

L. N. 360 of 1998

OCCUPATIONAL RETIREMENT SCHEMES (NOTICES OF CHANGES) RULES

(Made under section 73(1)(da) of the Occupational Retirement Schemes Ordinance (Cap. 426))

1. Commencement

These Rules shall come into operation on a day to be appointed by the Registrar of Occupational Retirement Schemes by notice in the Gazette.

2. Notice of change to name of a registered or exempted scheme

(1) Any notice of change required under---

(a) section 10(1)(d) of the Ordinance in the case of an exempted scheme (including, in the case of an exempted scheme that is a group scheme, that section as applied by section 67(2)(g) of the Ordinance); or

(b) section 21A(2) of the Ordinance in the case of a registered scheme (including, in the case of a registered scheme that is a group scheme, that section as applied by section 67(2)(gd) of the Ordinance),

shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

(c) be signed by the person giving the notice;

(d) contain the full particulars of and reasons (if any) for the change; and

(e) be accompanied by a copy of the resolution (if any) approving the change to the name of the scheme.

3. Notice of change of relevant employer of a registered or exempted scheme by way of replacement

(1) Where in a change of the relevant employer of a scheme the previous relevant employer ("the original relevant employer") is replaced by another relevant employer, including, in the case of a group scheme, another existing relevant employer of the scheme, ("the succeeding relevant employer") who undertakes, with effect from the date of the change, the obligations of the original relevant employer in relation to the scheme, notice of change required under section 10(1)(e) of the Ordinance in the case of an exempted scheme or under section 21A(1) of the Ordinance in the case of a registered scheme shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

- (c) be signed by the person giving the notice;
- (d) contain the full particulars of the change, and the circumstances of and reasons for the change;
- (e) be accompanied by a copy of any document evidencing the change;
- (f) in the case of any new relevant employer joining a group scheme, be accompanied by a copy of a power of attorney executed under section 67 of the Ordinance;
- (g) in the case of a registered scheme that is a defined benefit scheme, state whether the succeeding relevant employer has given a written undertaking to the administrator to contribute to the scheme's funds in accordance with recommendations contained in the most recent actuarial certificate supplied as regards the scheme to the Registrar in accordance with the Ordinance; and
- (h) in the case of a registered scheme that is governed by a trust, state the total number of trustees and the number of non-employer trustees.

4. Notice of change of relevant employer of a scheme not involving replacement

(1) Any notice of the change required under section 10(1)(e) of the Ordinance in the case of an exempted scheme or under section 21A(1) of the Ordinance in the case of a registered scheme shall, except where section 3 applies, be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

- (a) be in writing and in such form as may be specified by the Registrar;
- (b) be accompanied by the prescribed fee;
- (c) be signed by the person giving the notice;
- (d) contain the full particulars of the change, and the circumstances of and reasons for the change;
- (e) in the case of a relevant employer joining a scheme, be accompanied by a copy of a power of attorney executed under section 67 of the Ordinance;
- (f) in the case of a relevant employer withdrawing from a group scheme, contain details of the arrangements for---
 - (i) the transfer of the rights of members under his employ and corresponding assets of the scheme to another registered or exempted scheme or, where the affected members are employed outside Hong Kong, to a scheme outside Hong Kong; or
 - (ii) the orderly winding up of that part of the scheme that applies to the withdrawing relevant employer; and
- (g) in the case of a registered scheme that is governed by a trust, state the total number of trustees and the number of non-employer trustees.

5. Notice of change of name or address of the relevant employer of a registered

or exempted scheme

(1) Any notice of change required under---

(a) section 10(1)(f) of the Ordinance in the case of an exempted scheme (including, in the case of an exempted scheme that is a group scheme, that section as applied by section 67(2)(g) of the Ordinance); or

(b) section 22(1)(a) of the Ordinance in the case of a registered scheme, shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

(c) be signed by the person giving the notice;

(d) contain the full particulars of the change; and

(e) where the notice is in respect of a change of name, be accompanied by a copy of any certificate or document evidencing the change of name.

