

L.N. 76 of 2004**EDUCATION (EXEMPTION) (PRIVATE SCHOOLS
OFFERING NON-FORMAL CURRICULUM) ORDER****CONTENTS**

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EDUCATION (EXEMPTION) (PRIVATE SCHOOLS OFFERING NON-FORMAL CURRICULUM) ORDER

(Made by the Chief Executive in Council under section 9(3) of the Education Ordinance (Cap. 279))

1. Commencement

This Order comes into operation on 1 July 2004.

2. Interpretation

In this Order, unless the context otherwise requires—

“exempted school” (獲豁免學校) means a school that—

- (a) provides any educational course other than nursery, kindergarten, primary, secondary or post secondary education; and
- (b) is not funded wholly or partly by any subsidy from the Government;

“public examination” (公開考試) means—

- (a) The Hong Kong Certificate of Education Examination;
- (b) The Hong Kong Higher Level Examination;
- (c) The Hong Kong Advanced Level Examination; or
- (d) any examination the result of which is, in the opinion of the Permanent Secretary, equivalent to a result obtained in an examination mentioned in paragraph (a), (b) or (c);

“school workshop” (學校工場) has the same meaning as in regulation 2 of the Education Regulations (Cap. 279 sub. leg. A);

“science laboratory” (科學實驗室) has the same meaning as in regulation 2 of the Education Regulations (Cap. 279 sub. leg. A);

“specified institution” (指明院校) means any of the following—

- (a) the Lingnan University established by the Lingnan University Ordinance (Cap. 1165);
- (b) The Hong Kong Institute of Education established by The Hong Kong Institute of Education Ordinance (Cap. 444);
- (c) the University of Hong Kong established by the University of Hong Kong Ordinance (Cap. 1053);
- (d) The Hong Kong Polytechnic University established by The Hong Kong Polytechnic University Ordinance (Cap. 1075);
- (e) The Chinese University of Hong Kong established by The Chinese University of Hong Kong Ordinance (Cap. 1109);

- (f) the Hong Kong Baptist University established by the Hong Kong Baptist University Ordinance (Cap. 1126);
- (g) the City University of Hong Kong established by the City University of Hong Kong Ordinance (Cap. 1132);
- (h) The Hong Kong Academy for Performing Arts established by The Hong Kong Academy for Performing Arts Ordinance (Cap. 1135);
- (i) The Hong Kong University of Science and Technology established by The Hong Kong University of Science and Technology Ordinance (Cap. 1141);
- (j) The Open University of Hong Kong established by The Open University of Hong Kong Ordinance (Cap. 1145);
- (k) any Post Secondary College registered under the Post Secondary Colleges Ordinance (Cap. 320).

3. Exemption in respect of fees

An exempted school and its owners, managers, supervisor, principal and teachers are exempted from the requirements of the provisions specified in Part 1 of Schedule 1 subject to compliance with the conditions specified in Part 2 of that Schedule.

4. Exemption in respect of employment of teachers

(1) Subject to subsection (2), an exempted school and its managers, supervisor and principal are exempted from the requirements of the provisions specified in Part 1 of Schedule 2 subject to compliance with the conditions specified in Part 2 of that Schedule.

(2) The exemption under subsection (1) does not apply in relation to a person who is required—

- (a) in the course of teaching, to carry out or supervise practical experiments or demonstrations in a science laboratory;
- (b) in the course of teaching, to carry out or supervise practical activities in a school workshop; or
- (c) to teach physical education.

5. Exemption in respect of teachers' qualifications

(1) Subject to subsection (2), the teachers of an exempted school are exempted from the requirements of the provisions specified in Part 1 of

Schedule 3 subject to compliance with the conditions specified in Part 2 of that Schedule.

(2) The exemption under subsection (1) does not apply in relation to a teacher who is required—

- (a) in the course of teaching, to carry out or supervise practical experiments or demonstrations in a science laboratory;
- (b) in the course of teaching, to carry out or supervise practical activities in a school workshop; or
- (c) to teach physical education.

6. Exemption in respect of principals

The managers, supervisor, principal and teachers of an exempted school are exempted from the requirements of the provisions specified in Part 1 of Schedule 4 subject to compliance with the conditions specified in Part 2 of that Schedule.

7. Exemption in respect of holidays and hours of instruction

An exempted school and its managers, supervisor and principal are exempted from the requirements of the provisions specified in Schedule 5.

SCHEDULE 1

[s. 3]

FEES

PART 1

PROVISIONS EXEMPTED

1. Section 14(1)(d), (g) and (p) (Grounds for refusal to register school) of the Ordinance.
2. The following provisions of the Education Regulations (Cap. 279 sub. leg. A)—
 - (a) regulation 61 (Fees other than inclusive fee prohibited);
 - (b) regulation 62(1) (Method of payment);
 - (c) regulation 65 (Approval for change in fee);
 - (d) regulation 66 (Prohibition of collections without permission of Permanent Secretary);
 - (e) regulation 67 (Duty to exhibit certificate).

