

立法會
Legislative Council

LC Paper No. CB(3) 913/10-11

Ref. : CB(3)/M/OR

Tel : 2869 9205

Date : 17 June 2011

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 29 June 2011

**Two proposed resolutions under
the Mandatory Provident Fund Schemes Ordinance**

I forward for Members' consideration two proposed resolutions (**Appendices I and II**) which the Secretary for Financial Services and the Treasury will move at the Council meeting of 29 June 2011 under the Mandatory Provident Fund Schemes Ordinance relating to:

- (a) the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011; and
- (b) the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011.

The President has directed that they be printed in the terms in which they were handed in on the Agenda of the Council.

2. The speeches in both Chinese and English (**Appendices III and IV**) which the Secretary will deliver when moving the proposed resolutions are also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

Mandatory Provident Fund Schemes Ordinance

Resolution

(Under section 48 of the Mandatory Provident Fund Schemes Ordinance
(Cap. 485))

Resolved that the Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 2) Notice 2011, made by the Chief Executive in
Council on 14 June 2011, be approved.

Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011

(Made by the Chief Executive in Council under section 48 of the
Mandatory Provident Fund Schemes Ordinance (Cap. 485) subject to the
approval of the Legislative Council)

1. Commencement

This Notice comes into operation on 1 November 2011.

2. Mandatory Provident Fund Schemes Ordinance amended

The Mandatory Provident Fund Schemes Ordinance (Cap. 485) is
amended as set out in section 3.

3. Schedule 2 amended (Minimum level of relevant income per contribution period)

(1) Schedule 2, section 1(a)—

Repeal

“\$5,000”

Substitute

“\$6,500”.

(2) Schedule 2, section 1(b)—

Repeal

“\$160”

Substitute

“\$250”.

(3) Schedule 2, section 1(c)—

Repeal

“\$5,000”

Substitute

“\$6,500”.

(4) Schedule 2, section 2—

Repeal

“\$160”

Substitute

“\$250”.

(5) Schedule 2, section 3—

Repeal

“\$5,000”

Substitute

“\$6,500”.

(6) Schedule 2, section 3—

Repeal

“\$60,000”

Substitute

“\$78,000”.

4. Application of Schedule 2 as amended

Schedule 2 to the Mandatory Provident Fund Schemes Ordinance
(Cap. 485) as amended by section 3 applies in relation to a
contribution period that begins on or after the commencement date
of that section.



Clerk to the Executive Council

COUNCIL CHAMBER

14 June 2011

Explanatory Note

The purpose of this Notice is to amend Schedule 2 to the Mandatory Provident Fund Schemes Ordinance (Cap. 485) so as to adjust the minimum level of relevant income for contribution purposes under that Ordinance.

Mandatory Provident Fund Schemes Ordinance

Resolution

(Under section 48 of the Mandatory Provident Fund Schemes Ordinance
(Cap. 485))

Resolved that the Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 3) Notice 2011, made by the Chief Executive in
Council on *14 June* 2011, be approved.

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

(Made by the Chief Executive in Council under section 48 of the
Mandatory Provident Fund Schemes Ordinance (Cap. 485) subject to the
approval of the Legislative Council)

1. Commencement

This Notice comes into operation on 1 June 2012.

2. Mandatory Provident Fund Schemes Ordinance amended

The Mandatory Provident Fund Schemes Ordinance (Cap. 485) is
amended as set out in section 3.

3. Schedule 3 amended (Maximum level of relevant income per contribution period)

(1) Schedule 3, section 1(a)—

Repeal

“\$20,000”

Substitute

“\$25,000”.

(2) Schedule 3, section 1(b)—

Repeal

“\$650”

Substitute

“\$830”.

(3) Schedule 3, section 1(c)—

Repeal

“\$20,000”

Substitute

“\$25,000”.

(4) Schedule 3, section 2—

Repeal

“\$650”

Substitute

“\$830”.

(5) Schedule 3, section 3—

Repeal

“\$20,000”

Substitute

“\$25,000”.

(6) Schedule 3, section 3—

Repeal

“\$240,000”

Substitute

“\$300,000”.

