

**LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE**

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

**PURPOSE**

This paper sets out for Members' information the Mandatory Provident Fund (MPF) arrangements to be adopted for employees of government departments who will be subject to the provisions of the Mandatory Provident Fund Schemes Ordinance (MPFSO), Chapter 485.

**BACKGROUND**

2. The MPFSO requires all employers, with certain exceptions, to put in place arrangements for their employees who are not exempt from the MPFSO to become members of a registered MPF scheme and for making contributions for them to that scheme when the territory-wide MPF system comes into operation by December 2000. Specifically, an employer will be required to contribute to a registered MPF scheme in respect of its employees and to arrange to have the employee's own mandatory contributions paid into his account with the scheme.

**APPLICATION OF MPFSO**

3. In accordance with the provisions of the MPFSO, all employees of government departments who are not exempt from the MPFSO and who have been employed under a contract of employment for not less than 60 days will be required to join an MPF scheme. We estimate that about 29 000 such employees in the following categories will be subject to the provisions of the MPFSO by December 2000 –

- (a) about 7 000 serving on gratuity-bearing contracts. They include –
  - (i) civil servants serving on agreement terms, including civil service agreement officers and civil servants who are re-employed after retirement on agreement terms;
  - (ii) non-civil service contract staff, e.g. teachers employed under the Native English Teachers Scheme, staff

members of the Curriculum Development Institute of the Education Department; and

- (b) about 22 000 engaged on terms without gratuity provision. They include –
  - (i) members of the auxiliary services;
  - (ii) non-civil service contract staff, e.g. trainees under the graduate training scheme and the undergraduate training scheme, part-time evening staff employed by the Education Department.

#### **MPF ARRANGEMENTS**

4. We shall arrange to procure the services of MPF service providers by way of contracting several Master Trust Schemes (MTSs) through a bulk contract. We aim to provide a choice of schemes at competitive rates for departments and staff. Each MTS will offer a range of investment options and a relevant employee subject to the MPF system will be able to decide on his/her investment choice. Subject to the governing rules of the MTSs in question, the relevant employees may further change their investment choice periodically.

5. In accordance with the provisions of the MPFSO, Government as an employer will contribute the prescribed amount, i.e. 5% of the relevant employee's income to an MPF scheme subject to a maximum level of income of \$20,000 per month, as the employer's mandatory contributions when the ordinance comes into effect. At the same time, Government will arrange to have the employee's own mandatory contributions, i.e. 5% of the relevant employee's income subject to a minimum level of income of \$4,000 per month and maximum level of \$20,000 per month, paid into his account with the scheme of his choice.

6. In respect of staff serving on gratuity-bearing contracts, since mid December 1998 the Government has adjusted the provision of contract gratuity in all new contracts for these staff (including new recruits and serving staff to be offered further employment) to cater for the MPF system when implemented. The adjustment provides that the contract gratuity payable to a staff on satisfactory completion of the contract plus the MPF contributions by the Government in respect of the staff concerned would be at the same level of the contract gratuity before the implementation of the MPF system. Such an arrangement reflects the fact that the level of contract gratuity takes account of factors including retirement benefits.

7. As for those temporary or part-time staff who are employed on terms without contract gratuity, Government will contribute the employer's mandatory contributions and, where applicable, arrange for the employee's mandatory contributions to be paid into the employee's account with the scheme of his choice.

### **FINANCIAL IMPLICATIONS**

8. The annual expenditure arising from the requirement to make employer's contributions for the staff involved is estimated at \$116 million and funds have been provided in the 2000-01 Estimates.

### **STAFF COMMUNICATION**

*Encl.*

9. Prior to the issue of the circulars on the arrangements for gratuity provision in contracts referred to paragraph 6 above, the Administration wrote on 2 December 1998 to the staff sides of the Central Civil Service Consultative Councils enclosing separately an advance copy of the circular on gratuity provision in contracts for new recruits and a draft circular on gratuity provision in contracts for serving officers and sought their comments. A sample each of the two letters is enclosed. The staff side of the Senior Civil Service Council noted the change in the provision of contract gratuity; the others have no comments. The circular memoranda were issued on 12 and 16 December 1998 respectively.

10. To facilitate communication with staff and departments on the implementation of an MPF scheme for government employees, we have in January 2000 set up a Liaison Group involving representatives of the staff sides of the Central Civil Service Consultative Councils and the management of major departments with employees subject to the MPFSO. The Group is responsible for considering and discussing matters related to the implementation of the MPFSO, such as communication materials for staff, framework and arrangements for MPF scheme, timetable, tendering arrangements, selection criteria and other implementation mechanics.

