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**Paper for the House Committee meeting
on 19 December 2003**

**Report of the Bills Committee on
Education (Miscellaneous Amendments) Bill 2003**

Purpose

This paper reports on the deliberations of the Bills Committee on Education (Miscellaneous Amendments) Bill 2003.

Background

2. The Administration considers that changing social environment and new developments under the education reform have rendered some of the provisions in the Education Ordinance (Cap. 279), Education Regulations (Cap. 279, sub. leg. A) and the Post Secondary Colleges Ordinance (Cap. 320) inadequate or outdated. The Administration therefore proposes amendments as set out in paragraph 3 below.

The Bill

3. The Bill seeks, amongst others, to -
- (a) revise the qualifications for registered teachers (RTs) by -
 - (i) recognising degrees conferred by 10 specified institutions and other approved post secondary colleges;
 - (ii) repealing the provisions for permitted teachers (PTs) to attain RT status by accumulation of approved teaching experience;
 - (b) raise the qualifications for PTs teaching in schools providing primary, secondary and post secondary education;

- (c) raise the qualifications for PTs teaching pupils undergoing nursery and kindergarten education;
- (d) prescribe the qualifications for PTs teaching other educational courses;
- (e) abolish the requirement for separate registration of schools providing both day and evening instruction; and
- (f) allow schools and post secondary colleges to conduct courses and give instructions on general holidays.

The Bills Committee

4. At the House Committee meeting on 11 April 2003, Members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

5. Under the chairmanship of Hon Cyd HO, the Bills Committee has held four meetings with the Administration. It has also met with representatives of the Hong Kong Professional Teachers' Union, Hong Kong Federation of Private Educators and Hong Kong Aided Primary School Heads Association.

Deliberations of the Bills Committee

Raising the professional standards of teachers

6. On the advice of the Advisory Committee on Teacher Education and Qualifications, the Administration proposes that, to qualify for a RT status, a person must possess an approved teacher education qualification. The existing arrangements, whereby serving teachers can become RTs by accumulating years of services without going through proper teacher training, will be abolished.

7. The Administration also proposes to raise the minimum qualification for PTs serving in schools offering primary, secondary and post secondary education to post secondary level. The new requirement will apply to new PTs joining the teaching profession and serving PTs who seek to have a new permit to teach upon change of school, subjects or levels of subject taught on or after the commencement date of the Amendments Ordinance.

8. The minimum qualifications for PTs serving in kindergartens would also be raised to five passes in the Hong Kong Certificate of Education Examination,

including both English and Chinese, as recommended in the 2000 Policy Address.

Transitional period

9. While all members support raising the professional standards of teachers, they are of the view that serving PTs have reasonable expectations that they could become RTs under the existing arrangements by accumulating years of service without going through proper teacher training. Members consider that if the existing arrangements are to be abolished, a transitional period should be allowed, subject to requirements of taking approved education training programmes as the Permanent Secretary for Education and Manpower (PSEM) may specify. Members have requested the Administration to specify a deadline for serving PTs to pursue an approved teacher education programme if a transitional period is provided for, and to grant them priority in the allocation of places of approved teacher education programmes.

10. The Administration explains that under current legislation, a degree-holding PT can acquire RT status with three years of recognised teaching experience whereas a non-degree-holding PT can achieve this with 10 years' experience. In the past five years, on average only 20 PTs a year have acquired their RT status through merely accumulating the years of approved teaching experience. Serving PTs who do not change schools can maintain their status quo and will not be affected by the enactment of the Bill. However, they will need to acquire higher qualifications in renewing their teaching permits upon change of school. For the benefit of students and in the wider interest of raising the professional level of the teaching force, the Administration considers it necessary to introduce the proposed changes to give impetus to teachers in raising their basic training and qualifications.

11. Taking into consideration the time required for enrolment and completion of an approved teacher education programme, the Administration will allow a period of five years from the commencement date of the Amendments Ordinance for PTs to acquire the necessary qualifications. If a PT who has enrolled in an approved programme is obliged to change schools or subjects taught, PSEM may grant special permission to the teacher concerned to maintain his/her PT status until he/she has acquired the necessary qualifications to become a RT.

