

**與強制性公積金計劃有關的附屬法例
小組委員會**

**《強制性公積金計劃(臨時僱員供款)令》及
《強制性公積金計劃(指明特准限期)公告》**

為方便小組委員會就《強制性公積金計劃(臨時僱員供款)令》及《強制性公積金計劃(指明特准限期)公告》進行審議，謹此附上《強制性公積金計劃條例》(第485章)的下列相關法例條文：

《強制性公積金計劃(臨時僱員供款)令》

第485章第7A條 (僱主及有關僱員須向註冊計劃作出供款)

《強制性公積金計劃(指明特准限期)公告》

第485章第7條 (僱主須安排僱員成為計劃成員)

第485章第7C條 (自僱人士成為計劃成員的責任)

立法會秘書處
2000年5月26日

(3) 行業計劃委員會可應管理局的要求而行使其職能，亦可在財政司司長核准下主動行使其職能。

(由 1998 年第 4 號第 2 條增補)

第 III 部

供款

7. 僱主須安排僱員成為計劃成員

(1) 每名僱用有關僱員的僱主必須採取所有切實可行的步驟，以確保該僱員在有關時間之後的特准限期內成為註冊計劃的成員。

(2) 本條並不阻止僱用 2 名或多於 2 名有關僱員的僱主為該等僱員在不同的註冊計劃中取得成員資格。

(3) 就第 (1) 款而言——

(a) 特准限期是管理局為施行本條而藉刊登於憲報的公告所指明的限期；及

(b) 在——

(i) 僱主是於本條生效時正僱用有關僱員的情況下，本條生效的時間即為有關時間；及

(ii) 僱主是於本條生效之後方與有關僱員訂立僱傭合約的情況下，僱用開始的日期即為有關時間。

(由 1998 年第 4 號第 2 條代替)

7A. 僱主及有關僱員須向註冊計劃作出供款

(1) 任何僱主如在本條生效時正僱用任何有關僱員，該僱主必須就本條生效之後出現的每一供款期——

(3) The Industry Schemes Committee may exercise its functions at the request of the Authority or, with the approval of the Financial Secretary, on its own initiative.

(Added 4 of 1998 s. 2)

PART III

CONTRIBUTIONS

7. Employer to arrange for employees to become scheme members

(1) Every employer of a relevant employee must take all practicable steps to ensure that the employee becomes a member of a registered scheme within the permitted period after the relevant time.

(2) Nothing in this section prevents an employer of 2 or more relevant employees from procuring for those employees membership in different registered schemes.

(3) For the purposes of subsection (1)—

(a) the permitted period is the period specified by the Authority by notice published in the Gazette for the purposes of this section; and

(b) the relevant time is—

(i) in the case of an employer who is employing a relevant employee at the commencement of this section, the time of that commencement; and

(ii) in the case of an employer who enters into a contract of employment with a relevant employee after that commencement, the date on which the employment begins.

(Replaced 4 of 1998 s. 2)

7A. Employer and relevant employees required to contribute to registered scheme

(1) An employer who, at the commencement of this section, is employing a relevant employee must, for each contribution period occurring after that commencement—

- (a) 用其本身的資金向有關註冊計劃作出供款，款額則按照第 (3) 款釐定；及
- (b) (除第 (7) 款另有規定外) 從該僱員在該供款期的有關入息中作出扣除，以作為該僱員向該計劃作出的供款，款額則按照第 (4) 款釐定。
- (2) 任何僱主如在本條生效之後與任何有關僱員訂立僱傭合約，該僱主必須就僱用開始之後出現的每一供款期——
- (a) 用其本身的資金向有關註冊計劃作出供款，款額則按照第 (3) 款釐定；及
- (b) (除第 (7) 款另有規定外) 從該僱員在該供款期的有關入息中作出扣除，以作為該僱員向該計劃作出的供款，款額則按照第 (4) 款釐定。
- (3) 就第 (1)(a) 及 (2)(a) 款而言，僱主須就某一供款期而作出供款的款額——
- (a) 在有關僱員並非一名屬行業計劃成員的臨時僱員的情況下，為相等於該僱員在該供款期的有關入息的訂明百分比的款額；及
- (b) 在有關僱員是一名屬行業計劃成員的臨時僱員的情況下，為參照按照第 (6) 款作出的命令所指明的供款標準而釐定的款額。
- (4) 就第 (1)(b) 及 (2)(b) 款而言，僱主須就某一供款期而對有關僱員的有關入息作出扣除的款額——
- (a) 在有關僱員並非一名屬行業計劃成員的臨時僱員的情況下，為相等於該僱員在該供款期的有關入息的訂明百分比的款額；及
- (b) 在有關僱員是一名屬行業計劃成員的臨時僱員的情況下，為參照按照第 (6) 款作出的命令所指明的供款標準而釐定的款額。
- (5) 就第 (3)(a) 及 (4)(a) 款而言，訂明百分比為百分之五，如《規例》訂明其他百分比，則為該另訂的百分比。《規例》可為該等目的訂明不同的百分比。

