

取消 強積金「對沖」安排



Abolition of MPF Offsetting Arrangement



勞工處
Labour Department

取消強積金「對沖」安排的要點

- 政府已宣布將於 2025 年 5 月 1 日（轉制日）實施取消強制性公積金（強積金）「對沖」安排。
- 在轉制日後，僱主不可使用其強積金強制性供款累算權益「對沖」僱員的遣散費 / 長期服務金（長服金）。
- 僱主的強積金自願性供款累算權益，以及按僱員服務年數支付的酬金，可繼續用作「對沖」遣散費 / 長服金。
- 取消「對沖」不具追溯力，如僱員在轉制日之前已在職：
 - (1) 僱主可繼續使用其強積金供款累算權益（不論是在轉制日前、當日或之後作出，亦不論是強制性或自願性供款），「對沖」遣散費 / 長服金轉制前部分；及
 - (2) 遣散費 / 長服金轉制前部分會以轉制日當時的工資及服務年資計算。

取消強積金「對沖」安排後遣散費 / 長服金的計算方式

（一）在轉制日或之後入職的僱員

(1) 遣散費 / 長服金的計算方式

月薪僱員	$(\text{終止僱傭前最後一個月的全月工資}^* \times 2/3)^{\#} \times \text{服務年資}$
日薪或件薪僱員	$(\text{終止僱傭前最後工作的 30 個正常工作日中由僱員選任何 18 天工資}^*)^{\#} \times \text{服務年資}$

* 僱員亦可選擇以終止僱傭前 12 個月的平均工資計算。

以 22,500 元的三分之二（即 15,000 元）為上限。

遣散費 / 長服金的最高款額為 390,000 元。

(2) 「對沖」安排

	遣散費 / 長服金	
	可「對沖」	不可「對沖」
僱主強積金強制性供款累算權益		✓
僱主強積金自願性供款累算權益	✓	
按僱員服務年數支付的酬金	✓	

(二) 在轉制日前已在職的僱員

(1) 遣散費 / 長服金的計算方式

遣散費 / 長服金會分為轉制前及轉制後兩部分：

	遣散費 / 長服金轉制前部分	遣散費 / 長服金轉制後部分
月薪僱員	(轉制日前最後一個月的全月工資 [*] × 2/3) [#] × 轉制日前的服務年資	(終止僱傭前最後一個月的全月工資 [*] × 2/3) [#] × 轉制日起的服務年資
日薪或件薪僱員	(轉制日前最後工作的30個正常工作日中由僱員選任何18天工資 [*]) [#] × 轉制日前的服務年資	(終止僱傭前最後工作的30個正常工作日中由僱員選任何18天工資 [*]) [#] × 轉制日起的服務年資

^{*} 僱員亦可選擇以轉制日前 / 終止僱傭前 12 個月的平均工資計算。

[#] 以 22,500 元的三分之二 (即 15,000 元) 為上限。

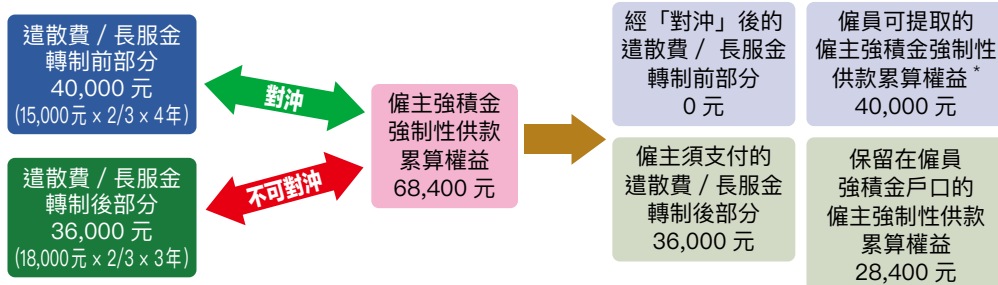
遣散費 / 長服金的最高款額為 390,000 元。假若僱員遣散費 / 長服金總額 (即遣散費 / 長服金轉制前部分及轉制後部分的總和) 超過 390,000 元, 超出上限的部分從轉制後部分扣減。