4. Application of Schedule 3 as amended

Schedule 3 to the Mandatory Provident Fund Schemes Ordinance
(Cap. 485) as amended by section 3 applies in relation to a
contribution period that begins on or after the commencement date
of that section.

Explanatory Note

The purpose of this Notice is to amend Schedule 3 to the Mandatory Provident Fund Schemes Ordinance (Cap. 485) so as to adjust the maximum level of relevant income for contribution purposes under that Ordinance.



Clerk to the Executive Council

COUNCIL CHAMBER

14 June 2011

DRAFT

Legislative Council Meeting on 29 June 2011

**Speech of the Secretary for Financial Services and the Treasury for
moving the motion for approval of the Mandatory Provident Fund
Schemes Ordinance (Amendment of Schedule 2) Notice 2011 under the
Mandatory Provident Fund Schemes Ordinance**

President,

I move that the motion, as printed on the Agenda, be passed.

The motion amends the various items on the Minimum Relevant Income Level (“Min RI”) set out in Schedule 2 to the Mandatory Provident Fund Schemes Ordinance (“MPFSO”)

The MPFSO provides that unless exempted, an employer and employee must each contribute 5% of the employee’s relevant income to an Mandatory Provident Fund (“MPF”) scheme as mandatory contribution. However, if the relevant income of the employee concerned is less than Min RI, he is not required to make MPF contribution himself, although his employer still has to make MPF contribution for him. For an employee whose relevant income is above the Maximum Relevant Income Level (“Max RI”), both he and his employer are not required to make mandatory contribution in respect of the excess relevant income. The same arrangement also applies to self-employed persons (“SEPs”). Section 10A of the MPFSO provides that MPFA must conduct a review on the relevant income levels at least once in every four years.

President, the purpose of setting a Min RI is to lessen the financial burden of MPF contributions on lower-paid employees and SEPs. MPFSO prescribes that the review conducted by the Mandatory Provident Fund Schemes Authority (“MPFA”) must take into account 50% of the monthly median employment earnings prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department. MPFA may also consider other factors. On this basis, the said reference level is \$5,500. This notwithstanding, in light of the implementation of the Statutory Minimum Wage (“SMW”), both the

Government and MPFA consider that the SMW rate should also be taken into account in deciding the adjustment to Min RI. This is to ensure that the low income group can continue to be spared of the burden of making MPF contributions.

After the SMW rate was confirmed through legislative procedures in January 2011, we consulted the Panel on Financial Affairs on MPFA's review results in February and gauge wider public views through the public hearing arranged by the Panel on 20 April 2011.

In deliberating the exact level, our starting premise was the SMW rate and the assumption of 26 working days per month. We further applied different assumptions of working hours in deriving reference level for the monthly Min RI. In the process, we have also taken into account the views of various sectors of the community. The proposed increase of Min RI from \$5,000 to \$6,500 has taken into account the above-mentioned reference level and represents the broad consensus of the community, including the mainstream views of Legislative Councillors, political parties and unions.

Going forward, as the implementation of SMW will have significant impact on the earnings of the working population especially the low income group, MPFA plans to conduct a comprehensive review of the statutory adjustment mechanism for Min RI under MPFSO when the actual impact of SMW on wages is reflected through actual data. This is to ensure a more consistent and transparent basis for future reviews of Min RI.

In addition to the monthly Min RI, MPFSO also prescribes the daily Min RI for casual employees under the industry schemes and employees who are remunerated more frequently than on a monthly basis. The motion also proposes corresponding increase to the daily Min RI from \$160 to \$250, adopting the same assumption of 26 working days per month. As for the annual Min RI for SEPs, we propose to increase it correspondingly from \$60,000 per year to \$78,000 per year.

Based on the data for Q4 2010, if monthly Min RI is increased to \$6,500, an additional 180 900 employees / SEPs, or a total of 337 300 working people, will be excluded from making mandatory contributions. However, as the figures are based on available data prior to the implementation of SMW, I expect the actual number to be smaller.

To complement the adjustment to Min RI, MPFA will amend the

Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order shortly to prescribe the corresponding amounts of MPF contributions to be made in respect of members of industry schemes under different income bands according to the revised Min RI, to facilitate compliance by the relevant employers and employees. MPFA will also make corresponding amendments to the Order in light of the revised Max RI. These amendments will be introduced into the Legislative Council later.

