

LEGISLATIVE COUNCIL BRIEF

Education Ordinance (Chapter 279)

Education (Amendment) Bill 1999

INTRODUCTION

At the meeting of the Executive Council on 30 November 1999, the Council ADVISED and the Chief Executive ORDERED that the Education (Amendment) Bill 1999 at Annex A, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

General Background

2. Aided primary, secondary and special schools are managed and operated in accordance with the provisions of the relevant Codes of Aid. Section 57 of the Code of Aid for Secondary Schools stipulates the following-

- (a) A teacher shall retire at the end of the school year in which he reaches the age of sixty.
- (b) Notwithstanding (a), the Director may, on the recommendation of the Management Committee of a school and subject to the submission of a satisfactory medical certificate as to fitness, permit a teacher to continue in service for a period of one school year after the end of that in which he reaches the age of sixty, and for further periods each of one school year, up to the end of the school year in which he reaches the age of sixty-five.

Similar provisions are stipulated in the Code of Aid for Primary Schools,

as well as the Code of Aid for Special Schools.

3. In February 1999, a principal of an aided secondary school and a manager, on behalf of the School Management Committee of the same school, sought declaration from the High Court that section 57 of the Code of Aid for Secondary Schools regarding retirement of teachers at 60 contravened the Education Ordinance and was of no effect. The Court handed down its judgement on 25 June 1999 that section 57 of the Code of Aid for Secondary Schools was unenforceable against principals of aided secondary schools. The ruling is taken to be equally applicable to principals of aided primary and special schools. (See Annex B for details.)

4. To enable the Administration to enforce the retirement policy, it is proposed that the Education Ordinance be amended to give legal effect to the policy.

5. The objective of setting a retirement age for teachers and principals is to ensure a healthy staff turnover which is important for revitalizing the work force and in keeping the school intellectually active. It also helps to meet the reasonable expectations of staff for career advancement.

6. Since aided schools are publicly funded, it is appropriate that they should follow the civil service practice of setting the retirement age at 60. Furthermore, according to the Fringe Benefit Survey conducted in 1999 by the Standing Commission on Civil Service Salaries and Conditions of Service, the normal retirement age for employees of 83% of the companies surveyed in Hong Kong is 60 or below. Hence, the retirement age for principals and teachers in aided schools is also in line with the private sector practice.

7. Retirement at 60 has been stipulated in the Codes of Aid for over 25 years and is generally accepted by principals and teachers in the aided schools. Under exceptional circumstances and with proof of physical fitness, the Director of Education may exercise her discretion to grant extension of service on a year to year basis for a maximum of five years. The limit of five years is to provide a buffer against unforeseen

circumstances which may require the continued service of the principal or teacher and ensure that a qualified successor is available. When considering an application for extension, the recommendation of the School Management Committee, the ability and performance of the principal or teacher concerned, and any reasons furnished by the School Management Committee in support of the application are taken into account. These may include recruitment difficulties, unforeseeable circumstances giving rise to a vacancy which cannot be filled within the time available, staff succession problems etc. Each application will be considered on its own merits.

The Proposal

8. In the light of the court judgement in June 1999, the Administration proposes to amend the Education Ordinance to embody the existing retirement policy (including the established arrangements for extension of service in exceptional circumstances) as currently set out in the Codes of Aid. In broad terms, the amendments will provide the following-

- (a) no one who is 60 or above shall be employed as a teacher or a principal of an aided school;
- (b) notwithstanding (a) above, a serving teacher or principal of an aided school may, with the approval of the Director of Education, remain in employment for a period of not more than one school year after that in which he has attained the age of 60. The approval may be extended by the Director for a maximum aggregate period of five consecutive school years; and
- (c) a serving teacher or principal who is aggrieved by the decision of the Director in relation to the extension of service [as per (b) above] may appeal against such decision to the Appeals Board established under section 59 of the Education Ordinance.

9. The proposed amendments require a definition in the Education Ordinance for “aided schools”, and the various Codes of Aid.

Some of these definitions already exist in the subsidiary legislation to the Ordinance. We therefore take the opportunity to consolidate and update all the required definitions in the primary legislation through this exercise.

THE BILL

10. The main provisions of the Bill are –
- (a) Clause 2 which adds definitions for “aided school”, “code of aid for primary schools”, “code of aid for secondary schools”, “code of aid for special schools”, “practical school”, “skills opportunity school” and “special school”;
 - (b) Clause 7 [new section 58A(1)] which prohibits an aided school from employing, as a teacher or the principal of the school, any person who is not a serving teacher or principal and who, if so employed, would commence such employment after the commencement of that section and would be aged 60 years or above before or at the commencement of such employment;
 - (c) Clause 7 [new sections 58A(2) and 58B] which prohibits an aided school from employing, during any school year after the commencement of that section, as a teacher or principal of the school, any person who has attained the age of 60 or above before the commencement of such school year, but that the Director of Education may, upon application by the management committee, permit the school to continue to employ a serving teacher or principal for the period of not more than one school year. The maximum aggregate period of such permission in respect of any serving teacher or principal shall be five consecutive school years; and
 - (d) Clause 8 which provides that any decision made by the Director of Education under the new section 58B shall be subject to appeal under Part V of the Ordinance.

11. The relevant provisions of the Education Ordinance being amended are copied at Annex C.

PUBLIC CONSULTATION

12. The Education Panel of the Legislative Council was consulted on 5 November 1999. The Panel supported the proposals. Some Panel members emphasized that there must be a proper appeal mechanism. We explained that the Bill would provide that any appeals would be heard by the Appeals Board established under section 59 of the Education Ordinance. The Appeals Board is an independent body with a balanced membership, including members of both the education sector and other professions. The Panel accepted this explanation.

