

Education (Amendment) Bill 1999

(Fourth Submission by the Administration)

Purpose

This paper responds to the outstanding issues raised by Members of the Bills Committee.

Transitional Period for serving principals and teachers for the 2000/01 school year

2. After the Bills Committee meeting held on 28 February 2000, the Bills Committee requested the Administration to further consider providing a one-year transitional period for serving principals/teachers.

3. As explained at the meeting on 28 February 2000, on the basis that the Bill is passed on 15 March 2000, there will be sufficient time for the Director of Education to consider and process applications for extension of service for the 2000/01 school year. Strictly speaking, therefore, a transitional period should not be necessary. Nevertheless, having carefully considered comments by Members, the Administration agrees that, as a one-off transitional arrangement, **servicing** principals/teachers in aided schools who are over 60 years old when the 2000/01 school year commences may continue to be employed for that school year without the school management committees having to seek the approval of the Director of Education. To this end, the Administration is prepared to propose a Committee Stage amendment to the proposed section 58C in clause 7 of the Bill to specify that “school year” means any period after the first anniversary of the commencement of that section that begins on the first day of September in a year and ends on the last day of August in the following year.

4. If the Bill, together with the Committee Stage amendments set out in the Administration’s Third Submission and that in paragraph 3 above (see Annex), are passed on 15 March 2000, the practical effect is that all the provisions of the Bill will take effect

immediately, except that the prohibition against the continued employment of **servicing** teachers/principals will apply only in respect of a school year **after** the first anniversary of the commencement of the Bill.

Reasonable time for practical arrangements

5. At the Bills Committee meeting on 28 February 2000, Members requested the Administration to ensure that, after the Bill has come into effect, there will be reasonable time at the different stages of application and appeal for schools to make arrangements, including the recruitment of replacements, in order to safeguard the interests of students.

6. The Administration fully agrees that the interests of students must be safeguarded. If the Bill is passed, the Education Department will issue a circular to schools to explain the effect of the Bill, and to set out the timeline by which schools should consider whether they need to launch a recruitment exercise and, if necessary, to apply to the Director for extension of service. In drawing up this circular, the Education Department will take into account the possibility of appeals against the Director's decision and factor in reasonable time for each step.

7. In the event that an appeal against the Director's decision straddles two school years, the Director will consider all relevant factors, including the interests of the school and students, operational requirements of the school, the reasonable time required for a school to find a suitable replacement, and any other special circumstances relating to the school when exercising her discretion to allow the continued employment of the teacher/principal concerned during and after the appeal process. In general, we envisage that the Director will allow the teacher/principal to stay on until there is a natural break in the school calendar, such as the end of a major school holiday or school term.

Employment period and "school year"

8. At the 28 February meeting, Members also enquired if the definition of "school year" in the Bill is inconsistent with the employment period of teachers/principals.

9. “School year” is defined in the proposed section 58C under clause 7 of the Bill to mean the first day of September of a year to the last day of August of the following year. This is also the definition long accepted administratively by the education sector.

10. In practice, a serving principal/teacher who continues to teach in his or another aided school in the following school year will have no break in his salary. If a non-serving principal/teacher starts to teach in an aided school, his salary will start to be payable from the date of assumption of full duties (which may not necessarily be 1 September).

11. However, the Administration does not see any relevance between the starting payday of a non-serving teacher/principal and the Bill. As a general practice, schools should arrange for acting appointments if there are operational needs to do so, e.g., SMCs should arrange a vice principal to take up a principal’s duties during the incumbent’s temporary absence or where there is a break between the incumbent’s termination of service and the arrival of a new principal.

Education and Manpower Bureau
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