

Notes for Employers and Employees on Mandatory Provident Fund Schemes and Employees' Rights and Benefits

Mandatory Provident Fund (MPF) Schemes and Employees' Rights and Benefits

- Employers should not reduce employees' wages or other benefits to evade their MPF responsibilities.
- Relevant provisions of the Employment Ordinance protecting employees in this respect are as follows.

Relevant Provisions of the Employment Ordinance

- **Wage Deduction**
 - Under the Mandatory Provident Fund Schemes Ordinance, employers have the responsibility to make their MPF contributions from their own funds.
 - Under the Employment Ordinance, it is an offence to deduct employees' wages to pay for the employer's contribution to the MPF Schemes, the maximum penalty of which is a fine of \$100,000 and imprisonment of one year.
- **Changing the Status of an Employee to Self-employed**
 - Employers cannot unilaterally change the status of their employees to self-employed persons. Under common law, this may amount to constructive dismissal and aggrieved employees may claim termination compensation against their employers.
 - If there exists in essence an employer-employee relationship, employers are still required to fulfill their responsibilities under the law, even though their workers are labeled as self-employed or contractors.
- **Wage Restructuring**
 - Employers should not vary employees' wage structure or convert part of their wages into cash allowance, such as housing allowance, with a view to avoiding liabilities under the

Employment Ordinance and the Mandatory Provident Fund Schemes Ordinance.

- Under the Employment Ordinance, any term of a contract of employment which purports to extinguish or reduce any right, benefit or protection of an employee under the Ordinance shall be void.

- **Variation of Employment Terms**

- Employers should not unilaterally vary employees' employment terms, e.g. reducing their wages or other benefits.
- Employees can claim remedies for unreasonable variation of employment terms made unilaterally by their employers.

Enquiries and Assistance

Mandatory Provident Fund Schemes Authority

Enquiry Hotline : 2918 0102
Homepage : <http://www.mpfahk.org>
Address : 21/F & 22/F, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong

Labour Department

24-hour Telephone Enquiry Service: 2717 1771

Homepage : <http://www.labour.gov.hk/>
Address

Enquiry in person to Offices of the Labour Relations Division of the Labour Department: <http://www.labour.gov.hk/eng/tele/lr1.htm>