BASIC LAW IMPLICATIONS

13. The Department of Justice advises that the Amendment Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

BINDING EFFECT OF THE BILL

14. The amendments will not affect the current binding effect of the Education Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

15. The Bill has no financial or staffing implications.

LEGISLATIVE TIMETABLE

16. The legislative timetable will be -

Publication in the Gazette	3 December 1999
First Reading and commencement of Second Reading debate	15 December 1999
Resumption of Second Reading	To be notified

debate, committee stage and Third
Reading

PUBLICITY

17. A press release will be issued. A spokesman will be available to answer media enquiries.

OTHERS

18. Enquiries on this Brief may be directed to Mr. Gordon Leung, Principal Assistant Secretary for Education and Manpower, at 28103950.

Education and Manpower Bureau
File Reference: EMB CR 2/2041/99III
30 November 1999

EDUCATION (AMENDMENT) BILL 1999: ANNEXES

- Annex A - Education (Amendment) Bill 1999
- Annex B - Summary of High Court judgment on *Lau Chi Fai and Wong Chi Kin v. Secretary for Justice and Director of Education*, handed down on 25 June 1999 (HCMP No. 1998)
- Annex C - Copies of provisions of the Education Ordinance to be amended

A Brief Note on the Court Judgement

Section 55 of the Education Ordinance provides for security of tenure to principals;; the grounds for the Director of Education to withdraw the appointment of principals are laid down in section 56. Section 57 of the Code of Aid provides for the retirement of principals at 60. The court pointed out that there was a conflict between section 57 of the Code of Aid and section 55 of the Education Ordinance. The court ruled that section 57 of the Code of Aid amounted to an undertaking which the management committee of a school gave to the Director in return for subvention under the Code, however, it was not binding on the principal (at least insofar as retirement age was concerned) under the doctrine of privity of contract¹. It follows that the Director cannot justify the implementation of section 57 of the Code on any of the grounds set out in section 56 of the Ordinance. Relying on the privity of contract doctrine, the High Court ruled that to the extent that section 57 of the Code of Aid applied to principals, it was unenforceable against principals.

¹ To illustrate how the doctrine of privity of contract operates, Party A to a contract (i.e. the management committee of the school) is not permitted to break the obligation (i.e. the security of tenure provisions) which it owes to Party B (i.e. the principal) even if it has been agreed with Party C (i.e. the Director) to act in a way (i.e. to retire the principal when he reaches the age of 60) which would amount to a breach of those obligations. It would have been different if the principal had been a party to the agreement between the management committee and the Director.

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	3	Heading:	Interpretation	Version Date:	30/06/1997

In this Ordinance, unless the context otherwise requires-

- "authorized person" (獲授權人士) has the same meaning as it has in section 2 of the Buildings Ordinance (Cap 123); (Replaced 47 of 1990 s. 2)
- "Building Authority" (建築事務監督) has the same meaning as it has in section 2 of the Buildings Ordinance (Cap 123);
- "certificate of provisional registration" (臨時註冊證明書) means in relation to a school which is provisionally registered, the certificate which is issued by the Director under section 18(1) in respect of the school;
- "certificate of registration" (註冊證明書) means-
- in relation to a school which is registered under section 13, the certificate issued by the Director under section 18(1) in respect of the school; and
 - in relation to a school which is registered under either of the repealed Ordinances, the certificate of registration issued by the Director under such Ordinance in respect of the school;
- "Director" (署長) means the Director of Education;
- "document" (文件) includes any account, counterfoil, text-book, exercise book, pamphlet, publication, newspaper, poster, drawing, sketch, film, filmstrip, slide, gramophone record, and other printed, written or recorded matter, whether relating to school management, teaching or recreation or to any other activity of or in connection with a school;
- "evening instruction" (夜間授課) means any instruction the greater part of which in any one day takes place after 6 p.m.;
- "functions" (職能) includes powers and duties;
- "inclusive fee" (費用總額) means the total sum of money charged in respect of the education of a pupil in a school;
- "inspector of schools" (學校督學) means a person who is appointed under section 79 to be an inspector of schools, a medical officer of schools and a health inspector of schools;
- "kindergarten education" (幼稚園教育) means a 2 years course of education normally commencing when a child has attained the age of 4 years; (Replaced 42 of 1993 s. 2)
- "manage" (管理) includes administer;
- "management committee" (校董會) means the registered managers of a school;
- "manager" (校董) means a person who manages or takes any part in the management of-
- a school; or
 - the activities of the pupils of a school;
- "nursery education" (幼兒教育) means a one year course of education normally commencing when a child has attained the age of 3 years; (Replaced 42 of 1993 s. 2)
- "permit to teach" (准用教員許可證) means a permit issued under section 50(1) or under either of the repealed Ordinances for the employment as a teacher in a school of a person who is not a registered teacher;
- "permitted teacher" (准用教員) means a person, not being a registered teacher, who is permitted to be employed as a teacher in a school in accordance with a permit to teach;
- "post secondary education" (專上教育) means education which is beyond the stage of secondary education;
- "primary education" (小學教育) means a 6 years course of education normally commencing when a child has attained the age of 6 years; (Replaced 42 of 1993 s. 2)
- "primary school" (小學) means a school which provides primary education; (Added 34 of 1979 s. 2)

"principal" (校長) means a teacher who is approved as the principal of a school under section 53(2) or section 57(2) or under either of the repealed Ordinances;

"provisionally registered" (臨時註冊) means provisionally registered under section 15;

"pupils' association" (學生協會) means an association the affairs of which are conducted wholly or partly in any school premises and which consists wholly or mainly of persons under the age of 21 years who are undergoing primary or secondary education in any school or schools;

"registered" (註冊), in relation to a school, means registered under section 13 or under either of the repealed Ordinances;

"registered manager" (註冊校董) means a person who is registered as a manager of a school under section 29(1) or under either of the repealed Ordinances;

"registered name" (註冊名稱) means the name in which a school is registered or provisionally registered;

"registered teacher" (註冊教員) means a person who is registered as a teacher under section 45(1) or under either of the repealed Ordinances;

"repealed Ordinances" (已廢除條例) means-

(a) the Education Ordinance 1952 (Cap 279 1964 Ed.); and

(b) the Education Ordinance 1913 (26 of 1913);

