

THE LEGISLATIVE COUNCIL PASSED THE BILL ABOLISHING THE MANDATORY PROVIDENT FUND (MPF) OFFSETTING MECHANISM



With overwhelming votes for, the Legislative Council passed the third reading of a bill abolishing the Mandatory Provident Fund (MPF) offsetting mechanism on 9 June 2022.

After the law comes into effect, the offsetting arrangement will be scrap starting from a date, known as the transition date, which will announce by the government later. After that, employers can no longer offset employees' severance payment and long-service payment (SP and LSP) against the MPF derived from the employers' mandatory and voluntary contributions. The abolition of the offsetting arrangement will also apply to occupational retirement schemes under the Occupational Retirement Schemes Ordinance.

The abolition of the offsetting arrangement has no retrospective effect. If an employee's employment commenced before the transition date but laid off after that, the employer can claw back their contributions to employees' MPF to cover their SP and LSP based on the years of employment before the transition date.

The government said such an arrangement would help reduce the risk of large-scale dismissals before the transition date.

The government planned to fully scrap the offsetting arrangement as early as 2025 to allow employers to prepare for the amendment.

To help small and medium size enterprises (SME) ease the additional financial burden on abolishing of MPF offsetting arrangement, the government introduces financial subsidy to HK\$33.2 billion of 25-year financial support for employers (for details about the government subsidy, please refer to table 1).

Table 1

Number of years after abolition	The first HK\$500,000 of annual cost of SP/LSP	The amount exceeds the first HK\$500,000 of annual cost of SP/LSP
	Per termination of each employee with SP/LSP)	Per termination of each employee with SP/LSP)
1-3	50%, capped at HK\$3,000	50%
4	55%, capped at HK\$25,000	55%
5	60%, capped at HK\$25,000	60%
6	65%, capped at HK\$25,000	65%
7	70%, capped at HK\$50,000	70%
8	75%, capped at HK\$50,000	75%
9	80%, capped at HK\$50,000	80%
10	80%	85%
11	80%	90%
12	85%	95%
13	85%	100%
14-19	90%	100%
20-25	95%	100%
26	100%	100%

For details about the amount of SP and LSP payable by the government subsidy and employer respectively, please refer to the two examples illustrated under table 2.

Table 2

Example 1 (all in HK\$)							
Amount of SP/LSP	Number of	Portion of SP/LSP	Original amount of SP/LSP	Amount of SP/LSP	Actual amount	Government	
	year after abolition	responsible by employer	payable by employer	payable at cap	payable by employer	subsidy	
\$60,000	6th year	65%	\$39,000	\$25,000	\$25,000	\$35,000	
Example 2 (all in HK\$)							
Amount of SP/LSP	Number of	Portion of SP/LSP	Original amount of SP/LSP	Amount of SP/LSP	Actual amount	Government	
	year after abolition	responsible by employer	payable by employer	payable at cap	payable by employer	subsidy	
\$60,000	10th year	80%	\$48,000	\$0	\$48,000	\$12,000	

In addition, the government has also introduced a designated saving account (DSA) arrangement to which employers will contribute 1% of each employee's relevant income as a reserve for SP and LSP. The employers' DSA contributions limited to 15% of each employee's relevant income (ie employers would require contributing for only 15 years per employee). The DSA arrangement is aimed to help employers reserve fund to meet the potential cost of SP and LSP after the offsetting mechanism is in force.

The calculation of SP and LSP will remain unchanged at two-thirds of last month wages of an employee with a cap at HK\$22,500 (ie HK\$15,000), multiplied by the reckonable

years of service, with a maximum amount at HK\$390,000.

The representatives of business sector showed their concerns that those SMEs hired small number of employees, would not be able to spare extra cost for contribution to the new DSA, let alone the finance of the extra cost of the top-up payment of severance payment and long service payment after the abolition. The SMEs must dig into their own pockets or seek external finance to meet the top-up payment of SPs/LSPs. Such extra cost incurred may trigger certain SMEs' decision to close their businesses or change of their hiring strategy to employ employees on short-term or self-employed basis.

The representatives of business sector have urged the government to enhance the announced scheme of financial subsidies to ease employers' financial burden on own portion of SP and LSP when laid-off employees after law of abolition of the MPF offsetting mechanism takes effect.

We will keep a lookout for development concerning this topic and will keep readers informed about the latest announcement from the government.

BDO'S SUPPORT AND ASSISTANCE

25th Floor, Wing On Centre
111 Connaught Road Central
Hong Kong
Tel: +852 2218 8288
Fax: +852 2815 2239
info@bdo.com.hk

JOSEPH HONG
Director and Head of Payroll & HR Outsourcing Services
Tel: +852 2218 8286
josephhong@bdo.com.hk

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