

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.8 Guidelines on Enrolment and Contribution Arrangements for Relevant Employees Other Than Casual Employees

INTRODUCTION

Sections 7, 7A and 7B 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. The Mandatory Provident Fund Schemes (Amendment) Bill 2002 was passed on 12 July 2002. The enacted Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 (“the Amendment Ordinance”) was gazetted on 19 July 2002. Section 4 of the Amendment Ordinance and section 6 of the Schedule to the Amendment Ordinance provide for the arrangements on contribution holiday and define the contribution day. Section 12 of the Amendment Ordinance sets out the revised minimum level of relevant income for MPF contribution purpose. These sections shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette (“the Date of Operation”).

3. 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.

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

EFFECTIVE DATE

5. These revised Guidelines shall become effective on the Date of Operation. The previous version of the Guidelines (Version 2 – October 2000) shall be superseded on that day.

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 sections 7, 7A, 7B and 7C of the Ordinance (i.e. 1 December 2000).
 - (d) “***Permitted Period***” is the period within which an employer must enrol the Non-casual Employees into Registered Schemes. The

Permitted Period is 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 Period for Employee employed before the Date of Operation”*** means:

- (i) for employer’s mandatory contribution purposes, each period for which the employer pays or should pay relevant income to the employee; and
- (ii) for employee’s mandatory contribution purposes, each period for which the employer pays or should pay relevant income to the employee, but does not include the first 30 days of employment.

(f) ***“Contribution Period for Employee employed on or after the Date of Operation”*** means:

- (i) for employer’s mandatory contribution purposes, each period for which the employer pays or should pay relevant income to the employee; and
- (ii) for employee’s mandatory contribution purposes, each period for which the employer pays or should pay relevant income to the employee, but does not include:
 - (a) the wage period in which the 30th day of employment falls if the employee’s wage period is not more than a month; or
 - (b) the calendar month in which the 30th day of employment

falls if the employee's wage period is more than a month.

(g) **“Contribution Day”** in respect of a contribution period of a Non-casual Employee which ends before the Date of Operation, 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.

(h) **“Contribution Day”** in respect of a contribution period of a Non-casual Employee which ends on or after the Date of Operation, means the tenth day after the last day of:

- (i) a calendar month within which the relevant contribution period ends; or
- (ii) the month during 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.

(i) **“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 industry for which an industry scheme is registered.

- (j) ***“Employee employed before the Date of Operation”*** means a Non-casual Employee whose employment commences on or after the Commencement Day but before the Date of Operation.
- (k) ***“Employee employed on or after the Date of Operation”*** means a Non-casual Employee whose employment commences on or after the Date of Operation.
- (l) ***“Minimum and Maximum Relevant Income Levels for the Contribution Period which commences before the Date of Operation”*** mean:
- (i) if the employee is remunerated on a monthly basis, \$4,000 and \$20,000 per month respectively; and
 - (ii) if the employee is not remunerated on a monthly basis, that amount as prorated.
- (m) ***“Minimum and Maximum Relevant Income Levels for the Contribution Period which commences on or after the Date of Operation”*** mean:
- (i) if the employee is remunerated on a monthly basis, \$5,000 and \$20,000 per month respectively;
 - (ii) if the employee is remunerated more frequently than on a monthly basis, \$160 and \$650 per day respectively; and
 - (iii) if the employee is remunerated less frequently than on a monthly basis, the amount as prorated based on \$5,000 and \$20,000 per month respectively.

- (n) **“Wage Period”**, in relation to an employee and his employer, means the period for which the employee is paid, or should be paid, relevant income by the employer.

ENROLMENT AND CONTRIBUTION ARRANGEMENTS

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

Employees employed before the Date of Operation

9. An employer has to enrol each Employee employed before the Date of Operation into a Registered Scheme within the first 60 days of his employment. If an employee remains in the same employment for not less than 60 days,

- (a) for the contribution period with the last day of the contribution period falling before the Date of Operation, the contribution day as determined under paragraph 7(g) would apply;
- (b) for the contribution period with the last day of the contribution period falling on or after the Date of Operation, the contribution day as determined under paragraph 7(h) would apply.

