

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.9 Guidelines on MPF Exempted ORSO Schemes – Application for Withdrawal of Exemption Certificate of an ORSO Registered Scheme

INTRODUCTION

Section 19(1) of the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) provides that the Mandatory Provident Fund Schemes Authority (the Authority) may on an application in writing withdraw an exemption certificate of an ORSO registered scheme where the Authority is satisfied that:

- (a) the grounds for withdrawal warrant the withdrawal; and
- (b) if the certificate is withdrawn, the relevant employer of the ORSO registered scheme to which the certificate relates will not thereby be in breach of the provisions of the Mandatory Provident Fund Schemes Ordinance (the Ordinance).

2. Section 19(2) of the Exemption Regulation stipulates that an application for withdrawal of exemption certificate of an ORSO registered scheme shall:

- (a) be made by the relevant employer; where the scheme is a group scheme under section 67 of the Occupational Retirement Schemes Ordinance, the application shall be made by the representative employer according to section 25(b) of the Exemption Regulation;
- (b) state the grounds for making the application;
- (c) be made in such form as may be specified by the Authority; and

- (d) be accompanied by such information or documents (including statutory declarations) as may be specified by the Authority.

3. 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.

4. The Authority hereby issues guidelines to specify the form for withdrawal of exemption certificate of an ORSO registered scheme under section 19 of the Exemption Regulation and prescribe the information and documents to be submitted together with the form.

EFFECTIVE DATE

5. These revised Guidelines (Version 4 – April 2023) shall become effective on 24 April 2023. The previous version of these Guidelines (Version 3 – February 2016) shall be superseded on that day.

APPLICATION FOR WITHDRAWAL OF EXEMPTION CERTIFICATE OF AN ORSO REGISTERED SCHEME

Employees' Option

6. According to section 15 of the Exemption Regulation, it is a statutory requirement that employers shall offer an option to their existing members and new eligible employees, as defined under section 2 of the Exemption Regulation, to choose between the MPF exempted ORSO registered scheme and an MPF scheme within the specified time period.

7. In the event that such option was offered and any such members or employees have given notice of choosing the MPF exempted ORSO registered scheme, *employers are strongly advised to communicate full details of their intentions to these members or employees* before making the application.

Minimum MPF Benefits

8. The minimum MPF benefits of the new members shall be transferred, in accordance with the governing rules of the MPF exempted ORSO registered scheme, to an MPF scheme.

Prescribed Form

9. Application shall be made by the relevant/representative employer in the prescribed format as set out in Annex (Form WD-ER). The prescribed format of the form can be downloaded from the Authority's website at: www.mpfa.org.hk.

Signature Requirements

10. The application for the withdrawal of exemption certificate of an ORSO registered scheme must be signed:

- (a) if the applicant is a sole proprietor or a partnership, by the sole proprietor or at least two partners of the partnership, as appropriate;
- (b) if the applicant is a company, by at least two of the directors of the company.

Submission of Application

11. The completed application form and the relevant application documents should be submitted in hard copies and sent to:

Mandatory Provident Fund Schemes Authority
Level 12, Tower 1, The Millennium
98 How Ming Street, Kwun Tong
Hong Kong

DEFINITION OF TERMS

12. 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

13. If there is any change to the application information or documents after an application is submitted to the Authority, the application should inform the Authority as soon as reasonably practicable. It is an offence under section 43E of the Ordinance if a person, in any document given to a prescribed person¹ 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.

¹ 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.

FORM WD-ER

**MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP 485)
(the Ordinance)**

**APPLICATION FOR WITHDRAWAL OF EXEMPTION CERTIFICATE
OF AN ORSO REGISTERED SCHEME**

Section 19 of the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap 485B)

NOTES:

- (1) *The applicant making an application for withdrawal of exemption certificate of an ORSO registered scheme should read the Guidelines on MPF Exempted ORSO Schemes - Application for Withdrawal of Exemption Certificate of an ORSO Registered Schemes before submitting the application.*
 - (2) *All questions must be answered. If any question is not applicable, please write "N.A."*
 - (3) *Please provide any other information which may assist the Mandatory Provident Fund Schemes Authority (the Authority) in reaching a decision on the application if necessary.*
 - (4) *If boxes are provided, please tick whichever is appropriate.*
 - (5) ** means delete whichever is inappropriate.*
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FOR OFFICIAL USE ONLY

Application no.: _____ **Date application received:** _____

Subject officer: _____ **Input officer:** _____

Verification officer: _____

SECTION I - PARTICULARS OF THE SCHEME

- (1) MPF Exemption No. of the Scheme: _____
- (2) Name of the Scheme (in English): _____
(the Scheme)
- (in Chinese, if any): _____

SECTION II - CIRCUMSTANCES OF AND REASONS FOR WITHDRAWAL OF THE EXEMPTION CERTIFICATE

- The Scheme has been terminated/wound up under section 29 of the Occupational Retirement Schemes Ordinance.
- ** The Scheme has been “frozen” (i.e. no further contribution shall be made or no further scheme service shall be credited) and all the member(s) *will join /have joined an MPF scheme.
- ** The Scheme will become a “top-up” scheme to supplement the minimum benefits provided under an MPF scheme.
- No member opted for the Scheme.
- ** Others: _____

** Please also complete Section III

SECTION III - EMPLOYEES’ ELECTION BETWEEN THE ORSO SCHEME AND AN MPF SCHEME

- (1) Have you offered the option to the existing members and new eligible employees, if any, to choose between the Scheme and an MPF scheme in accordance with section 15 of the Mandatory Provident Fund Schemes (Exemption) Regulation?
- Yes No
- (2) If the answer to (1) above is “Yes”, has any one of the existing members or new eligible employees given notice to remain in or join the Scheme?
- Yes No

SECTION IV - TREATMENT OF THE RIGHTS AND BENEFITS**(1) In Respect of Existing Members**

- (i) Please specify below the treatment of the rights and benefits of the existing members in the Scheme:

(2) In Respect of New Members

- (i) Please specify below the treatment of the rights and benefits of the new members. Please also specify the treatment of the minimum MPF benefits, if applicable, of these new members in the Scheme:

SECTION V - ARRANGEMENT FOR MEMBERS OF THE SCHEME

- (1) Please specify below the arrangement for the members of the Scheme, who are not exempted from the provision of the Ordinance by virtue of section 4 of the Ordinance. Examples of such arrangement may be transferring members to another MPF exempted ORSO scheme, MPF scheme, etc.:

SECTION VI - DECLARATION

*I/We declare that to the best of *my/our knowledge and belief, the information given in this application form is correct and complete. ★

*I/We certify that the documents attached to this application, if any, are true and correct copies.

*I/We undertake to notify the Authority of any matter which affects the validity of any information given in support of our application.

After the application is approved, *I/we undertake to notify the Authority of any material changes to, or affecting the completeness or accuracy of, the information provided in this Form and any documents in relation to the application as soon as possible.

Name of *relevant/representative employer:

Signature and company chop of *relevant/representative employer:

Name of person(s) signing:

Title or position of person(s) signing:

Date of application:

★ **Warning:** Section 43E of the Ordinance makes it an offence punishable with a maximum of one year's imprisonment and a fine of \$100,000 on the first occasion and two years' imprisonment and a fine of \$200,000 on each subsequent occasion for a person who 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.

Name and telephone no. of the contact person for the Authority's enquiries in connection with this application:

Name:

Telephone no.:
