

## **MANDATORY PROVIDENT FUND SCHEMES AUTHORITY**

### **IV.5 Guidelines on Payment of Accrued Benefits - Permanent Departure from Hong Kong**

#### **INTRODUCTION**

Section 163(4) of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation) as in force immediately before the commencement date (as defined in section 24 of Schedule 5 to the Regulation)<sup>1</sup> (pre-amended section 163(4)) provides that an approved trustee of a registered scheme is required to notify the Mandatory Provident Fund Schemes Authority (the Authority) in writing, of particulars of any claim for payment of accrued benefits on grounds of permanent departure from Hong Kong. This enables the Authority to check and inform the trustee whether the claimant has claimed previously for payment of accrued benefits on grounds of permanent departure from Hong Kong.

2. Section 163(5) of the Regulation as in force immediately before the commencement date (as defined in section 24 of Schedule 5 to the Regulation)<sup>1</sup> (pre-amended section 163(5)) adds that an approved trustee of a registered scheme must, by written notice, give to the Authority particulars of the payment as soon as practicable after paying to a scheme member the member's accrued benefits on grounds of permanent departure from Hong Kong. This enables the Authority to build up a database on claimants who have withdrawn accrued benefits on grounds of permanent departure from Hong Kong.

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<sup>1</sup> The commencement date means the date on which section 89(2) and (3) of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2021 (the Amendment Ordinance) comes into operation, i.e. 26 June 2024. Schedule 5 is added to the Regulation pursuant to section 103 of the Amendment Ordinance.

3. With the commencement of section 89(2) of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2021 (the Amendment Ordinance), section 163(4) and (5) of the Regulation is repealed.

4. Pursuant to section 24 of Schedule 5 to the Regulation, despite the commencement of section 89(2) of the Amendment Ordinance, the pre-amended section 163(4) and (5) applies to the approved trustee of a pre-existing scheme in relation to the payment of accrued benefits of a member of the scheme if:

- (a) there is no section 19N notice<sup>2</sup> in respect of the scheme; or
- (b) there is a section 19N notice in respect of the scheme, and:
  - (i) a claim for payment of the benefits has been lodged by the member of the scheme, in compliance with section 163(2) of the Regulation; and
  - (ii) the claim was lodged with the approved trustee before the effective day (i.e. the day specified under section 19N(1) of the Mandatory Provident Fund Schemes Ordinance (the Ordinance) for the scheme).

5. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons, regulated persons and other persons concerned with the Ordinance.

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<sup>2</sup> Pursuant to section 19N of the Mandatory Provident Fund Schemes Ordinance (the Ordinance), the Secretary for Financial Services and the Treasury may, by notice published in the Gazette, specify a day for a pre-existing scheme for the purposes of section 19M(2)(a) of the Ordinance, on which day the approved trustee of the pre-existing scheme must begin to use the electronic MPF system and the scheme administration services provided by the system operator of the system to perform a scheme administration function that is not a specific function.

6. Section 47A of the Ordinance provides that the Authority may specify or approve the form and contents of documents required for the purposes of the Ordinance.

7. The Authority hereby issues guidelines to specify the information required and set out the format of the reports to be submitted to the Authority under the pre-amended section 163(4) and (5). These guidelines also specify the means by which the reports are requested to be submitted to the Authority.

### **EFFECTIVE DATE**

8. These revised Guidelines (Version 2 – June 2024) shall become effective on the date of commencement of operation of sections 89(2) and 103 of the Amendment Ordinance, i.e. 26 June 2024. The previous version of these Guidelines (Version 1 – April 1999) shall be superseded on that day.

### **REPORTS TO BE SUBMITTED UNDER PRE-AMENDED SECTION 163(4) AND (5)**

9. The information and format prescribed for the purposes of the pre-amended section 163(4) and (5) are set out in:

- (a) Annex A (Form MPF(S)-PD(C)) in respect of information relating to claims on grounds of permanent departure from Hong Kong for the purposes of the pre-amended section 163(4); and
- (b) Annex B (Form MPF(S)-PD(P)) in respect of information relating to payments on grounds of permanent departure from Hong Kong for the purposes of the pre-amended section 163(5).

10. Subject to paragraphs 3 and 4 above, the approved trustee of a registered scheme is requested to submit the reports to the Authority by electronic

means in accordance with the requirements for electronic interface as notified by the Authority from time to time. The Authority (as the recipient) has given consent to being given the aforesaid reports by the means described in this paragraph 10.

## **DEFINITION OF TERMS**

11. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.

## **WARNING**

12. It is an offence under section 43E of the Ordinance if a person, in any document given to a prescribed person<sup>3</sup> in connection with the Ordinance, makes a statement that the person knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

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<sup>3</sup> Prescribed person means (a) the Authority; (b) a system operator of an electronic MPF system; (c) an approved trustee; (d) a trustee of a relevant scheme; or (e) an auditor of an approved trustee or of a registered scheme.