

EDUCATION ORDINANCE 1971.

ARRANGEMENT OF SECTIONS.

Sections.

Page.

PART I.

PRELIMINARY.

1.	Short title and commencement	
2.	Application	A260
3.	Interpretation	A260
4.	Director to promote education in Hong Kong	A260
5.	Delegation of Director's powers	A263
6.	Power of Governor to give directions	A263
7.	The Board of Education	A263
8.	Director to maintain registers	A263
9.	Exemption of schools from Ordinance	A264

PART II.

REGISTRATION AND PROVISIONAL REGISTRATION OF SCHOOLS.

10.	Schools to be registered or provisionally registered	
11.	Application for registration of school	A265
12.	Additional documents required where premises not designed and constructed as a school	A265
13.	Registration of school	A266
14.	Grounds for refusal to register school	A268
15.	Provisional registration of school	A268
16.	Effect on provisional registration when application for registration is determined	A269
17.	Restrictions on registration and provisional registration	A270
18.	Certificate of registration or provisional registration	A270
19.	Premises in which school may be operated	A270
20.	Change of premises	A270
21.	Changes in design or use of premises increasing fire risk	A271
22.	Grounds for cancellation of registration or provisional registration of school	A271

PART III.

MANAGERS OF SCHOOLS.

Approval of persons to be managers.

23.	Application for approval to be a manager	
24.	Approval to be a manager	A274
25.	Grounds for refusal of approval to be a manager	A274
26.	Grounds for withdrawal of approval to be a manager	A275

<i>Sections.</i>		<i>Page.</i>
	<i>Registration of managers of schools.</i>	
	Managers of schools to be registered	A275
27.	Application for registration of manager	A275
28.	Registration of manager	A275
29.	Grounds for refusal to register manager	A276
30.	Grounds for cancellation of registration of manager	A276
31.		
	<i>Management committees.</i>	
	Management committee to manage school	A277
32.	Responsibilities of management committee	A277
33.		
	<i>Supervisors.</i>	
	Approval of first supervisor of school	A277
34.	Grounds for refusal to approve supervisor	A277
35.	Tenure of office of supervisor	A277
36.	Grounds for withdrawal of approval of supervisor	A278
37.	Approval of subsequent supervisors	A278
38.	Duties of supervisor	A278
39.	Duties of management committee in absence of supervisor	A279
40.		
	<i>Additional managers.</i>	
	Appointment of additional managers by Director	A279
41.		

PART IV.

TEACHERS.

General.

42.	Teachers to be registered or permitted teachers	A280
43.	Director may require medical examination of proposed teacher	A280

Registration of teachers.

44.	Application for registration as a teacher	A280
45.	Registration of teacher	A280
46.	Grounds for refusal to register teacher	A280
47.	Grounds for cancellation of registration of teacher	A281

Permitted teachers.

48.	Circumstances in which application to employ permitted teacher may be made	A281
49.	Application to employ permitted teacher	A281
50.	Permit to teach	A282
51.	Grounds for refusal to issue permit to teach	A282
52.	Grounds for cancellation of permit to teach	A282

Sections.

Principals.

	<i>Page.</i>
53. Approval of first principal of school	A283
54. Grounds for refusal to approve principal	A283
55. Tenure of office of principal	A283
56. Grounds for withdrawal of approval of principal	A283
57. Approval of subsequent principals	A283
58. Functions of principal	A284

PART V.

APPEALS.

59. The Appeals Board	A284
60. Director to serve notice of decision on person adversely affected	A285
61. Right of appeal to Appeals Board	A286
62. Procedure on appeal	A286
63. Witnesses and inspections	A287
64. Decision of Appeals Board	A288
65. Further right of appeal to Governor in Council	A288
66. Permission to operate school or to act pending appeal	A288

PART VI.

ADDITIONAL PROVISIONS AS TO REGISTRATION, APPROVALS AND PERMITS TO TEACH.

67. Director may require interview or further information	A290
68. Additional powers of Director in respect of teachers	A290
69. Special powers of Governor in Council	A291
70. Effect of closure under section 69 on managers and teachers	A294
71. Return of invalid certificates and permits	A295
72. Restrictions on entry into school premises	A295

PART VII.

POWER OF DIRECTOR TO ORDER ATTENDANCE AT PRIMARY SCHOOL.

73. Interpretation of Part VII	A296
74. Power of Director to order attendance at primary school	A296
75. Board of review	A297
76. Powers of board	A297
77. Review by board	A298
78. Enforcement of order	A298

HONG KONG

No. 52 OF 1971.

L.S.

I assent.

D. C. C. TRENCH,
Governor.

2nd September, 1971.

An Ordinance to repeal and replace the Education Ordinance. L.N. 116/71.