12. Members consider it necessary to specify a transitional period in the Bill for serving PTs who would acquire the requisite teaching experience at the end of the 2003-04 school year to apply for registration as RTs under the existing arrangements. In response to members' view, the Administration has proposed to amend clause 20(2) to provide that a person who possesses the prescribed qualification for registration as a teacher immediately before the commencement date may apply for registration within two months from the

commencement date. The application is to be disposed of as if the Amendments Ordinance had not been enacted.

13. The Administration will also add a new clause 20A to set out the transitional provisions regarding the qualifications of PTs. The new clause provides that PSEM may issue a permit under section 50 of the Ordinance in respect of a person who was serving as a PT in a school immediately before the commencement date, even though the person does not possess the prescribed qualifications for a PT on or after the commencement date. The new provision applies where an application to employ the person as a PT in a school is made under section 49 of the Education Ordinance within five years from the commencement date, and at the time of making the application, the person has been enrolled in or is attending a training course approved by PSEM for the purpose.

Provision of teacher training courses for serving PTs

14. Upon the commencement of the Amendments Ordinance, untrained serving teachers will have to acquire a recognised teacher training qualification before they can be granted RT status. Degree holders can do so by completing a Postgraduate Certificate/ Diploma in Education (PGC/DE) programme while non-degree holders can complete either a Bachelor of Education programme or an In-service Course of Training for Teachers (ICTT). The Administration will issue circulars/ letters to teachers announcing the training requirements and providing details of the relevant courses.

15. Hon CHEUNG Man-kwong feels strongly that the Administration has an obligation to ensure that there will be sufficient training places for serving PTs in primary and secondary schools who wish to complete an approved teacher training programme within the proposed five-year grace period. He has requested the Administration to liaise with the Hong Kong Institute of Education (HKIEd) to continue offering ICTT for serving PTs in primary schools who have five passes in the Hong Kong Certificate of Education Examination. Mr CHEUNG has also suggested that the Education and Manpower Bureau (EMB) should encourage serving PTs to enrol in an appropriate education programme as soon as possible.

16. The Administration has assured members that the supply of places in in-service Postgraduate Diploma in Education (PGDE) or Postgraduate Certificate in Education (PCEd) course is sufficient to meet the demand of serving PTs holding a degree to pursue an approved teacher education programme. The Administration has taken into account the anticipated increase in demand arising from the enactment of the Bill when planning for in-service PGC/DE provisions for the University Grants Committee (UGC) 2004-05 roll-over year and the 2005-08 triennium. Degree-holding teachers may also opt to enrol in non-UGC-funded PGC/DE courses such as those

offered by the Open University of Hong Kong to acquire the necessary teacher training qualifications.

17. As regards serving PTs without a degree, HKIEd has indicated its interest in continuing with the provision of ICTT from the 2004-05 school year. About 200 places per annum would be provided, which could be adjusted to meet the actual market demand.

18. As to according priority to serving PTs, EMB will liaise closely with various teacher education institutions to encourage them to give priority to the serving PTs.

Supportive measures

19. The Administration will write to the heads of schools requesting them to encourage and facilitate untrained teachers to attend in-service PGC/DE or ICTT. It will continue to liaise with HKIEd to offer ICTT in a more flexible mode, such as arranging some classes to be held on Saturdays and public holidays. During the five-year grace period, non-degree holding teachers who have enrolled themselves on an ICTT can retain their PT status even if they do not possess the minimum higher diploma/ associate degree qualifications as required upon enactment of the Bill.

Level of fees

20. Members note that the fees for a UGC-funded in-service PGDE or PCEd course are about \$42,000. The fees for a non-funded PGDE courses are about \$52,000. The fees for a self-financed ICTT course are estimated to be from \$50,000 to \$60,000.

21. Members have requested the Administration to maintain the fees for ICTT to be offered by HKIEd in 2004-05 at the current level. The Administration has undertaken to hold discussions with HKIEd regarding the matter and provide a written response as soon as practicable.

Qualification requirements of PTs serving in educational institutions other than full day schools

22. Members have requested the Administration to consider applying the proposed higher qualification requirements of post secondary level to PTs teaching secondary school courses in educational institutions other than full day schools, such as matriculation classes in tutorial schools.

23. The Administration has pointed out that ever since January 1998, the qualification of PTs for Secondary 4 to 5 levels, including those serving in tutorial centres, has been set at the minimum of an Approved Post Secondary

College (APSC) diploma or equivalent. A teacher who does not possess such qualifications will be allowed to teach up to Secondary 3 only.

