

Information Paper

Registration and Inspection of Kindergartens

Purpose

This paper describes the existing procedures on registration of kindergartens, measures to handle suspected operation of unregistered kindergartens and inspection of kindergartens.

Registration of kindergarten

2. Under section 11 of the Education Ordinance (Appendix I), an application for registration of a school (kindergarten) should be made to the Director of Education. Approval is dependent on meeting the requirements relating to safety of school premises, managers, school name, syllabus and time-table, and fees (Appendix II). Subject to compliance with these criteria, a certificate of provisional registration will be issued by the Education Department (ED) to the kindergarten which may then start operation.

3. The certificate of provisional registration is normally valid for one year. After the kindergarten is provisionally registered, inspectors from the Department of Health (DH) and ED will conduct visits to the kindergarten. If the kindergarten complies with the requirements recommended by DH and other relevant authorities, a certificate of registration will be issued.

Handling of suspected unregistered kindergartens

4. Once a suspected unregistered school (kindergarten) is identified, inspectors will visit the premises. If a "school" is already in operation, warning letters will be issued to the operator and teachers on the spot. If the unregistered school is still found to be in operation on a second visit, the case will be referred to the police for action.

Monitoring and inspection of kindergartens

5. All registered or provisionally registered kindergartens should observe and comply with the provisions and requirements of the Education Ordinance and Education Regulations. In addition to the statutory requirements, ED has published a Manual of Kindergarten Practice, guidelines and circulars to kindergartens. Registered kindergartens are subject to periodic inspections. Matters relating to compliance with the Ordinance and the day-to-day operation of the kindergartens, which include school administration, staffing and curriculum implementation, etc. are discussed during the inspection. If the management or the quality of teaching is not found to be satisfactory, or, if any of the provisions of the Education Ordinance has been contravened, due advice, verbal warning or written warning will be given immediately. Follow-up inspections will be carried out to ensure that the irregularities are rectified. The Director of Education may, in accordance with the provisions of the Education Ordinance, refer the case to the police for prosecution or exercise her power under the Education Ordinance to cancel the registration of the kindergarten.

6. In the 1997/98 school year, 766 inspection visits were made to

kindergartens. In the current school year, up to 4 February 1999, a total of 329 visits was conducted and about 60 warning letters were issued to kindergartens with over enrolment of pupils.

Way forward

7. ED takes a serious view of illegal operation of unregistered kindergartens. We have taken steps to review the existing registration procedures and monitoring system of kindergartens and propose the following improvements:

(a) Registration procedures of kindergartens

An interdepartmental meeting was convened on 4 February 1999. The Buildings Department (BD) has pledged to advise the applicant of the safety requirements within 45 days and the Fire Services Department (FSD) will carry out an inspection to the premises within 14 days upon receipt of an application and advice on safety requirements will be issued within 30 days. BD, FSD and ED have agreed to speed up processing of application for safety certificates. To streamline the procedures, BD and FSD will receive submissions from the applicants directly and copy their correspondence with the applicant to ED.

(b) Action against unregistered kindergartens

A working group including the police will review the prosecution procedures, including the establishment of evidence of unregistered schools. To strengthen deterrent effect, an increase in the level of fines will be considered.

(c) Monitoring system

All kindergartens will be reminded, through a circular, of their obligations under the Education Ordinance and Regulations, such as inclusion of the school registration number in advertising materials, the permitted accommodation of classrooms and approval of fees. ED will continue to inspect schools periodically to ensure compliance.

(d) Publicity programme

From time to time, ED will publish lists of schools registered and reported cases of "schools" which are not registered under the Education Ordinance. These lists will be made available for public access in District Education Offices and through the Internet. ED will continue to mount publicity programmes to help parents enrol their children in registered kindergartens.

Education Department
February 1999

Appendix I
附錄 I

11. Application for registration of school

An application for registration of a school shall be—

- (a) made to the Director in the prescribed form; and (*Amended 42 of 1993 s. 6*)
- (b) accompanied—
 - (i) by the documents specified in such form; and
 - (ii) if the school is to be operated in or in any part of any premises which are not designed and constructed for the purposes of a school, by the additional documents specified in section 12(1).

