

## **LEGISLATIVE COUNCIL BRIEF**

Education Ordinance (Chapter 279)

### **GRANT SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

### **SUBSIDIZED SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

## **INTRODUCTION**

At the meeting of the Executive Council on 28 March 2000, the Council ADVISED and the Chief Executive ORDERED that -

- (a) the Grant Schools Provident Fund (Amendment) Rules 2000, at Annex A; and
- (b) the Subsidized Schools Provident Fund (Amendment) Rules 2000, at Annex B,

should be made under section 85 of the Education Ordinance so that teachers of aided schools could remain in the statutory provident fund schemes when they switched employment to Direct Subsidy Scheme (DSS) schools <sup>(1)</sup>.

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Note (1) The Direct Subsidy Scheme (DSS) was introduced in 1988 to provide recurrent subsidy for private secondary schools while allowing them greater freedom (vis-à-vis aided schools) with regard to the curriculum, school fee, entrance requirements and terms of employment for the staff, so as to enable them to develop into a viable alternative to aided and Government schools. The subsidy is based on the average unit cost of aided school places. The more students a DSS school can attract, the more subsidy the school will receive. A DSS school may also apply for capital grant to improve and repair its school premises.

## **BACKGROUND AND ARGUMENT**

### **Existing Provident Fund Arrangements**

2. Currently, teachers in aided schools are covered by either the Grant Schools Provident Fund (GSPF) or the Subsidized Schools Provident Fund (SSPF), depending on whether they are employed by a grant school or a subsidized school. The two funds are statutory schemes governed by, respectively the GSPF Rules and the SSPF Rules, made by the Chief Executive in Council under the Education Ordinance (Chapter 279). The main features of the two schemes are at Annex C. Under existing legislation, non-aided school teachers, including DSS school teachers, are not eligible to join either the GSPF or the SSPF. Also, once an aided school teacher ceases to be employed by the aided school sector, he can no longer stay in the GSPF or the SSPF, as the case may be.

3. Unlike the arrangements for aided school teachers, there are no centralised provident fund arrangements for teachers in DSS schools. However, a provident fund element is included in the DSS recurrent subsidy; the latter being based on the average cost of an aided school place in the past year which includes contributions made by Government to the GSPF and the SSPF. At present, DSS schools may establish their own provident fund schemes for their teachers, although there is no statutory or administrative requirement for the DSS schools to do so as the schools are free to decide how to use the DSS subsidy as a block grant. With the introduction of the Mandatory Provident Fund (MPF) System scheduled in December 2000, DSS schools must, like any other employers, have in place an MPF scheme or a scheme exempted under the MPF Schemes Ordinance for their teachers.

### **Arguments**

4. Government's policy is to foster the development of a vibrant DSS school sector to inject more variety into the school system and to provide more choice to parents. In March 1999, the Executive Council endorsed a series of measures to support the growth of the DSS school

sector. A summary of the relevant decisions of the Executive Council and the follow-up actions which we have taken are at Annex D.

5. As part of our overall strategy to develop a strong DSS school sector quickly, we have been encouraging aided schools, in particular the more popular ones, to join the DSS. However, reaction from the aided school sector is lukewarm so far. Only one existing aided primary school (out of two applications) has been admitted into the DSS as from the 2000/01 school year. From discussion with the education sector, we understand that one of the main concerns of aided schools when they consider whether to join the DSS is whether their teachers' existing provident fund benefits could be preserved upon their change of status from aided to DSS.

6. For DSS schools to offer good quality education, they need good quality and experienced teachers. However, DSS schools often have difficulties attracting good aided school teachers to join them. One of the reasons is that the teachers, particularly those with many years of service, do not want to forego their provident fund benefits under the GSPF or the SSPF, or to leave the GSPF or the SSPF which are generally regarded as providing good investment returns <sup>(2)</sup>.

## The Proposals

7. The GSPF and the SSPF are each controlled by a statutory Board of Control. Each Board comprises school council and teacher representatives, plus representatives of the Director of Education and the Director of Accounting Services. In order to facilitate aided schools to switch to the DSS, and to facilitate aided school teachers to join DSS schools, we proposed to the Boards of Control of the GSPF and the SSPF that the provident fund benefits of aided school teachers should be preserved when their schools switch to the DSS, or when they leave their schools to join a DSS school. While the Board of Control of the GSPF supported our proposals, the Board of Control of the SSPF insisted that when a subsidized school switches to the DSS, the teachers can choose to stay in (and contribute to) the SSPF only for a **maximum period of five**

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Note (2) At present, the statutorily guaranteed dividend of the GSPF and the SSPF is 5%. However, according to past records, the actual investment returns of the two funds often exceed 5%. In the past five years, the average rate of return of the GSPF and the SSPF was 9.4%.

**years.** In addition, the Board did not support any proposal to allow subsidized school teachers joining DSS schools on their own initiative to stay in the SSPF.

8. The agreed proposals reached with the Boards of Control of the GSPF and the SSPF are as follows -

**(a) For grant schools teachers**

- (i) When a grant school switches to the DSS, its serving teachers who are already contributors to the GSPF can choose to stay in (and contribute to) the GSPF. Alternatively, the teachers may opt for a provident fund to be offered by the ex-grant DSS school.
- (ii) If a teacher chooses to remain in the GSPF upon his school turning from grant to DSS status under (i) above, and if he subsequently decides to leave the ex-grant DSS school and joins another DSS school, he may choose to stay in (and contribute to) the GSPF or opt for a provident fund offered by his new employer. If, however, he changes his employment yet again and joins another DSS school, he must leave the GSPF.
- (iii) When a teacher of a grant school leaves the school and joins a DSS school, he may choose to stay in (and contribute to) the GSPF or opt for a provident fund offered by the DSS school. If, however, he changes his employment yet again and joins another DSS school, he must leave the GSPF.
- (iv) For (i), (ii) and (iii) above, if a teacher opts to stay in the GSPF, the teacher's employer (i.e the DSS school) will have to donate to the GSPF in place of Government's donation. The employer's donation will be at the same rate as that of Government's had the teacher remained in employment in the grant school sector. The teacher's contribution and the school's donation will be calculated on

the basis of the teacher's salary stated in the contract between the teacher and the DSS school.

- (v) For (i), (ii) and (iii) above, if a teacher opts to stay in the GSPF, the period of service during which the teacher makes continuous contributions to the fund when he is employed by a DSS school will be counted towards the continuous contributory service.
- (vi) For (i), (ii) and (iii) above, if a teacher closes his account in the GSPF, his service in the DSS school and continuous contributory service completed prior to the closure of his account will not be counted towards the continuous contributory service if at a future date he re-joins an aided school and re-opens an account in either of the two statutory provident funds.

**(b) For subsidized schools teachers**

- (i) When a subsidized school switches to the DSS, its serving teachers who are already contributors to the SSPF can choose to stay in (and contribute to) the SSPF. Alternatively, the teachers may opt for another provident fund to be offered by the ex-subsidized DSS school. In the former case, they are allowed to stay in the SSPF for a **maximum period of five years** immediately after the school has switched to the DSS.
- (ii) If a teacher opts to stay in the SSPF, the teacher's employer (i.e the DSS school) will have to donate to the SSPF in place of Government's donation. The employer's donation will be at the same rate as that of Government's had the teacher remained in employment in the subsidized school sector. The teacher's contribution and the school's donation will be calculated on the basis of the teacher's salary stated in the contract between the teacher and the DSS school.

- (iii) If a teacher opts to stay in the SSPF, the period of service during which the teacher makes continuous contributions to the fund when he is employed by a DSS school will be counted towards the continuous contributory service.
- (iv) If a teacher closes his account in the SSPF, his service in the DSS school and continuous contributory service completed prior to the closure of his account will not be counted towards the continuous contributory service if at a future date he re-joins an aided school and re-opens an account in either of the two statutory provident funds.

9. In sum, the arrangements for grant school and subsidized school teachers will be different in two ways. **First**, a grant school teacher can choose to stay in the GSPF without any time limit after his school has joined the DSS. Furthermore, if he subsequently joins another DSS school, he will also have the option to stay in the GSPF. (If, however, he changes his employment with yet another DSS school, then he must leave the GSPF.) By contrast, a subsidized school teacher can remain in the SSPF only for at most five years after his school has joined the DSS. Furthermore, if he subsequently joins another DSS school, he must leave the SSPF. **Secondly**, a grant school teacher can stay in the GSPF if he leaves his grant school employment and joins a DSS school for the first time, whereas a subsidized school teacher is not given a similar option if he changes employment to a DSS school.

## THE AMENDMENT RULES

10. The two sets of Amendment Rules, at Annexes A and B respectively, give effect to the proposals in paragraph 8 above. The major amendments are set out below –

- (a) **Clauses 4 and 5** of the GSPF Amendment Rules expand the scope of contributors of the GSPF to allow the following categories of teachers to stay in the GSPF -
  - (i) grant school teachers whose employers join the DSS;

- (ii) teachers in (i) above who leave the (ex-grant) DSS schools and take up another teaching employment in the DSS sector for the first time; and
  - (iii) grant school teachers who leave the employment of grant schools to take up teaching employment in the DSS sector for the first time.
- (b) **Clauses 5 and 6** of the SSPF Amendment Rules expand the scope of contributors of the SSPF to allow subsidized school teachers whose employers join the DSS to stay in the SSPF for a maximum period of five years after the employers have joined the DSS.
- (c) **Clause 8** of the GSPF Amendment Rules and **clause 9** of the SSPF Amendment Rules specify that DSS schools need to donate to the two funds as appropriate for contributors in their employment and at the same rate as Government would have done had the teachers remained in the aided school sector.

11. The relevant provisions of the existing Rules being amended are at Annex E.

## **PUBLIC CONSULTATION**

12. The Legislative Council Panel on Education was briefed in broad terms on our proposals along the line in paragraph 7 above on 15 November 1999 and raised no objection.

