

LEGISLATIVE COUNCIL BRIEF

Child Care Services Ordinance
(Chapter 243)

AMENDMENT OF THE CHILD CARE SERVICES ORDINANCE TO IMPLEMENT THE HARMONIZATION OF PRE-PRIMARY SERVICES

INTRODUCTION

A At the meeting of the Executive Council on 22 March 2005, the Council advised and the Acting Chief Executive ordered that the Child Care Services (Amendment) Bill 2005 (at **Annex A**) (the Bill) should be introduced into the Legislative Council (LegCo) to implement a scheme of measures to harmonize the pre-primary services for children aged zero to six starting from the 2005/06 school year.

JUSTIFICATIONS

Aim and Guiding Principles

2. The issue of harmonization of pre-primary services has been a key concern of the pre-primary services sector. The aim is to ensure that pre-primary institutions offer appropriate programmes to cater for the different needs of children at different developmental stages, irrespective of the mode of operation or the regulatory body. The proposed harmonization is underpinned by the following guiding principles -

- (a) the developmental and educational needs of children should always be of paramount consideration;
- (b) the diversity and scope of existing services should not be reduced;
- (c) the opportunity should be taken to enhance the quality of services; and

- (d) the effectiveness of regulatory work should be further improved.

A number of key legislative amendments regarding the implementation of the harmonization measures are set out in the following paragraphs.

Key Legislative Amendments

(a) Governance of pre-primary services

3. At present, kindergartens (KGs)⁽¹⁾ registered under the Education Ordinance (Cap. 279) (EO) admit children aged three to six. Child care centres (CCCs)⁽²⁾, comprising day nurseries (DNs) which admit children aged two to six and day crèches (DCs) for infants and toddlers aged below two, are registered under the Child Care Services Ordinance (Cap.243) (CCSO). As DNs and KGs provide similar services to a similar target group, it is desirable that they should be subject to similar requirements, be registered under the same ordinance and monitored by one single authority. Having regard to children's developmental and learning needs, it is recommended that the admission age for KG education should remain at the age of three. Upon harmonization, the pre-primary services for children aged zero to three and three to six will be regulated through CCSO and EO and monitored by the Social Welfare Department (SWD) and the Education and Manpower Bureau (EMB) respectively. If KGs and CCCs operate in the same premises, they will be dually registered under EO and CCSO and monitored by a joint office (see paragraphs 8 and 9 below for details). As the present CCSO governs pre-primary services for children aged under the age of six, we **propose** to amend CCSO so that it only regulates pre-primary services for children under the age of three.

4. There are also special institutions that provide care and supervision to children with physical or mental disability aged below six or residential care to children aged below six (i.e. special child care centres and residential child care centres). These institutions are more focused on the provision of rehabilitative and child care services and are more suitable to be regulated under CCSO. Therefore, we **propose** to amend

Notes (1) For the purpose of the harmonization of pre-primary services exercise, a kindergarten refers to an institution that provide nursery education and kindergarten education at the same time, covering child of the age from three to six years.

(2) Section 2 of CCSO defines CCC as "... any premises at which more than five children who are **under the age of six** are habitually received for the purposes of care and supervision during part of the day or for longer periods".

the definition of CCC in CCSO to ensure that the aforementioned special institutions will continue to be governed by CCSO and supervised by SWD.

(b) Qualifications of qualified kindergarten teachers and child care workers

5. With harmonized basic training programme introduced in 1997, graduates of courses developed according to the basic training programme have been mutually recognized by EMB and SWD so that graduates may qualify as either qualified kindergarten teachers (QKTs) or child care workers (CCWs) to work in either KGs or CCCs. The staff qualification requirement for CCCs and KGs were also harmonized in 2003 that all newly appointed CCWs and kindergarten teachers are required to possess pre-service training. While these harmonization measures on staff training and qualification are already in place, there are still some 2 800 CCWs and 1 000 QKTs registered before 1997 who cannot work in both sectors interchangeably. Having considered the extensive experience of these serving and trained CCWs and QKTs and to ensure their livelihood upon implementation of the harmonization measures, we **propose** their qualifications be mutually recognized by both SWD and EMB without further qualification assessment or the requirement of attending conversion courses. We also **propose** that -

- (a) the employment of existing service coordinators of CCCs subvented by SWD be continued until their retirement/resignation; and
- (b) the minimum standard requirement for KG-cum-CCC is one supervisor who can either be a registered child care supervisor or a kindergarten principal.

6. For those who desire to become early childhood educators as CCWs and QKTs, they are required to possess pre-service training starting from the 2003/04 school year. Therefore, the trainee child care workers (TCCWs) which are currently provided under CCSO will become obsolete. There are 106 TCCWs as at December 2004. In order to facilitate these TCCWs to acquire the necessary qualifications, adequate free in-service basic child care training courses and part-time training courses recognized by local institutions have been provided. We **propose** to commence the cancellation of TCCW posts in September 2007 when all the existing TCCWs should have completed their required training. Consequential amendments will be made to CCSO and the Child Care Services Regulations (CCSR) to implement the above arrangement.

(c) Staff-children ratio

7. CCSO and EO have different requirements on ratio of staff to children. The improved ratio of 1:15 has been fully implemented in KGs since the 2003/04 school year by administrative measures⁽³⁾. To align the requirements between DNs and KGs and to maintain the recently adjusted staff to children ratio in KGs, we **propose** to amend CCSR so that the minimum ratio of 1:15 will be adopted by DNs upon implementation of the harmonization measures. Nevertheless, the ratio is only a minimum standard and operators are free to adopt a more generous ratio. The minimum ratio of CCW to children aged zero to two will, nevertheless, remain unchanged at 1:8 to ensure greater care and attention to infants/toddlers.

(d) Administration and regulation

8. A joint office of SWD and EMB will be established under EMB to handle registration of KG-cum-CCCs and CCWs/QKTs, regulatory issues and the various assistance schemes for service providers and parents. As staff will be transferred from SWD to EMB under the joint office arrangement, we **propose** to amend CCSO and CCSR to confer regulatory powers, currently provided for SWD staff under both CCSO and CCSR, to staff of EMB as well.

9. On the other hand, as a result of decreasing children population and the demand for one-stop service, many operators have expressed interest in operating KG-cum-CCC in the same premises. However, such premises could not be regulated by both EO and CCSO as the present CCSO contains an express provision excluding schools registered under EO from registration under CCSO. The different physical and regulatory requirements for CCCs and KGs imposed by both CCSO and EO also make it impossible for operators to operate both CCC and KG in the same premises. We **propose** to amend CCSO and CCSR to facilitate dual registration and bring the physical and regulatory requirements imposed on CCC premises in line with those on KGs under EO. In a bid to improve service quality and to eliminate inconvenience and confusion to the sector, we **propose** to apply uniform performance indicators to KGs and

Note (3) At present, the minimum ratio of CCW to children aged two to six is 1:14 while for children aged zero to two is 1:8. For KGs, the ratio for nursery classes, full-day lower and upper KG classes and half-day lower and upper classes were 1:15, 1:20 and 1:30 respectively in the past.

