

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.9 Guidelines on 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 arrangements for the commencement of those provisions in relation to Casual Employees who participate or are going to participate in Registered Schemes.

CLARIFICATION OF THE RELEVANT TERMS

4. 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.

5. 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 industry for which an industry scheme is registered (i.e. either the Construction Industry or the Catering Industry).
- (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 (i.e. 1 December 2000).
- (d) **“Permitted Period”** is the period within which an employer must enrol the Casual Employee into a Registered Scheme. The Permitted Period is 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”**, 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”**, 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 a relevant income for the relevant contribution period; or
 - (ii) the tenth day after the last day of the relevant contribution period.

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) **“New Casual Employee”** means a Casual Employee whose employment commences on or after the Commencement Day.

ENROLMENT AND CONTRIBUTION ARRANGEMENT

6. The enrolment and contribution arrangements for New Casual Employees are specified below. A decision tree which illustrates the arrangements is set out in the Annex.

New Casual Employees

Enrolment in respect of a New Casual Employee

7. Based on the 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

8. 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 5(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 5(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 5(e)(i)).

9. 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 tenth 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.

10. 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

11. If the employer of a New Casual Employee wishes to enrol the employee into an industry scheme and make mandatory contributions on the next working day (other than a Saturday) immediate subsequent to the payment of a relevant income for the relevant contribution period (i.e. in accordance with paragraph 5(f)(i)), the employer should enrol the New Casual Employee on or before the next working day (other than a Saturday) of the first pay day of relevant income or on or before the tenth day from the commencement of employment, whichever is earlier, and make the first mandatory contribution on the next working day of the first pay day of relevant income. For example, for a New Casual Employee who commences employment on 15 February 2002 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 16 February 2002 (i.e. the next working day of the first pay day of relevant income). However, since the next working day of the first pay day is a Saturday, the due day for the first contribution will therefore fall on the next following working day,

which is not a public holiday, a gale warning day or a black rainstorm warning day (i.e. 18 February 2002). The due day for enrolment remains unchanged.

12. 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 5(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 tenth day from the commencement of employment.

13. For example, for a New Casual Employee who commences employment on 15 February 2002 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 24 February 2002). The first mandatory contribution on his relevant income for 15 February 2002 (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 25 February 2002). The due dates for enrolment and payment of mandatory contributions will not be affected even if the employee ceases employment before the tenth day from the commencement of employment.

Enrolment and Contribution Arrangements for New Casual Employees