(2) 「對沖」安排

	遣散費 / 長服金轉制前部分		遣散費 / 長服金轉制後部分	
	可「對沖」	不可「對沖」	可「對沖」	不可「對沖」
僱主強積金強制性供款累算權益	✓			✓
僱主強積金自願性供款累算權益	✓		✓	
按僱員服務年數支付的酬金	✓		✓	

例子

假設僱員 (i) 在轉制日前已入職 4 年, (ii) 在轉制日後 3 年離職, (iii) 在轉制日前最後一個月的工資是 15,000 元, (iv) 在終止僱傭前最後一個月工資是 18,000 元, (v) 僱主強積金強制性供款累算權益為 68,400 元, 沒有提供強積金自願性供款或酬金。僱員遣散費 / 長服金及「對沖」安排如下 —



^{*} 如僱主已支付遣散費 / 長服金予僱員, 則用來「對沖」遣散費 / 長服金的權益會由僱主提取。

職業退休計劃的安排

取消強積金「對沖」安排亦適用於以下職業退休計劃：(i) 在《強制性公積金計劃條例》下獲豁免的職業退休計劃；(ii) 《補助學校公積金規則》及《津貼學校公積金規則》下的公積金計劃；以及 (iii) 獲豁免於強積金計劃的外地僱員的海外職業退休計劃。

職業退休計劃沒有劃分為強制性及自願性款項，因此會從僱主供款的既有利益中剔除一筆類近僱主強積金強制性供款累算權益的款項（「剔除款項」），而扣除「剔除款項」後的既有利益餘額（「利益餘額」），則類近僱主強積金自願性供款累算權益。

「剔除款項」的計算方式：

$$\text{最終每月平均有關入息}^* \times \text{享有職業退休計劃利益的服務年數} \times 5\% \times 12$$

* 指僱員在終止僱傭合約前 12 個月的平均有關入息，以《強制性公積金計劃條例》規定的最高有關入息水平為限。現時的每月最高有關入息水平為 30,000 元。

(1) 在轉制日或之後入職僱員的「對沖」安排

	遣散費 / 長服金	
	可「對沖」	不可「對沖」
「剔除款項」		✓
「利益餘額」	✓	

(2) 在轉制日之前已在職僱員的「對沖」安排

	遣散費 / 長服金轉制前部分		遣散費 / 長服金轉制後部分	
	可「對沖」	不可「對沖」	可「對沖」	不可「對沖」
「剔除款項」	✓			✓
「利益餘額」	✓		✓	

僱主不應在轉制日前解僱僱員

僱主在轉制日前解僱僱員，並不能節省遣散費 / 長服金的開支，因為 —

- (一) 僱主可繼續使用其強積金供款累算權益「對沖」現職僱員的遣散費 / 長服金轉制前部分；及
- (二) 現職僱員的遣散費 / 長服金轉制前部分會以轉制日當時的工資及服務年資計算，因此無論僱員在轉制日後工資有否增長或年資長短，遣散費 / 長服金轉制前部分的款額都不會增加。