"school" (學校) means an institution, organization or establishment which provides for 20 or more persons during any one day or 8 or more persons at any one time, any nursery, kindergarten, primary, secondary or post secondary education or any other educational course by any means, including correspondence delivered by hand or through the postal services; (Amended 38 of 1983 s. 2; 42 of 1993 s. 2)

"school premises" (校舍) includes school recreation rooms, residential facilities, playing fields and playing grounds, and any other places used for the purposes of a school;

"secondary education" (中學教育) means a course of education after primary education which normally commences when a child has attained the age of 12 years and is completed before he attains the age of 19 years; (Replaced 42 of 1993 s. 2)

"secondary school" (中學) means a school which provides secondary education; (Added 34 of 1979 s. 2)

"sponsoring body" (贊助團體) means a society or body corporate that the Director approves in writing to be the sponsoring body for a school specified by him; (Added 42 of 1993 s. 2)

"supervisor" (校監) means a registered manager who is approved as the supervisor of a school under section 34 or section 38(2) or under either of the repealed Ordinances.

(Amended 42 of 1993 s. 2)

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	51	Heading:	Grounds for refusal to issue permit to teach	Version Date:	30/06/1997

The Director may refuse to issue a permit to teach under section 50(1) in respect of any person-

(a) if in the opinion of the Director a suitable registered teacher is available for employment as a teacher in the school concerned;

(b) on any ground specified in section 46(a), (b), (c), (d) or (f) which applies to the person in respect of whom the application is made;

- (c) if the person in respect of whom the application is made does not possess the prescribed qualification; or
- (d) if it appears to the Director that the applicant or the person in respect of whom the application is made has, in making or in connection with any application-
 - (i) (Repealed 42 of 1993 s. 18)
 - (ii) for registration as a manager or a teacher; or
 - (iii) to employ a person as a permitted teacher in a school, made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular.

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	52	Heading:	Grounds for cancellation of permit to teach	Version Date:	30/06/1997

- (1) The Director may cancel a permit to teach-
 - (a) on any ground specified in section 51(b), (c) or (d) on which he would have been entitled to refuse to issue a permit to teach, whether or not such ground existed at the time when the permit was issued; or
 - (b) on any ground specified in section 47(b), (c), (d) or (e) which applies to the permitted teacher.
- (2) A permit to teach shall be deemed to be cancelled-
 - (a) if the permitted teacher ceases to be employed in the school specified in the permit; or
 - (b) if the registration or provisional registration of the school specified in the permit is cancelled.

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	54	Heading:	Grounds for refusal to approve principal	Version Date:	30/06/1997

The Director may refuse to approve a teacher as the principal of a school if the Director is not satisfied that the teacher is a fit and proper person or, in the case of a school providing nursery or kindergarten education, appropriately qualified to be the principal of the school.

(Amended 61 of 1982 s. 5; 38 of 1983 s. 3)

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	56	Heading:	Grounds for withdrawal of approval of principal	Version Date:	30/06/1997

The Director may withdraw his approval of the principal of a school if it appears to the Director that the principal-

- (a) is no longer a fit and proper person to be the principal;
- (aa) in the case of a school providing nursery or kindergarten education, is not appropriately qualified to be the principal; (Added 61 of 1982 s. 6. Amended 38 of 1983 s. 4)
- (b) is not performing the duties of the principal satisfactorily;
- (c) has ceased to perform the duties of the principal; or
- (d) is no longer acceptable as such to the majority of the management committee.

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	60	Heading:	Director to serve notice of decision on person adversely affected	Version Date:	30/06/1997

(1) Subject to subsection (2), if the Director has made a decision by exercising any power conferred on him under a provision specified in the First Column of the Table contained in this section, he shall serve notice in writing of his decision on the persons specified in relation thereto in the Second Column of the Table, stating the grounds for his decision, and shall supply to the person a copy of this Part.

TABLE

	First Column	Second Column
Section 14.		Applicant.
Section 20(5)(b).		Supervisor.
Section 22(1).		Supervisor.
Section 30(1).		Applicant.
Section 31(1).		Registered manager concerned.
Section 35(1).		Person recommended to be supervisor.
Section 37.		Manager ceasing to be supervisor.
Section 46.		Applicant.
Section 47.		Teacher concerned.
Section 51.		Supervisor.
Section 52(1).		Supervisor.
Section 54.		Supervisor.
Section 56.		Supervisor.

(2) If an order is made under section 9(3) or (5) exempting a school from section 10, subsection (1) of this section shall not apply in respect of-

- (a) a refusal by the Director under section 30(1) to register any person as a manager of the school;
- (b) the cancellation by the Director under section 31(1) of the registration of any manager of the school;
- (c) a refusal by the Director under section 35(1) to approve any person as the supervisor of the school;

- (d) the withdrawal by the Director under section 37 of the approval of any supervisor of the school;
- (e) a refusal by the Director under section 51 to issue a permit to teach for the employment of any person as a permitted teacher in the school;
- (f) the cancellation by the Director under section 52(1) of the permit to teach of any permitted teacher who is employed to teach in the school;
- (g) a refusal by the Director under section 54 to approve any teacher as the principal of the school; or
- (h) the withdrawal under section 56 of the approval of any principal of the school.

(Amended 42 of 1993 s. 19)

Chapter:	279	Title:	EDUCATION ORDINANCE	Gazette Number:	
Section:	66	Heading:	Permission to operate school or to act pending appeal	Version Date:	30/06/1997

