



教育統籌局

Education Department

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8 April 2003

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LegCo Building
8 Jackson Road
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(Fax No.: 2877 5029)

Dear Mr Kau

Education (Miscellaneous Amendments) Bill 2003

Our response to your observations is attached.

Yours sincerely

(Mrs S M YU)

for Secretary for Education and Manpower

c.c. D of J (Attn.: Ms Carmen Chu, SGC)
LA

教育統籌局與教育署已於二零零三年一月一日合併為新的教育統籌局。為免浪費，我們繼續使用舊文具存貨。

We are the new Education and Manpower Bureau formed by the merger of the old Bureau and the Education Department. To minimize waste, we are using our old stationery while stock lasts.

Education (Miscellaneous Amendments) Bill 2003

Response

Clause 4 - section 22(1) & (3)

The main purpose for repealing s.10(2) is to remove duplication of work for both school operators and the Administration in registering "day" and "evening" instructions as two separate schools. Repealing the above section will help to reduce EMB's workload and speed up the processing of **new** applications for school registration.

Upon the repeal, we shall still allow existing schools having separate registration for their "day" and "evening" sessions to remain separately registered as two schools as their "day" and "evening" sessions may not be managed by the same managers. To cater for those who choose to cancel the "evening" registration pursuant to s.10(2), we need to impose a provision (i.e. the proposed s.22(1)(ca)) for the purpose. As s.10(2) only requires separate registration for the evening instruction of a school instead of its day instruction, there is a need to provide grounds for cancellation its evening session upon its repeal as given in the proposed s.22(1)(ca). As such, s.22(3) is required.

Please also note that if a school is registered, renewal of registration is not required.

Clause 5 – proposed s.59(3)

It is agreed that the power to hear appeals is vested in one or more Appeal Boards under s.62(1). We think it is appropriate to amend s.59(3) to read that the Appeal Boards Panel may regulate its own procedure **and the procedure for appeals** and make standing orders for the purposes.

Clauses 6, 11, 17 and 19 – appeal to Appeal Boards Panel

As appeals will be heard by one or more Appeal Boards to be appointed and constituted after lodging of the appeals, it is logical to refer to “appeal to Appeal Boards Panel” in s.61(1) and other provisions in Cap. 279 and 279A. You may wish to note that s.20 of the Housing Ordinance (Cap. 283) also provides that appeals may be made to the panel.

Clause 7 – proposed s. 62(1B)

The power of the secretary of the Panel to appoint substitute is consistent with section 50 of Cap. 1. In any event, subsection (1B) is subject to subsection (5) of s.62 which provides that the appeal hearing may be continued with consent of both parties. Please refer to s. 8 of the Administrative Appeals Board Ordinance, Cap. 442 for similar circumstance.

Clause 14(1)(a)

The chairman of the existing Appeals Board should be included.

Education and Manpower Bureau
April 2003

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Section of Enactment



Chapter:	442	Title:	ADMINISTRATIVE APPEALS BOARD ORDINANCE	Gazette Number:	59 of 1999
Section:	8	Heading:	Provision where Chairman, Deputy Chairman or member absent	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 59 of 1999 s. 3

(1) If, for any period, the Chairman is precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Chief Executive may appoint any Deputy Chairman to act as Chairman and as such to exercise and perform all the functions of the Chairman during that period. (Amended 59 of 1999 s. 3)

(2) If, for any period, a Deputy Chairman presiding at an appeal or a person appointed by the Secretary under section 5(3)(b) to hear an appeal is precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Secretary may appoint any Deputy Chairman or, as the case may be, any other person from the panel referred to in section 6(2) to act in his place and in so acting, to exercise and perform all the functions of the Deputy Chairman so presiding or of that person, during that period.

(3) The hearing of an appeal may, with the consent of the appellant and of the respondent, continue notwithstanding a change in the membership of the Board.

(4) If the term of appointment of the Chairman or a Deputy Chairman presiding at an appeal or of any person appointed by the Secretary under section 5(3)(b) expires during the hearing of any appeal, the Chairman or such Deputy Chairman or such person may continue to hear the appeal until the appeal is determined.

(Enacted 1994)

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