

L.N. 343 of 2000

Mandatory Provident Fund Schemes

(Winding Up) Rules

(Made under section 34A of the Mandatory Provident Fund

Schemes Ordinance (Cap. 485) by the Rules Committee

constituted under section 55 of the

High Court Ordinance (Cap. 4))

1. Commencement

These Rules shall come into operation on 1 December 2000.

2. Definition

In these Rules, "winding up application" (清盤申請) means an application mentioned in section 34A(1) of the Ordinance.

3. Rules of High Court apply to winding up applications

The Rules of the High Court (Cap. 4 sub. leg.) apply to a winding up application to the extent that those Rules are not inconsistent with these Rules.

4. Requirements as to making of winding up applications

(1) A winding up application must be made by originating summons.

(2) A winding up application must be accompanied by---

(a) an affidavit of a designated person as defined in section 6F(2) of the Ordinance; and

(b) a winding up proposal.

(3) The affidavit referred to in subrule (2)(a) must---

(a) state the grounds for making the winding up application; and

(b) verify the facts on which the application is based.

(4) The winding up proposal referred to in subrule (2)(b)---

(a) must specify whether or not there are any scheme assets in the registered scheme to which the application relates and, if there are, the proposed arrangements for transferring, realizing or disposing of those assets;

(b) must specify whether or not there are any remaining scheme members in that scheme and, if there are, the proposed arrangements for transferring existing accrued benefits of those members to another registered scheme and for making future contributions; and

(c) may contain proposals on other aspects of the winding up, including arrangements in a case where the Court does not appoint a liquidator.

5. Authority to apply to Court for directions

As soon as practicable after issuing an originating summons for a winding up

application, the Authority must apply to the Court for directions, including, in particular, directions as to---

- (a) the filing of further evidence;
- (b) the service of process and notification of proceedings; and
- (c) the advertisement of the winding up application.

6. Court may order winding up of registered schemes

On the hearing of a winding up application, the Court may, if satisfied that the registered scheme concerned ought to be wound up, order that---

- (a) the scheme be wound up in accordance with the winding up proposal accompanying the application;
- (b) the proposal be modified in a manner specified by the Court and the scheme be wound up in accordance with the proposal so modified; or
- (c) the scheme be wound up in any other way specified by the Court.

Made this 22nd day of November 2000.

Andrew LI The Hon. Mr. Justice

The Hon. Chief Justice Rogers, V.P.

The Hon. Madam Justice Mr. Robert G. KOTEWALL

YUEN

Mr. Michael BUNTING Mr. Nicholas HUNSWORTH

Mr. Michael LINTERN-SMITH Mr. Anthony WU Lang-meng

Mr. Jeremy S. C. POON

Secretary

Explanatory Note

These Rules make provisions in respect of applications by the Mandatory Provident Fund Schemes Authority to the Court of First Instance ("the Court") under section 34A of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) for the winding up of registered schemes.

- 2. Rule 2 sets out the definition of a "winding up application".
- 3. Rule 3 provides that the Rules of the High Court (Cap. 4 sub. leg.) apply to a winding up application unless inconsistent with these Rules.
- 4. Rule 4 specifies the mode of making a winding up application and the required supporting documents, including a winding up proposal.
- 5. Rule 5 requires the Authority to apply to the Court for directions.
- 6. Rule 6 provides that the Court may order the registered scheme concerned to be wound up according to the winding up proposal or otherwise.