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## **Major Amendments Introduced in Mandatory Provident Fund Schemes (Amendment) Ordinance 2002**

*Enacted on 6 February 2002*

### **A. Enhance protection for scheme members**

- I. Clarify MPFA's power to impose additional conditions on approved trustees or amend existing conditions
- II. Clarify MPFA's power to impose or amend conditions for scheme registration
- III. Clarify MPFA's power to impose additional conditions for an approved pooled investment fund
- IV. Provide for a regulation making power to require the guarantor of an approved pooled investment fund to maintain adequate reserves so as to provide investment guarantee
- V. Clarify the meaning of the "six-month period" whereby payment of accrued benefits derived from voluntary contribution is allowed when the employer of an employee fails to make a required voluntary contribution
- VI. Allow flexibility for MPFA to issue further notices to the defaulting employer and self-employed person and levy contribution surcharge after the second payment period

### **B. Enhance MPFA's operation and regulation of the MPF System**

- I. State MPFA's specific functions of (A) considering and proposing reforms of the law relating to occupational retirement schemes or provident fund schemes, and (B) promoting and encouraging the development of the retirement schemes industry in Hong Kong, including the adoption of a high standard of conduct and sound prudent business practices by trustees and other service providers
- II. Allow MPFA to borrow money temporarily
- III. Empower MPFA to de-register a registered scheme upon application from the relevant trustee, provided that the scheme has no scheme members, no scheme assets, and no liabilities
- IV. Provide an express power for MPFA to approve offering documents of MPF schemes and streamline the approval of participation agreements

### **C. Clarifications and removal of anomalies**

- I. Amend the definition of "master trust scheme" and "employer sponsored scheme" such that their membership will be open to (A) a person who has benefits transferred from an ORSO scheme, and (B) an employee below the age of 18, or of or above the retirement age for the purpose of making voluntary contributions
- II. Amend the definition of the contribution day applicable to a casual employee in an industry scheme such that it means either the 10th day after the last day of the relevant contribution period, or the next working day (other than a Saturday) immediately subsequent to the payment of the relevant income
- III. Extend the exemption period for expatriates from 12 months to 13 months

### **D. Other technical amendments**

- I. Expand the definition of "company" to include a "corporation"
- II. Specify that the "relevant time" for the purpose of determining when an employer/self-employed person should register his employee/himself as a member of a registered scheme should be the beginning of the date on which the employment (or self-employment) begins
- III. Clarify that self-employed persons who are less than 18 years of age or who have reached retirement age are not required to join MPF schemes or make mandatory contributions, but they can nevertheless join MPF schemes and make voluntary contributions
- IV. Clarify that an employer can enrol his employees who are less than 18 years of age or who have reached retirement age and make voluntary contributions for the employees. The employees can also make voluntary contributions for themselves

v. Impose an obligation on the approved trustees to ensure that the contract of appointment appointing a custodian would prohibit a person who is not eligible to be a delegate of the custodian to assume such a position

vi. Provide immunity from civil liability for MPFA and its directors and employees acting in good faith in the performance of any function under the MPFSO

vii. Expand the definition of mandatory contributions to include minimum MPF benefits transferred from a MPF exempted ORSO registered scheme