KG-cum-CCCs. This means that there will be only one performance monitoring system.

OTHER OPTIONS

10. There is no other option except for introducing the Bill to amend CCSO and CCSR to implement a scheme of measures to harmonize pre-primary services.

THE BILL

11. The main provisions are -
- (a) **Clause 3** amends section 2 of CCSO to re-define the definition of CCC.
 - (b) **Clause 4** is related to amendments made in Clause 2. It removes the broad exclusion from registration under CCSO on schools registered under EO to facilitate dual registration.
 - (c) **Clauses 5 and 7** amend sections 4 and 12 of CCSO respectively to confer powers to staff of the joint office to facilitate their administrative and regulatory functions.
 - (d) **Clauses 9, 10 and 11** mainly remove references to TCCWs as TCCWs will be made obsolete. **Clause 11** also imposes a deadline on KG principals and QKTs for applying to be a child care supervisor and CCW.
 - (e) **Clause 13** amends regulation 6 of CCSR and brings staff to children ratio to 1:15 in DNs.
 - (f) **Clauses 14, 15, 17, 18 and 19** amend regulations 21, 23, 30, 31 and 38 of CCSR concerning physical requirements (e.g. ventilation, lighting, area of floor space per children, number of fire exits, etc) and other regulatory requirements (frequency of fire drills, periodic inspection of premises, forbidding smoking and spitting, etc).
 - (g) **Clause 20** amends the First Schedule to CCSR to reflect the changes needed to be made to the entrance and training requirements of CCWs to bring them in line with QKTs.

- (h) **Clause 22** stipulates that no TCCWs will be accepted for registration after the commencement of the Child Care Services (Amendment) Ordinance 2005.

B The existing provisions being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

12. The legislative timetable is as follows -

Publication in the Gazette	15 April 2005
First Reading and Commencement of Second Reading Debate	27 April 2005
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

13. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, competition, productivity, environmental or sustainability implications. The proposal also will not affect the current binding effect of CCSO.

14. The implementation of the harmonization of pre-primary services also involves some changes to the different financial assistance schemes to both pre-primary service providers and parents. Changes to these schemes are purely administrative in nature and will not entail legislative amendment. Nevertheless, approval of the LegCo Finance Committee (FC) is required and details of the changes are set out at **Annex C**.

15. On civil service implication, SWD will transfer the necessary staff and resources to the newly established joint office under EMB to continue to handle the administrative and regulatory duties upon harmonisation.

PUBLIC CONSULTATION

16. Public consultation on the harmonization of pre-primary services has been conducted. Respondents generally supported the direction of harmonization.

17. A briefing session was conducted on 23 December 2004 to update the pre-primary services sector on the progress of implementation. The sector supported in general the implementation in the 2005/06 school year. The Administration would continue to update the sector of the progress of implementation. The Social Welfare Advisory Committee (SWAC) and the Education Commission (EC) were briefed on 7 and 24 February 2005 respectively and were in support of the implementation of the harmonization proposals. The LegCo Panel on Education (with extended invitation to Members of the LegCo Panel on Welfare Services) was updated on the progress on 14 March 2005.

PUBLICITY

18. A press release will be issued on 15 April 2005. Spokesmen will be available to answer media enquiries.

BACKGROUND

19. In 2000, a Working Party (WP) on Harmonization of Pre-primary Services was formed by EMB and SWD. Its terms of reference are to advise Government on matters related to harmonization of pre-primary services. The WP organized a series of focus group meetings with representatives of training institutions, frontline workers and parents.

20. In 2002, the WP issued the "Consultation Document on Harmonization of Pre-primary Services" and held a series of consultation sessions to seek views of the pre-primary services sector and the general public. A series of consultation sessions were held between April to July 2002 to seek views of the pre-primary sector and the general public. Some 4 400 written submissions were received. The respondents generally supported the direction of harmonization but had different views over a number of issues.

21. Based on the views collected, the revised recommendations were also reported to the relevant advisory bodies, including EC on 26 February 2003, SWAC on 27 February 2003 and LegCo Joint Panel on

Education and Welfare Services on 3 March 2003. They were in general supportive to implement the harmonization measures. The original plan was to implement the recommendations by the 2004/05 school year.

22. The Severe Acute Respiratory Syndrome epidemic in 2003 dealt a major blow to the economy of Hong Kong. In view of the then prevailing economic situation, it was considered that a longer period of transition was necessary to help the sector to recuperate from the adverse operating conditions and implementation of harmonization of pre-primary services was deferred to the 2005/06 school year.

23. As at present, there are 483 CCCs operating in Hong Kong, serving some 33 000 children aged zero to six, compared to 737 KGs serving some 130 000 pupils.

ENQUIRIES

24. Enquiries on this brief should be addressed to Mr. Gavin Kwai, Assistant Secretary (Family 1) of Health, Welfare and Food Bureau at 2973 8126.

Social Welfare Department

Education and Manpower Bureau

Health, Welfare and Food Bureau

April 2005

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A BILL

To

Amend the Child Care Services Ordinance and the Child Care Services Regulations to harmonize the services provided to pre-primary school children by child care centres, nurseries and kindergartens, and to make a number of miscellaneous amendments.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Child Care Services (Amendment) Ordinance 2005.

2. Commencement

This Ordinance shall come into operation on a day to be appointed by the Director of Social Welfare by notice published in the Gazette.

PART 2

AMENDMENTS TO CHILD CARE SERVICES ORDINANCE

3. Interpretation

Section 2 of the Child Care Services Ordinance (Cap. 243) is amended -

(a) in subsection (1), by repealing the definition of "child care centre" and substituting -

"child care centre" (幼兒中心) means premises which satisfy one or more of the following descriptions -

- (a) any premises which habitually receive at any one time more than 5 children who are under the age of 3 years for the purposes of care and supervision;
- (b) any premises which habitually receive at any one time more than 5 children with disability who are under the age of 6 years for the purposes of care and supervision;
- (c) any premises which -
 - (i) habitually receive at any one time more than 5 children who are under the age of 6 years for the purposes of care and supervision; and

(ii) habitually provide
overnight
accommodation to any
of the children;"

(b) by repealing subsection (2) and substituting -

"(2) Without prejudice to section 3(2) -

(a) for the purposes of paragraphs (a)
and (b) of the definition of "child
care centre", a child of any family
ordinarily residing in the premises
shall be regarded as being
habitually received there for the
purposes of care and supervision;

(b) for the purposes of paragraph (c) of
the definition of "child care
centre", a child of any family
ordinarily residing in the
premises -

(i) shall be regarded as being
habitually received there
for the purposes of care
and supervision; and

(ii) shall not be regarded as
being provided overnight
accommodation."

