

**立法會**  
**Legislative Council**

LC Paper No. LS58/12-13

**Paper for the House Committee Meeting  
on 7 June 2013**

**Legal Service Division Report on  
Proposed Resolutions under section 48 of the  
Mandatory Provident Fund Schemes Ordinance (Cap. 485)**

The Secretary for Financial Services and the Treasury has given notice to move two motions at the Legislative Council (the LegCo) meeting of 19 June 2013 to seek the LegCo's approval of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 (the Schedule 2 Notice) and the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 (the Schedule 3 Notice) made by the Chief Executive in Council (the CE in Council) on 28 May 2013 under section 48 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (the Ordinance).

Background

2. The Ordinance provides that unless exempted, an employer and a relevant employee must each contribute 5% of the employee's relevant income (RI) for a contribution period to a mandatory provident fund (MPF) scheme, while a self-employed person (SEP) must contribute 5% of the person's RI for a contribution period to a MPF scheme.

3. However, section 9 of the Ordinance states that if the RI of a relevant employee or SEP is less than the minimum level of RI (the Min RI), the employee or SEP is not required to contribute to a MPF scheme, although the employer of the employee still requires to make MPF contributions for the employee.

4. Further, if a relevant employee or SEP whose RI is more than the maximum level of RI (the Max RI), section 10 of the Ordinance stipulates that such employee or SEP is not required to contribute to a MPF scheme in respect of the excess RI. In such circumstances, the employer of the employee is also not required to make MPF contributions in respect of the excess RI.

5. The Min RI and Max RI are specified in Schedules 2 and 3 to the Ordinance respectively. Pursuant to section 48 of the Ordinance, the CE in Council may by notice published in the Gazette amend these two schedules subject to the approval of the LegCo.

## The Schedule 2 Notice

6. The Schedule 2 Notice seeks to increase the Min RI from the current level (column 2 below) to the new level (column 3 below) as follows -

<b>Category</b>	<b>Current Min RI</b>	<b>New Min RI</b>
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	HK\$6,500 per month	HK\$7,100 per month
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated more frequently than on a monthly basis	HK\$250 per day	HK\$280 per day
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated less frequently than on a monthly basis	HK\$6,500 per month as prorated	HK\$7,100 per month as prorated
Casual employee who is a member of an industry scheme	HK\$250 per day	HK\$280 per day
SEP	HK\$6,500 per month or HK\$78,000 per year	HK\$7,100 per month or HK\$85,200 per year

7. According to paragraph 4 of the LegCo Brief (File Ref: G6/9/44/1C(2012) Pt.14) issued by the Financial Services and the Treasury Bureau on 29 May 2013, the Administration has adopted the recommendation of the MPF Schemes Authority (MPFA) to follow the methodology for adjusting the Min RI in 2011, and made reference to the new statutory minimum wage (SMW) rate (HK\$30), the latest statistics on the median daily working hours of the four low-paying sectors (9 hours) and assuming a 26-working day per month arrangement for determining the new monthly Min RI of HK\$7,100. As to the new daily Min RI of HK\$280, the Administration has followed the practice adopted in the last amendment to assume a 26-day basis in converting the new monthly Min RI into a new daily income level as the new daily Min RI.

8. If the LegCo approves the Schedule 2 Notice, the new Min RI will take effect on 1 November 2013.

The Schedule 3 Notice

9. The Schedule 3 Notice seeks to increase the Max RI from the current level (column 2 below) to the new level (column 3 below) as follows -

<b>Category</b>	<b>Current Max RI</b>	<b>New Max RI</b>
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	HK\$25,000 per month	HK\$30,000 per month
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated more frequently than on a monthly basis	HK\$830 per day	HK\$1,000 per day
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated less frequently than on a monthly basis	HK\$25,000 per month as prorated	HK\$30,000 per month as prorated
Casual employee who is a member of an industry scheme	HK\$830 per day	HK\$1,000 per day
SEP	HK\$25,000 per month or HK\$300,000 per year	HK\$30,000 per month or HK\$360,000 per year

10. According to paragraph 6 of the LegCo Brief, MPFA's 2010 review findings based on Q3 2010 data showed that consideration should be given to increasing the Max RI from HK\$20,000 to HK\$30,000 and the last increase to HK\$25,000, instead of HK\$30,000, effective from June 2012, has balanced the views of different sectors of the community. The Administration has accepted the recommendation of MPFA to take the opportunity to increase the monthly Max RI to HK\$30,000 to achieve a greater coverage of income distributions, noting that the 90<sup>th</sup> percentile of income intended in the Ordinance for review of the Max RI has reached HK\$35,000 as at Q3 2012. With respect to the new daily Max RI of HK\$1,000, the Administration has continued to adopt a 30-day basis in converting the new monthly Max RI into a new daily income level as the new daily Max RI.

11. If the LegCo approves the Schedule 3 Notice, the new Max RI will take effect on 1 June 2014.

Other remarks

12. Members may refer to the LegCo Brief for further information regarding the proposed increase of the Min RI and Max RI, including consequential amendments proposed to be made to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order (Cap. 485 sub. leg. E) and the Inland Revenue Ordinance (Cap. 112) later if the LegCo approves the above notices.

13. According to paragraph 14 of the LegCo Brief, MPFA consulted the MPF Schemes Advisory Committee on 15 January 2013 and the Labour Advisory Board (LAB) on 16 January 2013 on its review findings of the Min RI and Max RI. The Administration reported that LAB generally supported the proposed increase of the Min RI and Max RI but its views on the implementation time of the revised Max RI were quite diverse. Broadly speaking, employer representatives and an employee representative were against early implementation on account of the fact that the last adjustment was introduced not more than a year ago and of the skepticism towards the MPF system.

14. As advised by the Clerk to the Panel on Financial Affairs, the Panel was consulted at the meeting on 4 March 2013. Members noted the key recommendations of MPFA in relation to the increase of the Min RI and Max RI with simultaneous effect three months from the approval of the relevant subsidiary legislation by the LegCo. Panel members had no objection to MPFA's proposals. Some members enquired whether the increase in total MPF contributions as a result of the proposed adjustments to the Min RI and Max RI would bring about reductions in MPF fees and the timing of future reviews of the Min RI and Max RI in the light that SMW rate is currently reviewed every two years.

15. No difficulties in the legal and drafting aspects of the above notices have been identified.

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