13. As explained in paragraph 7 above, we have consulted the Boards of Control of the GSPF and the SSPF. The final arrangements for teachers contributing to the GSPF and the SSPF, as set out in paragraph 8 above, reflect the different positions of the two Boards.

## **COMMENCEMENT**

14. The proposed amendments will take effect on a date to be appointed by the Secretary for Education and Manpower. Our intention

is that the amendments should take effect soonest after they have gone through vetting by the Legislative Council.

## **BASIC LAW IMPLICATIONS**

15. The Department of Justice advises that the Amendment Rules do not conflict with those provisions of the Basic Law carrying no human rights implications.

## **HUMAN RIGHTS IMPLICATIONS**

16. The Department of Justice advises that the Amendment Rules are consistent with the human rights provisions of the Basic Law.

## **BINDING EFFECT OF THE RULES**

17. The amendments will not affect the current binding effect of the Rules.

## **FINANCIAL AND STAFFING IMPLICATIONS**

18. The proposal to allow ex-aided school teachers to stay in the statutory provident funds will have no direct financial implications for Government. Government's subsidy to DSS schools will be maintained at the current formula, that is, based on the average unit cost per aided school place, regardless of actual salaries paid by DSS schools to their teachers or employers' contributions made by DSS schools to the funds.

19. The proposal may increase Government's contingent liabilities. This is because according to existing legislation, the two statutory provident funds shall each maintain a reserve. The reserve will be called upon when the rate of investment return is lower than the level of a statutorily guaranteed 5% dividend. If the amount of reserve is not sufficient for the purpose, Government will have to provide an interest-free loan to the funds. Under the proposal, there may be a net increase in the number of contributors compared with the existing arrangement. This implies a larger balance for the contributors' account and hence a larger contingent liability on the part of Government in



respect of the 5% statutorily guaranteed dividend. However, such risks are very remote. Since the establishment of the two funds in 1945 and 1961 respectively, there was only one occasion (in 1978) when Government had to provide a special grant to the GSPF in order to cover an investment loss which could not be absorbed by the reserve of the fund.

20. The proposal will incur some additional administration work to Education Department but such increase will be minimal. In any case, any extra resources, if required, will be a charge to the funds in accordance with the prevailing rules and practices.

## **LEGISLATIVE TIMETABLE**

21. The legislative timetable will be –

Publication in the Gazette	7 April 2000
Tabling at the Legislative Council	12 April 2000

## **PUBLICITY**

22. A press release will be issued. A spokesman will be available to answer media enquiries. Once the Amendment Rules complete the negative vetting procedure in the Legislative Council, Education Department will advise all DSS and aided schools of the new arrangements.

## **OTHERS**

23. Enquiries on this Brief may be directed to Mr Patrick Li, Principal Assistant Secretary for Education and Manpower, at 2810 3029.

**Education and Manpower Bureau**  
**File Reference: EMBCR 43/2041/75**  
**5 April 2000**

Education Ordinance

(Chapter 279)

**GRANT SCHOOLS PROVIDENT FUND**

**(AMENDMENT) RULES 2000**

**SUBSIDIZED SCHOOLS PROVIDENT FUND**

**(AMENDMENT) RULES 2000:**

**ANNEXES**

- Annex A - Grant Schools Provident Fund (Amendment) Rules 2000
- Annex B - Subsidized Schools Provident Fund (Amendment) Rules 2000
- Annex C - Main features of existing provident fund arrangements  
for aided school teachers
- Annex D - Summary of the decisions of the Executive Council and  
follow-up actions
- Annex E - Copies of provisions of the Grant Schools Provident Fund  
Rules and the Subsidized Schools Provident Fund Rules to  
be amended

**GRANT SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

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# **GRANT SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

(Made by the Chief Executive in Council under section 85  
of the Education Ordinance (Cap. 279))

## **1. Commencement**

These Rules shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice in the Gazette.

## **2. Interpretation**

Rule 2 of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) is amended -

- (a) by renumbering it as rule 2(1);
- (b) in paragraph (1) -
  - (i) by repealing the definition of "continuous contributory service" and substituting -

""continuous contributory service" (供款無間年資), in  
relation to a teacher, means any period of  
service during which the teacher -

- (a) makes continuous contributions to  
the fund or a provident or  
super-annuation fund approved by  
the Director for the

purposes of these rules; and

- (b) has not closed his account in that fund at any time,

and includes -

- (i) study leave, sick leave or maternity leave approved by the Director; and

- (ii) any service -

- (A) at 2 or more grant schools;

- (B) at 1 or more grant schools and at 1 or more subsidized schools;

- (C) at 1 or more grant schools and at 1 or more DSS schools; or

- (D) at 1 or more grant schools and at 1 or more subsidized schools and at 1 or more DSS schools,

either without a break in teaching service or with such a break if the break has been approved by the Director;"

(ii) in the definition of "fund" and "board", by adding "maintained under these rules" after "provident fund";

(iii) by adding -

"account" (帳目), in relation to a contributor, means an account maintained for the contributor under rule 8(3);

"DSS school" (直資學校) means a school which has joined the Direct Subsidy Scheme administered by the Director under which the school receives subsidy directly from the Government according to such terms and conditions as may be specified by the Government from time to time;

"without a break in teaching service" (教學服務並無中斷) means continuous teaching employment in 1 or more grant schools, subsidized schools or DSS

schools.";

- (c) by adding -

"(2) In the calculation of continuous contributory service for the purposes of rules 9, 9A, 13 and 13B, where a contributor commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month.".

### **3. Object of rules**

Rule 3 is amended -

- (a) by repealing "contributory fund which since 1 September 1945 has provided" and substituting "fund which provides";
- (b) by adding "and teachers in DSS schools who are contributors" after "schools";
- (c) by repealing "such" and substituting "the".

### **4. Contributors**

Rule 7 is amended by adding -

"(4) Where a grant school ceases to be a grant school and becomes a DSS school, a contributor employed in the grant school who commences employment in the DSS school as a teacher may, subject to rule 7A, contribute to the fund.

(5) Where a teacher employed in a grant school commences employment in a DSS school as a teacher for the first time (since the commencement of the Grant Schools Provident Fund (Amendment) Rules 2000 (L.N. 78 of 2000)) in a



case other than that to which paragraph (4) applies, he may, subject to rule 7B, contribute to the fund.

(6) A contributor employed in a DSS school may at any time opt not to contribute to the fund.

(7) A contributor employed in a DSS school who has exercised the option under paragraph (6) is not entitled to contribute to the fund when he is employed in the DSS school."

## **5. Rules added**

The following are added -

### **"7A. Special arrangements for grant schools turning into DSS schools**

(1) Where a grant school ceases to be a grant school and becomes a DSS school, a contributor employed in the grant school who commences employment in the DSS school as a teacher shall have the option of -

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) continuing to contribute to the fund under these rules.

(2) If the contributor has exercised the option under paragraph (1)(a), he is not entitled to contribute to the fund when he is employed in the DSS school.

(3) If the contributor has exercised the option under paragraph (1)(b) and subsequently commences employment in another DSS school as a teacher for the first time (since the commencement of the Grant Schools Provident Fund (Amendment) Rules 2000 (L.N. 78 of 2000)) in a case other than that to

which paragraph (1) applies, he shall have the option of -

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) continuing to contribute to the fund under these rules.

(4) If the contributor has exercised the option under paragraph (3)(a), he is not entitled to contribute to the fund when he is employed in that other DSS school.

(5) If the contributor has exercised the option under paragraph (3)(b), he is not entitled to contribute to the fund if he commences employment in another DSS school as a teacher at a subsequent time in a case other than that to which paragraph (1) applies.

**7B. Special arrangements for grant school  
teachers commencing employment in  
DSS schools for the first time**

(1) Where a contributor employed in a grant school commences employment in a DSS school as a teacher for the first time (since the commencement of the Grant Schools Provident Fund (Amendment) Rules 2000 (L.N. 78 of 2000)) in a case other than that to which rule 7A(1) applies, he shall have the option of -

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) continuing to contribute to the fund under these rules.

(2) If the contributor has exercised the option under

paragraph (1)(a), he is not entitled to contribute to the fund when he is employed in the DSS school.

(3) If the contributor has exercised the option under paragraph (1)(b), he is not entitled to contribute to the fund if he commences employment in another DSS school as a teacher at a subsequent time in a case other than that to which rule 7A(1) applies."

## **6. Contributions**

Rule 8 is amended -

(a) in paragraph (1), by adding "by a contributor employed in a grant school" after "fund";

(b) by adding -

"(1A) Contribution to the fund by a contributor employed in a DSS school shall be at the rate of 5 per cent of the contributor's salary under his contract of employment, and, except with the consent of the Director, shall be payable only in respect of periods during which the contributor draws such salary.";

(c) in paragraph (3), by adding -

"(ba) donations made by the school in accordance with rule 9A (if applicable); and".

## **7. Government donation**

Rule 9 is amended -

(a) in paragraph (1), by adding "employed in a grant school" after "contributor";

- (b) in paragraph (2), by adding "employed in a grant school" after "contributor" where it first appears;
- (c) by repealing paragraph (4);
- (d) in paragraph (7), by adding "(whether or not employed in a grant school)" after "contributor" where it first appears.

## **8. Rule added**

The following is added -

### **"9A. DSS school donation**

(1) For each contribution by a contributor employed in a DSS school, the school shall pay to the fund a sum referred to in these rules as a DSS school donation.

(2) A DSS school donation by a DSS school shall be paid to the fund each month when the contribution by a contributor employed in the DSS school becomes payable, and shall be an amount equal to the following percentage of the contributor's salary under his contract of employment -

- (a) 5 per cent, if his continuous contributory service is less than 10 years;
- (b) 10 per cent, if his continuous contributory service is not less than 10 years but less than 15 years;
- (c) 15 per cent, if his continuous contributory service is not less than 15 years.