4. Application

Section 3(1)(c) is repealed and the following substituted -

"(c) any school registered under the Education Ordinance (Cap. 279) which satisfies all of the following criteria -

- (i) all the children who are under the age of 3 years habitually received at the school are pupils receiving a nursery education within the meaning of section 3(1) of the Education Ordinance (Cap. 279) from the school;
- (ii) the school does not habitually receive at any one time more than 5 children with disability who are under the age of 6 years for the purposes of care and supervision; and
- (iii) the school does not habitually provide overnight accommodation to any child who is under the age of 6 years."

5. Exercise of Director's powers

Section 4(2) is amended by adding "or the Education and Manpower Bureau" after "Social Welfare Department".

6. Register of child care centres

Section 8(1)(a) is amended by repealing "and address".

7. Appointment of inspectors and medical officers

Section 12(a) is amended by adding "or the Education and Manpower Bureau" after "Social Welfare Department".

8. Regulations

Section 18(2B)(d) is amended by adding "and the keeping of registers in respect of such persons" after "such centres".

PART 3

AMENDMENTS TO CHILD CARE SERVICES REGULATIONS

9. Interpretation

Regulation 2 of the Child Care Services Regulations (Cap. 243 sub. leg. A) is amended -

- (a) in the definition of "staff", by repealing "or trainee worker";
- (b) in the definition of "supervisor", by repealing "regulation 5(1)(a);" and substituting "regulation 5(1)(a).";
- (c) by repealing the definition of "trainee worker";
- (d) by adding -

"authorized person" (認可人士) has the meaning assigned to it under section 2 of the Buildings Ordinance (Cap. 123);

"non-residential centre" (非留宿中心) means a
centre other than a residential centre;".

**10. Supervisors, child care workers
and trainee child care workers**

Regulation 3 is amended -

- (a) by repealing the heading and substituting
"Registers of supervisors and child care workers";
- (b) in paragraph (1)(a) -
 - (i) by repealing "and address";
 - (ii) by repealing "paragraph 1 or 2 of";
 - (iii) by adding "and" after "First Schedule;"
- (c) in paragraph (1)(b) -
 - (i) by repealing "and address";
 - (ii) by repealing "paragraph 1 or 2 of";
 - (iii) by repealing "First Schedule; and" and
substituting "First Schedule.";
- (d) by repealing paragraph (1)(c).

**11. Inclusion in and removal from
the registers referred to
in regulation 3**

Regulation 4 is amended -

- (a) in paragraph (2)(a), by repealing ", address and
qualifications";
- (b) in paragraph (3)(a), by repealing ", whether by
reason of age or otherwise,";
- (c) by repealing paragraph (5);
- (d) by adding -

"(6) Notwithstanding any provision in these regulations, the Director may refuse an application to which paragraph (7) applies unless it is made -

(a) before a date specified by the Director by notice published in the Gazette; or

(b) where the Director is satisfied that there is a good reason to grant an extension of time to a particular applicant, before a date notified in writing by the Director to the applicant.

(7) This paragraph applies to -

(a) an application for inclusion in the register referred to in regulation 3(1)(a) by virtue of holding a qualification specified in paragraph 2(a), (b) or (c) of Part I of the First Schedule; and

(b) an application for inclusion in the register of child care workers by virtue of holding a qualification specified in paragraph 2(a) or (b) of Part II of the First Schedule.

(8) A notice published under paragraph (6)(a) is not subsidiary legislation for the purposes of section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).".

12. Appointment of staff

Regulation 5 is amended -

- (a) in paragraph (1)(b), by repealing "or, subject to paragraph (2), trainee workers";
- (b) in paragraph (1A)(b), by repealing "28" and substituting "30";
- (c) by repealing paragraph (2).

13. Minimum staff requirements

Regulation 6(1)(c) is amended by repealing "14" and substituting "15".

14. Ventilation and lighting

Regulation 21 is amended -

- (a) by repealing paragraph (3) and substituting -
 - "(3) Subject to paragraphs (4) and (5), the ceiling of every room in the centre shall be not less than 2.5 m above the floor level of the room.";
- (b) by adding -
 - "(4) Where -

(a) a centre is wholly or partly situated in post-relevant date premises; and

(b) the premises are designed and constructed for the purposes of a child care centre,

the ceiling of every room in the centre shall be not less than 3 m above the floor level of the room.

(5) Where -

(a) a centre is wholly or partly situated in post-relevant date premises; and

(b) the premises are not designed and constructed for the purposes of a child care centre,

the ceiling of every room in the centre shall be not less than 2.75 m above the floor level of the room.

(6) In this regulation -

"post-relevant date premises" (在有關日期後啟用的處所) means premises -

(a) which were not used as a centre immediately before the relevant date; and

- (b) in respect of which an application for registration as a centre or part of a centre is made on or after the relevant date, irrespective of whether the premises are to be used as a new centre, as an addition to an existing centre or as the new location of an existing centre;

"relevant date" (有關日期) means the day appointed for the commencement of section 3 of the Child Care Services (Amendment) Ordinance 2005 (of 2005).".

15. Periodic inspection of premises

Regulation 23 is amended -

- (a) in paragraph (1), by adding "an authorized person or" after "request";
- (b) in paragraph (2), by repealing "Where an inspection is carried out under paragraph (1), the person specified" and substituting "A person who carries out an inspection".

16. Roof playgrounds

Regulation 24(2) is amended by adding "an authorized person or" after "stability has been given by".

17. Fire drills, exits

Regulation 30(1)(b) is repealed and the following substituted -

"(b) ensure that -

- (i) a fire drill, which involves the use of all exits from the centre premises, is carried out by the employees and children at least once in every 6 months; and
- (ii) once in every year such fire drill includes the evacuation of the centre premises to the point of egress at ground floor level; and".

18. Area of floor space per child

Regulation 31 is amended -

(a) in paragraph (1), by repealing "The minimum area" and substituting "Subject to paragraph (1A), the minimum area";

(b) by adding -

"(1A) The minimum area of floor space required in respect of each child in a centre -

- (a) which is a non-residential centre;
- (b) which habitually receives

children aged 2 years or over;
and

- (c) which is wholly or partly situated in post-relevant date premises,

shall be the area specified opposite that age in column 3(a) of the Second Schedule.”;

- (c) in paragraph (2), by repealing “paragraph (1)” and substituting “paragraphs (1) and (1A)”;
- (d) by adding -

“(4) In this regulation -

“post-relevant date premises” (在有關日期後啟用的處所) means premises -

- (a) which were not used as a centre immediately before the relevant date; and
- (b) in respect of which an application for registration as a centre or part of a centre is made on or after the relevant date, irrespective of whether the premises are to be used as a new centre, as an addition to an existing centre or as the new location of an existing centre;

"relevant date" (有關日期) means the day appointed for the commencement of section 3 of the Child Care Services (Amendment) Ordinance 2005 (of 2005).".

19. Smoking and spitting

Regulation 38(1) is amended by repealing "Except in a room specified by the Director, no" and substituting "No".