6. Notice of change of administrator
of a registered scheme

(1) Any notice of change required under section 22(1)(b) of the Ordinance (including, in the case of a registered scheme that is a group scheme, that section as applied by section 67(2)(ge) of the Ordinance) shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

(c) be signed by the person giving the notice;

(d) contain the following particulars of the scheme after the change---

(i) a statement as to whether the scheme is a participating scheme of a pooling agreement;

(ii) for a scheme that is a participating scheme of a pooling agreement--

-

(A) a statement as to whether the scheme is governed by a trust or is the subject of or regulated by an insurance arrangement;

(B) the name of the pooling agreement; and

(C) in the case of a scheme governed by a trust, the name of the registered trust company managing the pooling agreement;

(iii) for a scheme that is not a participating scheme of a pooling agreement, a statement as to whether the scheme---

(A) is governed by a trust;

(B) is the subject of or regulated by an insurance arrangement; or

(C) is neither governed by a trust nor the subject of or regulated by an insurance arrangement;

(iv) a statement as to whether there is a change of the domicile of the scheme; and

(v) in the case of a scheme governed by a trust, the total number of trustees and the number of non-employer trustees;

(e) contain particulars of the incoming or outgoing administrator and the date on which he becomes or ceases to be an administrator, as the case may be;

(f) in the case of a registered scheme that is an offshore scheme, state whether a submission described in paragraph 3 of Part 3 of Schedule 1 to the Ordinance has been made by or on behalf of the incoming administrator;

(g) in the case of a registered scheme that is a defined benefit scheme, state whether the relevant employer has given a written undertaking to the incoming administrator to contribute to the scheme's funds in accordance with recommendations contained in the most recent actuarial certificate supplied as regards the scheme to the Registrar in accordance with the Ordinance; and

(h) in the case of a registered scheme that is governed by a trust, state whether the terms of the relevant trust instrument require appointment of a trustee to replace the outgoing administrator as trustee.

7. Notice of change of name or address of the administrator or designated person of a registered scheme

(1) Any notice of change required under section 22(2) of the Ordinance shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

(c) be signed by the person giving the notice;

(d) contain the full particulars of the change; and

(e) where the notice is in respect of a change of name, be accompanied by a copy of any certificate or document evidencing the change of name.

8. Notice of change of the representative employer of a group scheme

(1) Any notice of change required under section 67(2)(gb) of the Ordinance shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

(a) be in writing and in such form as may be specified by the Registrar;

(b) be accompanied by the prescribed fee;

- (c) be signed by the person giving the notice;
- (d) contain the full particulars of the change, and the circumstances of and reasons for the change; and
- (e) be accompanied by a copy of a power of attorney executed under section 67 of the Ordinance.

9. Notice of change to name or address
of the representative employer
of a group scheme

(1) Any notice of change required under section 67(2)(gc) of the Ordinance shall be given in accordance with this section.

(2) A notice referred to in subsection (1) shall---

- (a) be in writing and in such form as may be specified by the Registrar;
- (b) be accompanied by the prescribed fee;
- (c) be signed by the person giving the notice;
- (d) contain the full particulars of the change; and
- (e) where the notice is in respect of a change to the name, be accompanied by a copy of any certificate or document evidencing the change to the name.

Alan WONG

Registrar of Occupational
Retirement Schemes

19 November 1998

Explanatory Note

These Rules provide for the details and matters to be supplied in notices to the Registrar of Occupational Retirement Schemes required under the Occupational Retirement Schemes Ordinance (Cap. 426) in respect of changes of the following particulars---

- (a) name of a registered or exempted scheme;
- (b) relevant employer of a registered or exempted scheme;
- (c) name or address of the relevant employer of a registered or exempted scheme;
- (d) administrator of a registered scheme;
- (e) name or address of the administrator or designated person of a registered scheme;
- (f) representative employer of a group scheme; and
- (g) name or address of the representative employer of a group scheme.