- (a) from the employer's own funds, contribute to the relevant registered scheme the amount determined in accordance with subsection (3); and
- (b) subject to subsection (7), deduct from the employee's relevant income for that period as a contribution by the employee to that scheme the amount determined in accordance with subsection (4).
- (2) An employer who enters into a contract of employment with a relevant employee after the commencement of this section must, for each contribution period occurring after the commencement of the employment—
- (a) from the employer's own funds, contribute to the relevant registered scheme the amount determined in accordance with subsection (3); and
- (b) subject to subsection (7), deduct from the employee's relevant income for that period as a contribution by the employee to the scheme the amount determined in accordance with subsection (4).
- (3) For the purposes of subsections (1)(a) and (2)(a), the amount to be contributed by an employer for a contribution period is—
- (a) in the case of a relevant employee (other than a casual employee who is a member of an industry scheme), an amount equal to the prescribed percentage of the employee's relevant income for that period; and
- (b) in the case of a casual employee who is a member of an industry scheme, an amount determined by reference to a scale specified in an order made in accordance with subsection (6).
- (4) For the purposes of subsections (1)(b) and (2)(b), the amount that an employer is required to deduct in respect of a relevant employee for a contribution period is—
- (a) in the case of a relevant employee (other than a casual employee who is a member of an industry scheme), an amount equal to the prescribed percentage of the employee's relevant income for that period; and
- (b) in the case of a casual employee who is a member of an industry scheme, an amount determined by reference to a scale specified in an order made in accordance with subsection (6).
- (5) For the purposes of subsections (3)(a) and (4)(a), the prescribed percentage is 5 per cent or, if some other percentage is prescribed by the regulations, that other percentage. The regulations may prescribe different percentages for those purposes.

(6) 就第(3)(b)及(4)(b)款而言，管理局必須按情況所需而藉在憲報刊登的命令，訂明參照屬行業計劃成員的臨時僱員所有有關入息的款額以釐定供款款額的供款標準。

(7) 僱主不得就任何並非臨時僱員的僱員根據第(1)(b)或(2)(b)款對該僱員在有關時間之後首 30 日的受僱工作入息作出扣除。

(8) 僱主必須確保按照本條須就其屬某註冊計劃成員的僱員作出的供款，均在《規例》所訂明的限期內按《規例》所訂明的方式，支付予該註冊計劃的核准受託人。

(9) 有關僱員並不僅因僱主已按照本條從該僱員的入息中扣除款額並已將該等款額支付予註冊計劃的核准受託人，而具有針對其僱主的申索權。但本款並不影響該僱員根據管限該計劃的規則而就該等款額享有的任何權利。

(10) 在本條中——

“有關時間”(relevant time)的涵義，與第7(3)條中該詞的涵義相同；

“供款期”(contribution period)——

(a) 就僱用有關僱員(臨時僱員除外)並就某段期間向該僱員支付有關入息的僱主而言，指每一段該等期間，並包括在有關時間之後僱用該僱員的首 60 日之內的一段上述期間，或一段與該 60 日脗合的上述期間；及

(b) 就受僱於某僱主並獲其就某段期間支付有關入息的有關僱員(臨時僱員除外)而言，指每一段該等期間，但不包括在有關時間之後受僱工作的首 30 日之內的一段上述期間，或一段與該 30 日脗合的上述期間；及

(c) 就僱用屬臨時僱員的有關僱員並就某段期間向該僱員支付有關入息的僱主而言，以及就該僱員而言，指每一段該等期間。

(11) 本條受第 9 及 10 條規限。

(由 1998 年第 4 號第 2 條增補)

(6) For the purposes of subsections (3)(b) and (4)(b), the Authority must, as the occasion requires, prescribe by order published in the Gazette scales of amounts of contributions by reference to amounts of relevant income of casual employees who are members of industry schemes.

