

**立法會**  
**Legislative Council**

LC Paper No. CB(1)818/11-12

Ref: CB1/SS/6/11

**Paper for the House Committee meeting on 13 January 2012**

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

**Purpose**

This paper reports on the deliberations of the Subcommittee on Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011.

**Background**

2. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO), an employer and his relevant employee must, unless exempted, each contribute 5% of the employee's relevant income to a Mandatory Provident Fund (MPF) scheme as mandatory contributions. 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 minimum level of relevant income (Min RI), he is not required to make mandatory contributions himself, although his employer (in case of a relevant employee) still has to make mandatory contributions for him. The purpose of setting a Min RI for MPF mandatory contributions is to lessen the financial burden of MPF contributions on lower-paid employees and SEPs. For a relevant employee or an SEP whose relevant income is above the prescribed maximum level of relevant income (Max RI), both he and his employer (in case of a relevant employee) are not required to make mandatory contributions in respect of the excess relevant income. The setting of a Max RI reflects the policy objective of encouraging the workforce to save for basic retirement needs. The existing monthly Min

RI and Max RI are \$6,500<sup>1</sup> and \$20,000<sup>2</sup> 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 and the statistical data prevailing at the time of the review, 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 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 impact 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 per month to \$6,500 per month with effect from 1 November 2011, and Max RI from \$20,000 per month to \$25,000 per month with effect from 1 June 2012. The proposal was set out in the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011<sup>3</sup> 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, among others, Max RI from \$20,000 per month to \$25,000 per month for employees (not being casual employees who are members of an industry

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<sup>1</sup> The monthly Min RI has been increased from \$5,000 to \$6,500 with effect from 1 November 2011.

<sup>2</sup> The monthly Max RI will be increased from \$20,000 to \$25,000 with effect from 1 June 2012.

<sup>3</sup> 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).

scheme) who are remunerated on a monthly basis, and from \$650 per day to \$830 per day for those who are remunerated more frequently than on a monthly basis and for casual employees who are members of an industry scheme, for contribution purposes under MPFSO. The amendments will take effect on 1 June 2012.

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

6. The Mandatory Provident Fund Schemes (Contributions for Casual Employees) (Amendment) (No. 2) Order 2011 (the Amendment (No. 2) Order) amends 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 CCE Order). The CCE Order 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 amendments to the CCE 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.

7. The Schedule to the CCE Order contains three parts each of which has a scale of amount of contributions applicable to a casual employee with a particular payroll pattern as follows –

- (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.

8. The amendments to the scales of amounts of contributions prescribed in the Schedule to the CCE Order as set out in the Amendment (No. 2) Order are shown in revision mode at **Appendix I**.

9. The commencement of the Amendment (No. 2) Order will tie in with the implementation of the Amendment of Schedule 3 Notice, i.e. on 1 June 2012, and the new amounts of contributions will apply in relation to a contribution period that begins on or after that date.

10. The Amendment (No. 2) Order was gazetted on 2 December 2011 and tabled at LegCo on 7 December 2011. The scrutiny period of the Amendment (No. 2) Order has been extended from 21 December 2011 to 1 February 2012 by resolution of the Council passed on 14 December 2011.

### **The Subcommittee**

11. At the meeting of the House Committee on 9 December 2011, Members decided to form a Subcommittee to examine the Amendment (No. 2) Order. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee held a meeting with representatives of the Administration and MPFA on 20 December 2011. The membership list of the Subcommittee is at **Appendix II**.

### **Deliberations of the Subcommittee**

12. The Subcommittee notes that the amendments in the Amendment (No. 2) Order are consequential to the adjustment of Max RI in Schedule 3 to MPFSO under the Amendment of Schedule 3 Notice. MPFA has advised that in the light of LegCo's resolution of 23 November 2011 approving the Amendment of Schedule 3 Notice which covers, among others, the amendment of the daily Max RI from \$650 per day to \$830 per day (para. 5 above), in accordance with section 7A(6) of MPFSO, MPFA has to make consequential amendments of technical nature to the CCE Order based on the approved adjusted daily Max RI of \$830.