- (1) Notwithstanding any other provision in this Ordinance, the Director may on such conditions, if any, as he thinks fit-
- (a) by notice in writing to the supervisor permit a school to continue to operate after the registration or provisional registration of the school has been cancelled under section 22(1);
 - (b) by notice in writing to a manager of a school permit him to continue to be a manager of the school after his registration as a manager of the school has been cancelled under section 31 (1); (Amended 42 of 1993 s. 20)
 - (c) by notice in writing to a registered teacher permit him to continue to teach after his registration as a teacher has been cancelled under section 47; or
 - (d) by notice in writing to the supervisor of a school permit a permitted teacher to continue to be employed as a teacher in the school after the permit to teach issued in respect of such teacher has been cancelled under section 52(1).
- (2) Any permission given by the Director under subsection (1) shall remain in force-
- (a) until-
 - (i) the expiry of the time specified in section 61(1) for the bringing of an appeal to the Appeals Board against the decision of the Director; and
 - (ii) the determination of any appeal brought under section 61 to the Appeals Board against the decision of the Director; and
 - (b) if an appeal is brought under section 61 to the Appeals Board against the decision of the Director, until-
 - (i) the expiry of the time specified in section 65 for the bringing of a further appeal to the Governor in Council against the decision of the Appeals Board; and
 - (ii) the determination of any further appeal brought under section 65 to the Governor in Council against the decision of the Appeals Board; and
 - (c) in special circumstances, until such later date as the Director may specify.
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Chapter:	279A	Title:	EDUCATION REGULATIONS	Gazette Number:
Regulation:	99A	Heading:	Business or trading operations	Version Date: 30/06/1997

(1) No supervisor, manager or management Committee of a school in receipt of public funds shall, without the prior permission in writing of the Director-

- (a) operate or permit to operate on school premises any business or trading undertaking; or
- (b) enter into any business or trading arrangement, directly or indirectly, with any person for the supply of food, drinks, books, stationery, uniforms or any other thing that is required by such school to be possessed or used by pupils of the school.

(2) Where permission has been granted for the purposes of paragraph (1), the supervisor of the school shall-

- (a) within 4 months after the end of the financial year of the school, or such extended period as may be permitted by the Director, furnish to the Director an annual audited statement of accounts of every such business or trading undertaking, or business or trading arrangement; and
- (b) furnish together with such statement of accounts a statement indicating how the profits have been applied or are intended to be applied.

(3) No supervisor, manager or management committee of a school in receipt of public funds shall apply the profits for any purpose not directly benefiting the pupils of the school without the prior permission in writing of the Director.

(4) For the purposes of this regulation-

"profits" (利潤) means any profits or net income arising from a business or trading undertaking, or a business or trading arrangement, referred to in paragraph (1);

"school in receipt of public funds" (接受政府撥款學校) means-

- (a) any school that receives financial assistance under the code of aid for primary schools, the code of aid for secondary schools or the code of aid for primary special schools and special classes, or the code of aid for secondary special schools and special classes; or
- (b) any school that is operated by the English Schools Foundation.

(L.N. 213 of 1980)

Chapter:	279A	Title:	EDUCATION REGULATIONS	Gazette Number:
Schedule:	3	Heading:	FORMS	Version Date: 30/06/1997

EDUCATION ORDINANCE
(Chapter 279)

APPLICATION FOR REGISTRATION OF A SCHOOL

Address for correspondence

.....

Telephone Number

Date

The Director of Education,
Education Department,
Hong Kong.

- 1. I, (Mr./Mrs./Miss):
 (Name in English)
 (Name in Chinese)
 (Residential Address)

request you to register the undermentioned school.

- 2. Particulars of school-
 - (a) Proposed registered name of school
 (in English)
 (in Chinese)
 - (b) Description of school, i.e.
 - (i) day school;
 - (ii) evening school; or
 - (iii) correspondence course.
 - (c) Method of operation, i.e.
 - (i) one sessional; or
 - (ii) two sessional.
 - (d) Type of pupils, i.e.
 - (i) male;
 - (ii) female; or
 - (iii) combined.
 - (e) Type of education, i.e.
 - (i) kindergarten;
 - (ii) primary;
 - (iii) secondary;
 - (iv) post secondary; or
 - (v) other educational course.

- (f) Premises in which school is to be operated
 - (i)
 - (ii)
 - (iii)
 - (iv)

- (g) Name and address of landlord of premises in which school is to be operated
 - (i) of
 - (ii) of
 - (iii) of
 - (iv) of

- (h) Name and address of tenant of premises in which school is to be operated
 - (i) of
 - (ii) of
 - (iii) of
 - (iv) of

	Kinder- garten	Primary	Secondary	Post Secondary	Other Courses
Tuition fee per instalment					
Incidentals per instalment					

3. I attach applications from the following persons for registration as managers of the school-

Application to be completed on Form 6

- (a) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)
- (b) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)
- (c) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)
- (d) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)
- (e) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)

4. I recommend Mr./Mrs./Miss
 to be the supervisor of the school.

See NOTE 1

5. It is proposed that the following registered teachers will be employed in the school-

Name (Mr./Mrs./Miss)		Residential Address	Registration Number	Proposed monthly salary
in English	in Chinese			

6. I attach applications for permission to employ the following persons in the school as permitted teachers-

Applications to be completed on Form 10 or 11, as appropriate

Name (Mr./Mrs./Miss)	
in English	in Chinese

- 7. I attach-
 - (a) the proposed syllabus for each class of the school; and
 - (b) the weekly time table for each class of the school.
- 8. I attach 3 copies of a plan/diagram (specifying dimensions) of the premises in which the school is to be operated.
- 9. I attach the certificates and notices required under section 11(b)(ii) of the Ordinance. See NOTE 2
- 10. The contents of this application are true and complete to the best of my knowledge and belief.

(Signed)

- NOTE 1: The person recommended should be one of the applicants for registration as managers of the school.
- NOTE 2: Delete if the premises in which the school is to be operated are designed and constructed for the the purposes of a school.

WARNING

- 1. Attention is drawn to the provisions of the Education Ordinance and particularly to-
 - (a) Section 14(1)-
 - "The Director may refuse to register a school if it appears to him-
 - (n) that in or in connection with the application for registration any statement has been made or information has been furnished which is false in any material particular or by reason of the omission of any material particular;"
 - (b) Section 87(1)-
 - "Any person who-
 - (k) in or in connection with any application under this Ordinance makes any statement or furnishes any information, whether such statement or information be verbal or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular,

shall be guilty of an offence and shall be liable on conviction to a fine of \$25000 and to imprisonment for 2 years."
- 2. Registration or provisional registration of a school does not release the owners or managers or any other person from compliance with any requirement of the Buildings Ordinance (Cap 123) or any other Ordinance relating to the school, nor does it in any way affect or modify any agreement or covenant relating to any premises in which the school is to be operated.