On implementation date, the increase to Min RI should be implemented as soon as practicable such that the low income group can be spared of making MPF contributions. Taking into account the need to provide reasonable time for system adjustments by trustees and over 240 000 employers participating in MPF schemes, the Government agrees with the recommendation of MPFA and has set the implementation date of the new Min RI at 1 November 2011.

Finally, I would like to take this opportunity to thank the President and Members for agreeing to expedite the processing of the motion. I earnestly appeal for Members' support for passing the motion to implement the amendment to Min RI. Thank you.

Financial Services Branch
Financial Services and the Treasury Bureau
17 June 2011

DRAFT

Legislative Council Meeting on 29 June 2011

Speech of the Secretary for Financial Services and the Treasury for moving the motion for approval of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 under the Mandatory Provident Fund Schemes Ordinance

President,

I move that the motion, as printed on the Agenda, be passed.

The motion amends the various items on the Maximum Relevant Income Level (“Max RI”) set out in Schedule 3 to the Mandatory Provident Fund Schemes Ordinance (“MPFSO”).

I have just explained the existing arrangement relating to the relevant income levels for Mandatory Provident Fund (“MPF”) when moving the motion to amend the Minimum Relevant Income Level (“Min RI”), and will not repeat it here. The policy objective of prescribing a Max RI is to encourage the workforce to save for basic retirement needs. Higher income employees and self-employed persons (“SEPs”) may decide whether to top up their mandatory contributions through voluntary contributions or other investment.

According to section 10A of MPFSO, when reviewing Max RI, the Mandatory Provident Fund Schemes Authority (“MPFA”) must take into account the monthly employment earnings at 90th percentile of the monthly employment earnings distribution prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department. MPFA may also consider other relevant factors. Whilst the above-mentioned reference level was at \$30,000 in both 2002 and 2006, no adjustment was made to the Max RI against the economic environment at that time and the lack of consensus in the community. That is to say, the existing Max RI has remained unchanged at \$20,000 since the commencement of the MPF System in 2000.

If based on the above-mentioned statutory factor alone, the Max RI should be increased from the existing \$20,000 to \$30,000. Given that since 2002, the statutory factor has suggested a Max RI of \$30,000, both MPFA and the Government consider that Max RI should be adjusted in accordance with the mechanism. However, on the other hand, we appreciate that some employees and employers may find it difficult to adapt to a significant increase by 50% to \$30,000 in the short term. During the consultation process, including the public hearing arranged by the Panel on Financial Affairs, some employers' associations have reflected that the implementation of Statutory Minimum Wage ("SMW") has material impact on their operating cost and the Government should not further introduce significant increase to Max RI. Some employees have also indicated that there should not be any significant increase to Max RI.

After careful consideration and balancing the views of stakeholders, the Government proposes to increase the Max RI to \$25,000, which is within the range of the existing level and the level suggested by the statutory factor. Besides, we propose to commence the implementation of the revised Max RI on 1 June 2012 so as to allow more time for employees and employers to adapt to the change.

As for the daily Max RI, we propose to adopt the current 30-day basis for conversion to avoid an abrupt surge. The daily Max RI will accordingly be increased from \$650 to \$830. The 30-day basis is an interim arrangement. In its review of the statutory adjustment mechanism, MPFA will also consider how best to convert monthly relevant income levels into daily levels in future. As for the annual Max RI for SEPs, we propose a corresponding increase from \$240,000 to \$300,000.

Based on the data for Q4 2010, if Max RI is increased to \$25,000, 424 600 employees as well as their employers and 89 900 SEPs will be required to make additional mandatory contributions.

As mentioned when I moved the motion on Min RI just now, MPFA will make corresponding amendments to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order. We also aim to present a bill to the Legislative Council to amend the Inland Revenue Ordinance in the next legislative session to increase the maximum tax deductible amount attributable to mandatory contributions of employees and SEPs from \$12,000 to \$15,000.

President, I earnestly appeal for Members' support for passing the

motion to implement the amendment to Max RI. Thank you.

Financial Services Branch
Financial Services and the Treasury Bureau
17 June 2011