Registration of day and evening schools

24. Section 10(2) of the Education Ordinance requires a school which also provides evening instruction to be registered as a separate school. As the separate registration procedure for day and evening schools is not cost-effective, the Administration proposes to repeal this section in order to remove duplication of work, to speed up the processing of applications and to create a more business friendly environment.

25. Members have requested the Administration to explain the application of the proposal to different modes of school operation, e.g. a Direct Subsidy Scheme (DSS) school running a self-financing evening school and an evening school operated in an aided school premises by a different school sponsoring body.

26. The Administration explains that upon repealing section 10(2), private schools with both day and evening sessions need not be separately registered. However, the Administration would still require any private evening session of a school which receives subsidy from the Government (e.g. an aided school or a DSS school) to be registered as a separate school in view of the following reasons -

- (a) the subsidized "day" and private "evening" sessions operating in the same school premises may be managed by different school management committees (SMC) and section 32 of the Education Ordinance provides that "every school shall be managed by its management committee";
- (b) under the letter of assurance / service agreement issued by the Administration and accepted by an aided or DSS school upon school allocation, one of the conditions is that "each school shall be operated as an aided / DSS co-educational secondary/primary school to be run in one daily session". In view of this limitation, even if the subsidized "day" and "evening" sessions are managed by the same managers, the "evening" session has to be registered as another school; and
- (c) the private "evening" session is to be offered in a different financing mode from the subsidized "day" session.

In view of the above circumstances, the Administration has agreed that section 10(2) should not be repealed but should be amended to reflect the policy intention.

Appeal Boards Panel

27. Section 59 of the Education Ordinance provides for an Appeals Board to hear and determine appeals arising from a decision of PSEM on registration of schools, managers, supervisors, principals and teachers, and applications for extension of service of principals and teachers in aided schools. At present, there is only one Board hearing all the appeals.

28. The Administration proposes a more flexible system. A number of members will be appointed to an Appeal Boards Panel. In addition to the Chairman, one or more than one Deputy Chairman could be appointed. An Appeal Board consisting of five members, including the Chairman or a Deputy Chairman, and four other members of the Appeal Boards Panel, will be formed to determine an appeal case. Under the proposed arrangement, more than one Appeal Board can be constituted and operate concurrently to handle different appeal cases.

29. Members have pointed out that the existing section 59 provides that an Appeals Board shall not hear or determine any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher unless at least three of the members comprising the quorum are RTs. Members have asked the Administration to explain why similar provisions are not included in the new section 59.

30. To address the concerns of members, the Administration has proposed to add a subsection to section 62. The new subsection (1AA) provides that where an Appeal Board hears or determines any appeal concerning the registration or the cancellation of the registration of teachers, at least three of its members must be RTs.

Selection of Board members

31. Members consider it essential that the Administration should ensure fair and transparent hearing of appeals by the Appeal Boards. Members have requested the Administration to consider adopting a queuing system for members of the Appeal Boards Panel to serve the Appeal Boards in turn in order to reduce unnecessary speculation about the composition of a particular Appeal Board. The Administration has confirmed that a queuing system is feasible and there will be no serious practical difficulty for the Appeal Boards Secretariat to adopt such a system upon the commencement of the new provisions.

Operation of the Appeal Boards Panel

32. Members have asked the Administration to explain the rules and procedures to be adopted to deal with practical issues such as a change in the membership of an Appeal Board during the course of a hearing.

33. The Administration has pointed out that the proposed section 59(3) provides that the Appeal Boards Panel may regulate its own procedure and make standing orders for that purpose. As the rules and procedures currently adopted in the Appeals Board have been well tested, the Administration recommends that the same procedures be adopted in the proposed panel system. As regards the proposed section 62(1B) on the appointment of another member of the Appeal Boards Panel in case a member of an Appeal Board cannot exercise his functions for some reasons, the legislative intention is to ensure smooth and efficient conduct of Board hearings. Should either the appellant or the respondent raise his disagreement to the appointment of the replacement board member, another mutually agreed date will be fixed to allow the return of the absent board member.