(L.N. 466 of 1993; L.N. 31 of 1995)

FORM 2

[section 18(1)]

EDUCATION ORDINANCE
(Chapter 279)

(Registration Number

CERTIFICATE OF REGISTRATION OF A SCHOOL

1. I certify that the undermentioned school is registered under section 13 of the Education Ordinance-

Registered name of school:

(in English)

(in Chinese)

2. The premises in which the school may be operated are-

(i)

(ii)

(iii)

(iv)

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

.....
Director of Education

Hong Kong, 19

WARNING

Registration of a school does not release the owners or managers or any other persons from compliance with any requirement of the Building Ordinance (Cap 123) or any other Ordinance relating to the school, nor does it in any way effect or modify any agreement or covenant relating to any premises in which the school is operated.

(L.N. 31 of 1995)

FORM 3

[section 18(1)]

EDUCATION ORDINANCE

(Chapter 279)

(Provisional Registration Number))

CERTIFICATE OF PROVISIONAL REGISTRATION OF A SCHOOL

1. I certify that the undermentioned school is registered provisionally under section 15 of the Education Ordinance-

Registered name of school:

(in English)

(in Chinese)

2. The premises in which the school may be operated are-

(i)

(ii)

(iii)

(iv)

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

3. This certificate is valid only until the day of 19

.....
Director of Education

Hong Kong, 19

(L.N. 31 of 1995)

WARNING

Provisional registration of a school does not release the owners or managers or any other person from compliance with any requirement of the Buildings Ordinance (Cap 123) or any other Ordinance relating to the school, nor does it in any way affect or modify any agreement or covenant relating to any premises in which the school is operated.

FORM 4-FORM 5

(Repealed L.N. 466 of 1993)

FORM 6

[section 28]

EDUCATION ORDINANCE
(Chapter 279)

APPLICATION FOR REGISTRATION AS A MANAGER

Signed full face
photograph of
applicant to be
affixed here

Address for correspondence
.....
.....
Telephone number (Office)
(Home)
Date

The Director of Education,
Education Department,
Hong Kong.

1. I forward the following particulars of myself and request you to register me as a manager of a school.
2. Particulars-
 - (a) Name (Mr./Mrs./Miss/Madam)
(As on identity card)
 - (i) in English
(Surname) (Other name)
 - (ii) in Chinese
 - (iii) Chinese character code

- Note 1. If the applicant has been convicted of a criminal offence affecting his character, the full circumstances of such matter must be disclosed. If there is no such record, please write "NIL".
- Note 2. If the applicant has previously been refused registration as a manager or teacher, or a permit to teach as a permitted teacher, or has had his registration as a manager or teacher or his permit to teach as a permitted teacher cancelled, the full circumstances of such matter must be disclosed. If there is no such record, please write "NIL".
- Note 3. Two referees are required. They must be persons of standing, e.g. members of the Executive or Legislative Council, justices of the peace, barristers-at-law, solicitors, ministers of religion, chartered or incorporated accountants, registered teachers, doctors or dentists, etc., and must have known the applicant well for at least 3 years.
- Note 4. The endorsement should be signed by a majority of the management committee in the case of a school which is registered or provisionally registered, or by a majority of the proposed registered managers if the school is neither registered nor provisionally registered.

WARNING

Attention is drawn to the provisions of the Education Ordinance and particularly to-

(a) Section 30(1)-

"The Director may refuse to register an applicant as a manager of a school if it appears to the Director that-

- (e) in making or in connection with any application-
 - (i) for registration of a school
 - (ii) for registration as a manager or a teacher; or
 - (iii) to employ a person as a permitted teacher in a school,

the applicant has made any statement or furnished any information which is false in any material particular or by reason of the omission any material particular."; and

(b) Section 87(1)-

"Any person who-

- (k) in or in connexion with any application under this Ordinance makes any statement or furnishes any information, whether such statement or information be verbal or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular,

shall be guilty of an offence and shall be liable on conviction to a fine of \$25000 and to imprisonment for 2 years."

(L.N. 466 of 1993; L.N. 31 of 1995; 13 of 1995 s. 21)

FORM 7

[section 29(2)]

EDUCATION ORDINANCE
(Chapter 279)

CERTIFICATE OF REGISTRATION AS A MANAGER OF A SCHOOL

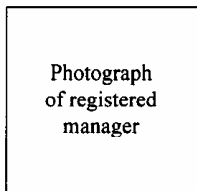
I certify that, whose photograph is affixed hereto, is registered under section 29(1) of the Education Ordinance as a manager of the following school-

(a) Registered name of school:

(in English)
.....

(in Chinese)

(b) Address of school



.....
Director of Education

Hong Kong, 19

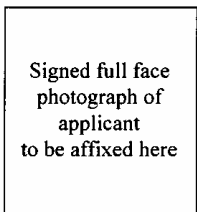
(L.N. 31 of 1995)

FORM 8

[section 44]

EDUCATION ORDINANCE
(Chapter 279)

APPLICATION FOR REGISTRATION AS A TEACHER



Address for correspondence

Telephone Number

Date

The Director of Education,
Education Department,
Hong Kong.

1. I forward the following particulars of myself and request you to register me as a teacher.

2. Particulars-

(a) Name (Mr./Mrs./Miss):

(in English)

(in Chinese)

(b) Aliases

(c) Marital status: Married/Single

(d) (i) Maiden name

(ii) Husband's name

(e) Residential address

(f) Identity Card Number

(g) Date of birth

(h) Place of birth

(i) Places of education:

See NOTE 1

Name of schools and universities	Date of entry (month and year)	Date of leaving (month and year)
(i)		
(ii)		
(iii)		

(j) Educational qualifications (degrees, diplomas, certificates)

.....
.....
.....

(k) Details of occupations, other than teaching, since completion of education

.....
.....