(3) A DSS school donation paid in respect of a contributor shall be forthwith credited to his account by the supervisor of the relevant DSS school and by the treasurer."

## **9. Reserve fund**

Rule 11(1)(a)(ii) is amended by adding "and DSS school donation (if any)" after "Government donation".

## **10. Benefits**

Rule 13 is amended -

(a) in paragraph (1) -

(i) by adding "or DSS school (as the case may be)" after "grant school";

(ii) by repealing subparagraph (b) and substituting -

"(b) on the ground of ill health, certified by a Government medical board (in the case of a contributor employed in a grant school) or a registered medical practitioner within the meaning of section 2 of the Medical Registration Ordinance (Cap. 161) (in the case of a contributor employed in a DSS school), as constituting a reasonable ground for cessation of his employment;"

(iii) by repealing subparagraph (c) and substituting -

"(c) (in the case of a grant school) upon the school ceasing to be a grant school;"

- (iv) by adding -
    - "(ca) (in the case of a DSS school) upon the school ceasing to be a DSS school, except where the school turns into a grant school;"
  - (v) by repealing "13A" and substituting "7A or 7B (whichever is applicable) and rules 13A and 18";
  - (vi) by adding "and DSS school donations (if any)" after "donations";
  - (vii) by repealing "宣布的所有" and substituting "的所有已宣布的";
- (b) in paragraph (2) -
- (i) by adding ", (ca)" after "(c)";
  - (ii) by adding "or DSS school (as the case may be)" after "school";
  - (iii) by adding "and rules 7B and 18" after "(3)";
  - (iv) by adding "and DSS school donations (if any)" after "Government donations";
- (c) in paragraph (2A) -
- (i) by adding ", (ca)" after "(c)";
  - (ii) by adding "or DSS school (as the case may be)" after "school";
  - (iii) by adding "and rules 7B and 18" after "(3)";
- (d) by repealing paragraph (4).

**11. Rule added**

The following is added -

**"13B. DSS school contributors ceasing  
to be contributors**

(1) Where a contributor employed in a DSS school opts not to contribute to the fund under rule 7(6) after 10 years of continuous contributory service, his account shall be closed and the amount standing to the credit of his account at the date approved by the Director for the purpose of this rule, including all Government donations, DSS school donations and all dividends that have been declared up to and including that date, shall be paid to him in accordance with rule 14.

(2) Where a contributor employed in a DSS school opts not to contribute to the fund under rule 7(6) after 5 years or more but less than 10 years of continuous contributory service, his account shall be closed and, in accordance with rule 14, the payment due to him as a contributor shall be an amount equal to that contributed by him up to the date approved by the Director for the purpose of this rule, and all dividends that have been declared on that contribution plus an amount equal to the following percentage of all Government donations, DSS school donations and all dividends that have been declared on such donations -

- (a) 50 per cent, if his continuous contributory service is less than 6 years;
- (b) 60 per cent, if his continuous contributory service is not less than 6 years but less than 7 years;
- (c) 70 per cent, if his continuous contributory

service is not less than 7 years but less than 8 years;

- (d) 80 per cent, if his continuous contributory service is not less than 8 years but less than 9 years;
- (e) 90 per cent, if his continuous contributory service is not less than 9 years but less than 10 years.

(3) Where a contributor employed in a DSS school opts not to contribute to the fund under rule 7(6) after less than 5 years of continuous contributory service, his account shall be closed and an amount equal to that contributed by him up to the date approved by the Director for the purpose of this rule, plus such dividends as have been declared on that contribution, shall be paid to him in accordance with rule 14."

## **12. Transfer of teachers**

Rule 18 is amended -

- (a) in paragraph (1), by repealing everything before "otherwise" and substituting -
  - "(1) In any case in which a contributor commences employment in a subsidized school, without a break in teaching service";
- (b) in paragraph (2) -
  - (i) by repealing "after the commencement of these rules";
  - (ii) by adding "or DSS school" after "school";
- (c) by adding -



"(2A) In any case in which a contributor employed in a grant school or DSS school terminates his employment in the grant school or DSS school and commences employment in another school which is a grant school, without a break in teaching service otherwise than such break as the Director may approve, the contributor shall have the option of -

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) continuing to contribute to the fund under these rules without closing his account.";
- (d) by repealing paragraph (3).

Clerk to the Executive Council

COUNCIL CHAMBER

2000

#### Explanatory Note

These Rules amend the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) so that a teacher employed in a grant school may continue to contribute to the Grant Schools Provident Fund under

the principal Rules after -

- (a) the grant school has joined the Direct Subsidy Scheme administered by the Director of Education; or
- (b) the teacher has commenced employment in a Direct Subsidy Scheme school as a teacher for the first time since the commencement of these Rules.

**SUBSIDIZED SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

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# **SUBSIDIZED SCHOOLS PROVIDENT FUND (AMENDMENT) RULES 2000**

(Made by the Chief Executive in Council under section 85  
of the Education Ordinance (Cap. 279))

## **1. Commencement**

These Rules shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice in the Gazette.

## **2. Interpretation**

Rule 2 of the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg.) is amended -

- (a) by renumbering it as rule 2(1);
- (b) in paragraph (1) -
  - (i) by repealing the definition of "continuous contributory service" and substituting -

""continuous contributory service" (供款無間年資), in relation to a teacher, means any period of service during which the teacher -

- (a) makes continuous contributions to the Fund or a provident or super-annuation fund approved by the Director for the

purposes of these rules; and

- (b) has not closed his account in that Fund or that other fund at any time,

and includes -

- (i) study leave, sick leave or maternity leave approved by the Director; and
- (ii) any service -
  - (A) at 2 or more subsidized schools;
  - (B) at 1 or more subsidized schools and at 1 or more grant schools;
  - (C) at 1 or more subsidized schools and at 1 or more DSS schools; or
  - (D) at 1 or more subsidized schools and at 1 or more grant

schools and at 1 or more  
DSS schools,

either without a break in teaching  
service or with such a break if the  
break has been approved by the  
Director;"

(ii) by adding -

"account" (帳目), in relation to a contributor, means an  
account maintained for the contributor under  
rule 8(3);

"DSS school" (直資學校) has the meaning assigned to it  
by rule 2(1) of the Grant Schools Provident  
Fund Rules (Cap. 279 sub. leg.);

"without a break in teaching service" (教學服務並無中  
斷) means continuous teaching employment in  
1 or more grant schools, subsidized schools or  
DSS schools."

(c) by adding -

"(2) In the calculation of continuous contributory service for  
the purposes of rules 9, 9A, 13 and 13B, where a contributor

commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month."

### **3. Establishment of the Fund**

Rule 3(1) is amended by adding -

"(ba) donations from a DSS school as provided in rule 9A;"

### **4. Objects of the Fund**

Rule 4 is amended by adding "and teachers employed in DSS schools who are contributors," after "schools".

### **5. Contributors**

Rule 7 is amended by adding -

"(4) Where a subsidized school ceases to be a subsidized school and becomes a DSS school, a contributor employed in the subsidized school who commences employment in the DSS school as a teacher may, subject to rule 7A, contribute to the Fund.

(5) A contributor employed in a DSS school may opt not to contribute to the Fund at any time within 5 years after the school has become a DSS school.

(6) A contributor employed in a DSS school who has exercised the option under paragraph (5) is not entitled to contribute to the Fund when he is employed in the DSS school."

### **6. Rule added**



The following is added -

**"7A. Special arrangements for subsidized schools turning into DSS schools**

(1) Where a subsidized school ceases to be a subsidized school and becomes a DSS school, a contributor employed in the subsidized school who commences employment in the DSS school as a teacher shall have the option of -

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) continuing to contribute to the Fund under these rules for a maximum period of 5 years immediately after the school has become a DSS school.

(2) If the contributor has exercised the option under paragraph (1)(a), he is not entitled to contribute to the Fund when he is employed in the DSS school."

**7. Contributions**

Rule 8 is amended -

- (a) in paragraph (1), by adding "by a contributor employed in a subsidized school" after "Fund";
- (b) by adding -

"(1A) Contribution to the Fund by a contributor employed in a DSS school shall be at the rate of 5 per cent of the contributor's salary under his contract of employment, and, except with the consent of the Director, shall be payable only in respect of periods during which the contributor draws such salary.";

(c) in paragraph (3) -

(i) by repealing "subsidized";

(ii) in subparagraph (b), by repealing "; and" and substituting "under rule 9;";

(iii) by adding -

"(ba) all donations made by the school thereto under rule 9A (if applicable); and".

## **8. Government donation**

Rule 9 is amended -

(a) in paragraph (1), by adding "employed in a subsidized school" after "contributor";

(b) in paragraph (2), by adding "employed in a subsidized school" after "contributor" where it first appears;

(c) by repealing paragraph (4);

(d) in paragraph (7), by adding "(whether or not employed in a subsidized school)" after "contributor" where it first appears.

## **9. Rule added**

The following is added -

### **"9A. DSS school donation**

(1) For each contribution by a contributor employed in a DSS school, the school shall pay to the Fund a sum referred to in these rules as a DSS school donation.

(2) A DSS school donation by a DSS school shall be paid to the Fund each month when the contribution by a contributor

employed in the DSS school becomes payable, and shall be an amount equal to the following percentage of the contributor's salary under his contract of employment -

- (a) 5 per cent, if his continuous contributory service is less than 10 years;
- (b) 10 per cent, if his continuous contributory service is not less than 10 years but less than 15 years;
- (c) 15 per cent, if his continuous contributory service is not less than 15 years.

(3) A DSS school donation paid in respect of a contributor shall be forthwith credited to his account by the supervisor of the relevant DSS school and by the treasurer."