11. An information booklet on the subject has been issued in March to facilitate departments to brief their staff on the MPF system and the implications for them. Arrangements have been made with departments to ensure that the staff concerned would each receive a personal copy. We will promulgate further details on the MPF arrangements adopted as and when available and will encourage departments to keep the staff posted of developments and to brief them fully on the arrangements relating to the implementation of MPF scheme.

### **TRAINING**

12. We have developed training materials and conducted briefing sessions in late February this year on the MPFSO and its implementation for departmental staff who will be involved in administering the MPF system in departments. As the implementation of the MPF system approaches, we shall conduct more in-depth training on the actual administration of MPF contributions and the use of MTS services.

### **WAY FORWARD**

13. In accordance with the normal government tendering arrangements, we are in the process of acquiring good quality and value-for-money MTS services from trustees registered under the MPFSO.

Civil Service Bureau  
14 April 2000

(AP/P242/3)

政府總部  
公務員事務局  
香港下亞厘畢道



Enclosure  
CIVIL SERVICE BUREAU  
GOVERNMENT SECRETARIAT  
LOWER ALBERT ROAD  
HONG KONG

本函檔號 Our Ref.: CSBCR/AP/4-075-002/1Pt8/98C

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2 December 1998

Staff Side Secretary  
Senior Civil Service Council  
Room 138 East Wing  
Central Government Offices  
Lower Albert Road  
Hong Kong

### **Gratuity Provision for Serving Staff to be Offered Further Employment on Gratuity-Bearing Terms**

I am writing to inform the Staff Side of our proposal to implement the Mandatory Provident Fund (MPF) system under the MPF Schemes Ordinance (Cap.485) in a year or two. This will primarily affect **serving staff (both on civil service and non-civil service terms) who are offered further employment on gratuity-bearing terms without a break in service** (e.g. on renewal of contract or re-employment after retirement on contract terms without a break in service). You will have also received our letter of the same date enclosing an advance copy of a circular regarding similar arrangements for new recruits.

When section 7A of the MPF Schemes Ordinance (as amended by the Provident Fund Schemes Legislation (Amendment) Ordinance 1998) comes into effect, Government will be required to contribute to a scheme registered under the MPF Schemes Ordinance for all staff not covered by the pensions legislation and who have been employed for not less than 60 days, save for those who fall within the exceptions under section 4 of the MPF Schemes Ordinance (e.g. a person from places outside Hong Kong who is given permission to remain in Hong Kong for the purposes of employment for a period of less than 12 months). For serving officers who are offered further

employment on gratuity-bearing terms, we have to consider the gratuity to be offered in respect of further contracts (agreements) in the light of the MPF contributions to be made by Government.

For **serving staff who are offered further employment on gratuity-bearing terms**, for example on renewal of contract or re-employment after retirement on contract terms without a break in service, we propose that the contract should provide for the payment of gratuity upon satisfactory completion of contract at a specified rate of the total basic salary drawn for the period of service before the MPF system is implemented. From the date the MPF system is implemented, the contract should provide that the gratuity payable for the remainder of the contract will, when added to the Government's contribution for them to a scheme registered under the MPF Schemes Ordinance, be equal to the specified rate of the total basic salary drawn for the period of service. We propose to effect this by introducing a revised clause into offer letters of appointment and the memorandum on conditions of service.

I enclose a draft copy of a Civil Service Bureau Circular (in both Chinese and English) setting out the above arrangements which I should be grateful if you could circulate to members of the Staff Side for comment.

Subject to any views the Staff Side may have by 11 December 1998, we plan to issue the Circular on 12 December 1998 to put the above arrangements into effect.

Yours sincerely,



( Thomas Chan )  
for Secretary for the Civil Service

# DRAFT

Ref.: CSBCR/AP/4-075-002/1Pt.8/98C

Government Secretariat  
Hong Kong

December 1998

## CIVIL SERVICE BUREAU CIRCULAR NO. /98

### **Gratuity Provision for Serving Staff to be Offered Further Employment on Gratuity-Bearing Terms**

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**To : Bureau Secretaries      c.c. Judiciary Administrator**  
**Heads of Department      The Ombudsman**  
**Heads of Grade              Commissioner, Independent**  
**Commission Against Corruption**

*(Note : Distribution of this Circular is Scale A. It should be read by Bureau Secretaries, Heads of Department/Grade, Departmental Secretaries and officers dealing with appointment matters, and be brought to the attention of all serving officers.)*

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This circular announces with immediate effect the arrangements for the payment of gratuity in employment contracts (agreements) to be offered to serving government employees (both on civil service and non-civil service terms) who are offered further employment on gratuity-bearing terms without a break in service (e.g. on renewal of contract or re-employment after retirement on contract terms without a break in service), having regard to the anticipated implementation of the Mandatory Provident Fund (MPF) system under the MPF Schemes Ordinance (Cap. 485).

