

Amend the Education Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Education (Amendment) Ordinance 1999.

2. Interpretation

Section 3 of the Education Ordinance (Cap. 279) is amended by adding---
"aided school" (資助學校) means any school that receives subsidies from the Government in accordance with the code of aid for primary schools, the code of aid for secondary schools or the code of aid for special schools;

"code of aid for primary schools" (小學資助則例) means the code described as such and issued by the Director, under the terms of which the Government gives subsidies to certain primary schools, as the same may be amended from time to time;

"code of aid for secondary schools" (中學資助則例) means the code described as such and issued by the Director, under the terms of which the Government gives subsidies to certain secondary schools, as the same may be amended from time to time;

"code of aid for special schools" (特殊學校資助則例) means the code described as such and issued by the Director, under the terms of which the Government gives subsidies to certain special schools, practical schools or skills opportunity schools, as the same may be amended from time to time;

"practical school" (實用中學) means a school that provides education for pupils through a practical curriculum and that has been approved by the Director for that purpose;

"skills opportunity school" (技能訓練學校) means a school that provides education for pupils through a skills oriented curriculum and that has been approved by the Director for that purpose;

"special school" (特殊學校) means a school that provides education for pupils through a special education curriculum and that has been approved by the Director for that purpose;"

3. Grounds for refusal to issue permit to teach

Section 51 is amended---

(a) by renumbering it as section 51(1);

(b) by adding---

"(2) Without prejudice to the generality of subsection (1), the Director shall refuse to issue a permit to teach for the employment of a person as a permitted teacher in an aided school if the person is prohibited from being so employed by virtue of section 58A."

4. Grounds for cancellation of permit to teach

Section 52 is amended---

(a) in subsection (1)(a), by repealing "51" and substituting "51(1)";

(b) by adding---

"(3) Without prejudice to the generality of subsection (1) or (2), the Director shall cancel the permit to teach of a permitted teacher who is employed to teach in an aided school if the teacher is prohibited from being so employed by virtue of section 58A."

5. Grounds for refusal to approve principal

Section 54 is amended---

(a) by renumbering it as section 54(1);

(b) by adding---

"(2) Without prejudice to the generality of subsection (1), the Director shall refuse to approve a teacher as the principal of an aided school if the teacher is prohibited from being employed as the principal of the school by virtue of section 58A."

6. Grounds for withdrawal of approval of principal

Section 56 is amended---

(a) by renumbering it as section 56(1);

(b) by adding---

"(2) Without prejudice to the generality of subsection (1), the Director shall withdraw his approval of the principal of an aided school if the principal is prohibited from being employed as the principal of the school by virtue of section 58A."

7. Sections added

The following is added in Part IV---

"Teachers and principals of aided schools

58A. Prohibition against employment of persons

of specified age as teachers or

principals of aided schools

(1) No person shall be employed as a teacher or the principal of an aided school if the person---

(a) would commence such employment after the commencement of this section; and

(b) would be aged 60 years or above at the commencement of such employment.

(2) Except in accordance with a permission under section 58B(2)(a), no person shall be employed as a teacher or the principal of an aided school during a school year or any part thereof if the person has attained the age of 60 years or above before the commencement of the school year.

58B. Application for permission to continue to employ serving teachers or principals of aided schools

(1) The management committee of an aided school may make an application in writing to the Director for permission to continue to employ a teacher of the school as a teacher or the principal of the school as the principal, in either case for a period of not more than one school year, where the teacher or principal---

(a) is otherwise prohibited from being employed as a teacher or the principal of the school by virtue of section 58A(2); and

(b) is serving as a teacher or the principal of the school (as the case may be) immediately before the commencement of the period in which he is to continue to be employed.

(2) As soon as reasonably practicable after the receipt of an application under subsection (1), the Director shall, subject to subsection (3), determine the application by---

(a) issuing to the management committee of the school concerned permission in writing to continue to employ the teacher or principal for the period specified in the application or for such other period (being not more than one school year) as the Director thinks fit; or

(b) refusing to issue such permission.