## **10. Reserve fund**

Rule 11(1)(a)(ii) is amended by adding "and DSS school donation (if any)" after "Government donation".

## **11. Benefits**

Rule 13 is amended -

- (a) in paragraph (1) -
  - (i) by adding "or DSS school (as the case may be)" after "subsidized school" where it first appears;
  - (ii) by repealing subparagraph (b) and substituting -
    - "(b) on the ground of ill health, certified by a Government medical board (in the case of a

contributor employed in a subsidized school) or a registered medical practitioner within the meaning of section 2 of the Medical Registration Ordinance (Cap. 161) (in the case of a contributor employed in a DSS school), as constituting a reasonable ground for cessation of his employment;"

(iii) by repealing subparagraph (c) and substituting -

"(c) (in the case of a subsidized school) upon the school ceasing to be a subsidized school;"

(iv) by adding -

"(ca) (in the case of a DSS school) upon the school ceasing to be a DSS school, except where the school turns into a subsidized school;"

(v) by repealing "rule 13A" and substituting "rules 7A, 13A and 15";

(vi) by adding "and DSS school donations (if any)" after "donations";

(vii) by repealing "宣布的所有" and substituting "的所有已宣布的";

(b) in paragraph (2) -

- (i) by adding ", (ca)" after "(c)";
  - (ii) by adding "or DSS school (as the case may be)" after "school";
  - (iii) by adding "and rule 15" after "(3)";
  - (iv) by adding "and DSS school donations (if any)" after "Government donations";
- (c) in paragraph (2A) -
- (i) by adding ", (ca)" after "(c)";
  - (ii) by adding "or DSS school (as the case may be)" after "school";
  - (iii) by adding "and rule 15" after "(3)";
- (d) by repealing paragraph (4).

## **12. Rule added**

The following is added -

### **"13B. DSS school contributors ceasing to be contributors**

(1) A contributor employed in a DSS school shall cease to contribute to the Fund at the expiry of 5 years after the school has become a DSS school.

(2) Where the expiry referred to in paragraph (1) occurs -

- (a) after the contributor has attained 10 years of continuous contributory service, his account shall be closed and the amount standing to the credit of his account at the date of the expiry, including all Government donations, DSS school donations and all dividends that have been declared up to and including that date, shall be paid to him in accordance with

rule 14;

- (b) after the contributor has attained 5 years or more but less than 10 years of continuous contributory service, his account shall be closed and, in accordance with rule 14, the payment due to him as a contributor shall be an amount equal to that contributed by him up to the date of the expiry, and all dividends that have been declared on that contribution plus an amount equal to the following percentage of all Government donations, DSS school donations and all dividends that have been declared on such donations -
  - (i) 50 per cent, if his continuous contributory service is less than 6 years;
  - (ii) 60 per cent, if his continuous contributory service is not less than 6 years but less than 7 years;
  - (iii) 70 per cent, if his continuous contributory service is not less than 7 years but less than 8 years;
  - (iv) 80 per cent, if his continuous contributory service is not less than 8 years but less than 9 years;
  - (v) 90 per cent, if his continuous contributory service is not less than 9 years but less than 10 years;
- (c) after the contributor has attained less than 5

years of continuous contributory service, his account shall be closed and an amount equal to that contributed by him up to the date of the expiry, plus such dividends as have been declared on that contribution, shall be paid to him in accordance with rule 14.

(3) Where a contributor employed in a DSS school opts not to contribute to the Fund under rule 7(5) -

- (a) after 10 years of continuous contributory service, his account shall be closed and the amount standing to the credit of his account at the date approved by the Director for the purpose of this rule, including all Government donations, DSS school donations and all dividends that have been declared up to and including that date, shall be paid to him in accordance with rule 14;
- (b) after 5 years or more but less than 10 years of continuous contributory service, his account shall be closed and, in accordance with rule 14, the payment due to him as a contributor shall be an amount equal to that contributed by him up to the date approved by the Director for the purpose of this rule, and all dividends that have been declared on that contribution plus an amount equal to the following percentage of all Government donations, DSS school donations and all dividends that have been declared on such

donations -

- (i) 50 per cent, if his continuous contributory service is less than 6 years;
  - (ii) 60 per cent, if his continuous contributory service is not less than 6 years but less than 7 years;
  - (iii) 70 per cent, if his continuous contributory service is not less than 7 years but less than 8 years;
  - (iv) 80 per cent, if his continuous contributory service is not less than 8 years but less than 9 years;
  - (v) 90 per cent, if his continuous contributory service is not less than 9 years but less than 10 years;
- (c) after less than 5 years of continuous contributory service, his account shall be closed and an amount equal to that contributed by him up to the date approved by the Director for the purpose of this rule, plus such dividends as have been declared on that contribution, shall be paid to him in accordance with rule 14."

### **13. Transfer of teachers**

Rule 15 is amended -

- (a) in paragraph (1), by repealing everything before "otherwise" and substituting -



"(1) In any case in which a contributor commences employment in a grant school, without a break in teaching service";

(b) in paragraph (2) -

(i) by repealing "after the commencement of these rules";

(ii) by adding "or DSS school" after "school";

(c) by adding -

"(2A) In any case in which a contributor employed in a subsidized school or DSS school terminates his employment in the subsidized school or DSS school and commences employment in another school which is a subsidized school, without a break in teaching service otherwise than such break as the Director may approve, the contributor shall have the option of -

(a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or

(b) continuing to contribute to the Fund under these rules without closing his account.";

(d) by repealing paragraph (3).

Clerk to the Executive Council

COUNCIL CHAMBER

2000

#### Explanatory Note

These Rules amend the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg.) so that a teacher employed in a subsidized school may continue to contribute to the Subsidized Schools Provident Fund under the principal Rules for a maximum period of 5 years after the school has joined the Direct Subsidy Scheme administered by the Director of Education.

**Main Features of Existing Provident Fund Arrangements  
for Aided School Teachers**

(A) Provident Funds

There are two statutory provident funds governed by subsidiary legislation made by the Chief Executive in Council under the Education Ordinance (Cap 279), namely the Grant Schools Provident Fund and the Subsidized Schools Provident Fund, covering grant school and subsidized school teachers respectively. The terms of the two schemes, stipulated in the Grant Schools Provident Fund Rules and the Subsidized Schools Provident Fund Rules respectively, are the same.

(B) Contributions

A serving grant school or subsidized school teacher is required to contribute 5% of his salary to the respective funds, while Government will make a donation to the funds for each teacher at a progressive scale ranging from 5% to 15% of his salary. (The actual amount of Government's donation is dependent on the teacher's length of continuous contributory service.)

(C) Dividends and Benefits

Each teacher is guaranteed an annual dividend of 5%. If the investment return is less than 5% in a particular year, dividends will be paid out of the reserve under the respective provident funds. Where in any year the guaranteed dividend cannot be met by the reserve, an interest-free Government loan will be made to the funds.

When a teacher ceases to be employed by an aided school, he will be paid his entire past contributions and dividends declared on the contributions, and Government's donations with dividends declared at a progressive scale ranging from 0% to 100% (the actual amount is dependent on the teacher's length of continuous contributory service).

(D) Transfer of Accounts

The Grant Schools Provident Fund Rules and the Subsidized Schools

Provident Fund Rules provide for the transfer of benefits between the two Provident Funds when a teacher switches employment from a grant school to a subsidized school, or vice versa.

**Summary of the Decisions of  
the Executive Council and Follow-up Actions**

At the meeting the Executive Council on 16 March 1999, the Council advised and the Chief Executive ordered, inter-alia, that -

- (a) two government-built secondary school premises will be allocated for operation as non-profit-making DSS schools from the 2000/01 school year under a ten-year service agreement. If the response is enthusiastic and the quality of applications is high, the number of schools to be allocated may be increased, up to an additional two. DSS applicants will be allowed to apply together with prospective aided school operators for government-built premises to be allocated in the 2000/01 school year. Other things being equal, preference will be given to DSS schools; and
- (b) from 1999/2000 school year, aided primary schools will be invited to apply to join the DSS.

2. In furtherance of the above initiatives, we invited in late March 1999 prospective school sponsoring bodies to apply for the allocation of government-built premises for operation as DSS schools. The response was enthusiastic and a total of 16 applications were received. A School Allocation Committee (SAC) chaired by the Director of Education and comprising government representatives and non-official members was formed to consider the applications. The SAC completed its deliberation in July 1999. Given the high quality of applications, the SAC decided to allocate a total of four school premises (one each in Shatin, Siu Sai Wan, Kwun Tong and West Kowloon) for the operation of DSS schools.

3. Given the encouraging response received in the last round of exercise and the generally positive reaction from the education sector and the public to our initiative, we will continue to allocate government-built school premises for operation as DSS schools. In the current round of the allocation exercise, a total of 13 primary and nine secondary school premises, to be built by Government, will be made available to both aided school and DSS school

applicants for operation starting from the 2001/02 and the 2002/03 school years. We will also allocate three sites (in Yuen Long, Siu Sai Wan and Tsing Lung Tau respectively) for school sponsors to construct and operate either aided or DSS schools. Successful applicants will receive a capital subvention for the construction of the school premises. So far, we have received seven, 12 and 12 applications for operating primary, secondary and primary cum secondary schools respectively under the DSS mode.