In the event that the employee ceases employment before the end of the 60-day period, both the employer and the employee would be exempted from making mandatory contributions. The minimum and maximum relevant income levels as set out in paragraph 7(l) should apply to contribution periods commencing before the Date of Operation while the minimum and maximum relevant income levels as set out in paragraph 7(m) should apply to contribution periods commencing on or after the Date of Operation. The prorating arrangement of the minimum and maximum relevant income levels as set out in the circular letters issued on 5 July 2000 and 29 July 2000 would be applied to all contribution periods commencing before the Date of Operation. An example on the enrolment and contribution

arrangements in respect of an Employee employed before the Date of Operation is shown in Annex A.

10. An employer may enrol an 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.

Employees employed on or after the Date of Operation

11. Based on the Date of Operation and Permitted Period, an employer has to enrol each Employee employed on or after the Date of Operation into a Registered Scheme within the first 60 days of his employment. If an 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 calendar month during which the 60-day period ends (i.e. in accordance with paragraph 7(h)(ii)). In the event that the employee ceases employment before the end of the 60-day period, both the employer and the employee would be exempted from making mandatory contributions. The minimum and maximum relevant income levels as set out in paragraph 7(m) should apply to all the contribution periods. An example on the enrolment and contribution arrangements in respect of an Employee employed on or after the Date of Operation is shown in Annex B.

VOLUNTARY CONTRIBUTIONS

12. 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.

**Illustration: The Enrolment and Contribution Arrangements
for an Employee Employed Before the Date of Operation**

Assumption: Date of Operation is 1 February 2003

Employee employed before the Date of Operation with Calendar Month Payroll

Date of employment	:	16 January 2003
30 th day of employment	:	14 February 2003
60 th day of employment	:	16 March 2003
Date of commencement of employer contribution	:	16 January 2003
Date of commencement of employee contribution	:	15 February 2003
Deadline for remittance of first employer / employee contribution	:	10 April 2003
Contribution periods covered by the first payment of employer's mandatory contribution	:	16 January 2003 – 31 January 2003 (with maximum relevant income level of \$20,000) 1 February 2003 – 28 February 2003 (with maximum relevant income level of \$20,000) 1 March 2003 – 31 March 2003 (with maximum relevant income level of \$20,000)
Contribution periods covered by the first payment of employee's mandatory contribution	:	15 February 2003 – 28 February 2003 (with minimum and maximum relevant income levels of \$2,240 (being \$160 x 14) and \$9,100 (being \$650 x 14) respectively) 1 March 2003 – 31 March 2003 (with minimum and maximum relevant income levels of \$5,000 and \$20,000 respectively)

**Illustration: The Enrolment and Contribution Arrangements
for an Employee Employed On or After the Date of Operation**

Assumption: Date of Operation is 1 February 2003

Employee employed on or after Date of Operation with Calendar Month Payroll

Date of employment	:	15 February 2003
30 th day of employment	:	16 March 2003
60 th day of employment	:	15 April 2003
Date of commencement of employer contribution	:	15 February 2003
Date of commencement of employee contribution	:	1 April 2003
Deadline for remittance of first employer / employee contribution	:	10 May 2003
Contribution periods covered by the first payment of employer's mandatory contribution	:	15 February 2003 - 28 February 2003 (with maximum relevant income level of \$20,000) 1 March 2003 - 31 March 2003 (with maximum relevant income level of \$20,000) 1 April 2003 - 30 April 2003 (with maximum relevant income level of \$20,000)
Contribution periods covered by the first payment of employee's mandatory contribution	:	1 April 2003 - 30 April 2003 (with minimum and maximum relevant income levels of \$5,000 and \$20,000 respectively)