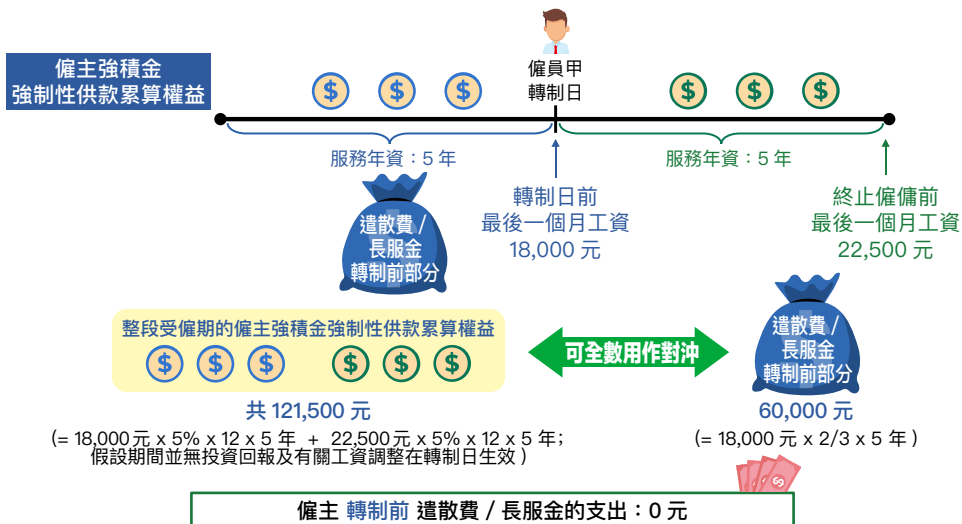
僱主在轉制日前解僱現職僱員，然後聘用新僱員，在一般情況下，遣散費 / 長服金的支出會比保留現職僱員為多，因為 —

- (一) 現職僱員整段受僱期的僱主強積金供款累算權益可繼續「對沖」僱員的遣散費 / 長服金轉制前部分，保留現職僱員可以讓僱主強積金供款累算權益繼續增長，日後用以「對沖」僱員的遣散費 / 長服金轉制前部分；及
- (二) 新聘僱員的遣散費 / 長服金將重新累計至最高 390,000 元且不能以僱主的強積金強制性供款累算權益「對沖」。

例子

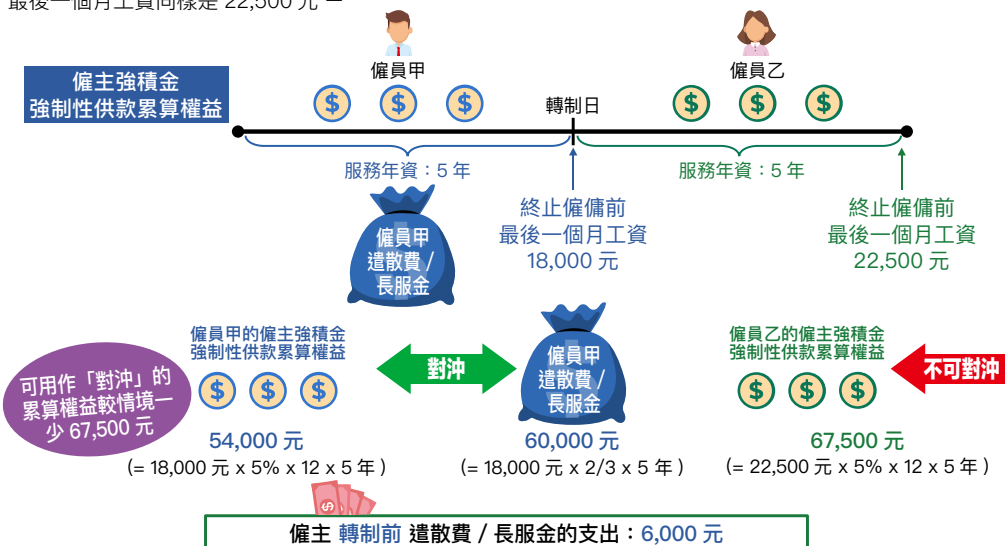
情境一：僱主在轉制日後繼續聘用現職僱員

假設 (i) 僱主在轉制日前已僱用僱員甲 5 年；(ii) 在轉制日後繼續僱用僱員甲 5 年；(iii) 僱員甲轉制日前最後一個月工資是 18,000 元；及 (iv) 終止僱傭前最後一個月工資是 22,500 元。



情境二：僱主在轉制日前解僱現職僱員，然後聘用新僱員

假設 (i) 僱主在轉制日前解僱有 5 年年資的僱員甲，並在轉制日後另聘僱員乙 5 年；及 (ii) 僱員乙終止僱傭前最後一個月工資同樣是 22,500 元。



在上述例子，僱主在轉制日前解僱現職僱員，然後聘用新僱員，須多支付 6,000 元的轉制前遣散費 / 長服金。無論僱主繼續聘用僱員甲或轉聘僱員乙，轉制後的遣散費 / 長服金款額皆為 75,000 元並且不能以僱主強積金強制性供款累算權益「對沖」。