[30th September, 1971]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

PART I.**PRELIMINARY.**Short title
and com-
mencement.

1. (1) This Ordinance may be cited as the Education Ordinance 1971.

* (2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*, and notices under this subsection may appoint different dates for different provisions of this Ordinance.Application.
(Cap. 1053.)

2. This Ordinance shall not apply to—

(a) the University of Hong Kong established by the University of Hong Kong Ordinance;

(Cap. 1109.)

(b) The Chinese University of Hong Kong established by The Chinese University of Hong Kong Ordinance;

(40 of 1971.)

(c) the Hong Kong Polytechnic established by the Hong Kong Polytechnic Ordinance 1971; or

(Cap. 320.)

(d) any post secondary college registered under the Post Secondary Colleges Ordinance.

Interpretation.

3. In this Ordinance, unless the context otherwise requires—
“approved manager” means a person who is approved under subsection (1) of section 24 to be a manager;

(Cap. 123.)

“authorized architect” means a person whose name is on the register of authorized architects kept under section 3 of the Buildings Ordinance;

“Building Authority” has the same meaning as it has in section 2 of the Buildings Ordinance;

*Sections 9(3), 73, 74, 75, 76, 77, 78 and 84 in operation on 3.9.71—see L.N. 103/71.

Ordinances not disallowed
— see G.N. 2333/71

“certificate of provisional registration” means in relation to a school which is provisionally registered, the certificate which is issued by the Director under subsection (1) of section 18 in respect of the school;

“certificate of registration” means—

- (a) in relation to a school which is registered under section 13, the certificate issued by the Director under subsection (1) of section 18 in respect of the school; and
- (b) 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” means the Director of Education;

“document” 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 connexion with a school;

“evening instruction” means any instruction the greater part of which in any one day takes place after 6 p.m.;

“functions” includes powers and duties;

“inclusive fee” means the total sum of money charged in respect of the education of a pupil in a school;

“inspector of schools” 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” means education which is suitable for normal pupils who have attained the age of four years but not the age of five years;

“manage” includes administer;

“management committee” means the registered managers of a school;

“manager” means a person who manages or takes any part in the management of—

- (a) a school; or
- (b) the activities of the pupils of a school;

“permitted teacher” 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;

“permit to teach” means a permit issued under subsection (1) of section 50 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;

“post secondary education” means education which is beyond the stage of secondary education;

“primary education” means education which is suitable for normal pupils who have attained the age of five years but not the age of twelve years;

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

“provisionally registered” means provisionally registered under section 15;

“pupils’ association” 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 twenty-one years who are undergoing primary or secondary education in any school or schools;

“registered”, in relation to a school, means registered under section 13 or under either of the repealed Ordinances;

“registered manager” means a person who is registered as a manager of a school under subsection (1) of section 29 or under either of the repealed Ordinances;

“registered name” means the name in which a school is registered or provisionally registered;

“registered teacher” means a person who is registered as a teacher under subsection (1) of section 45 or under either of the repealed Ordinances;

“repealed Ordinances” means—

(a) the Education Ordinance; and

(b) the Education Ordinance 1913;

“school” means an institution, organization or establishment which provides for twenty or more persons during any one day, whether or not at the same time, any 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;

“school premises” includes school recreation rooms, residential facilities, playing fields and playing grounds, and any other places used for the purposes of a school;

“secondary education” means education which is suitable for normal pupils who have attained the age of twelve years but not the age of nineteen years;

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

4. (1) The Director shall be charged with the superintendence of matters relating to education in Hong Kong.

Director to promote education in Hong Kong.

(2) The Director shall promote the education of the people of Hong Kong and control and direct education policy.

5. (1) The Deputy Director of Education may exercise any function of the Director under this Ordinance.

Delegation of Director's powers.

(2) The Director may authorize any officer of the Education Department to exercise any function of the Director under any provision of this Ordinance other than subsection (5) of section 9.

6. (1) The Governor may give to the Director and to any other public officer, other than a judge, a district judge, or a magistrate, such directions as he thinks fit with respect to the exercise or performance of their respective functions under this Ordinance, either generally or in any particular case.

Power of Governor to give directions.

(2) A person to whom a direction is given by the Governor under subsection (1) shall, in the exercise or performance of his functions under this Ordinance, comply with that direction.

7. (1) There shall be a Board of Education appointed in accordance with subsection (2) which may advise the Governor on educational matters.

The Board of Education.

(2) The Governor shall by notice in the *Gazette* appoint as members of the Board such persons as he thinks fit.

(3) A member of the Board shall hold office for such period as may be specified in such notice.

(4) The Board may regulate its procedure.

(5) Such officers of the Education Department as the Director may nominate shall attend the meetings of the Board.