13. The Subcommittee notes that the CCE Order is applicable only to casual employees in the catering and construction industries under the two industry schemes. Part I and Part II of the Schedule to the CCE Order provide that for a casual employee who is paid the relevant income daily or more than once a day, the new contribution amount for the income band of "more than \$650 but not more than \$830" per day is \$37.50, i.e. \$7.50 more than the existing amount of mandatory contribution applicable to the income band of "more than \$650" per day. Hon Tommy CHEUNG has enquired about the number of casual

employees of the catering industry whose daily incomes were more than \$650 and the number of relevant working days in the past 2 years.

14. The Administration has collated the requested information from MPFA and provided a breakdown as follows –

<u>Industry type</u>	<u>Estimated number of casual employees (rounded to the nearest '100) with daily incomes of more than \$650</u>
Catering	4 500
Construction	14 700
Overall	19 100

(Note – The above estimation is made by MPFA on the basis of the latest information submitted by trustees in December 2011, discounting estimated double registration between the two Industry Schemes trustees. The figures do not add up to the total due to rounding.)

15. As regards the number of relevant working days involved, the Administration has advised that MPFA and the relevant trustees do not have such information because the frequency of contributions for casual employees under industry schemes varies, and the amount of contributions to be made for casual employees who are remunerated less frequently than once a day are calculated based on 5% of the aggregate amount of income during the contribution period.

16. The Subcommittee has enquired about the feedback received during the public consultation on the proposed amendments to the CCE Order. MPFA has advised that the Mandatory Provident Fund Schemes Advisory Committee was consulted in June 2011 and the Committee supported the proposed amendments. MPFA had also informed the MPF Industry Schemes Committee, labour unions and relevant Government departments of the proposed amendments in mid-June 2011, and they did not have any comments on the proposed amendments. MPFA has advised that both the Mandatory Provident Fund Schemes Advisory Committee and the MPF Industry Schemes Committee comprise members representing the interests of employers and employees.

17. The Administration and the Subcommittee will not move any amendment to the Amendment (No. 2) Order.

**Advice sought**

18. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1  
Legislative Council Secretariat  
11 January 2012

**Amendments Relating to the Max RI****Mandatory Provident Fund Schemes  
(Contributions for Casual Employees) Order (Cap. 485E)  
("the Order")****Part I of the Schedule to the Order**

Scale of amounts of contributions to be made in the case of a casual employee to whom an employer pays the relevant income more than once a day

Total amount of relevant income paid by an employer to a casual employee in a day	Total amount to be contributed by the employer for that day	Total amount to be deducted by the employer from the employee's relevant income for that day	Notes
Less than \$250.00	\$7.50	Nil	
\$250.00 or more but less than \$260.00	\$13.00	\$13.00	
\$260.00 or more but less than \$390.00	\$15.00	\$15.00	
\$390.00 or more but less than \$520.00	\$22.50	\$22.50	
\$520.00 or more but not more than \$650.00	\$30.00	\$30.00	
<del>More than \$650.00</del>	<del>\$30.00</del>	<del>\$30.00</del>	(1)
<u>More than \$650.00 but not more than \$830.00</u>	<u>\$37.50</u>	<u>\$37.50</u>	(1) & (2)
<u>More than \$830.00</u>	<u>\$41.50</u>	<u>\$41.50</u>	(1) & (3)

Part II of the Schedule to the Order

Scale of amounts of contributions to be made in the case of a casual employee to whom an employer pays the relevant income at least, but not more than, once a day

