



BULLETIN FOR:

Retention of the original constitutive documents by
the Financial Services Commission

The Financial Services Commission
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RETENTION OF THE ORIGINAL CONSTITUTIVE DOCUMENTS BY THE FINANCIAL SERVICES COMMISSION: CONSULTATION PAPER

LEGISLATIVE REFERENCE:	The Pensions (Superannuation Funds and Retirement Schemes) (Registration, Licensing and Reporting) Regulations ("RLR")
	First Schedule Form 1: Application for Registration of a Superannuation Fund/Retirement Scheme Pensions of the RLR
	Regulation 3(1) (b) of the RLR

1.0 BACKGROUND

- 1.01 The enactment of the Pensions (Superannuation Funds and Retirement Schemes) Act provides for the registration and licensing of superannuation funds ("funds") and retirement schemes ("schemes") by the Financial Services Commission ("FSC"). Applications for registration and licensing commenced on the 26th September 2006. The review of these applications is continuing.
- 1.02 Some applicants have expressed concerns about the retention of the original constitutive documents by the FSC and have requested that these be returned upon completion of the FSC's review.

2.0 LEGISLATIVE REQUIREMENTS

2.01 Regulation 3(1) (b) of the RLR provides:

"An application for registration or licensing as the case maybe, of an individual or entity in any of the categories specified in paragraph (2) shall –

- a) be in the appropriate form set out in Forms 1 to 5 in the First Schedule;
 - b) be accompanied by the relevant fee specified in the Fourth Schedule and the documents and information specified in the relevant application form; and..."
- 2.02 The application form, prescribed in the First Schedule, Form 1 of the RLR, for registration of a Superannuation Fund or a Retirement Scheme requires that the application must be accompanied by the original and a copy of the constitutive documents of the fund or scheme.

3.0 ISSUES

3.01 The constitutive documents are essential to the FSC when assessing an application for registration. The FSC is also cognizant of the importance of the constitutive documents to the applicant in the proper administration of a fund or scheme. However, there is no statutory provision for the return of the documents to the applicants.

4.0 POLICY

4.01 In order to address the concerns raised the FSC will no longer require new applications to be accompanied by the original constitutive documents. Two duplicate copies of the constitutive documents which have been duly certified by a Justice of the Peace as being true copies of the original documents and which bear a \$10 stamp from the Commissioner of Stamps will be accepted. Constitutive documents which are now in the possession of the FSC as supporting documents for an application for registration of a superannuation or retirement scheme will be photocopied by the FSC and returned upon receipt of a written request from the trustees and a processing fee of \$40 per page photocopied.

5.0 IMPLEMENTATION

5.01 This procedure will be implemented with immediate effect.

Questions regarding this bulletin may be directed to:

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