

**Business Facilitation Advisory Committee
Task Force on Business Liaison Groups**

***Abolition of Offsetting Arrangement
under the Mandatory Provident Fund System***

Purpose

This paper briefs Members on the abolition of using the accrued benefits¹ of employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP) and long service payment (LSP) payable to employees under the Employment Ordinance (the offsetting arrangement). The Government will implement the abolition of the offsetting arrangement on 1 May 2025 (i.e. the transition date).

Abolition of the Offsetting Arrangement

2. Currently, employers are allowed to use the accrued benefits of employers' MPF contributions to offset SP/LSP. Likewise, benefits of employers' contributions to other occupational retirement schemes can also be used to offset SP/LSP. The abolition of the offsetting arrangement applies to cases where the contract of employment is terminated on or after the transition date. Major features of the abolition of the offsetting arrangement are set out below:

- (a) Starting from the transition date, employers can no longer use the accrued benefits derived from their mandatory MPF contributions (ERMC) to offset an employee's SP/LSP. The accrued benefits derived from employers' voluntary MPF contributions (ERV) and gratuities based on length of service can continue to be used to offset SP/LSP;
- (b) The abolition of the offsetting arrangement has no retrospective effect. Employers may continue to use the accrued benefits derived from their MPF contributions (irrespective of whether the contributions are made before, on or after the transition date, and irrespective of whether the

¹ Under the Mandatory Provident Fund Schemes Ordinance, "accrued benefits", in relation to a registered scheme, means the amount of each scheme member's beneficial interest in the registered scheme at any time, including sums derived from the contributions made by or in respect of that scheme member together with the income or profits arising from any investments of the contributions, but taking into account any losses in respect of the investments and any amounts paid in respect of the scheme member.

contributions are mandatory or voluntary) to offset an employee's SP/LSP in respect of employment period before the transition date (pre-transition portion of SP/LSP);

- (c) The rate for calculating SP/LSP remains two-thirds of the employee's monthly wages², subject to a maximum of \$22,500, for each year of service, and the maximum payment of SP/LSP remains \$390,000;
- (d) For employees whose employment commences before the transition date, SP/LSP is divided into pre-transition and post-transition portions and calculated as below:

Pre-transition portion of SP/LSP

*Last full month's wages immediately preceding the transition date \times
 $\frac{2}{3} \times$ Years of service before the transition date*

Post-transition portion of SP/LSP

*Last full month's wages immediately preceding the termination of
employment $\times \frac{2}{3} \times$ Years of service starting from the transition date*

If an employee's total SP/LSP exceeds \$390,000, the amount in excess will be deducted from the post-transition portion.

3. Employers will not save SP/LSP expenses by dismissing employees before the transition date because:

- (a) Abolition of the offsetting arrangement has no retrospective effect. All accrued benefits of employers' MPF contributions can continue to be used to offset pre-transition portion of SP/LSP even if the employee's employment is terminated after the transition date;
- (b) Pre-transition portion of SP/LSP will be calculated on the basis of the wages and years of service as at the transition date. The amount of pre-transition portion of SP/LSP will not increase no matter how long the employee is further employed and whether the employee's salary is increased after the transition date; and
- (c) SP/LSP expenses may increase if the employer dismisses an existing employee with long years of service and employ a new employee. This is because the existing employee's pre-transition portion of SP/LSP (which can continue to be offset by both ERM and ERVC)

² An employee may also elect to use his/her average wages in the previous 12 months for the calculation.

has reached/is approaching the maximum amount of SP/LSP (i.e. \$390,000) and no/little post-transition portion of SP/LSP will be further accumulated. On the contrary, the new employee's SP/LSP will build up afresh and cannot be offset by ERM C.

4. As employers may need to calculate employees' pre-transition portion of SP/LSP, they must keep the wage records covering an employee's employment period during the 12 months immediately preceding the transition date in addition to the wage and employment records that the employer is required to keep under the existing provisions of the Employment Ordinance³. All wage and employment records should be kept until six months after the employee ceases to be employed.

5. The abolition of the offsetting arrangement will also be applicable to occupational retirement schemes (ORS). Since ORS contributions are not differentiated into mandatory and voluntary contributions, a portion of benefits will be carved out (carved-out benefits) from the vested benefits attributed to employers' ORS contributions. Calculation of the "carved-out benefits" is set out below:

$$\text{Final average monthly relevant income} \times \text{Years of service with ORS} \\ \text{benefits} \times 5\% \times 12$$

6. The "carved-out benefits" is akin to ERM C under the MPF System, and can be used to offset pre-transition portion of SP/LSP but not post-transition portion of SP/LSP. The remainder of the vested benefits is akin to ERVC under the MPF System and can be used to offset both pre-transition portion and post-transition portion of SP/LSP.

7. The abolition of the offsetting arrangement is not applicable to employees who are currently not covered by the MPF System or other statutory retirement schemes (including domestic helpers and employees aged less than 18 or more than 65). Their SP/LSP, if applicable, will continue to be calculated on the basis of the last monthly wages or 12-month average wages before the termination of employment in accordance with the existing provisions of the Employment Ordinance.

8. For most employees, the total benefits to be received (i.e. SP/LSP plus accrued benefits of employer's MPF contributions) after abolition of the MPF offsetting arrangement would be higher than that under the current offsetting regime. Under special circumstances (e.g. substantial pay rise

³ According to the Employment Ordinance, employers must at all time keep wage records of each employee covering the period of his/her employment during the preceding 12 months.

after the transition date, long pre-transition employment period, short post-transition employment period, etc.), the total benefits after the abolition may be less than that under the current offsetting regime. The Government has undertaken to make up for the shortfall should any such cases arise to ensure employees will not be worse off due to abolition of the offsetting arrangement.

Subsidy Scheme for Abolition of MPF Offsetting Arrangement

9. To tie in with the abolition of the offsetting arrangement on 1 May 2025, the Government will roll out on the same date the 25-year Subsidy Scheme for Abolition of MPF Offsetting Arrangement (SSA) totalling over \$33.6 billion to help share employers' post-transition portion of SP/LSP expenses. Major features of SSA are below:

- (a) There will be a specified share ratio in respect of the amount of post-transition portion of SP/LSP payable by an employer to an employee each year (see **Annex A**);
- (b) A "\$500,000 threshold" will be set for the total amount of post-transition portion of SP/LSP payable by an employer in a year, and cases below the threshold will receive a higher subsidy;
- (c) For cases below the "\$500,000 threshold", the amount of post-transition portion of SP/LSP to be shouldered by employers will be capped during the initial nine years, and from Year 10 onwards, the amount to be shouldered by the employer is calculated according to the share ratio with no "capped amount". The "capped amount" in the initial three years is as low as \$3,000; and
- (d) For cases above the "\$500,000 threshold", the amount of post-transition portion of SP/LSP to be shouldered by employers is calculated according to the share ratio.

10. Given that the majority of micro, small and medium-sized enterprises should not incur more than \$500,000 SP/LSP liabilities a year, they will generally benefit from a higher subsidy for each SP/LSP case within the \$500,000 threshold. The front-loaded approach with the subsidy level progressively reduced over the 25-year subsidy period will help employers gradually adapt to the policy change.

Way Forward

11. The Labour Department is firming up the preparatory work for the abolition of the offsetting arrangement and will continue to conduct extensive publicity through various channels to help employers and employees understand the relevant arrangement.

12. Members are invited to note the content of this paper.

Labour Department
December 2024

**Employer's Share of Post-abolition
Severance Payment/Long Service Payment (SP/LSP) under
the Subsidy Scheme for Abolition of MPF Offsetting Arrangement**

Year after the abolition	Employer's share per employee (as % of post-transition portion of SP/LSP payable)	
	First \$500,000 of all SP/LSP paid by an employer in a year	Beyond the first \$500,000 of all SP/LSP paid by an employer in a year
1 – 3	50%, capped at \$3,000	50%
4	55%, capped at \$25,000	55%
5	60%, capped at \$25,000	60%
6	65%, capped at \$25,000	65%
7	70%, capped at \$50,000	70%
8	75%, capped at \$50,000	75%
9	80%, capped at \$50,000	80%
10	80%	85%
11	80%	90%
12	85%	95%
13	85%	100%
14 – 19	90%	
20 – 25	95%	