(l) Details of all teaching experience:

School	Date of commencement (month and year)	Date of leaving (month and year)	Classes taught	Subjects taught

- (m) Other relevant information See NOTE 2

 3. The following persons who are/are not aware of the statements made on this form may be referred to as regards my character: See NOTE 3
 (a) Name (Mr./Mrs./Miss)
 Address
 Occupation
 (b) Name (Mr./Mrs./Miss)
 Address
 Occupation
 4. I affix above a signed full face photograph of myself and attach 2 signed copies of such photograph to this application.
 5. I attach- See NOTE 4
 (a) a medical certificate as to my health; and
 (b) my educational certificates.
 6. The contents of this application are true and complete to the best of my knowledge and belief.

(Signed)

- NOTE 1: To be completed only if the applicant is a married, divorced or widowed woman.
 NOTE 2: if the applicant has been convicted of a criminal offence affecting his character, or has been refused previously approval to be a manager, registration as a manager or teacher, or a permit to teach as a permitted teacher, or has had his approval to be a manager withdrawn or his registration as a manager or teacher or his permit to teach as a permitted teacher cancelled, the full circumstances of such matter must be disclosed.
 NOTE 3: 2 referees are required. They must be persons of standing, e.g. members of the Executive or Legislative Council, Justices of the Peace, barristers-at-law, solicitors, ministers of religion, chartered or incorporated accountants, registered teachers, doctors or dentists, etc., and must have known the applicant well for at least 3 years. (13 of 1995 s. 21)
 NOTE 4: If educational certificates are not available at the date of the application, paragraph 5(b) may be deleted. However the applicant may be required to produce any such certificates at a later for inspection.

WARNING

Attention is drawn to the provisions of the Education Ordinance and particularly to-

- (a) Section 46-
 "The Director may refuse to register an applicant as a teacher if it appears to him that the applicant-
 (g) in making or in connection with any application-
 (i) (Repealed 80 of 1997 s. 102)
 (ii) for registration as a manager or a teacher; or
 (iii) to employ a person as a permitted teacher in a school, has made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular."; and
 (b) Section 87(1)-
 "Any person who-
 (k) in or in connection with any application under this Ordinance makes any statement or furnishes any information whether such statement

FORM 9

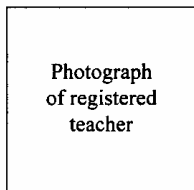
[section 45(2)]

EDUCATION ORDINANCE
(Chapter 279)

CERTIFICATE OF REGISTRATION AS A TEACHER

(Registration Number)

I certify that
whose photograph is affixed hereto, is registered as a teacher under section 45(1) of the Education Ordinance.



.....
Director of Education

Hong Kong, 19

(L.N. 31 of 1995)

EDUCATION ORDINANCE
(Chapter 279)

APPLICATION FOR PERMISSION TO EMPLOY AN UNREGISTERED TEACHER

PART I

(To be completed by the supervisor of the school in which it is desired to employ a person as a permitted teacher or, in the case of a proposed school, by the applicant for registration of the school.)

Address for correspondence (see NOTE 1)
.....

Telephone Number

Date

The Director of Education,
Education Department,
Hong Kong.

1. I request permission to employ-

Name (Mr./Mrs./Miss):

(in English)

(in Chinese)

as a permitted teacher in the School.

2. Proposed subjects to be taught by
such person:

Proposed classes to be taken by
such person:

(i)

(ii)

(iii)

3. Proposed monthly salary of such person:

4. In my opinion, there is no suitable registered teacher available for
employment as a teacher in the school.

5. The particulars relating to such person and set out in Part II of this form
are true and complete to the best of my knowledge and belief.

(Signed)

(Supervisor, or applicant for
registration of school)

PART II

(To be completed by the person to be employed as a
permitted teacher.)

Signed full face
 photograph of proposed
 teacher to be affixed
 here

1. I, the person referred to in Part I of this form, forward the following particulars of myself-

- (a) Name (Mr./Mrs./Miss):
 (in English)
 (in Chinese)
- (b) Aliases
- (c) Residential Address
- (d) Identity Card Number
- (e) Marital status: Married/Single
- (f) (i) Maiden name
 (ii) Husband's name
- (g) Date of birth
- (h) Place of birth
- (i) Places of education:

See NOTE 2.

Name of schools and universities	Date of entry (month and year)	Date of leaving (month and year)
(i)		
(ii)		
(iii)		

- (j) Educational qualifications (degrees, diplomas, certificates)

- (k) Details of occupations, other than teaching, since completion of education
- (l) Details of all teaching experience:

School	Date of commencement (month and year)	Date of leaving (month and year)	Classes taught	Subject taught

- (m) Other relevant information See NOTE 3.
2. The following persons who are/are not aware of the statements made on this form may be referred to as regards my character: See NOTE 4.
- (a) Name (Mr./Mrs./Miss)
 Address
 Occupation
- (b) Name (Mr./Mrs./Miss)
 Address
 Occupation
3. I affix above a signed full face photograph of myself and attach 3 signed copies of such photograph to this form.
4. I attach-
- (a) a medical certificate as to my health; and
 (b) my educational certificates. See NOTE 5.
5. I am aware that if a permit to teach is issued in respect of the above application, it will apply only to the school specified in paragraph 1 of Part I of this form.
6. The contents of this Part of this form are true and complete to the best of my knowledge and belief.

Date (Signed)
 (Proposed permitted teacher)

- NOTE 1: If the school is already registered, this should be the address of the school.
- NOTE 2: To be completed only if the applicant is a married, divorced or widowed woman.
- NOTE 3: If the person completing Part II has been convicted of a criminal offence affecting his character, or has been refused previously approval to be a manager, registration as a manager or teacher, or permit to teach as a permitted teacher, or has had his approval to be a manager withdrawn or his registration as a manager or teacher or permit to teach as a permitted teacher cancelled, the full circumstances of such matter must be disclosed.
- NOTE 4: 2 referees are required. They must be persons of standing, e.g. members of the Executive or Legislative Council, Justices of the Peace, barristers-at-law, solicitors, ministers of religion, chartered or incorporated accountants, registered teachers, doctors or dentists, etc., and must have known the applicant well for at least 3 years.
- NOTE 5: If educational certificates are not available at the date of the application, paragraph 4(b) of Part II of the form may be deleted. However the person signing Part II may be required to produce any such certificates at a later date for inspection.