20. First Schedule amended

The First Schedule is amended -

(a) by adding before Part I -

"PART IA

INTERPRETATION

In this Schedule -

"kindergarten education" (幼稚園教育) has the meaning assigned to it under section 3(1) of the Education Ordinance (Cap. 279);

"nursery education" (幼兒教育) has the meaning assigned to it under section 3(1) of the Education Ordinance (Cap. 279);

"principal" (校長), in relation to a school, means a teacher who is approved as the principal of a school under -

(a) section 53(2) or section 57(2)
of the Education Ordinance (Cap.
279); or

(b) either of the repealed
Ordinances;

"registered teacher" (檢定教員) has the meaning
assigned to it under section 3(1) of the
Education Ordinance (Cap. 279);

"relevant date" (有關日期) means the day
appointed for the commencement of section
3 of the Child Care Services (Amendment)
Ordinance 2005 (of 2005);

"repealed Ordinances" (已廢除條例) has the
meaning assigned to it under section 3(1)
of the Education Ordinance (Cap. 279);

"school" (學校) means a school registered under
the Education Ordinance (Cap. 279).";

(b) in Part I -

(i) by repealing "[reg. 3(1)(a)]" and
substituting "[regs. 3(1)(a) & 4(7)(a)]";

(ii) by repealing everything after the title
"QUALIFICATIONS FOR ENTRY IN THE REGISTER
KEPT UNDER REGULATION 3(1)(a)" and
substituting -

- "1. Successful completion of a training course approved by the Director.

OR

2. Being -
 - (a) a person who, at any time during the period of 6 months immediately before the relevant date, was the principal of a school providing nursery education or kindergarten education;
 - (b) a person -
 - (i) who was recommended before the relevant date under section 53(1) or section 57(1) of the Education Ordinance (Cap. 279) for approval to be the principal of a school providing

nursery
education or
kindergarten
education; and

(ii) in respect of
whom the
recommendation
is subsequently
approved under
that Ordinance;
or

(c) a person who -

(i) had been the
principal of a
school providing
nursery
education or
kindergarten
education;

(ii) was not such a
principal at any
time during the
period of 6
months
immediately
before the
relevant date
for a reason

acceptable to
the Director;
and

(iii) appears to the
Director to be a
suitable person
to be included
in the register
referred to in
regulation
3(1)(a).";

(c) in Part II -

(i) by repealing "[reg. 3(1)(b)]" and
substituting "[regs. 3(1)(b) & 4(7)(b)]";

(ii) by repealing everything after the title
"QUALIFICATIONS FOR A CHILD CARE WORKER"
and substituting -

"1. Successful completion of a
training course approved by the
Director.

OR

2. Being -

(a) a person who, at any time
during the period of 6
months immediately before
the relevant date, was a
registered teacher
teaching pupils undergoing

nursery education or
kindergarten education in
a school; or

(b) a person who -

(i) had been a
registered
teacher teaching
pupils
undergoing
nursery
education or
kindergarten
education in a
school;

(ii) was not such a
registered
teacher at any
time during the
period of 6
months
immediately
before the
relevant date
for a reason
acceptable to
the Director;
and

(iii) appears to the Director to be a suitable person to be included in the register of child care workers." ;

(d) by repealing Part III.

21. Third Schedule amended

The Third Schedule is amended, in Form 1 -

(a) by repealing paragraph 3 and substituting -

“3. Name of person registered in respect of above centre -

(a) Name (in English).....

(b) Name (in Chinese).....” ;

(b) by repealing “Hong Kong 19...” and substituting “Hong Kong 20...”.

PART 4

SAVINGS AND TRANSITIONAL PROVISIONS

22. Transitional provision for trainee child care workers

Notwithstanding anything contained in the Child Care Services Regulations (Cap. 243 sub. leg. A), no application for inclusion in the register of trainee child care workers mentioned in

regulation 3(1)(c) of the Regulations will be accepted on or after the day appointed for the commencement of section 3 of this Ordinance.

23. Savings provision for supervisors and child care workers, etc.

Without prejudice to section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), any person whose name has been included in any of the registers referred to in regulation 3 of the Child Care Services Regulations (Cap. 243 sub. leg. A) or who has submitted an application for inclusion in any of the registers before the day appointed for the commencement of section 3 of this Ordinance shall not be affected by the amendments made by section 20 of this Ordinance and the provisions in the First Schedule to the Child Care Services Regulations (Cap. 243 sub. leg. A) in force immediately before that commencement shall continue to apply to that person.

Explanatory Memorandum

The main object of this Bill is to amend the Child Care Services Ordinance (Cap. 243) ("the Ordinance") and the Child Care Services Regulations (Cap. 243 sub. leg. A) ("the Regulations") to harmonize the services provided to pre-primary school children by child care centres, nurseries and kindergartens. The more important provisions of the Bill are explained below.

Preliminary (Part 1)

2. Part 1 deals with the short title and the commencement date (clauses 1 and 2).

Amendments to Child Care Services Ordinance (Part 2)

3. The definition of "child care centre" is amended so that -

- (a) premises receiving more than 5 children who are under the age of 3 years; or
- (b) (in the situation that the premises provide overnight accommodation to children or receive children with disability) premises receiving more than 5 children who are under the age of 6 years,

will be a child care centre within the meaning of the Ordinance (clause 3(a)).

4. For the purposes of determining whether certain premises are a child care centre within the meaning of the Ordinance, children who are members of any family ordinarily residing in the premises will also be counted (clause 3(b)). It should be noted that the provisions of the Ordinance relating to child care centres do not apply where the only children in the premises are members of families ordinarily residing in the premises (section 3(2) of the Ordinance).

5. The Ordinance does not apply to a school registered under the Education Ordinance (Cap. 279) if all the children received at the school are receiving a nursery education from the school, and the school does not provide overnight accommodation or receive more

than 5 children with disability under the age of 6 years (clause 4).

6. The Director of Social Welfare is given the power to authorize any officer of the Education and Manpower Bureau to exercise any function of the Director under the Ordinance to facilitate the working of a joint office to be staffed by officers from both the Social Welfare Department and the Education and Manpower Bureau (clause 5). The Chief Executive is also given the power to appoint any officer of the Education and Manpower Bureau to be an inspector of child care centres (clause 7).

Amendments to Child Care Services Regulations (Part 3)

7. The definition of "trainee worker" and references to trainee workers are repealed (to be effective on a later date to be appointed by the Director of Social Welfare) (clauses 9, 10, 11, 12 and 20).

8. To be qualified as a supervisor of a child care centre suitable for appointment under regulation 5(1A) of the Regulations or a child care worker, a person has to complete a training course approved by the Director (clause 20).

9. A person who, at any time during the period of 6 months immediately before the day appointed for the commencement of the main part of the Bill when enacted ("the relevant date"), was a principal (or recommended to be a principal) or a registered teacher of a school providing nursery or kindergarten education, is qualified to apply for registration as a supervisor of a child care centre or a child care worker respectively. However, he must

apply within the time limit imposed by the Director of Social Welfare. If a person had been a principal or registered teacher before the relevant date but for a reason acceptable to the Director was not respectively a principal or registered teacher at any time during the period of 6 months immediately before the relevant date, the Director may include that person in the registers if it appears to the Director that the person is a suitable person for inclusion in the registers (clauses 11 and 20).