Appointment of a legally qualified person to assist an Appeal Board

34. Members have asked for details of the proposal to allow the Secretary for Justice to appoint any legally qualified person to assist an Appeal Board. The Administration explains that section 59(7) as currently worded requires the Appeals Board be represented by a legal officer. The Administration considers it better for PSEM, a party to the appeal hearing, to be represented by a legal officer and for the Appeal Board to be represented by counsel or solicitors from the private sector, to avoid any possible conflict of interest. The proposed amendment will help the Secretary for Justice to expand the pool of suitable persons to assist the Appeal Boards in giving advice on each case.

Conducting courses on general holidays

35. Section 2 of the General Holidays Ordinance (Cap. 149) provides that "general holiday" means a day which shall be kept as a holiday by all banks, educational establishments, public offices and Government departments. Educational establishments, including schools and post secondary colleges are required to comply with the provisions of the said Ordinance. The Administration proposes to amend the Education Ordinance and the Post Secondary Colleges Ordinance to permit schools and post secondary colleges to conduct courses on general holiday, including Sundays. The proposal is in line with the Government's policy to encourage life-long learning and addresses the concern of private school operators.

36. Members agree that the proposed amendment will provide more flexibility to schools to accommodate the different needs of working adults and

implement a more diversified curriculum in primary and secondary schools to suit individual modus operandi and interests.

Commencement dates

37. Clause 1(2) of the Bill provides that sections 12, 15, 16, 18 and 20 shall come into operation on 1 September 2004 while clause 1(3) provides that the other sections shall come into operation on a day to be appointed by the Secretary for Education and Manpower (SEM) by notice published in the Gazette. In the light of members' comments, the Administration has proposed to delete the two subclauses and introduce a new subclause to provide that the Amendments Ordinance shall come into effect on a day to be appointed by SEM by notice in the Gazette.

38. Members note that with the above amendment, the commencement dates for different sections of the Amendments Ordinance would be published by notices in the Gazette and they would be subject to negative vetting by the Legislative Council. In response to members' request, the Administration has undertaken -

- (a) that the new section 85A of the Education Ordinance, which allows a registered school or a provisionally registered school to conduct courses on Sundays and general holidays, and the new section 13 of the Post Secondary Colleges Ordinance, which allows the same for post secondary institutions, will be commenced as soon as practicable; and
- (b) that the new requirements for registration of RTs will not be commenced before 1 October 2004.

Committee Stage amendments (CSAs)

39. The CSAs to be moved by the Administration are in **Appendix II**. The Bills Committee supports the proposed CSAs.

Recommendation

40. The Bills Committee supports the Bill and recommends that the Second Reading debate on the Bill be resumed at the Council meeting on 14 January 2004.

Advice Sought

41. Members are invited to note the recommendation of the Bills Committee in paragraph 40 above.

Council Business Division 2
Legislative Council Secretariat
18 December 2003

**Bills Committee on
Education (Miscellaneous Amendments) Bill 2003**

Membership List

Chairman	Hon Cyd HO Sau-lan
Members	Hon CHEUNG Man-kwong Dr Hon YEUNG Sum Hon YEUNG Yiu-chung, BBS Hon Emily LAU Wai-hing, JP Hon Tommy CHEUNG Yu-yan, JP Hon Audrey EU Yuet-mee, SC, JP (Total : 7 Members)
Clerk	Ms Doris CHAN
Legal Adviser	Mr KAU Kin-wah
Date	31 October 2003

Appendix II

YHCHU/DMA#100461v7
1ST Working Draft: 27.10.03
2nd Working Draft: 14.11.03
2nd (revised) Working Draft: 17.11.03
1st Draft: 18.11.03
2nd Draft: 21.11.03
2nd(revised)draft:22.11.03
3rd Draft: 24.11.03
3rd (revised) draft: 28.11.03

EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary for Education and Manpower

Clause

Amendment Proposed

- 1 By deleting subclauses (2) and (3) and substituting -
"(2)This Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette."
- 2 (a) By deleting "." at the end.
(b) By adding -
"DSS school" (直資學校) means a school which has joined the Direct Subsidy Scheme administered by the Permanent Secretary under which the school receives subsidy directly from the Government on such terms and conditions as specified by the Government from time to time;".

3 By deleting "repealed" and substituting "amended by
repealing "a school" and substituting "an aided school
or a DSS school".