取消強積金「對沖」安排後僱員的權益總和

取消強積金「對沖」安排後，絕大部分僱員獲得的權益總和（即遣散費 / 長服金連同僱主強積金強制性供款累算權益），都會較在現行「對沖」制度下所得的款額為多。

在個別特殊情況下（例如僱員在轉制日後工資大幅增加、轉制日前的受僱期長、轉制日後的受僱期短等），僱員在取消「對沖」後可得的權益總和可能少於在現行「對沖」制度下可得的款額。如出現這些個別情況，政府會補足差額，確保僱員的權益不會減少。

取消強積金「對沖」安排的涵蓋範圍

取消強積金「對沖」安排並不適用於現時不受強積金制度或其他法定退休計劃涵蓋的僱員（包括外籍及本地家庭傭工，以及不足 18 歲或年滿 65 歲或以上的僱員）。他們的遣散費 / 長服金（如適用），會繼續按照現行《僱傭條例》的規定，以終止僱傭前最後一個月的全月工資或 12 個月的平均工資計算。

備存僱員工資紀錄

在取消強積金「對沖」安排後，僱主除須備存根據現行《僱傭條例》規定的僱傭紀錄^{*}外，亦須備存現職僱員在轉制日前 12 個月的工資紀錄[#]，直至有關僱員離職後 6 個月為止，以便有需要時計算僱員的遣散費 / 長服金轉制前部分。

^{*} 根據現行《僱傭條例》，僱主無論何時均須備存每一位僱員在過去 12 個月內的工資及僱傭紀錄，並須在僱員離職後 6 個月內繼續保存這些紀錄。

[#] 如僱員在轉制日前的僱傭期少於 12 個月，僱主須備存僱員在該段較短期間的工資紀錄。如僱員在轉制日前的僱傭期少於一個月，僱主須備存僱員首月的工資紀錄。

有關取消強積金「對沖」安排的更多資訊和法例生效後計算遣散費 / 長服金的參考例子，請瀏覽：

<https://www.op.labour.gov.hk>



注意：本單張以淺白的文字，簡述取消強積金「對沖」安排的要點。對有關法例的詮釋，應以《僱傭條例》及《2022 年僱傭及退休計劃法例（抵銷安排）（修訂）條例》原文為依歸。

Key points of the abolition of MPF offsetting arrangement

- The Government has announced that the abolition of Mandatory Provident Fund (MPF) offsetting arrangement will be implemented on **1 May 2025** (the transition date).
- After the transition date, employers can no longer use the accrued benefits of their mandatory MPF contributions (ERMC) to offset employees' severance payment (SP) / long service payment (LSP).
- The accrued benefits derived from employers' voluntary MPF contributions (ERVC) and gratuities based on employees' years of service can continue to be used to offset SP/ LSP.
- The abolition of MPF offsetting arrangement has **no retrospective effect**. If an employee is already in employment before the transition date:
 - (1) The employer may continue to use the accrued benefits derived from his/her MPF contributions (irrespective of the contributions made before, on or after the transition date, and irrespective of mandatory or voluntary contributions) to offset the pre-transition portion of SP/LSP; and
 - (2) The pre-transition portion of SP/LSP will be calculated based on the monthly wages immediately preceding the transition date and the years of service before the transition date.

Calculation of SP/LSP after the abolition of MPF offsetting arrangement

(A) Employees whose employment commences on or after the transition date

(1) Calculation of SP/LSP

Monthly-paid employee	$(\text{last full month's wages}^* \text{ before termination of employment} \times 2/3)^{\#} \times \text{years of service}$
Daily-rated/ piece-rated employee	$(\text{any 18 days' wages}^* \text{ chosen by the employee out of his/her last 30 normal working days before termination of employment})^{\#} \times \text{years of service}$

* An employee may also elect to use his/her average wages in the 12 months immediately preceding the termination of employment for the calculation.