(6) The Director shall appoint an officer of the Education Department to be the secretary to the Board.

(7) The secretary to the Board shall forward a record of every meeting of the Board to the Director, who shall transmit a copy of the record to the Governor together with any observations which the Director may wish to make on such record.

Director to
maintain
registers.

8. (1) The Director shall maintain—

- (a) a register of schools, in which shall be entered—
 - (i) the name of every registered school; and
 - (ii) the premises which are specified in the certificate of registration of the school;
- (b) a register of schools which are provisionally registered, in which shall be entered—
 - (i) the name of every school which is provisionally registered; and
 - (ii) the premises which are specified in the certificate of provisional registration of the school;
- (c) a list containing the name and address of every approved manager;
- (d) a register of managers, in which shall be entered—
 - (i) the name and address of every registered manager; and
 - (ii) the registered name and the address of every school of which a person is a registered manager; and
- (e) a register of teachers, in which shall be entered the name of every registered teacher.

(2) Such other particulars as the Director considers necessary may be entered in any register or list referred to in subsection (1).

Exemption of
schools from
Ordinance.

9. (1) The following schools and the owners, managers, teachers and pupils of such schools shall be exempt from this Ordinance—

- (a) any school entirely maintained and controlled by the Government or by the Crown in right of Her Majesty's Government in the United Kingdom;
- (b) any school which provides education which is solely religious; and
- (c) any school which has been exempted from either of the repealed Ordinances by notification in the *Gazette* and the exemption of which has not been withdrawn.

(2) The Governor in Council may, by order published in the *Gazette*, withdraw wholly or partly the exemption conferred

by subsection (1) on any school and the owners, managers, teachers or pupils of the school.

(3) The Governor in Council may, by order published in the *Gazette*, exempt from all or any of the provisions of this Ordinance—

- (a) any school or class or description of school; and
- (b) the owners, managers, teachers or pupils of such school or class or description of school,

on such conditions, if any, as he thinks fit.

(4) An order under subsection (3) exempting a school from section 10 shall not preclude the making of an application for registration of the school or the registration or provisional registration of the school, and if the school is registered or provisionally registered the exemption shall cease to have effect.

(5) The Director may, by order in writing, exempt from all or any of the provisions of this Ordinance—

- (a) any school which provides education consisting only of a series of lectures, or a course of instruction in a particular subject or topic;
- (b) any school which provides less than ten hours of academic instruction each week; and
- (c) the owners, managers, teachers or pupils of any school referred to in paragraph (a) or (b),

on such conditions, if any, as he thinks fit.

PART II.

REGISTRATION AND PROVISIONAL REGISTRATION OF SCHOOLS.

10. (1) Every school shall be registered or provisionally registered.

Schools to be registered or provisionally registered.

(2) If a school provides evening instruction in addition to other education, there shall be deemed to be a separate school in respect of the evening instruction and such separate school shall also be registered or provisionally registered.

11. An application for registration of a school shall be—

- (a) made to the Director by an approved manager in the prescribed form; and

Application for registration of school.

(b) accompanied—

- (i) by the documents specified in such form; and
- (ii) if the school is to be operated in or in any part of any premises which are not designed and constructed for the purposes of a school, by the additional documents specified in subsection (1) of section 12.

Additional documents required where premises not designed and constructed as a school.

12. (1) The documents referred to in sub-paragraph (ii) of paragraph (b) of section 11 shall be—

- (a) a certificate from the competent authority as to his opinion with regard to the suitability for the purposes of a school of the premises or the part of the premises in which the school is to be operated, having regard to the loading for which they are designed and constructed;
- (b) a certificate from the competent authority that the premises in or in part of which the school is to be operated do not have structural timber floors;
- (c) a certificate from the Director of Fire Services that the use for the purposes of a school of the premises or the part of the premises in which the school is to be operated would not expose the persons in the school premises to any undue risk of fire, and that in the event of fire in the premises in or in part of which the school is to be operated the means of escape for all the persons in the premises (including the persons in the school premises) would be adequate;
- (d) if the Buildings Ordinance applies to the premises in or in part of which the school is to be operated, a notice in writing from the Building Authority stating that he does not intend, in exercise of the powers conferred on him by section 25 of that Ordinance, to prohibit the use for the purposes of a school of the premises or the part of the premises in which the school is to be operated; and
- (e) if—
 - (i) the competent authority has certified under paragraph (a) that in his opinion the premises or the part of the premises in which the school is to be operated are not suitable for the purposes of a school, having regard to the loading for which they are designed and constructed;
 - (ii) the premises in or in part of which the school is to be operated were erected prior to the 1st day of January 1946; or

(Cap. 123.)

(iii) at the time of erection of the premises in or in part of which the school is to be operated, the Buildings Ordinance did not apply to such premises,

a certificate from an authorized architect that the premises in or in part of which the school is to be operated are in sound structural condition.

