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Legislative Council

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**Subcommittee on Mandatory Provident Fund Schemes
(Contributions for Casual Employees) (Amendment)
(No. 2) Order 2011**

Background brief

Purpose

This paper provides background information on the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011 (Amendment (No.2) Order).

Background

2. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO), an employer and an employee must, unless exempted, each contribute 5% of the employee's relevant income to a Mandatory Provident Fund (MPF) scheme as mandatory contribution. Similarly, a self-employed person (SEP) must contribute 5% of his relevant income to an MPF scheme. However, if the relevant income of the employee or SEP concerned is less than the prescribed monthly Minimum Relevant Income Level (Min RI), he is not required to make mandatory contribution himself, although his employer (in case of an employee) still has to make mandatory contribution for him. The purpose of setting a Min RI for MPF mandatory contributions is to lessen the financial burden of MPF contributions on low-paid employees and SEPs. For a relevant employee or SEP whose relevant income is above the prescribed monthly Maximum Relevant Income Level (Max RI), both he and his employer (in case of an employee) are not required to make mandatory contribution in respect of the excess

relevant income. The prescribed Min RI and Max RI are currently \$6,500¹ and \$20,000² per month respectively.

3. Section 10A of MPFSO requires the Mandatory Provident Fund Schemes Authority (MPFA) to conduct a review of Min RI and Max RI at least once in every four years to ascertain whether there are grounds to amend the levels. The latest review of Min RI and Max RI conducted by MPFA in 2010 revealed that, according to the statutory factors, consideration might be given to increasing Min RI from \$5,000 to \$5,500, and Max RI from \$20,000 to \$30,000. MPFA also suggested that the Administration might consider other relevant factors, such as the Statutory Minimum Wage (SMW). The Administration consulted the Panel on Financial Affairs (the FA Panel) in February 2011. The FA Panel also conducted a public hearing to gauge the views of the public in April 2011.

4. Taking into account the policy objectives of Min RI and Max RI, the implementation of SMW on the income levels of the low income group, and the views received, the Administration proposed in June 2011 to increase Min RI from \$5,000 to \$6,500 with effect from 1 November 2011, and Max RI from \$20,000 to \$25,000 with effect from 1 June 2012. The Administration's proposal was set out in the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011³ and the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (the Amendment of Schedule 3 Notice) presented to the Legislative Council (LegCo) on 14 June 2011.

The Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011

5. The Amendment of Schedule 3 Notice was approved by LegCo on 23 November 2011 and published in the Gazette on 25 November 2011 (L.N. 168 of 2011). It amends Schedule 3 to MPFSO by adjusting Max

¹ Min RI was increased from \$5,000 to \$6,500 with effect from 1 November 2011.

² Max RI will be increased to \$25,000 with effect from 1 June 2012.

³ The Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 was approved by LegCo on 29 June 2011 and published in the Gazette on 8 July 2011 (L.N. 120 of 2011).

RI from \$20,000 to \$25,000 per month (and from \$650 to \$830 per day in respect of casual employees who are members of industry schemes) for contribution purposes under MPFSO.

6. A Subcommittee⁴ was formed on 17 June 2011 to study the Amendment of Schedule 3 Notice. The Subcommittee held four meetings and invited views from interested parties, including the relevant trades and professions. In the course of deliberations, the Subcommittee examined the following major issues –

(a) implementation schedule of the new Max RI; and

(b) review of the statutory adjustment mechanism in section 10A of MPFSO.

The Subcommittee did not propose any amendment to the Amendment of Schedule 3 Notice. Members may refer to the Subcommittee's report to the House Committee dated 3 November 2011 (LC Paper No. CB(1)241/11-12) for details of its deliberations.

The Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No.2) Order 2011 (L.N.171 of 2011)

7. The purpose of the Amendment (No.2) Order is to amend the scales of amounts of contributions prescribed in the Schedule to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order (Cap.485 sub. Leg. E) (the Order), which provides a simplified method for employers participating in industry schemes to calculate the amount of mandatory contributions that needs to be made to the schemes in respect of their casual employees. The proposed amendments to the Order are consequential to the amendments of Max RI in the Amendment of Schedule 3 Notice, i.e. to change the daily Max RI from \$650 to \$830.

8. The Schedule to the Order contains Part I, Part II and Part III and each of which has a scale of amounts of contributions applicable to a casual employee with a particular payroll pattern as follows –

⁴ The Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 under the chairmanship of Hon WONG Ting-kwong

- (a) Part I – in a case of a casual employee to whom an employer pays the relevant income more than once a day;
- (b) Part II – in a case of a casual employee to whom an employer pays the relevant income at least, but not more than, once a day; and
- (c) Part III – in a case of a casual employee to whom an employer pays the relevant income less frequently than once a day.

The main provision of the Amendment (No.2) Order proposes to –

In Part I and Part II of the Schedule

- (a) Replace the existing last row of

<i>More than \$650.00</i>	<i>\$30.00</i>	<i>\$30.00</i>
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with the following two new rows

<i>More than \$650.00 but not more than \$830.00</i>	<i>\$37.50</i>	<i>\$37.50</i>
<i>More than \$830.00</i>	<i>\$41.50</i>	<i>\$41.50</i>

In Part III of the Schedule

- (b) Replace the existing “\$650.00” with “\$830.00” wherever it appears; and
- (c) Replace the existing “\$32.50” with “\$41.50” wherever it appears.

For details of the proposals in the Amendment (No. 2) Order, Members may refer to the LegCo Brief (no reference number provided) issued by MPFA on 29 November 2011 and the Legal Service Division report (LC

Paper No. LS 13/11-12).

9. As the proposed amendments to the Order are consequential to the main amendments covered in the Amendment of Schedule 3 Notice, the commencement of the amendments to the Order will tie in with the implementation of the Amendment of Schedule 3 Notice, i.e. on 1 June 2012.

Recent developments

10. The Amendment (No.2) Order was gazetted on 2 December 2011 and tabled before LegCo on 7 December 2011. At the meeting of the House Committee on 9 December 2011, Members decided to form a subcommittee to examine the Amendment (No.2) Order.

11. The scrutiny period of the Amendment No.2 Order has been extended to 1 February 2012 by resolution of the Council on 14 December 2011.

Relevant papers

12. A list of relevant papers is at **Appendix**.

Council Business Division 1
Legislative Council Secretariat
19 December 2011

List of relevant papers

Paper	LC Paper No.
✧ Report by Legal Service Division on the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011 http://www.legco.gov.hk/yr11-12/english/hc/papers/hc1209ls-13-e.pdf	LS13/11-12
✧ Legislative Council Brief issued by the Mandatory Provident Fund Schemes Authority on the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No.2) Order 2011 http://www.legco.gov.hk/yr11-12/english/subleg/brief/171_brf.pdf	No reference number
✧ Background Brief on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 prepared by the Legislative Council Secretariat http://www.legco.gov.hk/yr10-11/english/hc/subleg/sc14/papers/sc140623cb1-2555-1-e.pdf	CB(1)2555/10-11(01)
✧ Report of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 http://www.legco.gov.hk/yr11-12/english/hc/papers/hc1104cb1-241-e.pdf	CB(1)241/11-12