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Financial Services Bureau
Retirement Schemes and Insurance Section
18/F, Tower 1
Admiralty Centre
18 Harcourt Road
Hong Kong

27 October 2000

BY FAX

Fax No. : 2866 9821
Total no. of page(s) : 1

(Attn : Miss Maureen To, PAS(RSI))

Dear Miss To,

**Occupational Retirement Schemes
(Recovery of Arrears) Rules (L.N. 285)**

At the House Committee meeting held on 27 October 2000, a member asked about the criteria for the Registrar to exercise his discretion as to -

- (a) issue how many payment notices; and
- (b) stop issuance of payment notice in order to institute legal proceedings to recover the arrears and any contribution surcharge or financial penalty.

It is appreciated that your reply, in both languages, could reach us by 31 October 2000.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. Hon Leung Yiu-chung
(Fax : 2426 4618)

Urgent By Fax

2528 9016
2866 9821
(36) in C13/4/12C(2000)II
LS/S/4/00-01

31 October 2000

Mr Stephen Lam
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road,
Central
Hong Kong

Dear Mr Lam,

**Occupational Retirement Schemes
(Recovery of Arrears) Rules (L.N. 285)**

Thank you for your letter of 27 October 2000.

A note which elaborates on the issue of three payment notices and institution of legal proceedings is annexed. A soft copy will follow separately.

Please let me know if you require further information.

Yours sincerely,

(Miss Maureen To)
for Secretary for Financial Services

c.c. MPFA (Attn.: Ms Henden Yu)

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- 3 -

Occupational Retirement Schemes (Recovery of Arrears) Rules (L.N.285)

Issue of Payment Notices and Institution of Legal Proceedings

The Rules clearly describe the mechanism with respect to issuing the first 3 payment notices. After issuing the three notices and if payments are still outstanding, the Registrar will consider each case on its own merits and decide whether to issue further notices or to institute legal proceedings.

2. Generally, where an employer, without reasonable excuse, failed to respond to the first 3 payment notices, the Registrar might deem it appropriate to commence legal proceedings as sufficient time and notifications had already been allowed for the relevant employer to rectify the situation. Where the employer has, in response to the notices, made partial payments or has submitted a payment schedule, the Registrar might give the benefit of doubt to the relevant employer and hold in abeyance the institution of legal proceedings. The Registrar will then monitor closely the performance of the employer as the circumstances might require, and issue further notices reminding the employer to settle the outstanding contributions and contribution surcharge that are still in arrears. The issuing of further notices does not preclude the Registrar from instituting legal proceedings against the relevant employer in future as deemed appropriate.