(2) An application to the competent authority, the Building Authority or the Director of Fire Services for a certificate or a notice required for the purposes of subsection (1) shall be—

- (a) made in such form as the Director shall specify; and
- (b) accompanied by a plan, drawn to such scale and with such number of copies as the Director shall specify, of the premises or the part of the premises in which the school is to be operated.

(3) The Director of Public Works may, where he is the competent authority for the purposes of paragraphs (a) and (b) of subsection (1), appoint any officer of the Public Works Department to perform the functions of the competent authority under those paragraphs.

(4) Nothing in this section shall affect the powers of the Building Authority under the Buildings Ordinance.

(5) For the purposes of this section, “competent authority” means—

(a) in the case of any premises or part of any premises which are situated in an area which has been set aside or has been deemed to have been set aside as a cottage resettlement area under section 37 of the Resettlement Ordinance, the person who is appointed under section 36 of that Ordinance to be the competent authority for the purpose of Part V of that Ordinance;

(Cap. 304.)

(b) in the case of any premises or part of any premises which are situated in an area which has been set aside as a Class I area or a Class II area under section 50A of the Resettlement Ordinance, the person who is appointed under section 50B of that Ordinance to be the competent authority for the purposes of Part VA of that Ordinance; and

(c) in any other case, the Director of Public Works and any officer of the Public Works Department appointed by him under subsection (3).

Registration of school.

13. On receiving an application in accordance with section 11, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by registering the school in respect of which the application is made; or
- (b) by refusing under section 14 to register the school.

Grounds for refusal to register school.

14. (1) The Director may refuse to register a school if it appears to him—

- (a) that there would be any danger to persons using the proposed school premises, whether arising inside or outside the premises, or that there would be a risk of any such danger;
- (b) that the proposed school premises are or are likely to be for any reason unsuitable for use for the purposes of a school;
- (c) that any provision of this Ordinance is being or will be contravened in respect of the school;
- (d) that the proposed inclusive fee is excessive having regard to the cost of maintaining and operating the school and to the standard of education to be provided;
- (e) that the qualifications and experience of the proposed teachers are not adequate to ensure the satisfactory operation of the school;
- (f) that the proposed salaries of the teachers are not adequate to ensure the satisfactory operation of the school;
- (g) that the proposed school premises or the equipment which is to be used by the school will not allow of satisfactory tuition in the subjects to be taught by the school;
- (h) that adequate educational facilities already exist in the area in which it is proposed to operate the school;
- (i) that the composition of the proposed management committee or of the proposed teaching staff is such that the school is not likely to be managed satisfactorily, or is such that the education of the pupils is not likely to be promoted in a proper manner;
- (j) that the composition of the proposed management committee or the proposed teaching staff is the same or substantially the same as that of a school which the Director has previously refused to register, or the registration or provisional registration of which the Director has previously cancelled;

- (k) that he has previously—
- (i) refused to register the school; or
 - (ii) cancelled the registration or provisional registration of the school;
- (l) that any part of the proposed school premises—
- (i) was to have been used for the purposes of a school which the Director has previously refused to register; or
 - (ii) has been used for the purposes of a school the registration or provisional registration of which the Director has cancelled;
- (m) that the school is affiliated to or connected with or in any way controlled by a foreign government or a department of a foreign government or an organization or group of a political nature;
- (n) that in or in connexion 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; or
- (o) that the proposed registered name of the school is unsuitable, or is the same as or similar to—
- (i) the name in which another school is registered; or
 - (ii) the name of any school the registration of which has been cancelled.

(2) The Director may also refuse to register a school if he refuses under subsection (1) of section 35 to approve as the first supervisor of the school the person who is recommended to be the supervisor by the applicant for registration of the school.

15. (1) At any time after an application for registration of a school is made in accordance with section 11 and before the application is determined, the Director may provisionally register the school for such period, not exceeding twelve months, as he thinks fit.

Provisional registration of school.

(2) The Director may extend the period of provisional registration of a school for such further periods, not exceeding twelve months at one time, as he thinks fit.

16. (1) If the Director registers a school which is provisionally registered, the provisional registration of the school shall cease to have effect.

Effect on provisional registration when application for registration is determined.

(2) If the Director refuses to register a school which is provisionally registered, the provisional registration of the school shall not by reason only of such refusal cease to have effect.

Restrictions on registration and provisional registration.

17. Notwithstanding sections 13 and 15, the Director shall not—

- (a) register or provisionally register a school in any name containing the word “university” or the Chinese characters “大學” or “學院”; or
- (b) without the consent of the Governor, register or provisionally register any school which provides post secondary education.

Certificate of registration or provisional registration.