[#] The sum should not exceed 2/3 of \$22,500 (i.e. \$15,000).

The maximum amount of SP/LSP is \$390,000.

(2) Offsetting arrangement

	SP/LSP	
	Offsettable	Non-offsettable
ERMC		✓
ERVC	✓	
Gratuities based on employees' length of service	✓	

(B) Employees whose employment commences before the transition date

(1) Calculation of SP/LSP

SP/LSP will be divided into the **pre-transition portion and post-transition portion**:

	Pre-transition portion of SP/LSP	Post-transition portion of SP/LSP
Monthly-paid employee	(last full month's wages* immediately preceding the transition date $\times 2/3$) [#] \times years of service before the transition date	(last full month's wages* before termination of employment $\times 2/3$) [#] \times years of service starting from the transition date
Daily-rated/ piece-rated employee	(any 18 days' wages* chosen by the employee out of his/her last 30 normal working days immediately preceding the transition date) [#] \times years of service before the transition date	(any 18 days' wages* chosen by the employee out of his/her last 30 normal working days before termination of employment) [#] \times years of service starting from the transition date

* An employee may also elect to use his/her average wages in the 12 months immediately preceding the transition date/ termination of employment for the calculation.

[#] The sum should not exceed 2/3 of \$22,500 (i.e. \$15,000).

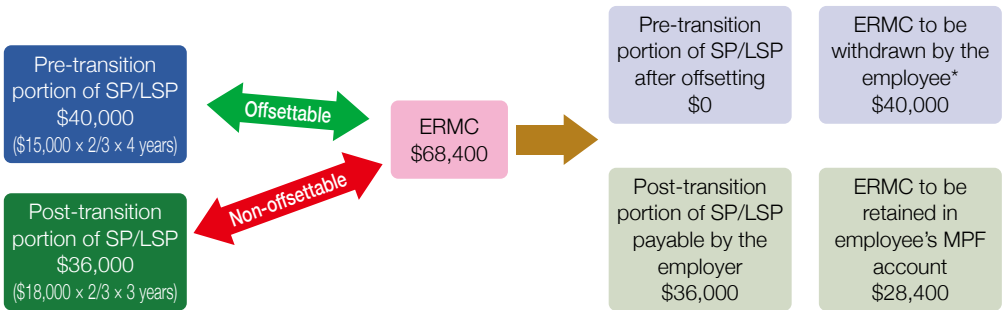
The maximum amount of SP/LSP is \$390,000. If an employee's total SP/LSP (i.e. the sum of pre- and post-transition portions of SP/LSP) exceeds \$390,000, the amount in excess will be deducted from the post-transition portion.

(2) Offsetting arrangement

	Pre-transition portion of SP/LSP		Post-transition portion of SP/LSP	
	Offsettable	Non-offsettable	Offsettable	Non-offsettable
ERMC	✓			✓
ERVC	✓		✓	
Gratuities based on employee's length of service	✓		✓	

Example

Assuming an employee (i) commences employment four years before the transition date, (ii) his/her employment is terminated three years after the transition date, (iii) the last month's wages immediately preceding the transition date is \$15,000, (iv) the last month's wages before termination of employment is \$18,000, (v) ERMC is \$68,400 and no ERVC or gratuities. Employee's SP/LSP and the offsetting arrangement are below –



* If the employer has paid SP/LSP to the employee, the benefits used to offset SP/LSP is to be withdrawn by the employer.

Arrangement for Occupational Retirement Schemes

The abolition of MPF offsetting arrangement is also applicable to the following occupational retirement schemes (ORS): (i) ORS that are granted exemption under the Mandatory Provident Fund Schemes Ordinance (MPFSO); (ii) the provident funds under the Grant School Provident Fund Rules and the Subsidized Schools Provident Fund Rules; and (iii) overseas ORS of employees from outside Hong Kong who are exempted from the MPF System.