WARNING

Attention is drawn to the provisions of the Education Ordinance and particularly to-

- (a) Section 51-
 "The Director may refuse to issue a permit to teach under subsection (1) of section 50 in respect of any person-
- (d) if it appears to the Director that the applicant or the person in respect of whom the application is made has, in making or in connection with any application-
- (i) (Repealed 80 of 1997 s. 102)
 (ii) for registration as a manager or a teacher; or
 (iii) to employ a person as a permitted teacher in a school

any material particular or by reason of the omission of any material particular."; and

(b) Section 87(1)-

"Any person who-

(k) in or in connection with any application under this Ordinance makes any statement or furnishes any information, whether such statement or information be verbal or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular,

shall be guilty of an offence and shall be liable on conviction to fine of \$25000 and to imprisonment for 2 years."

(L.N. 31 of 1995; 13 of 1995 s. 21)

EDUCATION ORDINANCE
(Chapter 279)

APPLICATION FOR PERMISSION TO EMPLOY AN UNREGISTERED TEACHER
WHO HAS PREVIOUSLY BEEN EMPLOYED AS A PERMITTED TEACHER

(To be completed by the supervisor of the school in which it is desired to employ a person as a permitted teacher or, in the case of a proposed school, by the applicant for registration of the school.)

Signed full face
photograph of
proposed teacher to be
affixed here

Address for correspondence (see NOTE 1)

Telephone Number
Date

The Director of Education,
Education Department,
Hong Kong.

1. I request permission to employ-
Name known to Education Department:
(Mr./Mrs./Miss)
(in English)
(in Chinese)
Residential address
Permitted Teacher Reference Number
as a permitted teacher in the School.
2. Proposed subjects to be taught by such person:

(i) (ii) (iii)	Proposed classes to be taken by such person:
--	---

3. Proposed monthly salary of such person:
4. In my opinion, there is no suitable registered teacher available for employment as a teacher in the school.
5. I affix above a signed photograph of and attach 2 signed copies of such photograph to this form.

See NOTE 2

(Signed)
 (Supervisor, or applicant for registration of school)

- NOTE 1: If the school is already registered, this should be the address of the school.
 NOTE 2: The photographs should be of the person in respect of whom the permit to teach is sought, and should be signed by such person.

WARNING

Attention is drawn to the provisions of the Education Ordinance and in particular to-

- (a) Section 51-
 "The Director may refuse to issue a permit to teach under subsection (1) of section 50 in respect of any person-
 (d) if it appears to the Director that the applicant or the person in respect of whom the application is made has, in making or in connection with any application-
 (i) (Repealed 80 of 1997 s. 102)
 (ii) for registration as a manager or a teacher; or
 (iii) to employ a person as a permitted teacher in a school, made any statement or furnished any information which is false in any material particular or by reason of the omission of any material particular."; and
- (b) Section 87(1)-
 "Any person who-
 (k) in or in connection with any application under this Ordinance makes any statement or furnishes any information, whether such statement or information be verbal or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular, shall be guilty of an offence and shall be liable on conviction to a fine of \$25000 and to imprisonment for 2 years."

(L.N. 31 of 1995)

FORM 12

[section 50(1)]

EDUCATION ORDINANCE
 (Chapter 279)

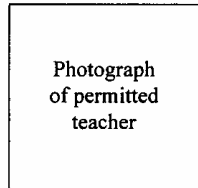
PERMIT TO EMPLOY AN UNREGISTERED TEACHER

(Permitted Teacher Reference Number)

The Supervisor,
..... School.
(Copy to, the permitted teacher)

1. I hereby give permission to you to employ (Mr./Mrs./Miss)
.....
whose photograph is affixed hereto, as a permitted teacher in the
..... school only.

2. This permit is issued subject to the following conditions-
.....
.....
.....



.....
Director of Education

Hong Kong, 19

(L.N. 31 of 1995)

FORM 13

[section 74]

EDUCATION ORDINANCE
(Chapter 279)

SCHOOL ATTENDANCE ORDER

To: (name and address of parent)

(name of child)
.....

1. It appears to me that your child named above is not attending primary school or secondary school without any reasonable excuse.

2. I therefore require you, as the parent of the child, to cause the child within 14 days of the date of this order to attend regularly as a pupil at the primary school or secondary school named in the box below.

(Full name and address of primary
school or secondary school)

.....
Director of Education

Date

- Notes: (i) "Parent" (家長) in relation to this attendance order includes a guardian and the person having the actual custody of the child.
- (ii) Any parent aggrieved by this attendance order may within 14 days of the date of the order apply for the order to be reviewed by apply (in person or in writing) to the Secondary, Board of Review, at (address).

(L.N. 268 of 1990; L.N. 31 of 1995)

Chapter:	279C	Title:	GRANT SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	2	Heading:	Interpretation	Version Date:	30/06/1997