18. (1) On registering or provisionally registering a school, the Director shall issue to the supervisor a certificate of registration or a certificate of provisional registration in the prescribed form and sufficient copies of the certificate so that the certificate or a copy may be exhibited in each of the premises specified in the certificate.

(2) Except as provided in subsection (3), section 20 and section 71, the supervisor of a school shall cause the certificate or a copy issued by the Director under subsection (1) to be exhibited at all times in a conspicuous place in each of the premises specified in the certificate.

(3) If the Director extends the period of provisional registration of a school under subsection (2) of section 15, the supervisor shall within one month after the date when he is notified of the extension deliver the certificate of provisional registration and every copy of the certificate to the Director, who shall amend the certificate and the copies thereof accordingly and return them to the supervisor.

Premises in which school may be operated.

19. (1) No school shall be operated in any premises other than the premises specified in the certificate of registration or provisional registration of the school.

(2) No teacher in any school shall teach in any premises other than the premises specified in the certificate of registration or provisional registration of the school.

Change of premises.

20. (1) The supervisor of a school may apply in writing to the Director to amend the certificate of registration or provisional registration by—

- (a) specifying in the certificate any additional or alternative premises; or
- (b) deleting from the certificate reference to any premises or to any part of any premises.

- (2) An application under subsection (1) shall be accompanied by—
- (a) the certificate in respect of which the application is made;
 - (b) every copy of the certificate issued under subsection (1) of section 18; and
 - (c) three copies of a plan or diagram, specifying dimensions, of the premises or the part of the premises to which the application relates.

(3) An application under paragraph (a) of subsection (1) shall specify the names and addresses of the landlord and the tenant of the premises or the part of the premises to which the application relates.

(4) An application under paragraph (a) of subsection (1) in respect of any premises or any part of any premises which are not designed and constructed for the purposes of a school shall be accompanied by the certificates and the notice specified in subsection (1) of section 12, and the provisions of subsections (2), (3), (4) and (5) of section 12 shall apply as if the application were an application for registration of a school.

(5) On receiving an application in accordance with this section, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by granting the application wholly or partly, in either of which cases he shall amend the certificate of registration or provisional registration and the copies thereof accordingly; or
- (b) by refusing to grant the application.

(6) The Director shall return to the supervisor the certificate of registration or provisional registration and the copies thereof, amended accordingly if he grants an application under paragraph (a) of subsection (5).

21. (1) If in the opinion of the Director of Fire Services a change in—

- (a) the design or structure of the premises in or in any part of which a school is operated; or
- (b) the use of any part of the premises in or in any part of which a school is operated,

Changes in design or use of premises increasing fire risk.

is such that the persons in the school premises are exposed to any undue risk of fire, or that in the event of fire in the premises in or in any part of which the school is operated, the means of escape for all the persons in the premises (including the persons in the school premises) would not be adequate, he may deliver to the Director a notice in writing which shall either—

- (i) specify any provision which in his opinion should be made by the school to eliminate the undue risk of fire, or to ensure that in the event of fire the means of escape for all the persons in the premises (including the persons in the school premises) will be adequate; or
- (ii) if the Director of Fire Services considers that no provision can be made by the school to eliminate the undue risk of fire, or to ensure that in the event of fire the means of escape for all the persons in the premises (including the persons in the school premises) will be adequate, state that in his opinion no such provision can be made.

(2) If the Director of Fire Services delivers to the Director a notice under subsection (1) in respect of a school specifying any provision which the Director of Fire Services considers should be made by the school, the Director may by notice in writing served on the supervisor of the school require such provision to be made.

22. (1) The Director may cancel the registration or provisional registration of a school—

- (a) on any ground specified in paragraph (a), (b), (c), (d), (e), (f), (g), (i), (j), (k), (l), (m) or (n) of section 14 on which he would have been entitled to refuse registration of a school, whether or not such ground existed at the time when the school was registered or provisionally registered;
- (b) if any manager of the school has committed an offence against this Ordinance subsequent to the registration or provisional registration of the school;
- (c) if it appears to the Director that the school has ceased to exist, or that for a continuous period of not less than one school term the school has ceased to operate;
- (d) if a direction given in a notice served under subsection (2) of section 82 on the supervisor or any other manager of the school has not been complied with;
- (e) if it appears to the Director that the management committee is not managing the school satisfactorily, or that the education of the pupils is not being promoted in a proper manner;

Grounds for cancellation of registration or provisional registration of school.