Annex E

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	2	Heading:	Interpretation	Version Date:	30/06/1997

In these rules, unless the context otherwise requires-

"code of aid for secondary schools" (中學資助則例) means the code under the terms of which the Government gives subsidies to certain secondary schools; (L.N. 87 of 1976)

"continuous contributory service" (供款無間年資), in relation to a teacher, means any period of service during which the teacher makes continuous contributions to a provident or super-annuation fund approved by the Director for the purposes of these rules, including continuous contributions to the fund maintained in accordance with these rules; and includes-

- (a) study leave, sick leave or maternity leave approved by the Director; and
- (b) subject to rule 18, any service at 2 or more grant schools, or at 1 or more grant schools and at 1 or more subsidized schools, either without a break in teaching service on appointment to one such school after ceasing to be employed at another such school, or with such a break if the break has been approved by the Director; (L.N. 87 of 1976)

"contract" (合約), in relation to a contributor, means a fixed term contract under which the contributor is employed; (L.N. 87 of 1976)

"contributor" (供款人) means a person who contributes compulsorily to the fund or who has exercised an option to contribute to the fund;

"Grant Code" (補助則例) means the code under the terms of which, before 1 April 1973, the Government gave grants in aid to certain secondary schools; (L.N. 87 of 1976)

"grant school" (補助學校) means any secondary school which receives subsidies in accordance with the code of aid for secondary schools and which was, before 1 April 1973, in receipt of grants in accordance with the Grant Code; (L.N. 87 of 1976)

"Grant Schools Council" (補助學校議會) means that body of persons composed of representatives of the grant schools and for the time being known as the Grant Schools Council;

"fund" (基金) and "board" (委員會) mean respectively the provident fund and board of control established under these rules;

"secretary" (秘書) means the secretary appointed in accordance with the provisions of rule 5; (G.N.A. 116 of 1961)

"subsidized school" (津貼學校) has the meaning ascribed thereto in the Subsidized Schools Provident Fund Rules (Cap 279 sub. leg.);

"Subsidized Schools Provident Fund" (津貼學校公積金) means the provident fund maintained in accordance with the Subsidized Schools Provident Fund Rules (Cap 279 sub.leg.);

"treasurer" (司庫) means the treasurer appointed in accordance with the provisions of rule 6.

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	3	Heading:	Object of rules	Version Date:	30/06/1997

The object of these rules is the maintenance and management of the contributory fund which since 1 September 1945 has provided for payments in the case of the resignation, retirement, dismissal, termination of contract or death of teachers in grant schools. Rights and liabilities and procedure in

respect of such fund shall hereafter be entirely governed by these rules.

(G.N.A. 116 of 1961; L.N. 87 of 1976)

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Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	7	Heading:	Contributors	Version Date:	30/06/1997

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(1) Every teacher approved for the purposes of the Grant Code or the code of aid for secondary schools (including any such teacher while on probation) shall be required to contribute to the fund in the manner provided in rule 8, except- (L.N. 87 of 1976; L.N. 239 of 1982; L.N. 162 of 1996)

- (a) any teacher employed on a temporary basis;
- (b) any teacher in receipt of salary based on a salary scale applicable to unqualified teachers:  
Provided that any such teacher may at his option contribute to the fund;
- (c) any teacher who is in continuous contributory service otherwise than by reason of contributing to the Subsidized Schools Provident Fund:  
Provided that any such teacher may at his option contribute to the fund;
- (d) any teacher who, on being first appointed to a grant school, is over the age of 55 years:  
(L.N. 162 of 1996)  
Provided that-
  - (i) the provisions of this paragraph shall not apply in the case of any such teacher who, at the time of first appointment to a grant school, is in continuous contributory service by reason of making contribution to the Subsidized Schools Provident Fund; and
  - (ii) any such teacher who, at the time of first appointment to a grant school, is in continuous contributory service otherwise than by reason of making contribution to the Subsidized Schools Provident Fund, may at his option contribute to the fund;
- (e) any teacher who is a member of a religious order, convent or missionary body:  
Provided that any such teacher may at his option contribute to the fund;
- (f) any teacher employed on a part time basis:  
Provided that, subject to the approval of the Director, any such teacher may at his option contribute to the fund.

(1A)(Repealed L.N. 162 of 1996)

(2) Any option exercised pursuant to the provisions of paragraph (1) may be exercised at any time, but shall- (L.N. 239 of 1982; L.N. 162 of 1996)

- (a) be irrevocable; and
- (b) not be exercised with retrospective effect otherwise than-
  - (i) to the date of first appointment in a grant school, or
  - (ii) for a period of 3 months,whichever is the less.

(2A)-(2B)(Repealed L.N. 162 of 1996)

(3) Any question arising as to whether, for the purpose of paragraph (1), a teacher is employed on a temporary basis shall be determined by the Director whose decision shall be final.

(G.N.A. 116 of 1961)

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Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	8	Heading:	Contributions	Version Date:	30/06/1997

(1) Contribution to the fund shall be at the rate of 5 per cent of the contributor's basic salary, including any allowances approved for that purpose by the Director, and, except with the consent of the Director, shall be payable only in respect of periods during which the contributor draws his basic salary. (L.N. 87 of 1976)

(2) Subject to paragraph (2A), the contributions shall be deducted from salaries monthly by each supervisor who shall within 7 days thereafter pay to the treasurer the amount of such deduction. (G.N.A. 116 of 1961; L.N. 239 of 1982)

(2A) Where an option to contribute to the fund is exercised with retrospective effect under rule 7(2A) or (2B)\*, any contributions payable by a contributor in respect of the retrospective period shall be deducted, in such instalments as the Director may determine, from the salary of the contributor monthly by the supervisor who shall within 7 days thereafter pay to the treasurer the amount of such deduction. (L.N. 239 of 1982)

(3) It shall be the duty of the supervisor to maintain an independent complete account for each contributor in his school which shall specify-

- (a) contributions paid;
- (b) donations made by Government in accordance with rule 9;
- (c) such further credits for the previous year as shall have been notified to him by the treasurer. (L.N. 239 of 1982)

(4) The total of each such account shall be reconciled annually with the treasurer, and the detail shall be available for inspection by the contributor.

\* Rule 7(2A) and (2B) has been repealed and is reproduced immediately after rule 18.

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	9	Heading:	Government's donation	Version Date:	30/06/1997

(1) For each contribution by a contributor, Government shall pay to the fund a sum referred to in these rules as a Government donation.

(2) A Government donation shall be paid to the fund each month when the contribution by a contributor becomes payable, or, in the case of any contribution payable under rule 8(2A), when the contribution by a contributor is deducted from his salary, and shall be an amount equal to the following percentage of the contributor's basic salary, including any allowance approved for that purpose by the Director-

- (a) 5 per cent, if his continuous contributory service is less than 10 years;
- (b) 10 per cent, if his continuous contributory service is not less than 10 years but less than 15 years;
- (c) 15 per cent, if his continuous contributory service is not less than 15 years.

(3) A Government donation paid in respect of a contributor shall be forthwith credited to his account by the supervisor and by the treasurer.

(4) In the calculation of continuous contributory service for the purposes of this rule, where a contributor commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month.

(5) With respect to contributions made at any time by a contributor during the period beginning on 1 September 1980 and ending immediately before the commencement of the Grant Schools Provident Fund (Amendment) Rules 1982 (L.N. 239 of 1982), the Government shall pay to the fund a sum equal to the difference between the aggregate amount of the donations payable by the Government to the fund in respect of those contributions during that period under the provisions of this rule then in force and the aggregate amount of the donations which would have been so payable in respect of those contributions under this rule if those Rules had been in force during that period; and the account of each such contributor kept in respect of that period shall be adjusted and credited accordingly in respect of each of his contributions made in that period.

(6) Where, in respect of any month for which a Government donation has been payable, a contributor is subsequently and after the commencement of the Grant Schools Provident Fund (Amendment) Rules 1985 (L.N. 87 of 1985) awarded an increase of basic salary, or of any allowance approved by the Director for the purposes of this rule, or granted such an allowance a further Government donation shall be payable to the fund so as to increase the donation for that month to the amount which would have been payable if the award had been taken into account when a donation first became payable. (L.N. 87 of 1985)

(7) Where the account of a contributor has been closed in accordance with rule 13 (or purportedly in accordance with rule 13) and the contributor has received payment in accordance with rule 14 (or purportedly in accordance with rule 14) and has re-commenced employment in a grant school without a break in teaching service then, for the purpose of calculating the amount of the donations payable by the Government under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commencement of employment. (L.N. 269 of 1990)

(L.N. 239 of 1982)

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Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	11	Heading:	Reserve fund	Version Date:	30/06/1997

- (1) A reserve fund shall be maintained, to which shall be-
  - (a) credited each year-
    - (i) the proceeds of any realization upon sale or maturity of any investment during the year in so far as such proceeds exceed the value of such investment carried in the books of the fund at the time of such sale or maturity;
    - (ii) the net amount of any Government donation, including any dividend earned thereby, standing to the credit of any contributor to whom, under rule 13, such donation is not payable;
    - (iii) such proportion of the income derived from investments and deposits as the board may think fit; and
    - (iv) any gain arising from the revaluation of investments of the fund as at 31 August of any year; and (L.N. 162 of 1996)
  - (b) debited each year-
    - (i) any loss incurred upon sale or maturity during the year of any investment having regard to the value of such investment carried in the books of the fund at the time of such sale or maturity; (L.N. 162 of 1996)
    - (ii) such outgoings or losses incurred by the fund as the Governor may in special circumstances authorize or direct in writing; and (L.N. 162 of 1996)
    - (iii) any loss arising from the revaluation of investments of the fund as at 31 August of any year. (L.N. 162 of 1996)
- (2) Where in any year the credit balance of the reserve fund, after crediting all the items specified in paragraph (1)(a), is less than the total of all the debits specified in paragraph (1)(b), an amount representing such difference shall be debited to the income and expenditure account and credited to the reserve fund.
- (3) Where in any year, after crediting and debiting all the items specified in paragraph (1), there is a credit balance in the reserve fund, such proportion as may be required to meet the 5 per cent dividend, guaranteed under rule 12(1), shall be debited to the reserve fund and credited to the income and expenditure account.
- (4) Where in any year, after crediting and debiting all the items specified in paragraphs (1) and (3), the credit balance of the reserve fund exceeds the aggregate of an amount equal to 5 per cent of the credit balance of the contributors' accounts as at 31 August and the total amount of any outstanding Government loans made under rule 12(2), any such excess may, at the discretion of the board, be credited to the contributors' accounts under rule 12(5).
- (5) When in any year the Financial Secretary determines under rule 12(4) that any Government loan made under rule 12(2) shall be repaid, either in whole or in part, then-
  - (a) if the credit balance of the reserve fund exceeds the amount of the loan to be repaid, that amount shall be debited to the reserve fund and credited to the dividend deficiency account; and
  - (b) if the credit balance of the reserve fund is less than the amount of the loan to be repaid, an amount representing such difference shall be debited to the income and expenditure account and credited to the reserve fund.
- (6) In this rule and in rule 12, "income and expenditure account" (收支帳目) means the account maintained for receiving the credits of income from investments and income other than of a capital nature, and the debits of expenses other than of a capital nature, relating to the operation of the fund and for determining the surplus or deficit resulting from the operation.

