



中華人民共和國香港特別行政區政府總部衛生福利及食物局
Health, Welfare and Food Bureau
Government Secretariat, Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref. : HWF CR2/5091/05 Pt.4

Tel. No. : 2973 8126

Fax No. : 2524 7635

27 May 2005

Ms Bernice WONG
Legal Division
Legislative Council Secretariat
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong

Dear *Bernice*,

Child Care Services (Amendment) Bill 2005

Thank you for your letter of 17 May 2005.

Our reply to the issues raised in your letter is set out in the following paragraphs –

Clause 19 Smoking and spitting

(a) The proposed amendment to Regulation 38(1) of the Child Care Services Regulations is within the scope of the Child Care Services (Amendment) Bill 2005 (the Bill). It is a miscellaneous amendment and the purpose of which is to tighten the no smoking requirement to cover the whole premises of any child care centre (CCC) to ensure a healthy environment for provision of child care service. However, in view of Members' suggestion, we agree to further tighten up the no smoking requirement in CCCs so that smoking is prohibited at all hours.

(b) While it is the policy to tighten the no smoking requirement in schools, we do not propose a consequential amendment to Regulation 51(1) of the Education Regulations (ER). It is because the definition of “school” in the Education Ordinance (EO) covers not only nurseries and kindergartens but also primary, secondary, post secondary institutions, etc. Such proposed amendment will be outside the scope of the Bill on harmonisation of pre-primary services, and pre-empt the deliberation of LegCo regarding expansion of no smoking area in the Smoking (Public Health) (Amendment) Bill 2005 (the Smoking Bill).

(c) “School” will be designated as a no smoking area in the Smoking Bill. There is no need to repeal Regulation 51(1) of ER as the Smoking Bill, when enacted, will have an overriding effect on relevant provisions in other Ordinances.

Clause 4 Application

In relation to the issues raised under Clause 4 –

(a) A school will not be exempted from registration under the new Section 3(1)(c) of the Child Care Services Ordinance (CCSO) if it is to extend its service to provide child care service to children below the age of 3;

(b) No existing school will fall into the new definition and therefore none of them will need to register under CCSO as a result of the Bill; and

(c) Existing institutions providing overnight accommodation to more than 5 children under the age of 6 or receiving more than 5 children with disability under that age are not required to register under EO as they are not regarded as providing “educational course” as defined in EO. These institutions are special institutions that are more focused on the provision of rehabilitative and child care services. Therefore, practically these special institutions would continue to be governed by CCSO and supervised by the Social Welfare Department.

Clause 18 Area of floor space per child

The Education and Manpower Bureau (EMB) will take administrative measures to implement the harmonization proposal of floor

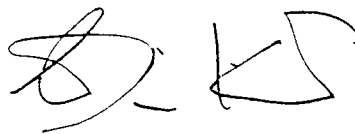
space requirement by issuing Circular to announce the new floor space requirement (i.e. 1.8 m² per child), which will apply to the registration of new kindergartens (KGs). The requirement will also be incorporated in the "Operation Manual for Pre-primary Institutions" and subsequent amendments of EO in due course.

For your second concern regarding the powers being exercised by the Director of Social Welfare and the Permanent Secretary for Education and Manpower under Regulation 31(2) of CCSR and the amended Regulation 40(3) of ER respectively, these powers will be exercised consistently in a uniform manner as the administration of registration of CCCs and KGs will be handled jointly by a Joint Office established by EMB upon harmonization.

Education Regulations (Cap. 279, sub. Leg. A)

Apart from the administrative measures on floor space requirement, EMB has also issued a circular on 30 June 2003 requiring all KGs to bring their teacher to children ratio down to 1:15. The requirement is pegged with the Kindergarten Subsidy Scheme to incentivize adoption of the ratio.

Yours sincerely,



(Gavin KWAI)

for Secretary for Health, Welfare and Food

c.c. Secretary for Education and Manpower (Attn: Mr Andrew Poon)
Director of Social Welfare (Attn: Mr P Y Fung)
Law Draftsman (Attn: Ms Grace Leung)