10. In respect of child care centres which receive non-resident children of the age of 2 years or above, the staff to children ratio is changed from 1:14 to 1:15 (clause 13).

11. In respect of child care centres which are wholly or partly situated in premises which were not used as a child care centre immediately before the relevant date and for which an application for registration as a child care centre is made on or after the relevant date, they have to comply with new ceiling height and new floor space requirements (clauses 14 and 18).

Savings and Transitional Provisions (Part 4)

12. Application for inclusion in the register of trainee child care workers will not be accepted after the relevant date (clause 22).

13. Any person whose name has been included in the registers of supervisors of child care centres, child care workers or trainee child care workers or any person who has submitted an application for inclusion in those registers before the relevant date will not be affected by the new qualification requirements (clause 23).

Annex B

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 446 of 1997	30/09/1997
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- (1) In this Ordinance, unless the context otherwise requires-
- "certificate of exemption" (豁免證明書) means a certificate issued by the Director under section 11B; (Added 38 of 1997 s. 4)
- "certificate of registration" (註冊證明書) means the certificate issued in respect of a child care centre under section 7(2);
- "child care centre" (幼兒中心) means any premises at which more than 5 children who are under the age of 6 years are habitually received for the purposes of care and supervision during part of the day or for longer periods;
- "childminder" (幼兒托管人) means a person who habitually undertakes the care and supervision of one or more, but fewer than 6, children who are under the age of 6 years and at least one of whom is not related to that person, at premises not being the home of any of the children in his or her care; (Added 38 of 1997 s. 4)
- "Director" (署長) means the Director of Social Welfare;
- "inspector" (視察主任) means a person appointed under section 12 to be an inspector of child care centres;
- "medical officer" (中心醫生) means a Government medical officer appointed under section 12 to be a medical officer of child care centres;
- "mutual help child care centre" (互助幼兒中心) means a child care centre in respect of which a certificate of exemption has been issued; (Added 38 of 1997 s. 4)
- "mutual help child care group" (互助幼兒小組) has the meaning assigned to it in section 11A; (Added 38 of 1997 s. 4)
- "parent organization" (主辦機構) has the meaning assigned to it in section 11A; (Added 38 of 1997 s. 4)
- "person exempted" (獲豁免人士) means, in relation to a mutual help child care centre, the organization specified in the certificate of exemption issued in respect of the centre; (Added 38 of 1997 s. 4)
- "premises" (處所) includes any building, enclosure, ground or open air space;
- "prohibited person" (被禁止人士) means a person who is prohibited from acting as, or holding himself out as willing to act as, a childminder for the purposes of section 15A(1); (Added 38 of 1997 s. 4)
- "registered child care centre" (註冊幼兒中心) means a child care centre in respect of which a person is registered under section 7(2).

(2) Without prejudice to section 3(2), for the purposes of determining whether or not premises are a child care centre within the meaning of subsection (1) there shall be counted in the number of children habitually received at the premises for the purposes of care and supervision those children in the premises who are under the age of 6 years and are members of any family ordinarily residing in the premises. (Added 62 of 1982 s. 2)

(3) For the avoidance of doubt it is declared that a person undertakes the care and supervision of a child for the purposes of the definition of "childminder" in subsection (1) notwithstanding that he does so solely for the purpose of providing an education for the child or of providing instruction for the child in any activity or discipline. (Added 38 of 1997 s. 4)

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	3	Application	L.N. 446 of 1997	30/09/1997
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- (1) This Ordinance shall not apply to-
- (a) any child care centre maintained and controlled by the Government;
 - (b) any child care centre situated in the premises of a hospital-
 - (i) which is under the management and control of the Hospital Authority or is maintained and controlled by the Government; or (Amended 38 of 1997 s. 5)
 - (ii) in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165); or
 - (c) any school which is registered under the Education Ordinance (Cap 279).
- (2) For the avoidance of doubt, the provisions of this Ordinance relating to child care centres do not apply where the only children in premises are members of families ordinarily residing in the premises. (Amended 38 of 1997 s. 5)

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	4	Exercise of Director's powers	L.N. 446 of 1997	30/09/1997
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- (1) The Deputy Director of Social Welfare may exercise any function of the Director under any provision of this Ordinance.
- (2) The Director may authorize any officer of the Social Welfare Department to exercise any function of the Director under any provision of this Ordinance.

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	8	Register of child care centres	L.N. 446 of 1997	30/09/1997
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- (1) The Director shall cause to be kept, in such form as he may specify, a register of registered child care centres containing-
- (a) the name and address of every person registered in respect of child care centres;
 - (b) the name and address of every registered child care centre; and
 - (c) such other particulars as the Director thinks fit.
- (2) A certificate purporting to be signed by or for the Director that a child care centre is registered or is not registered shall be evidence of the facts stated therein until the contrary is proved.
- (3) A copy of an entry in the register kept under subsection (1) purporting to be certified under the hand of the Director shall, until the contrary is proved, be admitted in evidence as proof of the facts stated therein as at the date of such certified copy.
- (4) The register may, on application in writing to the Director and on payment of the fee, if any, prescribed, be inspected at the office of the Director during office hours by any member of the public.

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	12	Appointment of inspectors and medical officers	L.N. 446 of 1997	30/09/1997
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Remarks:

Adaptation amendments retroactively made - see 37 of 2000 s. 3

PART III

INSPECTION OF CHILD CARE CENTRES

The Chief Executive may by notice in the Gazette appoint- (Amended 37 of 2000 s. 3)

- (a) any officer of the Social Welfare Department to be an inspector of child care centres;
- (b) any Government medical officer to be a medical officer of child care centres.

Chapter:	243	CHILD CARE SERVICES ORDINANCE	Gazette Number	Version Date
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Section:	18	Regulations	L. N. 106 of 2002	01/07/2002
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(1) The Chief Executive in Council may make regulations providing in relation to registered child care centres or, insofar as may be applicable, in relation to mutual help child care centres for all or any of the following matters- (Amended 37 of 2000 s. 3)

- (a) the medical examination of the children cared for and the persons employed in such centres;
- (b) the exclusion from such centres of any child or employee and measures to preserve the health and well-being of children or employees;
- (c) the reports and information to be supplied to the Director in respect of such centres;
- (d) the authorizing of officers of the Fire Services Department to enter and inspect premises in the neighbourhood of such centres;
- (e) the amount of fees and other charges that may be charged or imposed in respect of the services provided in such centres or otherwise on account of the attendance of children at such centres and the restriction or prohibition of any further fees and charges or of any specified fees and charges;
- (f) the methods of payment or collection of fees and charges and the restriction or prohibition of collections or subscriptions of moneys;
- (g) the fees to be charged for inspection and any other service or matter prescribed or permitted by this Ordinance. (Replaced 80 of 1997 s. 17)

(2) Any regulation made under subsection (1) may- (Amended 80 of 1997 s. 17)

- (a) prohibit the performance of specified acts without the consent of the Director;
- (b) authorize the Director to require or prohibit the performance of specified acts; and
- (c) require specified acts to be performed to the satisfaction of the Director.

