

立法會
Legislative Council

LC Paper No. LS87/02-03

**Paper for the House Committee Meeting
on 11 April 2003**

**Legal Service Division Report on
Education (Miscellaneous Amendments) Bill 2003**

I. SUMMARY

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| 1. Objects of the Bill | To make miscellaneous amendments to the Education Ordinance, the Education Regulations and the Post Secondary Colleges Ordinance. |
| 2. Comments | <p>(a) With effect from 1 September 2003, a Permitted Teacher could no longer become a Registered Teacher through accumulation of approved teaching experience. Simultaneously, the qualification requirements of permitted teachers would be revised. There would not be any transitional arrangement.</p> <p>(b) The other amendments may be regarded as mainly technical amendments.</p> |
| 3. Public Consultation | There has not been public consultation on the proposed amendments. |
| 4. Consultation with LegCo Panel | The Panel on Education has been briefed of the legislative proposals on 17 February 2003. |
| 5. Conclusion | Apart from a few drafting points, no difficulties are observed in the legal and drafting aspects of the Bill. However, the proposals to revise the qualification requirements of teachers without transitional period may constitute a significant change of policy. Members may wish to form a Bills Committee to study in detail the policy implications. |

II. REPORT

Objects of the Bill

To amend the Education Ordinance (Cap. 279) (EO), the Education Regulations (Cap. 279 sub. leg. A) (ER), and the Post Secondary Colleges Ordinance (Cap. 320) (PSCO) —

- (a) to permit schools and post secondary colleges to conduct courses on general holidays;
 - (b) to abolish the requirement for registration as a separate school for institutions that also provide evening instructions;
 - (c) to enable the Chief Executive to make regulations for continuing education and training for teachers and to make different provisions for different types of schools or teachers;
 - (d) to empower the Permanent Secretary for Education and Manpower to waive the requirements of any regulations made under section 84 of EO;
 - (e) to revise the qualification requirements of registered and permitted teachers;
 - (f) to establish an Appeal Boards Panel and provide for the composition, appointment and terms of office of its members;
 - (g) to revise the composition of an Appeal Board; and
- to provide for incidental and related matters.

LegCo Brief Reference

2. EMB(SCR)22/58/03 Pt.5 issued by the Education and Manpower Bureau and dated 26 March 2003.

Date of First Reading

3. 9 April 2003.

Comments

Revising the Qualification Requirements of Registered and Permitted Teachers (clauses 15,16, 18 & 20)

4. Under the existing provisions, a person with an approved degree from HKU or CUHK can become a registered teacher if he or she has 3 years approved

teaching experience (paragraph (3) of Part 1 of the Second Schedule to ER). A person with 10 years approved teaching experience and an appropriate Hong Kong Certificate of Education could also become a registered teacher (paragraph (9) of Part 1 of the Second Schedule to ER). Both provisions will be repealed on 1 September 2003.

5. From 1 September 2003 onwards, a permitted teacher teaching in a school that provides any educational course other than nursery, kindergarten, primary, secondary or post secondary education would need to have an aggregate of 5 separate subjects at Grade E or above obtained in one or two Hong Kong Certificates of Education Examination including English language (Syllabus B) or Chinese Language (proposed new Regulation 69A and Part IIA of the Second Schedule to ER).

6. The qualifications for a permitted teacher of English specified in Part III of the Second Schedule to ER are also revised. A Grade E or above in English Language (Syllabus B) in the Hong Kong Certificate of Education Examination would be required from 1 September 2003.

7. Permitted teachers of kindergarten and nurseries now only need to have full-time secondary education of approved duration. From 1 September 2003 onwards, they would need an aggregate of 5 separate subjects at Grade E or above obtained in one or two Hong Kong Certificates of Education Examination, including English Language (Syllabus A or B) and Chinese Language, to qualify (proposed new paragraph (2) of Part IV of the Second Schedule to ER).

8. There would not be any transitional period for the changes to be effected by the amendments described in paragraphs 4 to 7 above, although the amendments would not affect applications made before their commencement. Permitted teachers who leave their current employment after 1 September 2003 would not be eligible to be employed as teachers unless they satisfy the new qualification requirements.

Appeal Boards Panel (clauses 5, 6, 8, 9, 10, 11, 14 & 17)

9. The proposed new section 59 would establish an Appeal Boards Panel (ABP). It would comprise of a chairman, one or more deputy chairmen, a secretary of the ABP and a number of members. All would be appointed by the Chief Executive by notice published in the Gazette. A member would hold office for such period as specified in the notice of his appointment. The ABP would have power to regulate its own procedure and make standing orders for that purpose. Appeal Boards would be appointed from members of the ABP. An Appeal Board may be assisted in its conduct of an appeal by a person qualified to practise as a legal practitioner in Hong Kong and appointed by the Secretary for Justice.

10. All pending proceedings before the existing Appeals Board would continue and be disposed of as if the proposed amendments were not enacted. After the commencement date, members of the existing Appeals Board would be deemed to be members of the ABP.

Conducting courses on general holidays (clauses 13 & 21)

11. A proposed new section 85A would be added to EO to allow a

registered school or provisionally registered school to conduct educational courses or give instructions on a general holiday. Similarly, a proposed new section 13 would be added to PSCO to the same effect for a post secondary college.

Empowerment (clause 12)

12. The Chief Executive would be empowered to make regulations in respect of continuing education and training of registered teachers and permitted teachers and to make different provisions for different types of schools or teachers. The Permanent Secretary of Education and Manpower would be empowered to waive by notice in writing any requirement of any regulations made under section 84 of EO on such condition as he thinks fit.

Repeal of section 10(2) of EO (clauses 3 & 4)

13. Section 10(2) of EO deems a school that provides evening instructions in addition to other education to be a separate school and requires such separate school to be registered or provisionally registered. This provision would be repealed.

14. Section 22 of EO would be amended by adding a paragraph (ca) to subsection (1) and a subsection (3) to allow a school supervisor to apply for cancellation of the registration or provisional registration made pursuant to section 10(2).

Commencement (clause 2)

15. Clauses 12, 15, 16, 18 and 20 of the Bill would commence on 1 September 2003. All other provisions would come into operation on a date to be appointed by the Secretary for Education and Manpower by notice published in the Gazette.

Public Consultation

16. There has not been any public consultation on the amendments proposed in the Bill. The proposals to revise the qualification requirements of teachers were recommended by the Advisory Committee on Teacher Education and Qualification (ACTEQ). According to the Administration, the recommendations were made by ACTEQ following consultation in the education sector, including kindergarten and private school operators.

Consultation with LegCo Panel

17. The Panel on Education was briefed on the Bill at its meeting on 17 February 2003. Some Panel members had expressed the following concerns —

- a) a serving permitted teacher, who needed to apply for a new permit to teach upon a change of school, subjects or levels of subjects taught, would lose his job, if he failed to meet the new qualification requirements;

- b) no transitional arrangement was provided for abolishing the existing arrangements whereby serving teachers could become registered teachers by accumulating approved teaching experience without going through formal teacher training; and
- c) the proposed qualification requirements for permitted teachers teaching in tutorial, commercial, computer and language schools i.e. a pass in not less than five separate subjects taken in not more than two sittings in the Hong Kong Certificates of Education Examination were too low.

Conclusion

18. The Legal Service Division has sought clarification from the Administration on a number of drafting points and is studying its reply. No difficulties have been observed regarding the legal aspects of the Bill. However, the proposals to revise the qualification requirements of teachers without any transitional arrangement may constitute a significant change of policy. Members may wish to form a Bills Committee to study in detail the policy implications.

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7 April 2003