- (f) if, in the case of a school which is operated in or in any part of any premises which, in the opinion of the competent authority for the purposes of section 12, are unsuitable for use for the purposes of a school having regard to the loading for which the premises or the part of the premises are designed and constructed, the Director has received a report from an authorized architect that the premises in or in part of which the school is operated are not in sound structural condition;
- (g) if in respect of the school any provision specified in a notice under subsection (2) of section 21 has not been made—
- (i) within two months of the date of service of the notice; or
 - (ii) before the commencement of the school term next following the date of service of the notice, whichever is the earlier, or within such further period as the Director may permit;
- (h) if, under subsection (1) of section 21, the Director has received a notice from the Director of Fire Services stating that, in the latter's opinion, no provision can be made by the school to eliminate any undue risk of fire, or to ensure that in the event of fire in the premises in or in any part of which the school is operated, the means of escape for all the persons in the premises (including the persons in the school premises) will be adequate;
- (i) if the school is operated in any name other than the name in which it is registered or provisionally registered; or
- (j) if it appears to the Director that any provision of this Ordinance is being or has been contravened in respect of the school.
- (2) The Director shall cancel the registration or provisional registration of a school if—
- (a) the registration of every manager of the school is cancelled; and
 - (b) no manager of the school is permitted under section 66 to continue to act as a manager of the school.

PART III.

MANAGERS OF SCHOOLS.

Approval of persons to be managers.

Application for approval to be a manager.

23. An application for approval to be a manager shall be made to the Director in the prescribed form.

Approval to be a manager.

24. (1) On receiving an application in accordance with section 23, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by approving the applicant to be a manager; or
- (b) by refusing under section 25 to approve the applicant to be a manager.

(2) On approving an applicant to be a manager under subsection (1), the Director shall issue to the applicant a certificate of approval in the prescribed form.

Grounds for refusal of approval to be a manager.

25. The Director may refuse to approve an applicant to be a manager if it appears to him that the applicant—

- (a) is not resident in Hong Kong for at least nine months in each year;
- (b) is not a fit and proper person to be a manager;
- (c) has been convicted of an offence punishable with imprisonment;
- (d) is a person in respect of whom a permit to teach has previously been cancelled;
- (e) has not established that he possesses suitable qualifications or experience to be a manager;
- (f) cannot perform satisfactorily or is unlikely to perform satisfactorily the duties of a manager;
- (g) has attained the age of seventy years; or
- (h) in making or in connexion with any application—
 - (i) for approval to be a manager;
 - (ii) for registration of a school;
 - (iii) for registration as a manager or a teacher; or
 - (iv) 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.

26. (1) The Director may withdraw his approval of a person to be a manager—

- (a) on any ground specified in paragraph (a), (b), (c), (d), (g) or (h) of section 25 which applies to the person, whether or not such ground existed at the time when he was approved to be a manager;
- (b) if it appears to the Director that the person—
 - (i) has ceased to be a manager;
 - (ii) cannot perform satisfactorily or is not performing satisfactorily the duties of a manager;
- (c) if the person has been an office-bearer, as defined in section 2 of the Societies Ordinance, of any society which has had its registration or its exemption from registration cancelled under section 10 of that Ordinance or which has been dissolved under section 30 of that Ordinance;
- (d) if the person has contravened any provision of this Ordinance; or
- (e) if it appears to the Director that—
 - (i) any school of which the person is registered as a manager is not being managed satisfactorily;
 - (ii) in any school of which the person is registered as a manager, the education of the pupils is not being promoted in a proper manner; or
 - (iii) any pupil of a school of which the person is registered as a manager is not under proper supervision or control while on the school premises.

Grounds for withdrawal of approval to be a manager.

(Cap. 151.)

(2) The Director shall withdraw his approval of a person to be a manager at the written request of the person.

Registration of managers of schools.

27. No person shall act as a manager of a school unless he is registered as a manager of the school under subsection (1) of section 29.

Managers of schools to be registered.

28. An application for registration as a manager of a school shall be made to the Director by an approved manager in the prescribed form.

Application for registration of manager.

29. (1) On receiving an application in accordance with section 28, the Director shall make such inquiry as he considers necessary and shall determine the application—

Registration of manager.

- (a) by registering the applicant as a manager of the school in respect of which the application is made; or

- (b) by refusing under section 30 to register the applicant as a manager of the school in respect of which the application is made.

(2) On registering an applicant as a manager of a school under subsection (1), the Director shall issue to the applicant a certificate of registration in the prescribed form.

Grounds for refusal to register manager.

30. (1) The Director may refuse to register an applicant as a manager of a school if—

- (a) it appears to the Director that the applicant has not established that he has a special interest in the school;
- (b) it appears to the Director that the registration of the applicant as a manager of the school would result in an undue proportion of the management committee being registered by reason only of their special interests in the school;
- (c) the school has more than four registered managers; or
- (d) it appears to the Director that in making or in connexion with any application—
- (i) for approval to be a manager;
 - (ii) for registration of a school;
 - (iii) for registration as a manager or a teacher; or
 - (iv) 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 of any material particular.