#### **Background**

2. When section 7A of the MPF Schemes Ordinance, as amended by the Provident Fund Schemes Legislation (Amendment) Ordinance 1998, comes into operation in a year or two, Government as an employer will be required to comply with the statutory provisions in the Ordinance and to make contributions to a scheme registered under the MPF Schemes Ordinance in respect of all employees who are not covered by the pensions legislation and who are employed for not less than 60 days, save for those who fall within the exceptions under section 4 of the MPF Schemes Ordinance (e.g. a person from places outside Hong Kong who is given permission to

remain in Hong Kong for the purposes of employment for a period of less than 12 months). The Ordinance also provides that an employer's statutory contribution is 5% of the employee's monthly relevant income or \$1,000, whichever is the less.

3. At present, staff serving on gratuity-bearing terms normally have their end-of-contract gratuity paid at a specified percentage rate of the total basic salary drawn during the contract period. We have reviewed the provision of gratuity having regard to the implementation of the MPF system. This circular announces the administrative arrangements in respect of all gratuity-bearing contracts to be offered to serving staff who are offered further employment on gratuity-bearing terms.

### The Clause on Gratuity

4. **With immediate effect**, when offering a **new** contract with gratuity-bearing terms to **serving staff** (e.g. on renewal of contract or re-employment after retirement on contract terms without a break in service), the **appointment letter** should include the following clause to govern the provision of gratuity –

“Subject to the terms as set out in the attached memorandum on conditions of service, [*the employee*] will receive a gratuity for the period of service. Such gratuity will be payable at a rate of [*a specified rate - e.g. y%*] of the total basic salary [of substantive office] drawn from the first day of the [contract/agreement] up to a date immediately before section 7A of the Mandatory Provident Fund Schemes Ordinance (Cap.485), as amended by the Provident Fund Schemes Legislation (Amendment Ordinance) 1998 (“Amendment Ordinance”), comes into effect, or the end of the [contract/agreement], whichever is earlier. Starting from the commencement date of section 7A of the Ordinance, as amended by the Amendment Ordinance, the Government will make a monthly contribution in respect of [*the employee*] to a scheme registered under the MPF Schemes Ordinance for the remainder of the [contract/agreement] at the statutory contribution rate (i.e. 5% of his monthly relevant income or \$1,000, whichever is the less). The gratuity payable for the remainder of the [contract/agreement] will be the sum which, when added to the Government's contribution to the said MPF Scheme, equals [*the specified rate above - i.e. y%*] of the total basic salary [of substantive office] drawn during that period.”

5. Corresponding changes should be made to the **memorandum on conditions of service** (MOCS) by removing the reference to rate of gratuity payable. Instead of specifying the rate of gratuity payable in the MOCS, the MOCS should make reference to the rate of gratuity as specified in the appointment letter. For instance, the clause “such gratuity will be payable at a rate of *y%* of total basic salary of substantive office drawn during the [contract/agreement] period” in the MOCS



should be replaced by "such gratuity will be payable at a rate as specified in the appointment letter".

6. For civil service agreement terms, we are now revising the standard MOCS and will provide departments with the revised version once available. Pending provision of the revised version, departments should amend the existing clause on gratuity in the MOCS accordingly.

### **Enquiries**

7. Enquiries on this circular memorandum should be directed to the Departmental Secretary in the first instance who, if in doubt, may contact CEO(Pensions) of the Pensions Section, Appointments Division, Civil Service Bureau at 2810 3202.

(Thomas Chan)  
for Secretary for the Civil Service

**Internal**  
Departmental PASs

政府總部  
公務員事務局  
香港下亞厘畢道



CIVIL SERVICE BUREAU  
GOVERNMENT SECRETARIAT  
LOWER ALBERT ROAD  
HONG KONG

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2 December 1998

Staff Side Secretary  
Senior Civil Service Council  
Room 138 East Wing  
Central Government Offices  
Lower Albert Road  
Hong Kong

### **Gratuity Provision for New Recruits to be Employed on Gratuity-Bearing Terms**

I enclose an advance copy of a Civil Service Bureau Circular (in both Chinese and English) on the above subject for your circulation to members of the Staff Side.