(2A) Subject to subsections (1) and (2), the Secretary for Health, Welfare and Food may make regulations providing for anything which shall or may be prescribed and generally for carrying into effect the provisions of this Ordinance. (Added 80 of 1997 s. 17. Amended L.N. 106 of 2002)

(2B) Without prejudice to the generality of subsection (2A), regulations made under that subsection may provide in relation to registered child care centres or, insofar as may be applicable, in relation to mutual help child care centres for all or any of the following matters-

- (a) the operation, management and supervision of such centres;

- (b) the classes or types of such centres;
- (c) the duties and responsibilities of persons registered in respect of such centres;
- (d) the qualifications, experience, appointment, duties, responsibilities and discipline of persons for the purposes of the operation, management and supervision of such centres;
- (e) the admission of children to such centres and the minimum or maximum age of children who may be admitted to any class or type of such centres and the maximum number of children that may be admitted to any class or type of such centres;
- (f) the control and supervision of activities in such centres;
- (g) the adequacy, suitability and use of equipment in such centres;
- (h) the keeping, in respect of such centres, of registers, records, time-tables, menus and books of account;
- (i) the structure, hygiene and sanitation of such centres;
- (j) the precautions to be taken against fire or other peril likely to endanger the lives or health of children cared for in such centres;
- (k) the control of entrances to and exits from such centres. (Added 80 of 1997 s. 17)

(3) The Director may, by notice in writing to the person registered or exempted in respect of a child care centre, waive wholly, partly or conditionally the requirements of any regulation in respect of that child care centre and may amend, or withdraw any such notice. (Amended 38 of 1997 s. 16)

(4) Regulations made under this section may provide that a contravention thereof shall be an offence punishable on conviction by a fine at a level not exceeding level 4 and a term of imprisonment not exceeding 2 years. (Added 39 of 1983 s. 4. Amended 38 of 1997 s. 16)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation	32 of 2000	09/06/2000
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In these regulations, unless the context otherwise requires-

"centre" (中心) means a registered child care centre;

"child" (兒童) means a child who is under the care of a centre;

"child care worker" (幼兒工作員) means a person whose name is contained in the register referred to in regulation 3(1)(b);

"employee" (僱員) includes the staff of and other persons employed in a centre;

"operator" (經營人), in relation to a centre, means the person who is registered in respect of that centre under section 7 of the Ordinance;

"resident child" (留宿兒童) means a child for whom overnight accommodation is provided in a residential centre;

"residential centre" (留宿中心) means a centre in which overnight accommodation is provided for children;

"staff" (職員) means the supervisor and any child care worker or trainee worker appointed under regulation 5; (L.N. 90 of 1980)

"supervisor" (主管) means a person appointed as a supervisor under regulation 5(1)(a); (L.N. 317 of 1982)

"trainee worker" (見習工作員) means a person whose name is contained in the register referred to in regulation 3(1)(c). (L.N. 90 of 1980)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	3	Supervisors, child care workers and trainee child care workers	32 of 2000	09/06/2000
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PART II

APPOINTMENT AND DUTIES OF STAFF

- * (1) The Director shall cause to be kept-
- (a) a register containing the name and address of persons holding the qualifications specified in paragraph 1 or 2 of Part I of the First Schedule; (L.N. 317 of 1982)
 - (b) a register of child care workers, containing the name and address of every person holding the qualifications specified in paragraph 1 or 2 of Part II of the First Schedule; and (L.N. 79 of 1996)
 - (c) a register of trainee child care workers, containing the name and address of every person holding the qualifications specified in Part III of the First Schedule.
- (2) The registers may, on application in writing to the Director, be inspected at the office of the Director during office hours by any member of the public.
- (L.N. 90 of 1980)

Note:

- * For transitional provisions, please see s. 4(1) of L.N. 79 of 1996, which shall cease to have effect on 31 December 1997.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	4	Inclusion in and removal from the registers referred to in regulation 3	32 of 2000	09/06/2000
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- (1) Application for inclusion in any of the registers referred to in regulation 3 shall be made to the Director in such form as he may specify.
- (2) The Director shall, on receipt of an application in accordance with paragraph (1), determine the application-
 - (a) by including the name, address and qualifications of the applicant in the appropriate register; or
 - (b) by refusing to include the applicant in any register.
- (3) The Director may refuse to include an applicant in any register if it appears to him that the applicant-
 - (a) is not a fit person, whether by reason of age or otherwise, to take part in the management of or be employed in a centre; or
 - (b) has failed on 2 or more occasions in relation to the same proposed medical examination to comply with a requirement of the Director under regulation 42(1) to submit to medical examination. (L.N. 272 of 1997)
- (4) The Director may remove the name of a person from any register on any ground specified in paragraph (3) which would have entitled him to refuse to include an applicant in a register.
- (5) The Director may remove the name of any trainee worker from the register referred to in regulation 3(1)(c) if, within 1 year (or such longer period as he may permit) the trainee worker fails to complete successfully the training course specified under paragraph (b) of Part III of the First Schedule. (L.N. 90 of 1980)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	5	Appointment of staff	32 of 2000	09/06/2000
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(1) Every operator shall appoint for the purposes of the centre in respect of which he is registered-

- (a) a supervisor, who shall be responsible for the management of the centre; and
- (b) a sufficient number of child care workers or, subject to paragraph (2), trainee workers to ensure compliance with regulation 6. (L.N. 90 of 1980)

(1A) A supervisor appointed under paragraph (1)(a) for the purposes of a centre shall, unless the centre is one-

- (a) which is not operated for more than 4 hours per day; and
- (b) to which not more than 28 children are admitted,

be a person whose name is contained in the register referred to in regulation 3(1)(a). (L.N. 317 of 1982)

(2) Except with the consent in writing of the Director, the number of trainee workers appointed under paragraph (1)(b) shall not at any time exceed 1/3 of the total number of the staff of the centre concerned. (L.N. 90 of 1980)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	6	Minimum staff requirements	32 of 2000	09/06/2000
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(1) The minimum number of staff required to be present and on duty in a centre shall, in relation to the number of children present at any time therein, be-

- (a) (i) between 8 a.m. and 8 p.m., one member of the staff for every 8 resident children or part thereof;
- (ii) between 8 p.m. and 8 a.m., one member of the staff for every 12 resident children or part thereof; (L.N. 90 of 1980)
- (b) one member of the staff for every 8 non-resident children or part thereof under 2 years of age; and (L.N. 90 of 1980)
- (c) one member of the staff for every 14 non-resident children or part thereof of 2 or more years of age.