PART 2

CONDITIONS FOR EXEMPTION

1. The inclusive fees for an educational course shall be calculated on an equal monthly basis. Other than the first instalment, each instalment of the fees shall be collected on or after the first school day of each month of the period during which the educational course is conducted.
2. The inclusive fees for each of the courses offered, including the fees for each instalment and number of instalments, shall be displayed at a prominent place in the exempted school premises.
3. On payment of the fees, a pupil shall be given a formal receipt, stamped with the chop of the exempted school, signed by the supervisor of the school and containing information on—
 - (a) the school name as specified in the certificate of registration or provisional registration of the school;
 - (b) the pupil's name;
 - (c) the course name;
 - (d) the course venue in the school premises as specified in the certificate of registration or provisional registration of the school;
 - (e) the date and amount of fees collected; and
 - (f) the month covered by the fees paid.
4. Before enrolling for a course, a pupil shall be given a leaflet containing the course particulars, fees, information on the principal and teachers of the exempted school, and refund policies and procedures.

SCHEDULE 2

[s. 4]

EMPLOYMENT OF TEACHERS

PART 1

PROVISIONS EXEMPTED

The following provisions of the Ordinance—

- (a) section 39(2)(d) and (e) (Duties of supervisor);
- (b) section 42 (Teachers to be registered or permitted teachers);
- (c) section 48 (Circumstances in which application to employ permitted teacher may be made);
- (d) section 49 (Application to employ permitted teacher);
- (e) section 50 (Permit to teach);
- (f) section 51 (Grounds for refusal to issue permit to teach);
- (g) section 52 (Grounds for cancellation of permit to teach);
- (h) section 87(3)(f) and (5) (Offences and penalties).

PART 2

CONDITIONS FOR EXEMPTION

1. A teacher who teaches in an exempted school shall possess the minimum qualifications for a permitted teacher, that is, one or two Hong Kong Certificates of Education Examination with an aggregate of 5 separate subjects at Grade E or a higher grade, including—

- (a) English Language (Syllabus B), or of a standard which in the opinion of the Permanent Secretary is equivalent to Grade E or a higher grade in that Certificate; or
- (b) Chinese Language.
2. A teacher who teaches secondary 4 or 5 level in an exempted school shall possess—
- (a) a higher diploma issued by a specified institution or an associate degree of a specified institution; or
- (b) a qualification which in the opinion of the Permanent Secretary is equivalent to a higher diploma or an associate degree.
3. A teacher who teaches secondary 6 or 7 level or post secondary courses in an exempted school shall possess—
- (a) an approved degree of a specified institution; or
- (b) a qualification which in the opinion of the Permanent Secretary is equivalent to an approved degree.
4. The subjects that a teacher is required to teach shall only be the ones in which the teacher obtains qualifications or has passed the public examinations.
5. A supervisor of an exempted school shall—
- (a) within one month after any teacher commences to teach in the school, report to the Permanent Secretary in writing of the name, identity card number, qualifications and date of first appointment of the teacher;
- (b) include in the report a statement in writing certifying that the information on the teacher is correct; and
- (c) take reasonable steps to ensure that the qualifications the teacher claims to have obtained are genuine.
6. A person specified in section 7 of this Part may not teach in an exempted school unless the person—
- (a) is a registered teacher whose registration has not been cancelled under section 47 of the Ordinance; or
- (b) has a permit to teach which has not been cancelled under section 52 of the Ordinance.
7. The person referred to in section 6 of this Part is one who—
- (a) has been convicted, whether in Hong Kong or elsewhere, of an offence against the persons or involving violence or maltreatment of children;
- (b) has been convicted of an offence under Part XII of the Crimes Ordinance (Cap. 200) (which deals with sexual offences); or
- (c) without prejudice to paragraphs (a) and (b), has been convicted, whether in Hong Kong or elsewhere, of any offence and received a custodial sentence, a probation order, a community service order or a fine exceeding \$10,000.

SCHEDULE 3

[s. 5]

TEACHERS' QUALIFICATIONS

PART 1

PROVISIONS EXEMPTED

The following provisions of the Ordinance—

- (a) section 42 (Teachers to be registered or permitted teachers);
- (b) section 67(d) (Permanent Secretary may require interview or further information);
- (c) section 87(3)(e) and (5) (Offences and penalties).