(3) The maximum aggregate period for which permission may be issued under subsection (2)(a) in respect of the teacher or principal shall be 5 consecutive school years.

58C. Meaning of "school year"

For the purposes of sections 58A and 58B, "school year" (學年) means any period after the commencement of this section that begins on the first day of September in a year and ends on the last day of August in the following year."

8. Director to serve notice of decision on person adversely affected

Section 60 is amended---

(a) in the Table contained in subsection (1)---

(i) in the entry relating to section 51, by repealing "51" and substituting "51(1)";

(ii) in the entry relating to section 54, by repealing "54" and substituting "54(1)";

(iii) in the entry relating to section 56, by repealing "56" and substituting "56(1)";

(iv) by adding---

"Section 58B(2)(b). Supervisor.";

(b) in subsection (2)---

(i) in paragraph (e), by repealing "51" and substituting "51(1)";

(ii) in paragraph (g), by repealing "54" and substituting "54(1)";

(iii) in paragraph (h), by repealing "56" and substituting "56(1)".

9. Permission to operate school or
to act pending appeal

Section 66(1) is amended---

(a) in paragraph (c), by repealing "or";

(b) in paragraph (d), by repealing the full stop and substituting "; or";

(c) by adding---

"(e) by notice in writing to the supervisor of an aided school permit a person in respect of whom permission has been refused under section 58B(2)(b) to continue to be employed as a teacher or the principal of the school."

Consequential Amendments

Education Regulations

10. Business or trading operations

Regulation 99A(4) of the Education Regulations (Cap. 279 sub. leg.) is amended, in the definition of "school in receipt of public funds", by repealing paragraph (a) and substituting---

"(a) any aided school; or".

11. Forms

The Third Schedule is amended---

(a) in Form 10, under the part headed "WARNING", in paragraph (a), by repealing "51" and substituting "51(1)";

(b) in Form 11, under the part headed "WARNING", in paragraph (a), by repealing "51" and substituting "51(1)".

Grant Schools Provident Fund Rules

12. Interpretation

Rule 2 of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) is amended by repealing the definition of "code of aid for secondary schools".

Subsidized Schools Provident Fund Rules

13. Interpretation

Rule 2 of the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg.) is amended---

(a) by repealing the definitions of "code of aid for primary schools", "code of aid for secondary schools", "code of aid for special schools", "practical school", "skills opportunity school" and "special school";

(b) in the definition of "津貼則例", in paragraph (c)---

- (i) by repealing "學校及特別" and substituting "中學及";
- (ii) by repealing "學校或特別" and substituting "中學或".

Explanatory Memorandum

The purpose of this Bill is to amend the Education Ordinance (Cap. 279) (the "principal Ordinance") by---

- (a) adding definitions of the terms "aided school", "code of aid for primary schools", "code of aid for secondary schools", "code of aid for special schools", "practical school", "skills opportunity school" and "special school" (clause 2);
- (b) prohibiting the employment of a person as a teacher or the principal of an aided school if the person would commence such employment after the commencement of the new section 58A(1) and would be aged 60 years or above at the commencement of such employment (new section 58A(1) under clause 7);
- (c) providing that, unless permitted by the Director of Education (the "Director"), no person shall be employed as a teacher or the principal of an aided school during any school year after the commencement of the new section 58A(2) or any part of such school year if the person has attained the age of 60 years or above before the commencement of such school year (new section 58A(2) under clause 7);
- (d) providing that the Director may, upon application by the management committee, permit a serving teacher or principal of an aided school who is otherwise prohibited from being employed by virtue of the new section 58A(2) to continue to be employed for a period of not more than one school year and providing further that the maximum aggregate period for which permission may be given in respect of a serving teacher or principal shall be 5 consecutive school years (new section 58B under clause 7); and
- (e) providing that any decision made by the Director under the new section 58B shall be subject to appeal under Part V of the principal Ordinance (clause 8).