4 (a) In paragraph (a), by deleting the proposed section
22(1)(ca) and substituting -

"(ca) upon the written application of the
supervisor, if the registration or
provisional registration of the
school, not being an aided school or a
DSS school, was effected -

(i) before the commencement of
section 3 of the Education
(Miscellaneous Amendments)
Ordinance 2003 (of
2003); and

(ii) under section 10(2) in
respect of evening
instruction;".

(b) By deleting paragraph (b).

5 In the proposed section 59(3), by deleting everything
after "procedure" and substituting "and the procedure
for appeals and make standing orders for those
purposes."

6 By deleting the clause and substituting -

"6. Right of appeal to Appeal Board

Section 61(1) is amended -

(a) by repealing "the Appeals" where it first appears and substituting "an Appeal";

(b) by repealing "Appeals Board" where it secondly appears and substituting "Appeal Boards Panel".

7 (a) In paragraph (a)(ii), in the proposed section 62(1)(aa), by deleting "subsection (1A) to hear the appeal" and substituting "subsections (1A) and (1AA) to hear and determine the appeal".

(b) In paragraph (b), by adding after the proposed section 62(1A) -

"(1AA) Where an Appeal Board hears or determines any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher, at least 3 of its members must be registered teachers."

11 (a) By deleting paragraph (a) and substituting -
"(a) in paragraph (a)(i) and (ii), by repealing "the Appeals" and substituting "an Appeal";".

(b) By deleting paragraph (b) and substituting -

"(b) in paragraph (b), by repealing "the Appeals" wherever it appears and substituting "an Appeal".".

14

(a) In subclause (1) -

(i) in paragraph (a), by deleting everything after "Panel" and substituting "for a period equal to the term of his office that would have remained had this Ordinance not been enacted, or until he ceases to be so for any reason before expiry of the period;" ;

(ii) by deleting paragraph (b) and substituting -

"(b) the person who was the Chairman of the former Appeals Board immediately before the commencement date is deemed to be the Chairman of the Appeal Boards Panel for a period equal to the term of his office that would have remained had this Ordinance not been enacted, or until he ceases to be so for any reason before expiry of the period;

(c) an Appeal Board which consists of members and the Chairman referred to in

paragraphs (a) and (b) or includes the Chairman or any such member is deemed to be a properly constituted Appeal Board for the purposes of the Amended Ordinance."

(b) In subclause (3) -

(i) by deleting "經修訂" and substituting "本";

(ii) by deleting everything after "member" and substituting "or the Chairman of the former Appeals Board serving for the period as provided in subsection (1)(a) or (b), as the case may be."

(c) In subclause (5), in the definition of

"commencement date", by deleting "under section 1(3)" and substituting "for the commencement of section 5 of this Ordinance under section 1(2)".

17 By deleting everything after "repealing" and substituting "the Appeals" and substituting "an Appeal".

18 In paragraph (a)(i), by adding "of" before "either".

19 By deleting "APPEAL BOARDS PANEL" and substituting "APPEAL BOARD".

20

(a) In subclause (1), by deleting "1 September 2003" and substituting "the commencement date".

(b) By deleting subclause (2) and substituting -

"(2) A person who possesses the prescribed qualifications for registration as a teacher immediately before the commencement date may apply for registration within 2 months from the commencement date and the application is to be disposed of as if this Ordinance had not been enacted.

(3) This section is in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

(4) In this section and section 20A, "commencement date" (生效日期) means the date appointed by the Secretary for Education and Manpower for the commencement of section 18 of this Ordinance under section 1(2) of this Ordinance."

New

By adding immediately after clause 20 -

**"20A. Transitional provisions
regarding qualifications of
permitted teachers**

(1) Notwithstanding section 51(1)(c) of the Education Ordinance (Cap. 279), the Permanent Secretary may issue a permit under section 50 of that Ordinance in respect of a person who was serving as a permitted teacher in a school

immediately before the commencement date even though the person does not possess the prescribed qualifications for a permitted teacher on or after the commencement date.

(2) Subsection (1) applies where -

- (a) an application to employ the person as a permitted teacher in a school is made under section 49 of the Education Ordinance (Cap. 279) within 5 years from the commencement date; and
- (b) at the time of making the application the person has been enrolled in or is attending a training course approved by the Permanent Secretary for the purpose."