

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

**Mandatory Provident Fund Arrangements
for Employees of Government Departments**

PURPOSE

This paper sets out for Members' information the various mandatory provident fund arrangements the Government has made for employees of government departments who are subject to the Mandatory Provident Fund Schemes Ordinance (MPFSO), Chapter 485.

THE ARRANGEMENTS

2. As at 31 November 2000, about 29 000 employees in various bureaux and departments, including the auxiliary services, are not exempt from the MPFSO. Arrangements are being made for them to become members of a registered Mandatory Provident Fund (MPF) scheme and for contributions to be made for them by 29 January 2001 when the first MPF contributions are due. In accordance with the requirements under the MPFSO, the Government will be making the employer contributions (5% of each employee's relevant income or a maximum of \$1,000 per month) from its own funds.

ARRANGEMENTS ON CONTRACT GRATUITY

3. Of these 29 000 employees, about 6 000 are on gratuity-bearing contracts. In anticipation of the implementation of the MPF system, the Government has since mid December 1998 introduced in all new contracts, including renewals, suitable arrangements for the provision of end-of-contract gratuity. The relevant provision stipulates that the contract gratuity payable to the staff plus the MPF contributions made by the Government in respect of the staff would equal to a specified percentage of the total basic salary of the

substantive office drawn during the contract period.

4. As for gratuity-bearing contracts that have commenced before December 1998 (hence the contract gratuity provision makes no reference to the MPF contributions) and straddle the commencement of the MPF system, the Government will continue to fulfil the contract gratuity provisions in the contract while meeting the employer's mandatory contributions as required in accordance with the MPF legislation.

5. The arrangements were introduced having regard to the fact that the end-of-contract gratuity already reflects an element of retirement benefits. When engaging staff on agreement terms, the Government will consider whether, in addition to the salary of the substantive office, an end-of-contract gratuity should be offered and if so, the level of the contract gratuity. In setting the level of the end-of-contract gratuity for these staff, the Government takes into account factors such as market situation, the competitiveness of the terms of employment and the lack of retirement benefits for them.

6. End-of-contract gratuity, where provided in the agreement, is payable on satisfactory completion of the contract. Furthermore, as set out in the MPF legislation, the MPF contributions made in the period are fully vested with the employee concerned. Funds for meeting both requirements come from the Government's resources and there is no question of the Government deducting the employer's contributions from the contract gratuity.

7. We had consulted the Mandatory Provident Fund Schemes Authority and obtained legal advice on the gratuity provisions in new contracts. The arrangements are not in conflict with the MPFSO. We have also discussed the issue with the Labour Department – the arrangements do not contravene their guidelines.

STAFF COMMUNICATION

8. We have consulted the staff sides of the Senior Civil Service Council (SCSC), the Model Scale 1 Staff Consultative Council, the Disciplined Services Council and the Police Force Council on the arrangements for provision of contract gratuity in new contracts. Before issuing the relevant

circulars, the Government had written to the above-mentioned four councils, setting out the detailed arrangements and enclosing a copy of the circular in draft, with the request that the subject matter be circulated to their members for comments. The staff sides of the SCSC replied that they noted the change in the provision of contract gratuity; the others had no comments. The staff sides of the SCSC said they had become more appreciative of the change in the provision of contract gratuity having regard to the implementation of the MPF system in the civil service. A copy of the reply is at the Annex. The relevant arrangements were then introduced in contracts entered into since mid December 1998.

Annex

9. Staff sides of SCSC subsequently questioned the new arrangements for provision of end-of-contract gratuity and MPF contributions during their regular meetings with the Administration in February, April, June and September this year. The queries raised were –

- (a) the deduction of the Government's MPF contributions from contract gratuity;
- (b) the failure to fulfil its obligation as a good employer if the Government reduces the employees' benefits on introduction of the MPF system;
- (c) the specific percentage of retirement benefits in the contract gratuity; and
- (d) the allegation that the staff sides were consulted and had made no comments.

10. On all these occasions their queries were addressed and clarified. We have explained to the staff sides the rationale for the new arrangements, the factors that were taken into account in setting the level of end-of-contract gratuity, and the fact that it was not practicable to work out the breakdown of the percentage in the contract gratuity that constituted an element of retirement benefits. We also agreed to consider including the subsequent development, and if possible, the latest position of the staff sides' reaction to the arrangements for provision of contract gratuity in information papers to the Legislative Council on the matter in future.

11. At the request of the staff sides, a copy of the information paper on this subject submitted to this Panel in April 2000 was sent to the staff sides for information. To enhance staff's understanding of the MPF arrangements and related issues, we have also included in the 49th issue of the Civil Service News Letter in October 2000 an article on the subject.

12. The Administration has also been keeping the staff sides and relevant employees informed of the arrangements for implementation of the MPF system. Further to the distribution of the information booklet entitled "Mandatory Provident Fund and Government Employees" in March this year, the Administration and various government departments have arranged more than 500 briefings sessions on the MPF arrangements and related issues for staff and employees involved. Representatives of the selected Master Trust Schemes have also been invited to introduce their schemes and to answer questions from staff and employees direct.

13. As we have explained, the arrangements for the provision of end-of-contract gratuity were introduced having regard to the fact that the level of gratuity already reflects an element of retirement benefits and they are not in conflict with the MPFSO and the guidelines of the Labour Department. It is therefore not appropriate to change the contract gratuity provisions in so far as it provides that the contract gratuity together with the employer's mandatory MPF contributions will be set at a specified level. On the other hand, the level of contract gratuity is set having regard to factors including the market situation and the competitiveness of the terms of employment. The management will therefore determine the appropriate level of contract gratuity in entering into new contracts.

WAY FORWARD

14. We will continue with our efforts in addressing the concerns of employees on the subject through the established staff consultative mechanism and through briefing of departmental management of various government departments.

Senior Civil Service Council (Staff Side)

ASSOCIATION OF EXPATRIATE
CIVIL SERVANTS
OF HONG KONG

HONG KONG
CHINESE CIVIL SERVANTS'
ASSOCIATION

SENIOR NON-EXPATRIATE
OFFICERS'
ASSOCIATION

**RM. 138
CENTRAL GOVERNMENT OFFICES
EAST WING,
LOWER ALBERT ROAD,
HONG KONG**

Our Ref: (47) in SS/C/2 (IX)

Secretary for the Civil Service
(Attn. Mr Thomas CHAN, PAS(CS)A)
Room 1112A, West Wing, CGO,
Hong Kong.

17 December 1998

Dear Mr CHAN,

**Gratuity Provision for Serving Staff
to be offered Further Employment
on Gratuity-bearing Terms**

I refer to your letter of 2.12.98 addressed to me on the above subject.

The draft CSB circular setting out the relevant arrangements for staff serving on gratuity terms was discussed at the SCSC Staff Side meeting held on 16.12.98. After discussion, the Members became more appreciative of the change in the provision of contract gratuity having regard to the implementation of the MPF system in the Civil Service. It is their understanding that the draft circular has to be issued very soon. The Staff Side has no other comments.

Yours faithfully,

(Gary YAU)
Staff Side Secretary
Senior Civil Service Council