(L.N. 239 of 1982)

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	13	Heading:	Benefits	Version Date:	30/06/1997

(1) Whenever a contributor ceases to be employed as a teacher in a grant school for any of the following reasons-

- (a) after 10 years continuous contributory service-
  - (i) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), other than where he is compulsorily retired or dismissed, or his contract is terminated, on account of professional misconduct or being convicted of an offence; or
  - (ii) he retires voluntarily, resigns or terminates his contract (on completion or otherwise), other than where he retires voluntarily, resigns, or terminates his contract, in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence;
- (b) on the ground of ill health, certified by a Government medical board as constituting reasonable ground for cessation of his employment;
- (c) removal of a school from the list of grant schools;
- (d) death,

then, subject to paragraph (3) and rule 13A, his account shall be closed and, in accordance with rule 14, the amount standing to the credit of his account at the date of the cessation of his employment, including all Government donations and all dividends that have been declared up to and including that date, shall be paid to him or to his personal representative. (L.N. 259 of 1995)

(2) Without prejudice to paragraph (1)(b), (c) and (d), whenever a contributor ceases to be employed as a teacher in a grant school after 5 years but less than 10 years continuous contributory service for the reason that-

- (a) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), other than where he is compulsorily retired or dismissed, or his contract is terminated, on account of professional misconduct or being convicted of an offence; or
- (b) he retires voluntarily, resigns or terminates his contract (on completion or otherwise), other than where he retires voluntarily, resigns, or terminates his contract, in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence,

then, subject to paragraph (3), his account shall be closed and, in accordance with rule 14, the payment due to him as a contributor shall be an amount equal to that contributed by him up to the date of cessation of his employment and all dividends that have been declared on that contribution plus an amount equal to the following percentage of all Government donations and all dividends that have been declared on such donations-

- (i) 50 per cent, if his continuous contributory service is less than 6 years;
- (ii) 60 per cent, if his continuous contributory service is not less than 6 years but less than 7 years;
- (iii) 70 per cent, if his continuous contributory service is not less than 7 years but less than 8 years;
- (iv) 80 per cent, if his continuous contributory service is not less than 8 years but less than 9 years;
- (v) 90 per cent, if his continuous contributory service is not less than 9 years but less than 10 years. (L.N. 239 of 1982)

(2A) Without prejudice to paragraph (1)(b), (c) and (d), whenever a contributor ceases to be

employed as a teacher in a grant school-

- (a) after less than 5 years continuous contributory service; or
- (b) for any of the following reasons, (regardless of the length of his continuous contributory service) namely, that-
  - (i) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), on account of professional misconduct or being convicted of an offence; or
  - (ii) he retires voluntarily, resigns, or terminates his contract (on completion or otherwise), in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence,

then, subject to paragraph (3), his account shall be closed and, in accordance with rule 14, an amount equal to that contributed by him up to the date of the cessation of his employment, plus such dividends as have been declared on that contribution, shall be paid to him. (L.N. 239 of 1982)

(3) On the application of a contributor who has ceased to make the contributions required under rule 8, the Director may, except-

- (a) where, after 10 years continuous contributory service, the contributor is compulsorily retired; or
- (b) in any case to which paragraph (2A)(b) applies,

direct, subject to such terms and conditions as he thinks fit, that the contributor's account be kept open, but in that event the period during which the contributor's account is kept open pursuant to this paragraph shall not be taken into account as continuous contributory service. (L.N. 239 of 1982)

(4) In the calculation of continuous contributory service for the purposes of this rule, where a contributor commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month. (L.N. 239 of 1982)

(5) (Repealed L.N. 162 of 1996)

(6) Where the account of a contributor has been closed in accordance with this rule (or purportedly in accordance with this rule) and the contributor has received payment in accordance with rule 14 (or purportedly in accordance with rule 14) and has re-commenced employment in a grant school without a break in teaching service then, for the purpose of calculating the amount of the benefits payable under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commencement of employment. (L.N. 269 of 1990)

(7) (a) Where a contributor is dismissed or his contract is terminated (on completion or otherwise) but his account has been kept open in accordance with this rule (or purportedly in accordance with this rule) and the contributor has received a severance payment or a long service payment, as the case may be, in accordance with the Employment Ordinance (Cap 57) and has re-commenced employment in a subsidized school or a grant school without a break in teaching service otherwise than such break as the Director may approve then, for the purpose of calculating the amount of the benefits payable under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commenced employment.

(b) The account of a contributor referred to in subparagraph (a) shall, for the period prior to such re-commenced employment, be treated as having been closed and that portion of the amount standing to the credit of his account at the date of the cessation of his employment which is attributable to his contributions and dividends declared on such contributions shall be paid to him and that portion of the amount standing to the credit of his account which is attributable to Government donations and dividends declared on such donations shall be paid to the Government for the purpose of setting off any amounts paid or payable towards the severance payment or the long service payment, as the case may be. (L.N. 259 of 1995)

(L.N. 87 of 1976)

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	18	Heading:	Transfer of teachers from grant schools to subsidized schools and vice versa	Version Date:	30/06/1997

(1) In any case in which a teacher employed in any grant school after the commencement of these rules terminates his employment in such grant school and commences employment in a subsidized school, without break in teaching service otherwise than such break as the Director may approve, such teacher shall have the option, on application to the board, of-

- (a) having his account closed in accordance with rule 13 and receiving payment in accordance with rule 14; or
- (b) having his account kept open in accordance with rule 13(3); or
- (c) having his account transferred to the Subsidized Schools Provident Fund.

(2) In any case after the commencement of these rules in which a contributory teacher's employment in a subsidized school is terminated and his account in the Subsidized Schools Provident Fund is transferred to the Grant Schools Provident Fund the treasurer shall open a contributor's account in the Grant Schools Provident Fund in such teacher's name and shall credit thereto the account so transferred; and such teacher shall for all purposes thereafter be deemed to have been a contributor to the Grant Schools Provident Fund with effect from the commencement of his continuous contributory service within the meaning of the Subsidized Schools Provident Fund Rules (Cap 279 sub. leg.).

(3) For the purpose of this rule, the expression "without break in teaching service" (教學服務並無中斷) means continuity of teaching employment in either a grant school or a subsidized school, as the case may be, subject only to change of employment from one such school to another such school in the course of an unbroken academic year's teaching service.

(G.N.A. 116 of 1961)

Note-Rule 7(2A) and (2B) reads as follows-

"(2A) An option to contribute to the fund by a teacher to whom paragraph (1)(d) applies (other than a teacher first appointed to a grant school on or after 24 June 1982) or by a teacher to whom paragraph (1A) applies-

- (a) shall be irrevocable; and
- (b) if exercised not later than 3 months after 24 June 1982, may be retrospective to the date of his first appointment to a grant school, or to such other date after such first appointment, as the teacher may specify in the option, but in any event shall not be retrospective to a date earlier than 1 September 1980. (L.N. 239 of 1982)

(2B) Where an option has been exercised by a teacher before 24 June 1982 and by virtue of paragraph (2)(b)(ii) such option is retrospective to a date after the date of his first appointment to a grant school, the teacher may exercise an additional option, not later than 3 months after 24 June 1982, to contribute to the fund from the date of his first appointment to a grant school or from 1 September 1980, whichever is the later. (L.N. 239 of 1982)".

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	2	Heading:	Interpretation	Version Date:	30/06/1997