Amount of relevant income paid by an employer to a casual employee in a day	Amount to be contributed by the employer for that day	Amount to be deducted by the employer from the employee's relevant income for that day	Notes
Less than \$250.00	\$7.50	Nil	
\$250.00 or more but less than \$260.00	\$13.00	\$13.00	
\$260.00 or more but less than \$390.00	\$15.00	\$15.00	
\$390.00 or more but less than \$520.00	\$22.50	\$22.50	
\$520.00 or more but not more than \$650.00	\$30.00	\$30.00	
<del>More than \$650.00</del>	<del>\$30.00</del>	<del>\$30.00</del>	(1)
<u>More than \$650.00 but not more than \$830.00</u>	<u>\$37.50</u>	<u>\$37.50</u>	(1)&(2)
<u>More than \$830.00</u>	<u>\$41.50</u>	<u>\$41.50</u>	(1)&(3)



Notes for the scales in Part I and Part II of the Schedule:

(1) Proposed amendments (including deletions and additions) to the current scales in Part I and Part II of the Schedule are marked up. The proposed amendments, which are either underlined or strikethrough, are to reflect the amendment made to the daily Max RI covered in the Amendment of Schedule 3 Notice which was approved at the LegCo meeting on 23 November 2011, i.e. to change the daily Max RI from \$650.00 to \$830.00.

(2) The proposed amount of mandatory contributions payable of \$37.50 is calculated as follows:

$$\begin{aligned} &\text{Average value of RI in the income band} \\ &= (\$650.00 + \$830.00)/2 = \$740.00 \\ &\text{Mandatory contribution payable} = \$740.00 \times 5\% = \underline{\$37.00} \end{aligned}$$

To be consistent with the existing pattern of setting contributions payable as a multiple of \$7.50 as far as practicable, an amount of \$37.50 is proposed.

(3) There is no upper value on the amount of relevant income in this income band. The proposed amount of mandatory contributions payable of \$41.50 is calculated as follows:

$$\text{Mandatory contribution payable} = \$830.00 \times 5\% = \underline{\$41.50}$$

Part III of the Schedule to the Order

Scale of amounts of contributions to be made in the case of a casual employee to whom an employer pays the relevant income less frequently than once a day

Average amount of relevant income paid by an employer to a casual employee per day in a contribution period	Amount to be contributed by the employer for that contribution period	Amount to be deducted by the employer from the employee's relevant income for that contribution period	Notes
Less than \$250.00	5% of the relevant income paid by the employer to the employee for that contribution period	Nil	(1)
\$250.00 or more but not more than <del>\$830.00</del> <del>\$650.00</del>	5% of the relevant income paid by the employer to the employee for that contribution period	5% of the relevant income paid by the employer to the employee for that contribution period	(1)&(2)
More than <del>\$830.00</del> <del>\$650.00</del>	<del>\$41.50</del> <del>\$32.50</del> per day in that contribution period	<del>\$41.50</del> <del>\$32.50</del> per day in that contribution period	(1)&(2)

Notes for the scale in Part III of the Schedule:

- (1) Proposed amendments (including deletions and additions) to the current scale in Part III of the Schedule are marked up. The proposed amendments, which are either underlined or strikethrough, are to reflect the amendment made to the daily Max RI covered in the Amendment of Schedule 3 Notice which was approved at the LegCo meeting on 23 November 2011, i.e. to change the daily Max RI from \$650.00 to \$830.00.
- (2) There is no upper value on the amount of relevant income in this income band. The proposed amount of mandatory contributions payable of \$41.50 is calculated as follows:

$$\text{Mandatory contribution payable} = \$830.00 \times 5\% = \underline{\$41.50}$$

Source: Mandatory Provident Fund Schemes Authority

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

**Membership list**

**Chairman** Hon WONG Ting-kwong, BBS, JP

**Members** Hon LEE Cheuk-yan  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Sing-chi  
Hon Alan LEONG Kah-kit, SC

(Total : 5 Members)

**Clerk** Ms Joanne MAK

**Legal Adviser** Mr Bonny LOO

**Date** 20 December 2011