

立法會
Legislative Council

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(These minutes have been seen by
the Administration)

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LegCo Panel on Education

**Minutes of special meeting
held on Tuesday, 25 April 2000 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members Present : Prof Hon NG Ching-fai (Deputy Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon Jasper TSANG Yok-sing, JP
Hon SZETO Wah

Members Absent : Hon YEUNG Yiu-chung (Chairman)
Hon Cyd HO Sau-lan
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Dr Hon YEUNG Sum
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo

Public Officers Attending : Mr Joseph LAI
Deputy Secretary for Education and Manpower

Mr H F LEE
Senior Assistant Director of Education (Support)

Mr Stephen YAN
Senior Education Officer (Private Schools Review)

Mr Frederick YU
Assistant Director of Accounting Services (Provident Funds)

Mr Sunny CHAN

Senior Government Counsel

Clerk in : Mr LAW Wing-lok
Attendance Chief Assistant Secretary (2) 5

Staff in : Miss Anita HO
Attendance Assistant Legal Adviser 2

Mr Stanley MA
Senior Assistant Secretary (2) 6

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Grant Schools Provident Fund (Amendment) Rules 2000 and Subsidized Schools Provident Fund (Amendment) Rules 2000

Legislative Council Brief : File Ref - EMBCR 43/2041/75

The Chairman welcomed representatives of the Administration to the meeting.

2. At the Chairman's invitation, Deputy Secretary for Education and Manpower (DS/EM) briefed members on the salient points of the LegCo Brief on the subject. He explained that the Grant Schools Provident Fund (GSPF) (Amendment) Rules 2000 and the Subsidized Schools Provident Fund (SSPF) (Amendment) Rules 2000, made by the Chief Executive in Council under section 85 of the Education Ordinance, aimed to facilitate teachers of aided schools to remain in the statutory provident fund schemes when they switched employment to Direct Subsidy Scheme (DSS) schools. He drew members' attention to paragraph 8 of the Legislative Council Brief for detailed arrangements.

3. DS/EM stressed that the arrangements for grant school and subsidized school teachers would be different in two ways. First, a grant school teacher could choose to stay in the GSPF without any time limit after his school had joined the DSS. Furthermore, if he subsequently joined another DSS school, he would also have the option to stay in the GSPF. However, if he changed his employment with yet another DSS school, then he must leave the GSPF. By contrast, a subsidized school teacher could remain in the SSPF only for at most five years after his school had joined the DSS. Furthermore, if he subsequently joined another DSS school, he must leave the SSPF. Secondly, a grant school teacher could stay in the GSPF if he left his grant school employment and joined a DSS school for the first time, whereas a subsidized school teacher was not given a similar option if he changed employment to a DSS school.

4. Mrs Selina CHOW expressed reservations about the setting of a maximum period of five years for teachers of subsidized schools joining the DSS to stay in the SSPF. She considered that such restriction was not in line with the Administration's policy of encouraging subsidized schools and their teachers to join the DSS.

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5. In response, DS/EM said that the Administration's original proposal in respect of subsidized school teachers was the same as that for grant school teachers. However, the Board of Control of the SSPF did not support the proposal and held the view that when a subsidized school switched to the DSS, their teachers should be allowed to stay in the SSPF only for a maximum period of five years. In addition, the Board did not agree to the proposal to allow subsidized school teachers joining DSS schools on their own initiative to stay in the SSPF. He added that the effects of the current proposals remained to be seen, since subsidized schools would consider other factors such as flexibility in determining curriculum, school fees and terms of employment for teachers when deciding whether to join the DSS.

6. DS/EM further said that subsidized school teachers could in future work in a DSS school to experience the different teaching environment while remaining in the SSPF for five years. They could choose to switch back to the aided sector whilst preserving their SSPF benefits within the five-year period. He pointed out that DSS schools must, like any other employers, have in place a Mandatory Provident Fund (MPF) scheme or a scheme exempted under the MPF Schemes Ordinance for their teachers.

7. Mr CHEUNG Man-kwong asked whether DSS schools could force ex-aided DSS school teachers to join their own provident fund schemes and discontinue their contributions to the GSPF or SSPF. Senior Assistant Director of Education (SAD(S)) responded that ex-aided DSS school teachers should be provided with the option to remain in the GSPF or SSPF in accordance with the proposals under the two Amendment Rules.

8. Mr CHEUNG Man-kwong pointed out that the current subsidy given to DSS schools was based on the average unit cost of a school place in the aided sector. The subsidy included an element for provident fund contribution by employers, which accounted for about 8% of the total recurrent subsidy. He was concerned that the provident fund element in the recurrent subsidy given to DSS schools would not be sufficient to cover DSS schools' contributions to the two statutory provident funds, particularly in respect of cases where most teachers of a school had long years of service and were entitled to the maximum rate of contribution (at 15% of teachers' salaries) from their employers. He was worried that after switching to the DSS, aided schools might then consider terminating the employment of experienced teachers with long years of service and employing new and less experienced teachers in order to reduce the schools' contributions to the GSPF and SSPF. Mr SZETO Wah shared Mr CHEUNG's views.