In these rules, unless the context otherwise requires-

- "Board" (委員會) means the board of control established in accordance with the provisions of rule 5;
- "code of aid for primary schools" (小學資助則例) means the code under the terms of which the Government gives subsidies to certain primary schools; (L.N. 88 of 1976)
- "code of aid for secondary schools" (中學資助則例) means the code under the terms of which the Government gives subsidies to certain secondary schools; (L.N. 88 of 1976)
- "code of aid for special schools" (特殊學校資助則例) means the code under the terms of which the Government gives subsidies to certain special schools, practical schools or skills opportunity schools; (L.N. 260 of 1995)
- "continuous contributory service" (供款無間年資), in relation to a teacher, means any period of service during which the teacher makes continuous contributions to a provident or super-annuation fund approved by the Director for the purposes of these rules, including continuous contributions to the Fund maintained in accordance with these rules; and includes-
- study leave, sick leave or maternity leave approved by the Director; and
  - subject to rule 15, any service at 2 or more subsidized schools, or at 1 or more subsidized schools and at 1 or more grant schools, either without a break in teaching service on appointment to one such school after ceasing to be employed at another such school, or with such a break if the break has been approved by the Director; (L.N. 88 of 1976)
- "contract" (合約), in relation to a contributor, means a fixed term contract under which the contributor is employed; (L.N. 88 of 1976)
- "contributor" (供款人) means a person who contributes to the Fund;
- "donation" (贈款) means the Government donation referred to in rule 9;
- "Fund" (基金) means the provident fund established in accordance with the provisions of rule 3;
- "Grant Code" (補助則例) and "grant school" (補助學校) have the meanings ascribed thereto in the Grant Schools Provident Fund Rules (Cap 279 sub. leg.); (L.N. 88 of 1976)
- "Grant Schools Provident Fund" (補助學校公積金) means the provident fund maintained in accordance with the provisions of the Grant Schools Provident Fund Rules (Cap 279 sub.leg.);
- "Hong Kong Special Schools Council" (香港特殊學校議會) means that body of persons composed of representatives of the subsidized special schools recognized by the Director; (L.N. 260 of 1995)
- "practical school" (實用學校) means a school which provides education suitable for pupils who lack motivation in learning in respect of ordinary school curriculum in order to improve their motivation in learning through a practically orientated curriculum and which has been approved by the Director for this purpose; (L.N. 260 of 1995)
- "secretary" (秘書) means the person for the time being appointed in accordance with rule 5 to be secretary to the Board;
- "skills opportunity school" (特別技能訓練學校) means a school which provides education suitable for pupils who have severe learning problems and which has been approved by the Director for this purpose; (L.N. 260 of 1995)
- "special school" (特殊學校) means a school which provides education suitable for pupils in need of special education and which has been approved by the Director for this purpose; (L.N. 260 of 1995)
- "Subsidized Primary Schools Council" (津貼小學議會) means that body of persons composed of representatives of the subsidized primary schools recognized by the Director; (L.N. 88 of 1976; L.N. 260 of 1995)

"subsidized school" (津貼學校) means-

- (a) any secondary school which receives subsidies in accordance with the code of aid for secondary schools and-
  - (i) was, before 1 April 1973, in receipt of subsidies in accordance with the Subsidy Code; or
  - (ii) was not, before that date, in receipt of subsidies under the Subsidy Code or of grants under the Grant Code;
- (b) any primary school which receives subsidies in accordance with the code of aid for primary schools and-
  - (i) was, before 1 April 1975, in receipt of subsidies in accordance with the Subsidy Code; or
  - (ii) was not, before that date, in receipt of subsidies under the Subsidy Code or of grants under the Grant Code; and
- (c) any special school which receives subsidies in accordance with the Subsidy Code; (L.N. 88 of 1976)

"Subsidized Secondary Schools Council" (津貼中學議會) means that body of persons composed of representatives of the subsidized secondary schools recognized by the Director; (L.N. 88 of 1976)

"Subsidy Code" (津貼則例) means-

- (a) in relation to secondary schools, the code under the terms of which, before 1 April 1973, the Government gave subsidies to certain secondary schools;
- (b) in relation to primary schools, the code under the terms of which, before 1 April 1975, the Government gave subsidies to certain primary schools; and (L.N. 88 of 1976)
- (c) in relation to special schools, practical schools and skills opportunity schools, the code under the terms of which the Government gives subsidies to certain special schools, practical schools or skills opportunity schools; (L.N. 260 of 1995)

"treasurer" (司庫) means the person for the time being appointed in accordance with rule 5 to be treasurer of the Fund.

(L.N. 88 of 1976)

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Chapter:	279D	Title:	SUBSIDIZED SCHOOLS	Gazette Number:
			PROVIDENT FUND RULES	
Rule:	3	Heading:	Establishment of the Fund	Version Date: 30/06/1997

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(1) There shall be established a fund to be known as the "Subsidized Schools Provident Fund" which shall consist of-

- (a) the contributions of contributors as provided in rule 8;
- (b) donations from Government as provided in rule 9;
- (c) dividends or interest accruing from investments or deposits of the accumulated capital of the Fund; and
- (d) any voluntary subscriptions, legacies or other moneys or benefits bequeathed or donated to the Fund.

(2) For the purposes of the Fund the financial year shall be deemed to run from 1 September in any year until 31 August next following.

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Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	4	Heading:	Objects of the Fund	Version Date:	30/06/1997

The object of the Fund is to provide, subject to the provisions of these rules, for payments to be made upon resignation, retirement, dismissal or termination of contract to teachers employed in subsidized schools or to their estates in case of death.

(L.N. 88 of 1976)

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	7	Heading:	Contributors	Version Date:	30/06/1997

(1) Every teacher approved for the purposes of the Subsidy Code or the code of aid for secondary, primary or special schools and employed in a subsidized school (including any such teacher while on probation) shall be required to contribute to the Fund in the manner provided in rule 8, except- (L.N. 88 of 1976; L.N. 240 of 1982; L.N. 304 of 1982; L.N. 260 of 1995; L.N. 163 of 1996)

- (a) any teacher employed on a temporary basis;
- (b) any teacher in receipt of salary based on a salary scale applicable to unqualified teachers:  
Provided that any such teacher may at his option contribute to the Fund;
- (c) any teacher who is in continuous contributory service otherwise than by reason of contributing to the Grant Schools Provident Fund:  
Provided that any such teacher may at his option contribute to the Fund;
- (d) any teacher who, on being first appointed to a subsidized school, is over the age of 55 years: (L.N.163 of 1996)  
Provided that-
  - (i) the provisions of this sub-paragraph shall not apply in the case of any such teacher who, at the time of first appointment to a subsidized school, is in continuous contributory service by reason of making contribution to the Grant Schools Provident Fund; and
  - (ii) any such teacher who, at the time of first appointment to a subsidized school, is in continuous contributory service otherwise than by reason of making contribution to the Grant Schools Provident Fund, may at his option contribute to the Fund;
- (e) any teacher who is a member of a religious order, convent or missionary body:  
Provided that any such teacher may at his option contribute to the Fund;
- (f) any teacher employed on a part time basis:  
Provided that, subject to the approval of the Director, any such teacher may at his option contribute to the Fund.

(1A) (Repealed L.N. 163 of 1996)

(2) Any option exercised pursuant to the provisions of paragraph (1) may be exercised at any time, but shall- (L.N. 240 of 1982; L.N. 163 of 1996)

- (a) be irrevocable; and
- (b) not be exercised with retrospective effect otherwise than-
  - (i) to the date of first appointment in a subsidized school; or

- (ii) for a period of 3 months,  
whichever is the less.

(2A)-(2B) (Repealed L.N. 163 of 1996)

(3) Any question arising as to whether, for the purposes of paragraph (1), a teacher is employed on a temporary basis shall be determined by the Director whose decision shall be final.

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	8	Heading:	Contributions	Version Date:	30/06/1997

(1) Contribution to the Fund shall be at the rate of 5 per cent of the contributor's basic salary, including any allowances approved for that purpose by the Director, and, except with the consent of the Director, shall only be payable in respect of periods during which the contributor draws his basic salary. (L.N. 88 of 1976)

(2) Subject to paragraph (2A), contributions shall be deducted from each contributor's salary monthly by the supervisor of the school who shall within 7 days thereafter pay to the treasurer the amount of such deduction. (L.N. 240 of 1982)

(2A) Where an option to contribute to the Fund is exercised with retrospective effect under rule 7(2A) or (2B), any contributions payable by a contributor in respect of the retrospective period shall be deducted, in such instalments as the Director may determine, from the salary of the contributor monthly by the supervisor who shall within 7 days thereafter pay to the treasurer the amount of such deduction. (L.N. 240 of 1982)

(3) It shall be the duty of the supervisor of every subsidized school to maintain a separate account for each contributor employed in the school and every such account shall specify-

- (a) all contributions paid thereto;
- (b) all donations made by Government thereto; and
- (c) such other credits as may from time to time be communicated to the supervisor by the treasurer.

(4) The total of each contributor's account as maintained by the supervisor shall be reconciled annually with the treasurer.

(5) On application to the supervisor, every contributor shall be entitled to inspect at any reasonable time the account standing in his name.

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	9	Heading:	Government's donation	Version Date:	30/06/1997

(1) For each contribution by a contributor, Government shall pay to the Fund a sum referred to in these rules as a Government donation.

(2) A Government donation shall be paid to the Fund each month when the contribution by a contributor becomes payable, or, in the case of any contribution payable under rule 8(2A), when the contribution by a contributor is deducted from his salary, and shall be an amount equal to the following

percentage of the contributor's basic salary, including any allowance approved for that purpose by the Director-

- (a) 5 per cent, if his continuous contributory service is less than 10 years;
- (b) 10 per cent, if his continuous contributory service is not less than 10 years but less than 15 years;
- (c) 15 per cent, if his continuous contributory service is not less than 15 years.

(3) A Government donation paid in respect of a contributor shall be forthwith credited to his account by the supervisor and by the treasurer.

(4) In the calculation of continuous contributory service for the purposes of this rule, where a contributor commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month.

(5) With respect to contributions made at any time by a contributor during the period beginning on 1 September 1980 and ending immediately before the commencement of the Subsidized Schools Provident Fund (Amendment) Rules 1982 (L.N. 240 of 1982), the Government shall pay to the Fund a sum equal to the difference between the aggregate amount of the donations payable by the Government to the Fund in respect of those contributions during that period under the provisions of this rule then in force and the aggregate amount of the donations which would have been so payable in respect of those contributions under this rule if those Rules had been in force during that period; and the account of each such contributor kept in respect of that period shall be adjusted and credited accordingly in respect of each of his contributions made in that period.