The Circular announces the new gratuity provision which is to be inserted into the contracts (agreements) of **new recruits employed on gratuity-bearing contract (agreement) terms (both on civil service and non-civil service terms)**, in anticipation of the implementation of the Mandatory Provident Fund (MPF) system under the MPF Schemes Ordinance (Cap.485). In particular, when section 7A of the MPF Schemes Ordinance (as amended by the Provident Fund Schemes Legislation (Amendment) Ordinance 1998) comes into effect, Government will be required to contribute to a scheme registered under the MPF Schemes Ordinance for all staff not covered by the pensions legislation and who have been employed for not less than 60 days, save for those who fall within the exceptions under section 4 of the MPF Schemes Ordinance (e.g. a person from places outside Hong Kong who is given permission to remain in Hong Kong for the purposes of employment for a period of less than 12 months).

For all **new recruits employed on gratuity-bearing terms for more than 60 days**, save for those who are exempted under the Ordinance, their contracts will provide for the payment of gratuity upon satisfactory completion of contract at a specified rate of the total basic salary drawn for the period of service before the MPF system is implemented. From the date the MPF system is implemented, the provision will provide that the gratuity payable for the remainder of the contract will, when added to the Government's contribution to a scheme registered under the MPF Schemes Ordinance, be equal to the specified rate of the total basic salary drawn for the period of service. This provision will be inserted in offer letters of appointment and in the memorandum on conditions of service.

The arrangements for **serving staff who are offered further employment on gratuity-bearing terms** will be announced in a separate circular on which I am writing to you concurrently.

We plan to issue the attached Circular on 12 December 1998.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Chan', written in black ink.

( Thomas Chan )

for Secretary for the Civil Service



Ordinance (e.g. a person from places outside Hong Kong who is given permission to remain in Hong Kong for the purposes of employment for a period of less than 12 months). The Ordinance also provides that an employer's statutory contribution is 5% of the employee's monthly relevant income or \$1,000, whichever is the less.

4. At present, many employment contracts offered by Government include provision for an end-of-contract gratuity, which is usually paid at a specified percentage rate of the total basic salary drawn during the contract period. We have reviewed the provision of gratuity having regard to the implementation of the MPF system. This circular announces the administrative arrangements in respect of all gratuity-bearing contracts to be offered to new recruits.

#### **New Clause on Gratuity**

5. **With immediate effect**, when offering employment on **gratuity-bearing terms for more than 60 days to new recruits**, save for those who are exempted under the Ordinance, the **appointment letter** should include the following clause to govern the provision of gratuity -

“Subject to the terms as set out in the attached memorandum on conditions of service, [*the employee*] will receive a gratuity for the period of service. Such gratuity will be payable at a rate of [*a specified rate - e.g. y%*] of the total basic salary [of substantive office] drawn from the first day of the [contract/agreement] up to a date immediately before section 7A of the Mandatory Provident Fund Schemes Ordinance (Cap.485), as amended by the Provident Fund Schemes Legislation (Amendment Ordinance) 1998 (“Amendment Ordinance”), comes into effect, or the end of the [contract/agreement], whichever is earlier. Starting from the commencement date of section 7A of the Ordinance, as amended by the Amendment Ordinance, the Government will make a monthly contribution in respect of [*the employee*] to a scheme registered under the MPF Schemes Ordinance for the remainder of the [contract/agreement] at the statutory contribution rate (i.e. 5% of his monthly relevant income or \$1,000, whichever is the less). The gratuity payable for the remainder of the [contract/agreement] will be the sum which, when added to the Government's contribution to the said MPF Scheme, equals [*the specified rate above - i.e. y%*] of the total basic salary [of substantive office] drawn during that period.”

6. Corresponding changes should be made to the **memorandum on conditions of service (MOCS)** by removing the reference to rate of gratuity payable. Instead of specifying the rate of gratuity payable in the MOCS, the MOCS should make reference to the rate of gratuity as specified in the appointment letter. For instance, the clause “such gratuity will be payable at a rate of y% of total basic salary

of substantive office drawn during the [contract/agreement] period” in the MOCS should be replaced by “such gratuity will be payable at a rate as specified in the appointment letter”.

7. For civil service agreement terms, we are now revising the standard MOCS and will provide departments with the revised versions once available. Pending provision of the revised versions, departments should amend the existing clause on gratuity in the MOCS accordingly.

### **Enquiries**

8. Enquiries on this circular memorandum should be directed to the Departmental Secretary in the first instance who, if in doubt, may contact CEO(Pensions) of the Pensions Section, Appointments Division, Civil Service Bureau at 2810 3202.

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