12. Additional documents required where premises not designed and constructed as a school

(1) The documents referred to in section 11(b)(ii) shall be—

- (a) a certificate from the competent authority as to his opinion with regard to the suitability for the purposes of a school of the premises or the part of the premises in which the school is to be operated, having regard to the loading for which they are designed and constructed;
- (b) a certificate from the competent authority that the premises in or in part of which the school is to be operated do not have structural timber floors;
- (c) a certificate from the Director of Fire Services that the use for the purposes of a school of the premises or the part of the premises in which the school is to be operated would not expose the persons in the school premises to any undue risk of fire; (*Replaced 6 of 1985 s. 2*)
- (ca) a certificate from the competent authority that in the event of fire in the premises in or in part of which the school is to be operated the means of escape for all persons in the premises (including the persons in the school premises) would be adequate; (*Added 6 of 1985 s. 2. Amended 47 of 1990 s. 4*)
- (d) if the Buildings Ordinance (Cap. 123) applies to the premises in or in part of which the school is to be operated, a notice in writing from the Building Authority stating that he does not intend, in exercise of the powers conferred on him by section 23 of that Ordinance, to prohibit the use for the purposes of a school of the premises or the part of the premises in which the school is to be operated; and

11. 學校註冊的申請

學校註冊的申請須——

- (a) 以訂明表格向署長提出；及 (*由 1993 年第 42 號第 6 條修訂*)
- (b) 附交以下文件——
 - (i) 該表格內指明的文件；及
 - (ii) (如有關學校將於並非為學校用途而設計及建造的任何房產或其任何部分內開辦)第 12(1)條所指明的額外的文件。

12. 凡屬並非為學校用途而設計及建造之房產則須額外附交文件

(1) 第 11(b)(ii) 條所提述的文件為以下各項——

- (a) 由主管當局發出的證明書，證明其經顧及將用以營辦學校的房產或房產部分在設計及建造上的負荷量後，該項房產或房產部分是否適合作學校用途而提出的意見；
- (b) 由主管當局發出的證明書，證明將用以營辦學校的房產或房產部分並無結構性的木地板；
- (c) 由消防處處長發出的證明書，證明將用以營辦學校的房產或房產部分如作學校用途，將不會令校舍內的人受到不當的火警危險； (*由 1985 年第 6 號第 2 條代替*)
- (ca) 由主管當局發出的證明書，證明將用以營辦學校的房產或房產部分一旦發生火警，使房產內全部的人(包括校舍內的人)使用的逃生設施定會足夠； (*由 1985 年第 6 號第 2 條增補 - 由 1990 年第 47 號第 4 條修訂*)
- (d) 如《建築物條例》(第 123 章)適用於將用以營辦學校的房產或房產部分，則為由建築事務監督所發的通告，述明其無意行使該條例第 23 條所授予的權力而禁止將用以營辦學校的房產或房產部分作學校用途；及

(e) if—

- (i) the competent authority has certified under paragraph (a) that in his opinion the premises or the part of the premises in which the school is to be operated are not suitable for the purposes of a school, having regard to the loading for which they are designed and constructed;
 - (ii) the premises in or in part of which the school is to be operated were erected prior to 1 January 1946; or
 - (iii) at the time of erection of the premises in or in part of which the school is to be operated, the Buildings Ordinance (Cap. 123) did not apply to such premises,
- a certificate from an authorized person that the premises in or in part of which the school is to be operated are in sound structural condition. (Amended 47 of 1990 s. 4)

(2) An application to the competent authority, the Building Authority or the Director of Fire Services for a certificate or a notice required for the purposes of subsection (1) shall be—

(a) made in such form as the Director shall specify; and

(b) accompanied by a plan, drawn to such scale and with such number of copies as the Director shall specify, of the premises or the part of the premises in which the school is to be operated.

(3) The Director of Buildings may, where he is the competent authority for the purposes of subsection (1)(a), (b) and (c), appoint any officer of the Buildings Department to perform the functions of the competent authority under those paragraphs. (Amended L.N. 76 of 1982; L.N. 94 of 1986; 47 of 1990 s. 4; L.N. 291 of 1993)

(4) Nothing in this section shall affect the powers of the Building Authority under the Buildings Ordinance (Cap. 123).

