

**LEGISLATIVE COUNCIL BRIEF**

**OCCUPATIONAL RETIREMENT SCHEMES ORDINANCE  
(CHAPTER 426)**

**Occupational Retirement Schemes (Member's Request for  
Information on Scheme Assets) (Amendment) Rules 1999**

**INTRODUCTION**

The Registrar of the Occupational Retirement Schemes has made the Occupational Retirement Schemes (Member's Request for Information on Scheme Assets) (Amendment) Rules ("the Amendment Rules") at Annex A to include reference to the information specified in section 35(2)(b)(iv) of the Occupational Retirement Schemes Ordinance (Cap. 426) ("the Ordinance") in the notice in the Schedule to the Occupational Retirement Schemes (Member's Request for Information on Scheme Assets) Rules (Cap. 426 sub. leg.) ("the Rules").

**BACKGROUND AND ARGUMENT**

2. Section 35(3)(b) of the Ordinance provides that where no consultative committee is formed by members of a registered scheme, an individual scheme member may obtain information in respect of the scheme from the designated person<sup>1</sup>. In so doing, the scheme member is required to show that the request for information is supported by other scheme members by producing a resolution passed in accordance with the Rules by over 50% of the

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<sup>1</sup> A designated person in relation to an occupational retirement scheme means a person who has given an undertaking to perform the functions imposed or conferred on such a person by the Occupational Retirement Schemes Ordinance. A designated person can be the administrator, trustee or insurer, who is responsible for

scheme members.

3. The Schedule to the Rules stipulates in a standard proforma the notice to be given by the scheme member to the designated person. It also sets out the types of information that can be obtained by mirroring the provisions in section 35(2)(b)(i) to (iii) of the Ordinance.

4. In 1995, section 35(2) of the Ordinance was amended by adding a new subsection 35(2)(b)(iv) to enable scheme members to obtain information on the scheme's investment in shares listed in stock exchanges other than those currently recognized by the Securities and Futures Commission under section 65A(2)(a)(ii) of the Securities Ordinance (Cap. 333). Corresponding amendments to the Schedule to the Rules are needed to facilitate scheme members to obtain the relevant resolution and information by way of the standard proforma.

## **THE AMENDMENT RULES**

5. **Clause 2** of the Amendment Rules seeks to add a new item of information to the notice in the Schedule, thus providing the vehicle for a scheme member to seek the required support of 50% of scheme members for obtaining the information specified in section 35(2)(b)(iv) of the Ordinance. **Clause 1** proposes that the Amendment Rules come into effect on 11 November 1999.

## **PUBLIC CONSULTATION**

6. As the amendment is just a housekeeping exercise to bring the Schedule to the Rules in line with the corresponding provision in the Ordinance, no public consultation is considered necessary.

## **BASIC LAW IMPLICATIONS**

7. The Amendment Rules are consistent with the Basic Law.

## **HUMAN RIGHTS IMPLICATIONS**

8. The Amendment Rules have no human rights implications.

## **FINANCIAL AND STAFFING IMPLICATIONS**

9. The Amendment Rules have no financial or staffing implications for the Government.

## **ECONOMIC IMPLICATIONS**

10. The Amendment Rules are not expected to carry any economic implications.

## **PUBLICITY**

11. The Amendment Rules will be published in the Gazette on 24 September 1999. The Registrar will also publicize the commencement of the Amendment Rules through the homepage of the Office of the Commissioner of Insurance.

## **LEGISLATIVE TIMETABLE**

12. The Amendment Rules will be tabled at the LegCo sitting on 6 October for negative vetting.

## **ENQUIRIES**

13. Enquiries on this Brief may be directed to Ms. Wendy Cheung, Principal Assistant Secretary for Financial Services, at 2528 9016.

Financial Services Bureau  
File Reference: C13/4/2C (98) VIII  
22 September 1999

**OCCUPATIONAL RETIREMENT SCHEMES (MEMBER'S REQUEST  
FOR INFORMATION ON SCHEME ASSETS)  
(AMENDMENT) RULES 1999**

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

**1. Commencement**

These Rules shall come into operation on 11 November 1999.

**2. Schedule amended**

The Schedule to the Occupational Retirement Schemes (Member's Request for Information on Scheme Assets) Rules (Cap. 426 sub. leg.) is amended by adding -

“\*4. (Where on the date of this request the market value or, if such value cannot be ascertained, the net realizable value, of investments in the share capital of bodies corporate under section 27(3)(a) of the Occupational Retirement Schemes Ordinance (Cap. 426) then forming part of the scheme's assets exceeded 5% of the market value or, where appropriate, the net realizable value on such date of the scheme's assets as a whole) the particulars of the investments and the percentage they then formed of the market value or (where appropriate) the net realizable value.”.

Alan Wong,  
Registrar of Occupational  
Retirement Schemes

28 August 1999

Explanatory Note

These Rules amend the form of notice in the Schedule to the Occupational Retirement Schemes (Member's Request for Information on Scheme Assets) Rules (Cap. 426 sub. leg.) so as to include reference to the information specified in section 35(2)(b)(iv) of the Occupational Retirement Schemes Ordinance (Cap. 426).