enrol the New Casual Employee on or before the first pay day of relevant income or the last day of the 10-day period, whichever is earlier, and make the first mandatory contribution on the first pay day of relevant income. For example, for a New Casual Employee who commences employment on 25 December 2000 and who is remunerated on a daily basis, the employer should enrol the employee into an industry scheme and make the first mandatory contribution on 25 December 2000 (i.e. the first pay day of relevant income). However, since the first pay day is a public holiday, the due day for enrolment and first contribution day will therefore fall on the next following day, which is not a public holiday, a gale warning day or a black rainstorm warning day (i.e. 27 December 2000).

21. Alternatively, the employer may agree with the scheme trustee to make mandatory contributions on or before the tenth day after the last day of the relevant contribution period (i.e. in accordance with paragraph 7(f)(ii)). The employer should enrol the New Casual Employee into an industry scheme within 10 days from the commencement of employment. The first mandatory contribution should be made on or before the tenth day after the last day of the first contribution period. The due dates for enrolment and payment of the mandatory contributions will not be affected even if the employee ceases employment before the end of the 10-day period.

22. For example, for a New Casual Employee who commences employment on 11 December 2000 and who is remunerated on a daily basis, if the employer wishes to enrol the employee into an industry scheme and make mandatory contributions on or before the tenth day after the last day of the relevant contribution period, the employer has to enrol the New Casual Employee within 10 days (i.e. on or before 20 December 2000). The first mandatory contribution on his relevant income for 11 December 2000 (being the first contribution period) should be made no later than the tenth day after the end of the first contribution period (i.e. on or before 21 December 2000). The due dates for enrolment and payment of mandatory contributions will not be affected even if the employee ceases employment before the end of the 10-day period.

Intended Enrolment and Contribution Arrangements for Existing Casual Employees



Intended Enrolment and Contribution Arrangements for New Casual Employees