(5) For the purposes of this section, "competent authority" (主管當局) means—

- (a) the Housing Authority in the case of any premises or part of any premises upon land vested in the Housing Authority or over which the Housing Authority has control and management; (Replaced 23 of 1973 s. 36)
- (b) (Replaced 23 of 1973 s. 36)
- (c) in any other case, the Director of Buildings and any officer of the Buildings Department appointed by him under subsection (3). (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)

13. Registration of school

On receiving an application in accordance with section 11, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by registering the school in respect of which the application is made; or
- (b) by refusing under section 14 to register the school.

(e) 如——

- (i) 主管當局在觀及將用以營辦學校的房產或房產部分在設計及建造上的負荷底後，根據(a)段發出證明書，說明其認為該房產或房產部分並不適合作學校用途；
 - (ii) 將用以營辦學校的房產或房產部分是在1946年1月1日前建成的，或
 - (iii) 在建設將用以營辦學校的房產或房產部分時，《建築物條例》(第123章)當時並不適用於該房產，
- 則為由獲授權人士發出的證明書，說明將用以營辦學校的房產或房產部分結構穩妥。(由1990年第47號第4條修訂)

(2) 向主管當局、建築事務監督或消防處處長申請為第(1)款的施行而需要的證明書或通知書，須——

(a) 以署長所指定的表格提出申請；及

(b) 附交將用以營辦學校的房產或房產部分的圖則，圖則的比例及副本數目須按署長所指明者。

(3) 如施行第(1)(a)、(b)及(c)款的主管當局是屋宇署署長，他可委任或委任任何人員執行上述各段所描述的主管當局職權。(由1982年第76號法律公告修訂；由1986年第94號法律公告修訂；由1990年第47號第4條修訂；由1993年第291號法律公告修訂)

(4) 本條並不影響建築事務監督根據《建築物條例》(第123章)而具有的權力。

(5) 就本條而言，"主管當局"(competent authority)——

(a) 任何房產或房產部分所在的土地如歸屬房屋委員會所有，或由房屋委員會控制及管理，指房屋委員會；(由1973年第23號第36條修訂)

(b) (由1973年第23號第36條廢除)

(c) 在任何其他情況下，則指屋宇署署長及其根據第(3)款所委任的或委任任何人員。(由1982年第76號法律公告修訂；由1986年第94號法律公告修訂；由1993年第291號法律公告修訂)

13. 學校的註冊

署長接獲按照第11條提出的申請後，須進行他認為需要的探究，並須對該項申請作出以下決定——

- (a) 將申請所關乎的學校註冊；或
- (b) 根據第14條拒絕為該學校註冊。

Reasons for refusal to register school

- (1) The Director may refuse to register a school if it appears to him—
 - (a) *(Repealed 42 of 1993 s. 7)*
 - (b) that the proposed school premises are or are likely to be for any reason unsuitable for use for the purposes of a school;
 - (c) that any provision of this Ordinance is being or will be contravened in respect of the school;
 - (d) that the proposed inclusive fee is excessive having regard to the cost of maintaining and operating the school and to the standard of education to be provided;
 - (e)-(f) *(Repealed 42 of 1993 s. 7)*
 - (g) that the equipment which is to be used by the school will not allow of satisfactory tuition in the subjects to be taught by the school; *(Amended 42 of 1993 s. 7)*
 - (h) *(Repealed 42 of 1993 s. 7)*
 - (i) that the composition of the proposed management committee is such that the school is not likely to be managed satisfactorily, or is such that the education of the pupils is not likely to be promoted in a proper manner; *(Amended 42 of 1993 s. 7)*
 - (j) that the composition of the proposed management committee or of the proposed teaching staff is the same or substantially the same as that of a school which the Director has previously refused to register, or the registration or provisional registration of which the Director has previously cancelled;
 - (k) that he has previously—
 - (i) refused to register the school; or
 - (ii) cancelled the registration or provisional registration of the school;
 - (l) that any part of the proposed school premises—
 - (i) was to have been used for the purposes of a school which the Director has previously refused to register; or
 - (ii) has been used for the purposes of a school the registration or provisional registration of which the Director has cancelled;
 - (m) *(Repealed 42 of 1993 s. 7)*
 - (n) that in or in connexion with the application for registration any statement has been made or information has been furnished which is false in any material particular or by reason of the omission of any material particular; *(Amended 42 of 1993 s. 7)*
 - (o) that the proposed registered name of the school is unsuitable, or is the same as or similar to—
 - (i) the name in which another school is registered; or
 - (ii) the name of any school the registration of which has been cancelled; or *(Amended 42 of 1993 s. 7)*
 - (p) that the content of the course to be offered is not of a satisfactory standard. *(Added 42 of 1993 s. 7)*
- (2) The Director may also refuse to register a school if he refuses under section 35(1) to approve as the first supervisor of the school (the person who is recommended to be the supervisor of the applicant for registration of the school.