PART 2

CONDITIONS FOR EXEMPTION

1. A teacher who teaches in an exempted school shall possess the minimum qualifications for a permitted teacher, that is, one or two Hong Kong Certificates of Education Examination with an aggregate of 5 separate subjects at Grade E or a higher grade, including—
 - (a) English Language (Syllabus B), or of a standard which in the opinion of the Permanent Secretary is equivalent to Grade E or a higher grade in that Certificate; or
 - (b) Chinese Language.
2. A teacher who teaches secondary 4 or 5 level in an exempted school shall possess—
 - (a) a higher diploma issued by a specified institution or an associate degree of a specified institution; or
 - (b) a qualification which in the opinion of the Permanent Secretary is equivalent to a higher diploma or an associate degree.
3. A teacher who teaches secondary 6 or 7 level or post secondary courses in an exempted school shall possess—
 - (a) an approved degree of a specified institution; or
 - (b) a qualification which in the opinion of the Permanent Secretary is equivalent to an approved degree.
4. The subjects that a teacher is required to teach shall only be the ones in which the teacher obtains qualifications or has passed the public examinations.
5. A person specified in section 6 of this Part may not teach in an exempted school unless the person—
 - (a) is a registered teacher whose registration has not been cancelled under section 47 of the Ordinance; or
 - (b) has a permit to teach which has not been cancelled under section 52 of the Ordinance.
6. The person referred to in section 5 of this Part is one who—
 - (a) has been convicted, whether in Hong Kong or elsewhere, of an offence against the persons or involving violence or maltreatment of children;
 - (b) has been convicted of an offence under Part XII of the Crimes Ordinance (Cap. 200) (which deals with sexual offences); or
 - (c) without prejudice to paragraphs (a) and (b), has been convicted, whether in Hong Kong or elsewhere, of any offence and received a custodial sentence, a probation order, a community service order or a fine exceeding \$10,000.

SCHEDULE 4

[s. 6]

PRINCIPALS

PART 1

PROVISIONS EXEMPTED

The following provisions of the Ordinance—

- (a) section 39(2)(c) (Duties of supervisor);
- (b) section 53 (Approval of first principal of school);
- (c) section 54 (Grounds for refusal to approve principal);

- (d) section 55 (Tenure of office of principal);
- (e) section 56 (Grounds for withdrawal of approval of principal);
- (f) section 57 (Approval of subsequent principals);
- (g) section 58AA (Performance of functions of principal by candidate);
- (h) section 87(2)(c) and (3)(g) (Offences and penalties).

PART 2

CONDITIONS FOR EXEMPTION

The supervisor of an exempted school shall—

- (a) appoint a teacher to be the principal of the school;
- (b) within one month after the appointment of the principal, inform the Permanent Secretary in writing of the following particulars concerning the principal—
 - (i) name;
 - (ii) identity card number;
 - (iii) qualifications;
 - (iv) date of birth;
 - (v) effective date of appointment to be a principal; and
 - (vi) any other information required by the Permanent Secretary under regulation 94 of the Education Regulations (Cap. 279 sub. leg. A);
- (c) if there is any change to the particulars under paragraph (b), within one month of becoming aware of the change, inform the Permanent Secretary in writing of the change.

SCHEDULE 5

[s. 7]

HOLIDAYS AND HOURS OF INSTRUCTION

Provisions Exempted

The following provisions of the Education Regulations (Cap. 279 sub. leg. A)—

- (a) regulation 79 (Notice of school holidays);
- (b) regulation 80 (Restriction on holidays);
- (c) regulation 81 (Permanent Secretary may disapprove);
- (d) regulation 82 (Permanent Secretary may require grant of holiday);
- (e) regulation 83 (List of holidays to be posted);
- (f) regulation 89 (Hours of instruction).

CHENG Mei-sze, Maisie
Clerk to the Executive Council

COUNCIL CHAMBER
20 April 2004

Explanatory Note

This Order exempts private schools offering non-formal curriculum from certain requirements of the provisions of the Education Ordinance (Cap. 279) and the Education Regulations (Cap. 279 sub. leg. A).

2. Section 2 lists the definitions used in the Order.
3. Section 3 grants exemption in respect of the collection of fees. The provisions exempted are set out in Part 1 of Schedule 1 and the conditions to be complied with are in Part 2 of that Schedule.
4. Section 4 grants exemption in respect of the employment of teachers. The provisions exempted are set out in Part 1 of Schedule 2 and the conditions to be complied with are in Part 2 of that Schedule.
5. Section 5 grants exemption in respect of the qualifications of teachers. The provisions exempted are set out in Part 1 of Schedule 3 and the conditions to be complied with are in Part 2 of that Schedule.
6. Section 6 grants exemption in respect of the approval and functions of the principal. The provisions exempted are set out in Part 1 of Schedule 4 and the conditions to be complied with are in Part 2 of that Schedule.
7. Section 7 grants exemption in respect of holidays and hours of instruction. The provisions exempted are set out in Schedule 5 and are not subject to any condition.