



OCCUPATIONAL RETIREMENT SCHEMES ORDINANCE

**APPLICATION FOR REGISTRATION
FOR SCHEMES NOT PARTICIPATING IN A POOLING AGREEMENT**

**QUALIFICATIONS OF PERSONS MAKING STATEMENTS OR
SUPPLYING CERTIFICATES, UNDERTAKINGS, ETC.**

I. STATEMENT(S) BY SOLICITOR/LEGAL PRACTITIONER

- (1) The person making the statement specified in Paragraph 1 of Part 1 in Schedule 1 to the Ordinance should be a solicitor who, according to section 2(1) of the Ordinance, is a solicitor within the meaning of the Legal Practitioners Ordinance (Cap.159).
- (2) The person making the statement specified in Paragraph 4 of Part 3 in Schedule 1 to the Ordinance should be a person qualified to practise as a professional legal practitioner in the country or territory stated to be the domicile of the scheme.
- (3) Under section 69(1) of the Ordinance, any statement or other document required to be made or prepared under the Ordinance by a solicitor in respect of an occupational retirement scheme shall be made or prepared by a solicitor who is not -
 - (a) the relevant employer of the scheme;
 - (b) an associate or employee of the employer; or
 - (c) a person having a contract of service with an employee referred to in (b) above.

II. STATEMENT BY AUDITOR

- (1) The person making the statement specified in Paragraphs 1A and 2 of Part 1 in Schedule 1 to the Ordinance should be an auditor who, according to section 68(1) and (2) of the Ordinance should be -
 - (A) *in the case of a Hong Kong domiciled scheme or proposed Hong Kong domiciled scheme -*

a Hong Kong accountant who, according to section 2(1) of the Ordinance, is a professional accountant registered under the Professional Accountants Ordinance (Cap.50) and holds a valid practising certificate within the meaning of that Ordinance;



- (B) *in the case of an offshore scheme or proposed offshore scheme -*
- (i) a Hong Kong accountant as specified in paragraph (A) above; or
 - (ii) a person -
 - (a) who may lawfully practise as a professional accountant in the country or jurisdiction which is the domicile of the scheme; and
 - (b) without prejudice to (a) above, who holds such qualification as the Registrar may accept as being of a standard comparable to that of a Hong Kong accountant; and
- (2) Under section 68(3) of the Ordinance, any statement, report or other document required to be made or prepared under the Ordinance by an auditor in respect of an occupational retirement scheme shall be made or prepared by an auditor who is not -
- (a) a partner, director or employee of the administrator of the scheme;
 - (b) the relevant employer of the scheme;
 - (c) an associate or employee of the employer; or
 - (d) a person having a contract of service with an employee referred to in (a) or (c) above.

III. CERTIFICATE BY ACTUARY

- (1) The person issuing the certificate specified in Paragraph 1 or 2 of Part 3 in Schedule 1 to the Ordinance should be an actuary who, according to section 2(1) of the Ordinance, is -
- (a) a Fellow of the Faculty of Actuaries of Scotland;
 - (b) a Fellow of the Institute of Actuaries of England;
 - (c) a Fellow of the Society of Actuaries of the United States of America;
 - (d) a Fellow of the Institute of Actuaries of Australia; or
 - (e) any person who holds such qualification as the Registrar may accept as being of a standard comparable to that of a person described in (a), (b), (c) or (d) above.
- (2) Under section 69(1) of the Ordinance, any certificate, report or other document required to be made or prepared under the Ordinance by an actuary in respect of an occupational retirement scheme shall be made or prepared by an actuary who is not -
- (a) the relevant employer of the scheme;



- (b) an associate or employee of the employer; or
- (c) a person having a contract of service with an employee referred to in (b) above.

IV. UNDERTAKING BY DESIGNATED PERSON

- (1) The designated person(s) giving the undertaking under section 15(f) of the Ordinance should be -
 - (a) *in the case of a scheme which is, or is proposed to be, governed by a trust -*
 - (i) each of the trustees or proposed trustees concerned who is (in the case of an individual) ordinarily resident in Hong Kong and is the holder of an identity card within the meaning of the Registration of Persons Ordinance (Cap.177) or which has (in the case of a body corporate) a place of business in Hong Kong;
 - (ii) where none of the trustees is a person who is ordinarily resident in Hong Kong and is the holder of an identity card within the meaning of the Registration of Persons Ordinance (Cap.177) or body corporate having a place of business in Hong Kong, such suitable person as the Registrar may direct.
 - (b) *in the case of a scheme which is, or is proposed to be, the subject of or regulated by an insurance arrangement -*

the relevant insurer or proposed insurer authorized under the Insurance Ordinance (Cap.41).
 - (c) *in the case of an offshore scheme which is neither governed by a trust nor is the subject of or regulated by an insurance arrangement -*

such suitable person as the Registrar may direct.
- (2) Generally, the Registrar will consider a person to be suitable to act as the designated person of the scheme if he is ordinarily resident in Hong Kong and is the holder of an identity card within the meaning of the Registration of Persons Ordinance (Cap. 177), and is:-
 - (a) a solicitor within the meaning of the Legal Practitioners Ordinance (Cap.159);
 - (b) a Hong Kong accountant referred to in paragraph II(1)(A) above; or
 - (c) an actuary who possesses any of the qualifications described in paragraph III(1) above.



V. SUBMISSION IN WRITING TO THE JURISDICTION OF THE COURT OF FIRST INSTANCE IN HONG KONG FOR AN OFFSHORE SCHEME

The person making the submission to the jurisdiction of the Court of First Instance as specified in Paragraph 3(a) of Part 3 in Schedule 1 to the Ordinance should be :-

- (i) in the case of a scheme governed by a trust, the trustee or the person acting on behalf of the trustee; or
- (ii) in case there is no trustee, such other person and in such form as the Registrar may direct. Specifically, the Registrar will direct the relevant authorized insurer to make the written submission to the jurisdiction of the Court of First Instance in the case of an offshore scheme which is the subject of or regulated by an insurance arrangement.