14. 拒絕為學校註冊的理由

- (1) 如署長覺得有以下情況，可拒絕為有關學校註冊——
 - (a) *(由1993年第42號第7條廢除)*
 - (b) 建議的校舍由於任何理由不適合或相當可能不適合作學校用途；
 - (c) 就該學校而言，有人正在違反或將違反本條例任何條文；
 - (d) 在考慮地段及用以資助該學校的成本及將提供的教育水平後，所建議的費川過高；
 - (e)-(f) *(由1993年第42號第7條廢除)*
 - (g) 該學校會使用的器材將不容許該學校在授教的學科中提供令人滿意的課程； *(由1993年第42號第7條修訂)*
 - (h) *(由1993年第42號第7條廢除)*
 - (i) 建議的校董會的組成相當不可能將該學校管理得令人滿意，或相當不可能以適當方式促進學生的教育； *(由1993年第42號第7條修訂)*
 - (j) 建議的校董會的組成或建議的師資組合與署長以前曾經拒絕為其註冊的學校相同或大致相同，或與署長以前曾取消其註冊或臨時註冊的學校相同或大致相同；
 - (k) 以前他曾——
 - (i) 拒絕為該學校註冊；或
 - (ii) 取消該學校的註冊或臨時註冊；
 - (l) 建議的校舍的任何部分——
 - (i) 曾經用作某間學校用途，而該學校以前曾被署長拒絕註冊；或
 - (ii) 曾用以作某間學校用途，而該學校已被署長取消其註冊或臨時註冊；
 - (m) *(由1993年第42號第7條廢除)*
 - (n) 在中請註冊或與中請註冊有關的事項中作出的陳述或提供的資料，在要項上屬虛假，或因在要項上有所遺漏而屬虛假； *(由1993年第42號第7條修訂)*
 - (o) 該學校的建議註冊名稱並不適合，或與以下名稱相同或類似——
 - (i) 另一間學校的註冊名稱；或
 - (ii) 已被取消註冊的任何學校的名稱；或 *(由1993年第42號第7條修訂)*
 - (p) 將提供的課程內容的水平不能令人滿意。 *(由1993年第42號第7條增補)*
- (2) 如署長根據第35(1)條拒絕批准由該學校申請註冊人推薦作為校董的人出任該學校的首位校董，則署長亦可拒絕為該學校註冊。

15. Provisional registration of school

(1) At any time after an application for registration of a school is made in accordance with section 11 and before the application is determined, the Director may provisionally register the school for such period, not exceeding 12 months, as he thinks fit.

(2) The Director may extend the period of provisional registration of a school for such further periods, not exceeding 12 months at one time, as he thinks fit.

15. 學校的臨時註冊

(1) 任何學校註冊的申請在按照第 11 條提出後而在該項申請有所決定前的任何時間，署長可為該學校臨時註冊，期限按其認為適當者而定，但以不超過 12 個月為限。

(2) 署長可將任何學校的臨時註冊期延長，期限按其認為適當者而定，但每次延長以不超過 12 個月為限。

Registration Criteria of Kindergarten

ED will issue a certificate of provisional registration to a kindergarten if it meets the following criteria:

(1) Safety of School Premises

- (a) For kindergarten to be operated in purposely designed school building, document such as occupation permit/allocation letter is required to certify that the premises are suitable for kindergarten use.
- (b) For kindergarten to be operated in non-purposely designed school building, safety certificates issued by the Fire Services Department and the Buildings / Housing Department are required to certify that the premises are structurally safe and fit for kindergarten use.
- (c) If the location of the school premises contravenes the Government lease or the Town Planning Ordinance, the applicant should submit relevant documents relating to the application for amendment of the lease / planning permission with the Lands Department/Planning Department.

(2) Managers of schools

The proposed managers of schools should satisfy the requirements stipulated in the Education Ordinance, eg fit and proper person (no criminal record) and residing in Hong Kong.