(2) For the purposes of paragraph (1), the number of staff required under sub-paragraph (a), (b) or (c) shall be in addition to that required under each of the other two sub-paragraphs.

(3) The minimum number of persons required to be present and on duty in a residential centre shall not at any time be less than one member of the staff and one other person who is not below the age of 18 years.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	21	Ventilation and lighting	32 of 2000	09/06/2000
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- (1) All centre premises shall be adequately ventilated and lighted.
- (2) No cubicle or partition which obstructs the free passage of light or air shall be erected in any room in a centre.
- (3) The ceiling of every such room shall be not less than 2.5 m above the floor level of such room. (L.N. 61 of 1977)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	23	Periodic inspection of premises	32 of 2000	09/06/2000
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- (1) The operator of a centre shall, at intervals not exceeding 3 years, request such person as shall be specified by the Director for the purposes of this regulation to inspect the premises in order to determine whether the premises are in a sound structural condition. (L.N. 90 of 1980; L.N. 272 of 1997)
- (2) Where an inspection is carried out under paragraph (1), the person specified under paragraph (1) shall- (L.N. 90 of 1980; L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993; L.N. 272 of 1997)
 - (a) deliver to the Director a report in writing on the structural condition of the premises; and
 - (b) cause a copy of such report to be served on the operator of the centre.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	24	Roof playgrounds	32 of 2000	09/06/2000
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- (1) Roof playgrounds shall satisfy the following structural requirements-
 - (a) the roof shall be situated on premises constructed of reinforced cement concrete;
 - (b) there shall be a minimum of 2 suitable staircases, leading from the roof to a satisfactory open air exit at ground level; each staircase being of a minimum width of 1.05 m and being fitted with continuous handrails on both sides;
 - (c) at the head of each staircase there shall be landings leading to the roof; each landing being of width equal to the width of the staircase and of a minimum depth of 1.5 m;
 - (d) the external walls surrounding the playground shall be continued upwards so as to form a continuous parapet wall around the playground of a height of not less than 1.1 m. Above such parapet wall there shall be a continuous chain link or similar metal fence fixed to the inner vertical side, or to the innermost edge of the upper surface, of the parapet wall. The total height of the parapet wall and the metal fence shall be not less than 2.5 m, and the metal fence shall be so installed as to provide ready access to the playground by the Fire Services, in emergency. (L.N. 61 of 1977)
- (2) No roof, verandah or balcony of a centre shall be used as a playground unless a certificate of stability has been given by the person specified for the purpose of regulation 23 that the roof,

verandah or balcony is suitable for such use; and such certificate shall specify the maximum number of children who may be allowed to use the playground at any one time. (L.N. 90 of 1980; L.N. 272 of 1997)

(3) A certificate given under paragraph (2) shall be displayed in a conspicuous place at the centre in respect of which it is given.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	30	Fire drills, exits	32 of 2000	09/06/2000
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- (1) The supervisor of every centre shall-
 - (a) draw up a practical scheme for the evacuation of the centre premises in case of fire;
 - (b) ensure that a fire drill, including the use of all exits from the centre premises, is carried out by every employee at least once in every month; and once in every year the fire drill shall include evacuation of the premises to the point of egress at ground floor level; and
 - (c) keep a written record of-
 - (i) all such drills; and
 - (ii) the time taken to evacuate the centre premises.

(2) The supervisor of every centre shall ensure that exits from all rooms in the centre premises are free from obstruction at all times.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	31	Area of floor space per child	32 of 2000	09/06/2000
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PART V

HEALTH AND SANITATION

(1) The minimum area of floor space required in respect of each child in a centre shall, in relation to the type of centre specified in column 1 of the Second Schedule and in relation to the age of the child specified opposite that type in column 2 thereof, be the area specified opposite that age in either column 3(a) or 3(b) of that Schedule. (L.N. 90 of 1980; L.N. 317 of 1982)

(2) In calculating the area of floor space required under paragraph (1), for the purposes of column 3(a) of the Second Schedule- (L.N. 90 of 1980)

- (a) the area of any passageway, storeroom, kitchen, office, toilet facility or staff-room; and
- (b) any other area within the centre which the Director is satisfied is not suitable for the purpose,

shall be excluded.

(3) In calculating the area of floor space required under paragraph (1), for the purposes of column 3(b) of the Second Schedule-

- (a) the area of any passageway, storeroom, kitchen, office, toilet facility or staff-room; and
- (b) any other area within the centre which the Director is satisfied is suitable for the purpose,

shall be included. (L.N. 90 of 1980)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Regulation:	38	Smoking and spitting	32 of 2000	09/06/2000
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(1) Except in a room specified by the Director, no person shall smoke in a centre during the hours that a centre is being operated.

(2) No person shall spit in the premises of any centre.

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
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Schedule:	1		32 of 2000	09/06/2000
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PART I

[regulation 3(1)(a)]

Qualifications for entry in the register kept under regulation 3(1)(a)

1. (a) (i) A Hong Kong English School Certificate, a Hong Kong Chinese School Certificate or a Hong Kong Certificate of Education with an aggregate of 2 separate subjects at Grade E or a higher grade; or
 - (ii) other educational training which, in the opinion of the Director, is equivalent to the qualifications in sub-paragraph (i);
- (b) successful completion of a training course approved by the Director;
- (c) 3 years child care experience of a kind approved by the Director; and
- (d) aged 25 years or over.

OR

2. (a) 5 years experience as a child care worker which, in the opinion of the Director, has been satisfactory; and
- (b) aged 28 years or over.

PART II

[regulation 3(1)(b)]

Qualifications for a child care worker

1. (a) (i) A Hong Kong English School Certificate, a Hong Kong Chinese School Certificate or a Hong Kong Certificate of Education with an aggregate of 2 separate subjects at Grade E or a higher grade; or
 - (ii) other educational training which, in the opinion of the Director, is equivalent to the qualifications in sub-paragraph (i); and
- (b) successful completion of a training course approved by the Director.

OR

2. (a) (i) Completion of Form II or Junior Middle II in education; or
(ii) other educational training which, in the opinion of the Director, is equivalent to the qualifications in sub-paragraph (i);
 - (b) successful completion of a training course approved by the Director; and
 - (c) 3 years child care experience in a centre before 1 September 1981.
3. (Repealed L.N. 79 of 1996)

PART III

[regulation 3(1)(c)]

Qualifications for a trainee worker

- (a) (i) A Hong Kong Certificate of Education with an aggregate of 2 separate subjects at Grade E or a higher grade; or (L.N. 79 of 1996)
- (ii) other educational training which, in the opinion of the Director, is equivalent to the qualifications in sub-paragraph (i);
- (b) satisfies the Director of the intention to complete a training course approved by the Director; and
- (c) aged 18 years or over.