(7) An employer must not, in respect of an employee who is not a casual employee, make a deduction under subsection (1)(b) or (2)(b) in respect of the employee's income for the first 30 days of the employee's employment after the relevant time.

(8) An employer must ensure that contributions required to be made in accordance with this section in respect of an employee of the employer are paid to the approved trustee of the registered scheme of which the employee is a member within the period and in the manner prescribed by the regulations.

(9) A relevant employee does not have a claim against the employee's employer only because that employer has, in accordance with this section, deducted amounts from the employee's income and has paid those amounts to the approved trustee of a registered scheme. However, nothing in this subsection affects any entitlement that the employee has in respect of those amounts under the rules governing the scheme.

(10) In this section—
“contribution period” (供款期)——

(a) in relation to an employer of a relevant employee (not being a casual employee), means each period for which the employer pays relevant income to the employee, and includes such a period occurring within, or that coincides with, the first 60 days of employment after the relevant time; and

(b) in relation to a relevant employee (not being a casual employee), means each period for which the employer pays relevant income to the employee, but does not include such a period occurring within, or that coincides with, the first 30 days of employment after the relevant time; and

(c) in relation to an employer and a relevant employee who is a casual employee, means each period for which the employer pays relevant income to the employee;

“relevant time” (有關時間) has the same meaning as in section 7(3).

(11) This section is subject to sections 9 and 10.

(Added 4 of 1998 s. 2)

7B. 第 7 及 7A 條不適用於某些僱員

第 7 及 7A 條不適用於獲僱主僱用少於 60 日的僱員，亦不就該等僱員而適用，但屬臨時僱員者則除外。

(由 1998 年第 4 號第 2 條增補)

7C. 自僱人士成為計劃成員的責任

- (1) 每名自僱人士——
- 必須在有關時間之後的特准限期內成為某註冊計劃的成員；及
 - 必須在每一供款期終結之前，用其本身的資金而為其本身的利益，向該計劃的核准受託人支付相等於其有關入息的訂明百分比的供款。

(2) 在本條中——

“有關時間”(the relevant time)——

- 就任何在本條生效時屬自僱人士的人而言，指本條生效的時間；或
- 就任何在本條生效之後成為自僱人士的人而言，指該人成為自僱人士的日期；

“供款期”(contribution period)指《規例》訂明為供款期的一段期間；

“特准限期”(permitted period)指管理局為施行本條而藉刊登於憲報的公告所指明的限期。

(3) 就第(1)(b)款而言，訂明百分比為百分之五，如《規例》訂明其他百分比，則為該另訂的百分比。《規例》可為該等目的訂明不同的百分比。

(4) 為施行本條，《規例》可——

- 規定自僱人士須向管理局報告其有關入息；及
- 訂明必須載於該等報告中的事宜。

(5) 本條受第 9 及 10 條規限。

(由 1998 年第 4 號第 2 條增補)

7B. Sections 7 and 7A not to apply to certain employees

Sections 7 and 7A do not, except in the case of a casual employee, apply to or in respect of an employee who is employed by an employer for less than 60 days.

(Added 4 of 1998 s. 2)

7C. Duty of self-employed person to become scheme member

(1) Every self-employed person——

- must, within the permitted period after the relevant time, become a member of a registered scheme; and
- must, before the end of each contribution period, pay to the approved trustee of the scheme from the person's own funds for the person's own benefit a contribution equal to the prescribed percentage of the person's relevant income.

(2) In this section——

“contribution period”(供款期)means a period prescribed by the regulations as a contribution period;

“permitted period”(特准限期)means the period specified by the Authority by notice published in the Gazette for the purposes of this section;

“the relevant time”(有關時間)means——

- in the case of a person who is a self-employed person at the commencement of this section, the time of that commencement; or
- in the case of a person who becomes a self-employed person after that commencement, the date on which the person becomes self-employed.

(3) For the purposes of subsection (1)(b), the prescribed percentage is 5 per cent or, if some other percentage is prescribed by the regulations, that other percentage. The regulations may prescribe different percentages for those purposes.

(4) For the purposes of this section, the regulations may——

- require self-employed persons to report their relevant income to the Authority; and
- prescribe the matters that must be included in those reports.

(5) This section is subject to sections 9 and 10.

(Added 4 of 1998 s. 2)