(2) The Director shall refuse to register an applicant as a manager of a school if it appears to the Director that the applicant is not acceptable as a manager of the school to the majority of the management committee.

Grounds for cancellation of registration of manager.

31. (1) The Director may cancel the registration of a manager of a school—

- (a) on any ground specified in paragraph (c) of subsection (1) of section 26 which applies to the manager;
- (b) on any ground specified in paragraph (d) of subsection (1) of section 30 which applies to the manager, whether or not such ground existed at the time when he was registered as a manager of the school; or
- (c) if the manager was so registered by reason of a special interest in the school which has subsequently ceased.

(2) The Director shall cancel the registration of a manager of a school—

- (a) if it appears to him that the manager is no longer acceptable as a manager of the school to the majority of the management committee; or
- (b) at the written request of the manager.

(3) The registration of a person as a manager of a school shall be deemed to be cancelled if, under any provision in this Ordinance, the Director withdraws his approval of the person to be a manager.

Management committees.

32. Every school shall be managed by its management committee.

Management committee to manage school.

33. The management committee of a school shall be responsible for ensuring—

- (a) that the school is managed satisfactorily;
- (b) that the education of the pupils is promoted in a proper manner; and
- (c) that this Ordinance is complied with.

Responsibilities of management committee.

Supervisors.

34. Subject to section 35, the Director shall approve as the first supervisor of a school the person who is recommended to be the supervisor by the applicant for registration of the school.

Approval of first supervisor of school.

35. (1) The Director may refuse to approve a person as the supervisor of a school if the Director is not satisfied that the person is a fit and proper person to be the supervisor.

Grounds for refusal to approve supervisor.

(2) The Director shall not approve a person as the supervisor of a school unless the person is a registered manager of the school.

36. The supervisor of a school shall hold office until—

- (a) he ceases to be a registered manager of the school;
- (b) he resigns;
- (c) the Director withdraws his approval of the supervisor under section 37; or
- (d) the Director approves another registered manager of the school as the supervisor under subsection (2) of section 38.

Tenure of office of supervisor.

Grounds for withdrawal of approval of supervisor.

- 37.** The Director may withdraw his approval of the supervisor of a school if it appears to the Director that the supervisor—
- (a) is no longer a fit and proper person to be the supervisor;
 - (b) is not performing the duties of the supervisor satisfactorily;
 - (c) has ceased to perform the duties of the supervisor; or
 - (d) is no longer acceptable as such to the majority of the management committee.

Approval of subsequent supervisors.

38. (1) If in the case of any school which is registered or provisionally registered—

- (a) the Director refuses under section 35 to approve a person who has been recommended to be the supervisor;
- (b) the supervisor ceases under section 36 to hold office;
- (c) there is for any other reason no supervisor;
- (d) the supervisor ceases to perform the duties of the supervisor; or
- (e) the supervisor is no longer acceptable as such to the majority of the management committee,

the management committee shall within one month recommended for the approval of the Director another registered manager of the school to be the supervisor.

(2) Subject to section 35, the Director shall approve as the supervisor of the school the registered manager who is recommended under subsection (1).

Duties of supervisor.

39. (1) Subject to any other provision in this Ordinance, all correspondence between a school and the Director or any public officer concerning the management of the school shall be conducted on behalf of the school by the supervisor.

(2) The supervisor of a school shall within one month after the happening of such event give notice in writing to the Director if—

- (a) any person ceases to be a manager of the school;
- (b) the supervisor ceases to perform the duties of the supervisor;
- (c) the principal ceases to perform the duties of the principal;
- (d) any teacher commences to teach or is employed to teach at the school;
- (e) any teacher ceases to teach or ceases to be employed to teach at the school;

- (f) the supervisor becomes aware of a change in any particulars furnished under this Ordinance with respect to any landlord or tenant of the premises in which the school is operated.
- (3) A notice under subsection (2) shall specify—
 - (a) the full name and address of the person to whom the notice relates and, if he is a registered or permitted teacher, his registration number or permitted teacher reference number; and
 - (b) the date of the event referred to in the notice.

40. Without prejudice to subsection (1) of section 38, if at any time there is no supervisor of a school, the duties of the supervisor under this Ordinance shall be performed by the management committee until a supervisor is approved by the Director, and in such case any notice which is to be served or which may be served under this Ordinance on the supervisor may be served on any registered manager of the school.

Duties of management committee in absence of supervisor.

Additional managers.

- 41. (1) If it appears to the Director—
 - (a) that a school is not being managed satisfactorily or that the education of the pupils is not being promoted in a proper manner; or
 - (b) that the composition of the management committee of a school is such that the school is not likely to be managed satisfactorily, or is such that the education of the pupils is not likely to be promoted in a proper manner,

Appointment of additional managers by Director.

he may appoint one or more persons to be additional managers of the school for such period as he thinks fit.