Since contributions under ORS are not differentiated into mandatory and voluntary portions, a portion of benefits akin to ERMC will be carved out ("carved-out benefits") from the vested benefits of employers' contributions. The remainder of vested benefits after carving out the "carved-out benefits" ("remaining benefits") will be akin to ERVC.

Calculation of "carved-out benefits":

Final average monthly relevant income x Years of service with ORS benefits x 5% x 12*

* Means the employee's average monthly relevant income in the 12 months immediately preceding the termination of employment, subject to the maximum level of relevant income under MPFSO. The current monthly maximum relevant income level is \$30,000.

- (1) Offsetting arrangement for employees whose employment commences on or after the transition date

	SP/LSP	
	Offsettable	Non-offsettable
“Carved-out benefits”		✓
“Remaining benefits”	✓	

- (2) Offsetting arrangement for employees whose employment commences before the transition date

	Pre-transition portion of SP/LSP		Post-transition portion of SP/LSP	
	Offsettable	Non-offsettable	Offsettable	Non-offsettable
“Carved-out benefits”	✓			✓
“Remaining benefits”	✓		✓	

Employers should not dismiss employees before the transition date

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

- (i) Employers can continue to use the accrued benefits of their MPF contributions to offset existing employees’ pre-transition portion of SP/LSP; and
- (ii) The pre-transition portion of an existing employee’s SP/LSP is calculated based on the employee’s wages immediately preceding the transition date and the years of service before the transition date. Therefore, the amount of the pre-transition portion of SP/LSP is fixed regardless of any salary increase or length of employment after the transition date.

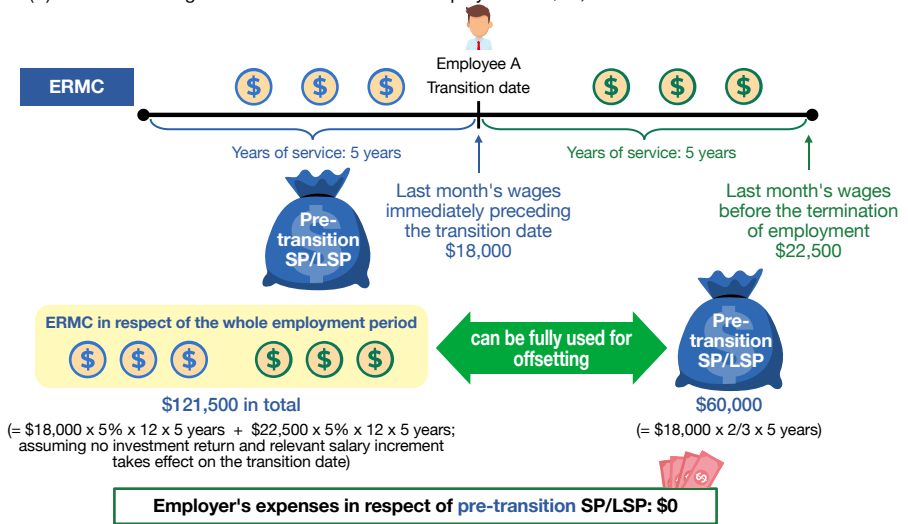
Employers’ SP/LSP expenses will generally be higher if they dismiss existing employees before the transition date and employ new employees instead of retaining the existing employees because –

- (i) The accrued benefits of employers’ MPF contributions in respect of the whole employment period of existing employees can continue to be used to offset their pre-transition portion of SP/LSP. Retaining existing employees allows the accrued benefits of employers’ MPF contributions to grow, which can be used to offset employees’ pre-transition portion of SP/LSP in future; and
- (ii) The new employee’s SP/LSP will build up afresh to a maximum of \$390,000 and cannot be offset by ERMIC.

