

立法會
Legislative Council

LC Paper No. LS70/12-13

**Paper for the House Committee Meeting
on 12 July 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 5 July 2013**

Date of tabling in LegCo : 10 July 2013

Amendment to be made by : 16 October 2013 (or 6 November 2013 if extended by resolution)

Mandatory Provident Fund Schemes Ordinance (Cap. 485)
Mandatory Provident Fund Schemes (Contributions for Casual Employees)
(Amendment) Order 2013 (L.N. 118)
Mandatory Provident Fund Schemes (Contributions for Casual Employees)
(Amendment) (No. 2) Order 2013 (L.N. 119)

The Mandatory Provident Fund Schemes Authority (MPFA) made the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) Order 2013 (L.N. 118) and the Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2013 (L.N. 119) in accordance with section 7A(6) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO).

2. Section 7A(3)(b) and (4)(b) of the MPFSO requires employers of casual employees who are members of industry schemes to contribute and deduct from the employees' relevant income respectively certain amounts as mandatory contributions which are determined by reference to the appropriate scale specified in the Schedule to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order (Cap. 485 sub. leg. E) (the principal Order).

3. At present, three contribution scales are prescribed in Parts 1, 2 and 3 of the Schedule to the principal Order respectively. The two scales in Parts 1 and 2 apply to daily-paid casual employees who are paid wages once a day or more than once a day. The scale in Part 3 applies to non-daily-paid casual employees who are paid wages less frequently than once a day. Please see Annex C of the LegCo Brief (with no reference number) issued by the MPFA on 28 June 2013 for these scales.

L.N. 118

4. According to paragraph 2 of the LegCo Brief, L.N. 118 seeks to amend the Schedule to the principal Order to –

- (a) simplify the methods for calculating the amount of mandatory contributions payable for the purposes of the MPFSO in respect of casual employees who are members of an industry scheme registered under the MPFSO by introducing a new method¹;
- (b) replace the existing contribution scales in Parts 1, 2 and 3 of the Schedule to the principal Order with a unified contribution scale by reference to which the amount of mandatory contributions payable for different bands of relevant income of casual employees can be determined; and
- (c) reflect the adjustment of the minimum level of relevant income in Schedule 2 to the MPFSO in the proposed Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013² for mandatory contribution purposes from \$250 per day to \$280 per day with effect from 1 November 2013.

L.N. 119

5. According to paragraph 3 of the LegCo Brief, L.N. 119 seeks to reflect the adjustment of the maximum level of relevant income in Schedule 3 to the MPFSO in the proposed Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013³ for mandatory contribution purposes from \$830 per day to \$1,000 per day with effect from 1 June 2014.

Proposed unified contribution scale

6. The unified scale introduced by L.N. 118 with effect from 1 November 2013, as extended by L.N. 119 to specify additional contribution amounts necessitated by the increased maximum level of relevant income with effect from 1 June 2014, is set out as follows –

¹ The Administration proposes a new contribution calculation method in L.N. 118 and 119 based on the following guiding principles in response to employers' concerns that the existing two contribution calculation methods are too complicated and confusing –

- (a) the new method should apply to all casual employees in industry schemes;
- (b) the contribution approach involving pre-set fixed sums should be easy-to-remember;
- (c) there should be minimal change in the amount of contributions payable; and
- (d) the fundamental principle of 5% mandatory contributions should be upheld.

(see paragraph 2 of the LegCo Brief).

² The relevant motion will be moved by the Secretary for Financial Services and the Treasury on 17 July 2013.

³ The relevant motion will be moved by the Secretary for Financial Services and the Treasury on 17 July 2013.

Daily income of casual employee	Employer's mandatory contributions	Employee's mandatory contributions
Effective from 1 November 2013		
Less than \$280	\$10	Nil
\$280 or more but less than \$350	\$15	\$15
\$350 or more but less than \$450	\$20	\$20
\$450 or more but less than \$550	\$25	\$25
\$550 or more but less than \$650	\$30	\$30
\$650 or more but less than \$750	\$35	\$35
\$750 or more	\$40	\$40
Effective from 1 June 2014		
\$750 or more but less than \$850 (<i>to replace "\$750 or more"</i>)	\$40	\$40
\$850 or more but less than \$950	\$45	\$45
\$950 or more	\$50	\$50

7. Members may refer to Annex D of the LegCo Brief for the financial impact of the proposed unified contribution scale in L.N.118 on employer's mandatory contributions and employee's mandatory contributions for each income band. According to the Administration, most of the income bands in the proposed scale contain ascending income bands at \$100 interval with contribution amounts in multiples of \$5 for each income band. The changes in the amount of mandatory contributions payable due to the change of contribution calculation method is at most \$5 more or less per day. The fundamental principle of making mandatory contributions at 5% of an employee's income is upheld in respect of most income bands in the proposed scale.

8. As advised by the Clerk to the Panel on Financial Affairs, the Panel was consulted on 4 March 2013 on the MPFA's proposal to simplify the contribution calculation methods for casual employees joining industry schemes to better cater for the needs of employees and employers. Panel members had no objection to the proposal.

9. L.N. 118 and L.N. 119 will come into operation on 1 November 2013 and 1 June 2014 respectively.

Import and Export Ordinance (Cap. 60)

Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2013 (Commencement) Notice (L.N. 120)

10. The Director-General of Trade and Industry appoints 8 July 2013 as the day on which the Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2013 ("the Order") comes into operation.

11. The Order amends Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G) to reflect the latest changes in the control lists of strategic commodities adopted by various international non-proliferation regimes. According to paragraph 5 of the LegCo Brief, these changes generally reflect the on-going relaxation of control on strategic commodities which are mainly used for industrial purposes but which can also be applied to military uses, while strengthening control on more sensitive items, of which trading activities in Hong Kong are insignificant.

12. No subcommittee has been formed to scrutinize the Order. Members may refer to the LegCo Brief (File Ref. : TRA CR 1506/2) issued by the Trade and Industry Department on 22 May 2013 for background information.

13. As advised by the Clerk to the Panel on Commerce and Industry, the Panel has not been consulted on this commencement notice.

Concluding Remarks

14. No difficulties relating to the legal or drafting aspects of the above items of subsidiary legislation have been identified.

Prepared by

Carrie WONG
Assistant Legal Adviser
Legislative Council Secretariat
11 July 2013