(6) Where, in respect of any month for which a Government donation has been payable, a contributor is subsequently and after the commencement of the Subsidized School Provident Fund (Amendment) Rules 1985 (L.N. 88 of 1985) awarded an increase of basic salary, or of any allowance approved by the Director for the purposes of this rule, or granted such an allowance a further Government donation shall be payable to the fund so as to increase the donation for that month to the amount which would have been payable if the award had been taken into account when a donation first became payable. (L.N. 88 of 1985)

(7) Where the account of a contributor has been closed in accordance with rule 13 (or purportedly in accordance with rule 13) and the contributor has received payment in accordance with rule 14 (or purportedly in accordance with rule 14) and has re-commenced employment in a subsidized school without a break in teaching service then, for the purpose of calculating the amount of the donations payable by the Government under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commencement of employment. (L.N. 270 of 1990)

(L.N. 240 of 1982)

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Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	11	Heading:	Reserve fund	Version Date:	30/06/1997

- (1) A reserve fund shall be maintained, to which shall be-
- (a) credited each year-
    - (i) the proceeds of any realization upon sale or maturity of any investment during the year in so far as such proceeds exceed the value of such investment carried in the books of the Fund at the time of such sale or maturity; (L.N. 163 of 1996)
    - (ii) the net amount of any Government donation, including any dividend earned thereby, standing to the credit of any contributor to whom, under rule 13, such donation is not payable; (L.N. 163 of 1996)
    - (iii) such proportion of the income derived from investments and deposits as the Board may think fit; and
    - (iv) any gain arising from the revaluation of investments of the Fund as at 31 August of any year; and (L.N. 163 of 1996)
  - (b) debited each year-
    - (i) any loss incurred upon sale or maturity during the year of any investment having regard to the value of such investment carried in the books of the Fund at the time of such sale or maturity; (L.N. 163 of 1996)
    - (ii) such outgoings or losses incurred by the Fund as the Governor may in special circumstances authorize or direct in writing; and (L.N. 163 of 1996)
    - (iii) any loss arising from the revaluation of investments of the Fund as at 31 August of any year; (L.N. 163 of 1996)
- (2) Where in any year the credit balance of the reserve fund, after crediting all the items specified in paragraph (1)(a), is less than the total of all the debits specified in paragraph (1)(b), an amount representing such difference shall be debited to the income and expenditure account and credited to the reserve fund.
- (3) Where in any year, after crediting and debiting all the items specified in paragraph (1), there is a credit balance in the reserve fund, such proportion as may be required to meet the 5 per cent dividend, guaranteed under rule 12(1), shall be debited to the reserve fund and credited to the income and expenditure account.
- (4) Where in any year, after crediting and debiting all the items specified in paragraphs (1) and (3), the credit balance of the reserve fund exceeds the aggregate of an amount equal to 5 per cent of the credit balance of the contributors' accounts as at 31 August and the total amount of any outstanding Government loans made under rule 12(2), any such excess may, at the discretion of the Board, be credited to the contributors' accounts under rule 12(5).
- (5) When in any year the Financial Secretary determines under rule 12(4) that any Government loan made under rule 12(2) shall be repaid, either in whole or in part, then-
- (a) if the credit balance of the reserve fund exceeds the amount of the loan to be repaid, that amount shall be debited to the reserve fund and credited to the dividend deficiency account; and
  - (b) if the credit balance of the reserve fund is less than the amount of the loan to be repaid, an amount representing such difference shall be debited to the income and expenditure account and credited to the reserve fund.
- (6) In this rule and in rule 12, "income and expenditure account" (收支帳目) means the account maintained for receiving the credits of income from investments and income other than of a capital nature, and the debits of expenses other than of a capital nature, relating to the operation of the Fund and for determining the surplus or deficit resulting from the operation.

(L.N. 240 of 1982)

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	13	Heading:	Benefits	Version Date:	30/06/1997

(1) Whenever a contributor ceases to be employed as a teacher in a subsidized school for any of the following reasons-

- (a) after 10 years continuous contributory service-
  - (i) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), other than where he is compulsorily retired, or dismissed, or his contract is terminated, on account of professional misconduct or being convicted of an offence; or
  - (ii) he retires voluntarily, resigns or terminates his contract (on completion or otherwise), other than where he retires voluntarily, resigns, or terminates his contract, in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence;
- (b) on the ground of ill health, certified by a Government medical board as constituting reasonable ground for cessation of his employment;
- (c) upon a school ceasing to be a subsidized school;
- (d) death,

then, subject to paragraph (3) and rule 13A, his account shall be closed and, in accordance with rule 14, the amount standing to the credit of his account at the date of the cessation of his employment, including all Government donations and all dividends that have been declared up to and including that date, shall be paid to him or to his personal representative. (L.N. 260 of 1995)

(2) Without prejudice to paragraph (1)(b), (c) and (d), whenever a contributor ceases to be employed as a teacher in a subsidized school after 5 years but less than 10 years continuous contributory service for the reason that-

- (a) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), other than where he is compulsorily retired or dismissed, or his contract is terminated, on account of professional misconduct or being convicted of an offence; or
- (b) he retires voluntarily, resigns or terminates his contract (on completion or otherwise), other than where he retires voluntarily, resigns, or terminates his contract, in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence,

then, subject to paragraph (3), his account shall be closed and, in accordance with rule 14, the payment due to him as a contributor shall be an amount equal to that contributed by him up to the date of cessation of his employment and all dividends that have been declared on that contribution plus an amount equal to the following percentage of all Government donations and all dividends that have been declared on such donations-

- (i) 50 per cent, if his continuous contributory service is less than 6 years;
- (ii) 60 per cent, if his continuous contributory service is not less than 6 years but less than 7 years;
- (iii) 70 per cent, if his continuous contributory service is not less than 7 years but less than 8 years;
- (iv) 80 per cent, if his continuous contributory service is not less than 8 years but less than 9 years;
- (v) 90 per cent, if his continuous contributory service is not less than 9 years but less than 10 years. (L.N. 240 of 1982)

(2A) Without prejudice to paragraph (1)(b), (c) and (d), whenever a contributor ceases to be

employed as a teacher in a subsidized school-

- (a) after less than 5 years continuous contributory service; or
- (b) for any of the following reasons, (regardless of the length of his continuous contributory service) namely, that-
  - (i) he is compulsorily retired, or dismissed or his contract is terminated (on completion or otherwise), on account of professional misconduct or being convicted of an offence; or
  - (ii) he retires voluntarily, resigns, or terminates his contract (on completion or otherwise), in order to avoid compulsory retirement, dismissal, or termination of his contract, on account of professional misconduct or being convicted of an offence,

then, subject to paragraph (3), his account shall be closed and, in accordance with rule 14, an amount equal to that contributed by him up to the date of the cessation of his employment, plus such dividends as have been declared on that contribution, shall be paid to him. (L.N. 240 of 1982)

(3) On the application of a contributor who has ceased to make the contributions required under rule 8, the Director may, except-

- (a) where, after 10 years continuous contributory service, the contributor is compulsorily retired; or
- (b) in any case to which paragraph (2A)(b) applies,

direct, subject to such terms and conditions as he thinks fit, that the contributor's account be kept open, but in that event the period during which the contributor's account is kept open pursuant to this paragraph shall not be taken into account as continuous contributory service. (L.N. 240 of 1982)

(4) In the calculation of continuous contributory service for the purposes of this rule, where a contributor commenced his service on a day in a month other than the first day of that month, he shall be deemed to have commenced his service on the first day of that month. (L.N. 240 of 1982)

(5) (Repealed L.N. 163 of 1996)

(6) Where the account of a contributor has been closed in accordance with this rule (or purportedly in accordance with this rule) and the contributor has received payment in accordance with rule 14 (or purportedly in accordance with rule 14) and has re-commenced employment in a subsidized school without a break in teaching service then, for the purpose of calculating the amount of the benefits payable under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commencement of employment. (L.N. 270 of 1990)

(7) (a) Where a contributor is dismissed or his contract is terminated (on completion or otherwise) but his account has been kept open in accordance with this rule (or purportedly in accordance with this rule) and the contributor has received a severance payment or a long service payment, as the case may be, in accordance with the Employment Ordinance (Cap 57) and has re-commenced employment in a subsidized school or a grant school without a break in teaching service otherwise than such break as the Director may approve then, for the purpose of calculating the amount of benefits payable under this rule with respect to such re-commenced employment, no account shall be taken of any period of continuous contributory service completed prior to such re-commenced employment.

(b) The account of a contributor referred to in subparagraph (a) shall, for the period prior to such re-commenced employment, be treated as having been closed and that portion of the amount standing to the credit of his account at the date of the cessation of his employment which is attributable to his contributions and dividends declared on such contributions shall be paid to him and that portion of the amount standing to the credit of his account which is attributable to Government donations and dividends declared on such donations shall be paid to the Government for the purpose of setting off any amounts paid or payable towards the severance payment or the long service payment, as the case may be. (L.N. 260 of 1995)

(L.N. 88 of 1976)

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	15	Heading:	Transfer of teachers from subsidized schools to grant schools and vice versa	Version Date:	30/06/1997

(1) In any case in which a teacher employed in a subsidized school after the commencement of these rules terminates his employment in such subsidized school and commences employment in a grant school, without break in teaching service otherwise than such break as the Director may approve, such teacher shall have the option, on application to the Board, of-

- (a) having his account closed in accordance with the provisions of rule 13 and receiving payment in accordance with the provisions of rule 14; or
- (b) having his account kept open in accordance with the provisions of rule 13(3); or
- (c) having his account transferred to the Grant Schools Provident Fund.

(2) In any case in which after the commencement of these rules a contributory teacher's employment in a grant school is terminated and his account in the Grant Schools Provident Fund is transferred to the Subsidized Schools Provident Fund, the treasurer shall open a contributor's account in the Subsidized Schools Provident Fund in such teacher's name and shall credit thereto the account so transferred; and such teacher shall for all purposes thereafter be deemed to have been a contributor to the Subsidized Schools Provident Fund with effect from the commencement of his continuous contributory service within the meaning of the Grant Schools Provident Fund Rules (Cap 279 sub. leg.).

(3) For the purpose of this rule, the expression "without break in teaching service" (教學服務並無中斷) means continuity of teaching employment in either a subsidized school or a grant school, as the case may be, subject only to change of employment from one such school to another such school in the course of an unbroken academic year's teaching service.