(L.N. 90 of 1980; L.N. 317 of 1982)

Chapter:	243A	CHILD CARE SERVICES REGULATIONS	Gazette Number	Version Date
Schedule:	3		32 of 2000	09/06/2000

FORM 1

[section 7(2)]

CHILD CARE SERVICES ORDINANCE

(Chapter 243)

(Certificate Number)

Certificate of Registration of a Child Care Centre

1. I certify that the undermentioned child care centre is registered under section 7(2) of the Child Care Services Ordinance-

2. Particulars of Child Care Centre-

(a) Name (in English)
Name (in Chinese)

(b) (i) Address of Centre

(ii) Premises where centre may be operated

.....
..... as more particularly shown and described on Plan
No. deposited with and approved
by me.

3. Particulars of person registered in respect of above centre-

- (a) Name (in English)
- Name (in Chinese)
- (b) Address
-

4. This certificate is issued subject to the following conditions-

- (a)
- (b)
- (c)

(Signed)
Director of Social Welfare.

Hong Kong 19

WARNING

Registration of a child care centre does not release the owner or operator or any other person from compliance with any requirement of the Buildings Ordinance (Cap 123) or any other Ordinance relating to the child care centre premises, nor does it in any way affect or modify any agreement or covenant relating to any premises in which the child care centre is operated.

(L.N. 491 of 1994; 32 of 2000 s. 35)

Financial Assistance to Service Providers and Parents

Financial assistance to service providers

Aided CCCs are eligible for reimbursement of rent, rates and Government rent from SWD. In addition, they receive a direct subsidy equivalent to 5% of the fee approved on the basis of approved capacity from SWD. As for KGs (for children aged three to six), EMB provides non-profit making operators financial assistance in two forms – reimbursement of rent, rates and Government rent, and grants under the Kindergarten Subsidy Scheme (KSS). Upon harmonization, the direct subsidy for CCCs will be ceased. We **propose** to expand the ambit of KSS to cover CCCs. The rate of subsidy for children aged two to six will be based on groups of 15 children or part thereof, while that for children aged zero to two will be based on groups of eight children or part thereof, taking full account of the statutory staff to children ratio of 1:8 applicable to DCs. Since the two schemes operate on different mechanisms⁽¹⁾, a majority of service providers in the CCC sector with reasonable enrolment will receive a higher level of grant under the expanded KSS, while some under-utilized pre-primary services providers may receive less subsidies. Since the financial assistance

Note (1) The 5% Subsidy Scheme is to provide financial assistance to aided CCCs to cover cash flow problems arising from fluctuations in enrolment and to meet unexpected increase in operating costs. The rate of subsidy is based on the approved capacity and the monthly fee of the centre. On the other hand, KSS is to provide subsidy to non-profit-making KGs to encourage them to employ more qualified kindergarten teachers without having to increase school fees substantially. The subsidy received by the operator will be based on the groups of children enrolled, which is a group of 15 for children aged three to six. For a KG with more children enrolled, there will be more groups entitled for group grants and the subsidy received by the operator will be higher.

scheme to service providers are administrative in nature, no legislative amendments are required. However, as KSS was approved by the Finance Committee (FC) of LegCo, EMB will seek approval from FC to expand the ambit of KSS.

Financial assistance to parents

2. In harmonizing pre-primary services, it is considered appropriate to have one single means-testing mechanism for determining financial assistance to all pre-primary children. At present, the Child Care Centre Fee Assistance Scheme (CCCFAS)⁽²⁾ is available to parents of children attending DCs and DNs, while the Kindergarten Fee Remission Scheme (KGFRS)⁽³⁾ provides assistance to parents of KG pupils. CCCFAS provides assistance on a means-tested sliding scale with a parental contribution based on household income with no pre-set ceiling. The maximum assistance is the lower of the actual fee charged by a CCC or the maximum level of fees approved by SWD. Financial assistance under KGFRS is also means-tested and has been enhanced since the 2002/03 school year to provide three levels of assistance, i.e. 100%, 75% or 50% fee assistance. Subject to the approval of FC, we **propose** to implement the following administrative measures -

- (a) to have one single means-testing mechanism for determining financial assistance to all pre-primary children based on the enhanced KGFRS;

Notes ⁽²⁾ To be eligible for CCCFAS, a family also has to demonstrate a social need for child care, for example, both parents go out to work. It provides assistance on a sliding scale with parental contribution based on income.

⁽³⁾ Eligibility for KGFRS is assessed based on an Adjusted Family Income mechanism which is applied to other student financial assistance schemes for primary, secondary and post-secondary students. The levels of fee remission are 50%, 75% and 100% of the actual fee charged or the weighted average fee of non-profit-making kindergartens, whichever is lower.

- (b) to expand the ambit of the existing KGFRS to cover -
- (i) apart from children aged three to six, children aged below three;
 - (ii) those children aged three to six attending half-day CCCs⁽⁴⁾ which are currently not covered under CCCFAS; and
 - (iii) apart from those receiving half-day pre-primary services, children in the eligible age group attending full-day CCCs/KGs⁽⁵⁾ on the grounds of social needs;
- (c) to include air-conditioning and meal charges into monthly fee so that it will be covered by KGFRS⁽⁶⁾; and

Notes (4) At present, CCCFAS does not cover children attending half-day CCC service.

(5) From an educational point of view, a half-day KG programme will suffice for children aged three to six. For children aged zero to six attending full-day CCCs/KGs, the parents are required to meet the social need criteria such as both parents have to go out to work, etc in order to be eligible for fee assistance for full-day care and the amount of subsidy would be determined by a means-testing mechanism. For children aged three to six attending full-day KGs but without social needs, the parents would still be eligible for a portion of fee assistance which is equivalent to the half-day fee charged by the concerned KG subject to a means-test.

(6) At present, CCCFAS only includes meal charges but not air-conditioning fees, whereas KGFRS only includes air-conditioning fees but not meal charges.

- (d) as a grandfathering arrangement, to apply the “**no worse-off**” principle to existing CCCFAS recipients who joined CCCFAS in or before the 2004/05 school year (i.e. if they receive less assistance under the revised scheme, they will be allowed to opt to continue receiving assistance under the existing schemes until the children concerned leave the KGs/DNs/DCs).

No legislative amendment is required as the financial assistance scheme to parents is administrative in nature. As KGFRS was approved by FC, EMB will seek approval from FC to expand the ambit of KGFRS.

Financial implication

3. On financial implication, the total expenditure on assistance to pre-primary services after harmonization is subject to changes in prices and children population but it is estimated that the Administration will incur an additional expenditure of around \$80 million in the initial six years, for the grandfathering arrangement for existing CCCFAS recipients, who would otherwise receive less assistance under KGFRS. Besides, an additional expenditure of about \$29 million per annum will also be incurred on KGFRS for expansion of the scope of financial assistance to cover assistance for meal charges, air-conditioning fees and children aged three to six attending half day CCCs which are not covered by CCCFAS. As regards substituting the 5% subsidy to CCCs with KSS, it is estimated that there will be an additional expenditure of about \$14 million per annum.

4. The additional burden, which will be eased upon completion of the grandfathering arrangement, will be absorbed by the Health, Welfare and Food Bureau and EMB within their own financial provision.