Example

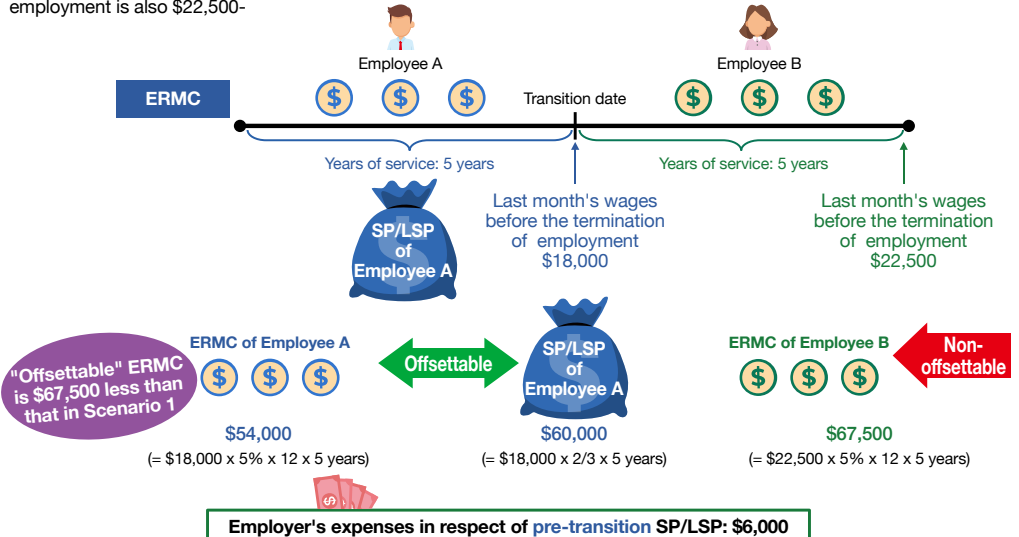
Scenario 1: Employer continues to employ an existing employee after the transition date

Assuming (i) an employer employs Employee A for 5 years before the transition date; (ii) continues to employ Employee A for 5 years after the transition date; (iii) Employee A's last month's wages immediately preceding the transition date is \$18,000; and (iv) last month's wages before the termination of employment is \$22,500-



Scenario 2: Employer dismisses an existing employee before the transition date and employs a new employee

Assuming (i) the employer dismisses Employee A who has 5 years of service before the transition date and employs Employee B after the transition date for 5 years; and (ii) Employee B's last month's wages before the termination of employment is also \$22,500-



In the above example, the employer dismisses an existing employee before the transition date and employs a new employee afterwards and the expense for pre-transition SP/LSP will increase by \$6,000. No matter the employer continues to employ Employee A or employs Employee B instead, the amount of post-transition SP/LSP is the same, which is \$75,000 and cannot be offset by ERMC.

Aggregate benefits received by employees after the abolition of MPF offsetting arrangement

For most employees, the total benefits (i.e. SP/LSP plus ERMC) to be received after the abolition of MPF offsetting arrangement would be higher than that under the current offsetting regime.

Under special circumstances (e.g. substantial pay rise 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 that employees' benefits will not be less.

Application of the abolition of MPF offsetting arrangement

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

Keeping wage records of employees

After the abolition of MPF offsetting arrangement, an employer must, apart from the employment records* to be kept under the existing provisions of EO, also keep wage records covering an employee's employment period during the 12 months[#] immediately preceding the transition date until six months after the employee ceases to be employed. This can facilitate calculation of employees' pre-transition portion of SP/LSP where necessary.

* According to existing EO, employers must at all times keep wage and employment records of each employee covering the period of his/her employment during the preceding 12 months, and the records should be kept for a period of another six months after the employee ceases to be employed.

[#] If an employee has worked for less than 12 months preceding the transition date, the employer should keep the employee's wage records of that shorter period of employment. If the employee's employment period preceding the transition date is shorter than one month, employers will be required to keep wage records of the employee's first month of employment.

For more information about the abolition of MPF offsetting arrangement and examples of the calculation of SP/LSP after the legislation takes effect, please visit:

<https://www.op.labour.gov.hk/en>



Note: This leaflet sets out in simple terms the key points of the abolition of MPF offsetting arrangement. The EO and the Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Ordinance 2022 remain the sole authority for the provisions of the law explained.