In these rules, unless the context otherwise requires-

- "code of aid for secondary schools" (中學資助則例) means the code under the terms of which the Government gives subsidies to certain secondary schools; (L.N. 87 of 1976)
- "continuous contributory service" (供款無間年資), in relation to a teacher, means any period of service during which the teacher makes continuous contributions to a provident or super-annuation fund approved by the Director for the purposes of these rules, including continuous contributions to the fund maintained in accordance with these rules; and includes-
- (a) study leave, sick leave or maternity leave approved by the Director; and
 - (b) subject to rule 18, any service at 2 or more grant schools, or at 1 or more grant schools and at 1 or more subsidized schools, either without a break in teaching service on appointment to one such school after ceasing to be employed at another such school, or with such a break if the break has been approved by the Director; (L.N. 87 of 1976)
- "contract" (合約), in relation to a contributor, means a fixed term contract under which the contributor is employed; (L.N. 87 of 1976)
- "contributor" (供款人) means a person who contributes compulsorily to the fund or who has exercised an option to contribute to the fund;
- "Grant Code" (補助則例) means the code under the terms of which, before 1 April 1973, the Government gave grants in aid to certain secondary schools; (L.N. 87 of 1976)
- "grant school" (補助學校) means any secondary school which receives subsidies in accordance with the code of aid for secondary schools and which was, before 1 April 1973, in receipt of grants in accordance with the Grant Code; (L.N. 87 of 1976)
- "Grant Schools Council" (補助學校議會) means that body of persons composed of representatives of the grant schools and for the time being known as the Grant Schools Council;
- "fund" (基金) and "board" (委員會) mean respectively the provident fund and board of control established under these rules;
- "secretary" (秘書) means the secretary appointed in accordance with the provisions of rule 5; (G.N.A. 116 of 1961)
- "subsidized school" (津貼學校) has the meaning ascribed thereto in the Subsidized Schools Provident Fund Rules (Cap 279 sub. leg.);
- "Subsidized Schools Provident Fund" (津貼學校公積金) means the provident fund maintained in accordance with the Subsidized Schools Provident Fund Rules (Cap 279 sub.leg.);
- "treasurer" (司庫) means the treasurer appointed in accordance with the provisions of rule 6.

Chapter:	279D	Title:	SUBSIDIZED SCHOOLS PROVIDENT FUND RULES	Gazette Number:	
Rule:	2	Heading:	Interpretation	Version Date:	30/06/1997

In these rules, unless the context otherwise requires-

- "Board" (委員會) means the board of control established in accordance with the provisions of rule 5;
- "code of aid for primary schools" (小學資助則例) means the code under the terms of which the Government gives subsidies to certain primary schools; (L.N. 88 of 1976)
- "code of aid for secondary schools" (中學資助則例) means the code under the terms of which the Government gives subsidies to certain secondary schools; (L.N. 88 of 1976)
- "code of aid for special schools" (特殊學校資助則例) means the code under the terms of which the Government gives subsidies to certain special schools, practical schools or skills opportunity schools; (L.N. 260 of 1995)
- "continuous contributory service" (供款無間年資), in relation to a teacher, means any period of service during which the teacher makes continuous contributions to a provident or super-annuation fund approved by the Director for the purposes of these rules, including continuous contributions to the Fund maintained in accordance with these rules; and includes-
- study leave, sick leave or maternity leave approved by the Director; and
 - subject to rule 15, any service at 2 or more subsidized schools, or at 1 or more subsidized schools and at 1 or more grant schools, either without a break in teaching service on appointment to one such school after ceasing to be employed at another such school, or with such a break if the break has been approved by the Director; (L.N. 88 of 1976)
- "contract" (合約), in relation to a contributor, means a fixed term contract under which the contributor is employed; (L.N. 88 of 1976)
- "contributor" (供款人) means a person who contributes to the Fund;
- "donation" (贈款) means the Government donation referred to in rule 9;
- "Fund" (基金) means the provident fund established in accordance with the provisions of rule 3;
- "Grant Code" (補助則例) and "grant school" (補助學校) have the meanings ascribed thereto in the Grant Schools Provident Fund Rules (Cap 279 sub. leg.); (L.N. 88 of 1976)
- "Grant Schools Provident Fund" (補助學校公積金) means the provident fund maintained in accordance with the provisions of the Grant Schools Provident Fund Rules (Cap 279 sub.leg.);
- "Hong Kong Special Schools Council" (香港特殊學校議會) means that body of persons composed of representatives of the subsidized special schools recognized by the Director; (L.N. 260 of 1995)
- "practical school" (實用學校) means a school which provides education suitable for pupils who lack motivation in learning in respect of ordinary school curriculum in order to improve their motivation in learning through a practically orientated curriculum and which has been approved by the Director for this purpose; (L.N. 260 of 1995)
- "secretary" (秘書) means the person for the time being appointed in accordance with rule 5 to be secretary to the Board;
- "skills opportunity school" (特別技能訓練學校) means a school which provides education suitable for pupils who have severe learning problems and which has been approved by the Director for this purpose; (L.N. 260 of 1995)
- "special school" (特殊學校) means a school which provides education suitable for pupils in need of special education and which has been approved by the Director for this purpose ; (L.N. 260 of 1995)
- "Subsidized Primary Schools Council" (津貼小學議會) means that body of persons composed of representatives of the subsidized primary schools recognized by the Director; (L.N. 88 of 1976; L.N. 260 of 1995)

"subsidized school" (津貼學校) means-

- (a) any secondary school which receives subsidies in accordance with the code of aid for secondary schools and-
 - (i) was, before 1 April 1973, in receipt of subsidies in accordance with the Subsidy Code; or
 - (ii) was not, before that date, in receipt of subsidies under the Subsidy Code or of grants under the Grant Code;
- (b) any primary school which receives subsidies in accordance with the code of aid for primary schools and-
 - (i) was, before 1 April 1975, in receipt of subsidies in accordance with the Subsidy Code; or
 - (ii) was not, before that date, in receipt of subsidies under the Subsidy Code or of grants under the Grant Code; and
- (c) any special school which receives subsidies in accordance with the Subsidy Code; (L.N. 88 of 1976)

"Subsidized Secondary Schools Council" (津貼中學議會) means that body of persons composed of representatives of the subsidized secondary schools recognized by the Director; (L.N. 88 of 1976)

"Subsidy Code" (津貼則例) means-

- (a) in relation to secondary schools, the code under the terms of which, before 1 April 1973, the Government gave subsidies to certain secondary schools;
- (b) in relation to primary schools, the code under the terms of which, before 1 April 1975, the Government gave subsidies to certain primary schools; and (L.N. 88 of 1976)
- (c) in relation to special schools, practical schools and skills opportunity schools, the code under the terms of which the Government gives subsidies to certain special schools, practical schools or skills opportunity schools; (L.N. 260 of 1995)

"treasurer" (司庫) means the person for the time being appointed in accordance with rule 5 to be treasurer of the Fund.

(L.N. 88 of 1976)