9. SAD(S) explained that with effect from the 1999/2000 school year, schools with an operating history of 16 years or above would receive a higher recurrent subsidy. On average, the unit subsidy rate for DSS secondary schools with an operating history of 16 years or above was about 4% to 5% higher than that for schools with an operating history of 15 years or below. The higher recurrent subsidy given to DSS schools with a longer operating history was to take account of the higher maintenance cost and salary expenditure of these schools. He added that in case a deficit was anticipated, a DSS

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school could meet the shortfall in two ways. First, since the recurrent subsidy was provided in the form of a block grant, the school had the flexibility to redeploy various components in the subsidy as it deemed appropriate. Secondly, the school could make use of its revenue generated from other sources such as school fees or donations.

10. DS/EM supplemented that although Government aimed to foster the development of a strong DSS sector, it was not the Government's policy to subsidize DSS schools on a deficiency basis. He pointed out that providing full subsidy to DSS schools' provident fund contributions would have significant implications on other elements in the DSS subsidy; and more fundamentally, it might blur the distinction between DSS schools and aided schools.

11. Mr SZETO Wah pointed out that allowing ex-aided DSS school teachers to opt for the GSPF or SSPF might give rise to disparity in treatment in that other teachers in the same DSS school were provided with a less favourable provident fund scheme. He held the view that to encourage aided schools to switch to the DSS, the Government should provide DSS schools with appropriate level of subsidies to meet the actual expenditure in provident fund contributions.

12. Mr TSANG Yok-shing declared interest as the supervisor of a DSS school. He pointed out that in comparison with aided schools, DSS schools enjoyed greater freedom in determining the curriculum, school fees, entrance requirements and terms of employment for teachers. DSS schools therefore could offer higher salaries to attract experienced aided school teachers to join DSS schools. He considered that there were difficulties for the Government to fully subsidise DSS schools' provident fund contributions, or for DSS schools to run provident fund schemes providing similar benefits as those of the GSPF or SSPF.

13. Mrs Selina CHOW was of the view that DSS schools should be allowed to establish their own provident fund schemes for their teachers. She also expressed reservations on whether the recurrent subsidy given to DSS schools, which included an element for provident fund contributions accounting for 8% of the total recurrent subsidy, would help encourage aided schools to join the DSS.

14. Mr TSANG Yok-shing pointed out that DSS schools would have to compete with aided schools in the employment of qualified teachers and enrollment of students. Existing aided schools would not switch to the DSS if they did not consider that they had sufficient resources to cover contributions to GSPF and SSPF for their teachers. Mr CHEUNG Man-kwong responded that not all aided schools could set a high level of fees upon switching to the DSS mode of operation.

15. DS/EM responded that the main purpose of both the GSPF and the SSPF was to provide old-age protection to aided school teachers upon their retirement. Under the existing legislation, non-aided school teachers including DSS school teachers were not eligible to join either the GSPF or the SSPF; and aided school teachers who ceased to be

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employed by the aided school sector would not be eligible to stay in the schemes. However, the current proposal would allow aided school teachers to remain in the GSPF, or the SSPF for a maximum period of five years, so that they could have the opportunity to experience the different teaching environment in a DSS school.

16. DS/EM re-affirmed the Government's commitment to the development of a strong DSS sector. He said that apart from the current proposal, the Administration had introduced a series of measures to support the growth of the DSS sector in the past year, such as providing capital grants for maintenance of slopes and school premises. He added that Government would, in the light of the operating experience and feedback from the DSS schools, review from time to time the arrangements for ex-aided DSS school teachers to remain in the statutory provident fund schemes upon switching employment to DSS schools to see whether further improvements and new measures should be introduced.

17. Mr SZETO Wah asked whether an aided school teacher who switched his employment with a DSS school at the age of 60 could stay in the GSPF or the SSPF, as the case might be. He pointed out that, if that was the case, the ex-aided DSS school teacher would be able to clock up more years of contributory service than he would have been able to had he stayed in the aided school sector.

18. DS/EM responded that under the existing GSPF Rules and the SSPF Rules, no age or year limit was placed on a serving aided school teacher's eligibility to contribute to GSPF or SSPF. Therefore, no maximum limit on a teacher's years of contributory service was set for the purpose of calculating his provident fund benefits. There was no similar statutory retirement provision in respect of DSS school teachers, and so in theory ex-aided DSS school teachers could stay in the two funds even after attaining the age of 60.

19. In response to Mr CHEUNG Man-kwong's request, DS/EM undertook to provide a written reply to members' concerns by Thursday, 27 April 2000.

20. The Chairman advised members that the deadline for proposing amendments to the two Amendment Rules was 10 May 2000 or 17 May 2000, if extended by resolution. Subject to members' views on the Administration's response, he would report the deliberations of the Panel to the House Committee on 28 April 2000.

[*Post-meeting note* : The Administration's response was circulated to members on 27 April 2000 vide LC Paper No. CB(2)1810/99-00(01). Members raised no further queries on the Administration's response and expressed support for the proposed Amendment Rules.]

21. There being no other business, the meeting ended at 3:20 pm.

Legislative Council Secretariat

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15 June 2000