

香港特別行政區政府
財經事務及庫務局
財經事務科
香港金鐘添美道二號
政府總部二十四樓



LC Paper No. CB(1)928/14-15(01)

(English version only)

**FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION**

24TH FLOOR
CENTRAL GOVERNMENT OFFICES
2 TIM MEI AVENUE
ADMIRALTY
HONG KONG

電話 TEL.: 2810 2156

圖文傳真 FAX.: 2865 6778

本函檔號 OUR REF.:

來函檔號 YOUR REF.:

18 May 2015

Miss Carrie WONG
Assistant Legal Adviser 4
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Fax No.: 2877 5029)

Dear Miss WONG,

**Mandatory Provident Fund Schemes (Amendment) Ordinance 2015
(Commencement) Notice 2015**

The Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (Commencement) Notice 2015 (“Commencement Notice”) (at **Annex**) aims to bring certain provisions of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (1 of 2015) (“Amendment Ordinance”) into operation on 1 August 2015.

The Amendment Ordinance, passed by the Legislative Council on 21 January 2015, aims to improve and enhance the flexibility of Mandatory Provident Fund (“MPF”) withdrawal arrangements, reduce trustees’ compliance burden to provide greater scope for reduction of MPF fees, and also covers certain technical amendments. In accordance with section 1(3) of the Amendment Ordinance, certain provisions come into operation on the day on which the Amendment Ordinance was published in the Gazette on

30 January 2015.¹ Section 1(2) of the Amendment Ordinance provides that subject to those sections as specified under section 1(3) of the Amendment Ordinance, the Ordinance is to come into operation on a date to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

The Commencement Notice

Having reviewed the progress of the preparatory work, including revision of relevant guidelines and withdrawal forms, system enhancement by MPF trustees, and publicity and communication with relevant parties, the Mandatory Provident Fund Schemes Authority (“MPFA”) has recently advised that it is feasible to bring sections 4, 6(4) - (8), 16, 21(1), 22, 27, 28, 29, 32, 33, 34, 35, 39, 40, 41, 42, 43, 44, 45(1) (on reference to subsection (1A) of section 166 only), 45(2), 45(3) (on reference to subsection (1A) of section 166 only) and 45(4), 48, 49, 51(1), (3) and (6), 53, 54, 55, 58, 59 and 60 of the Amendment Ordinance into operation on 1 August 2015.

The aforementioned provisions cover the following eight groups of proposal –

- (a) allowing early withdrawal of MPF accrued benefits on “terminal illness” ground (i.e. sections 6(4)-(7), 16, 39, 40, 42, 48, 53, 58 and 59 of the Amendment Ordinance);
- (b) clarifying the terms “permanently ceased employment or self-employment” and “departs from Hong Kong permanently” for the purpose of making early withdrawal (i.e. sections 6(8) and 39 of the Amendment Ordinance);
- (c) simplifying the process for withdrawal on total incapacity ground (i.e. sections 41 and 51(6) of the Amendment Ordinance);
- (d) reducing the compliance burden on trustees and employers by simplifying operational processes and communication (i.e. sections 22, 27, 28, 29, 33, 35, 49, 51(1) and (3) of the Amendment Ordinance);

¹ Sections 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21(2), 23, 24, 26, 30, 31, 36, 37, 38, 50, 51(4) and (5), 52, 56 and 57. These sections mainly cover the following proposals -

- (a) providing an express legal basis for MPFA to refuse to approve a constituent fund of registered schemes if it is not satisfied that the fund is in scheme members’ interests;
- (b) revising the information disclosure arrangements in secrecy provisions to facilitate operations and compliance with reporting requirements to enhance tax transparency or combat tax evasion;
- (c) extending the time limit to institute criminal proceedings under MPFSO and the Mandatory Provident Fund Schemes (Exemption Regulation) (Cap. 485B) (“Exemption Regulation”) from within six months to within three years after the commission of the offence; and
- (d) making consequential or related amendments.

- (e) clarifying the definitions of permitted period and contribution day for employees and self-employed persons in different contexts (i.e. sections 4, 21(1), 32, 34, 54, 55 and 60 of the Amendment Ordinance);
- (f) allowing committee of estate appointed under Mental Health Ordinance to claim MPF benefits on behalf of MPF scheme members (i.e. section 44 of the Amendment Ordinance); and
- (g) making a minor technical amendment in relation to claim for payment of MPF benefits of small balance (i.e. section 43 of the Amendment Ordinance) and clarifying the time frame for payment of MPF benefits (i.e. section 45 of the Amendment Ordinance).

Taking into account that much time is required by trustees to update their procedural guidelines, systems and forms, a few provisions relating to withdrawal of accrued benefits by instalments would not be brought into operation by this Commencement Notice and the commencement date of these provisions would be specified by a separate notice. We and the MPFA target to bring these provisions into operation in early 2016. Should you have any further enquiries, please feel free to contact the undersigned or Miss Janet Ho at 2810 3066.

Yours sincerely,



(Eddie Cheung)

for Secretary for Financial Services and the Treasury

c.c.

Mandatory Provident Fund Schemes Authority (Attn: Ms Gabriella YEE)

L.N. 98 of 2015

**Mandatory Provident Fund Schemes (Amendment)
Ordinance 2015 (Commencement) Notice 2015**

Under section 1(2) of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2015 (1 of 2015), I appoint 1 August 2015 as the day on which the following provisions of the Ordinance come into operation—

- (a) sections 4, 6(4), (5), (6), (7) and (8), 16, 21(1), 22, 27, 28, 29, 32, 33, 34, 35, 39, 40, 41, 42, 43 and 44;
- (b) section 45(1) in so far as it relates to the new section 166(1A);
- (c) section 45(2);
- (d) section 45(3) in so far as it relates to the new section 166(1A);
- (e) section 45(4);
- (f) sections 48, 49, 51(1), (3) and (6) and 53;
- (g) Parts 5, 7 and 8.

K. C. CHAN
Secretary for Financial Services
and the Treasury

7 May 2015