- (2) A person who is appointed by the Director under subsection (1) to be a manager of a school—
 - (a) shall be deemed to be approved to be a manager under subsection (1) of section 24 and to be registered as a manager of the school under subsection (1) of section 29;
 - (b) shall perform his functions in accordance with any directions given to him by the Director; and
 - (c) may enter the school premises at all reasonable times.
- (3) Notwithstanding subsections (1) and (2), no person who is appointed by the Director under subsection (1) to be a manager of a school shall participate in any of the profits of the school or shall be liable for any financial obligations incurred by the management committee in respect of the operation of the school.

PART IV.

TEACHERS.

General.

Teachers to be registered or permitted teachers.

- 42.** (1) No person shall teach in a school unless he is—
- (a) a registered teacher; or
 - (b) a permitted teacher.

(2) No permitted teacher shall teach in a school otherwise than in accordance with the conditions or limitations specified in the permit to teach issued in respect of such teacher.

Director may require medical examination of proposed teacher.

- 43.** The Director may, before registering a person as a teacher or issuing a permit to teach in respect of any person, require such person to undergo a medical examination.

Registration of teachers.

Application for registration as a teacher.

- 44.** An application for registration as a teacher shall be—
- (a) made to the Director in the prescribed form; and
 - (b) accompanied by the documents specified in such form.

Registration of teacher.

- 45.** (1) On receiving an application in accordance with section 44, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by registering the applicant as a teacher; or
- (b) by refusing under section 46 to register the applicant as a teacher.

(2) On registering an applicant as a teacher under subsection (1), the Director shall issue to the applicant a certificate of registration in the prescribed form.

Grounds for refusal to register teacher.

- 46.** The Director may refuse to register an applicant as a teacher if it appears to him that the applicant—

- (a) is not a fit and proper person to be a teacher;
- (b) has been convicted of an offence punishable with imprisonment;
- (c) is a person in respect of whom a permit to teach has previously been cancelled;
- (d) is medically unfit;
- (e) does not possess the prescribed qualifications;
- (f) has attained the age of seventy years; or

- (g) in making or in connexion with any application—
 - (i) for approval to be a manager;
 - (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.

47. The Director may cancel the registration of a teacher—

- (a) on any ground specified in section 46 which applies to the teacher, whether or not such ground existed at the time when he was registered as a teacher;
- (b) if it appears to the Director that the teacher is incompetent;
- (c) if the teacher has contravened any provision of this Ordinance;
- (d) if it appears to the Director that the teacher has behaved in any manner which, in the opinion of the Director, constitutes professional misconduct; or
- (e) if it appears to the Director that the teacher has behaved in any manner which, in the opinion of the Director, is prejudicial to the maintenance of good order and discipline in the school in which the teacher teaches.

Grounds for cancellation of registration of teacher.

Permitted teachers.

48. An application to employ a person as a permitted teacher in a school may only be made if the applicant is of the opinion that no suitable registered teacher is available for employment as a teacher in the school.

Circumstances in which application to employ permitted teacher may be made.

49. (1) An application to employ a person as a permitted teacher in a school shall be made to the Director—

Application to employ permitted teacher.

- (a) in the case of a school which is registered or provisionally registered, by the supervisor; or
- (b) in the case of a proposed school, by the applicant for registration of the school.

(2) An application to employ a person as a permitted teacher in a school shall be made in the prescribed form.

Permit to teach.

50. (1) On receiving an application in accordance with section 49, the Director shall make such inquiry as he considers necessary and shall determine the application—

- (a) by issuing to the supervisor of the school concerned a permit in the prescribed form; or
- (b) by refusing under section 51 to issue such a permit.

(2) A permit to teach issued under subsection (1) shall specify the school in which the permitted teacher may be employed, and may impose such other conditions in respect of the employment of the permitted teacher in the school as the Director thinks fit.

(3) The Director shall, if he issues a permit to teach under subsection (1), also issue a copy of the permit to the permitted teacher.

Grounds for refusal to issue permit to teach.

51. The Director may refuse to issue a permit to teach under subsection (1) of section 50 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 paragraph (a), (b), (c), (d) or (f) of section 46 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 connexion with any application—
 - (i) for approval to be a manager;
 - (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.

Grounds for cancellation of permit to teach.

52. (1) The Director may cancel a permit to teach—

- (a) on any ground specified in paragraph (b), (c) or (d) of section 51 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 paragraph (b), (c), (d) or (e) of section 47 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.

Principals.

53. (1) Within one month after the registration or provisional registration of a school, the management committee shall recommend for the approval of the Director a teacher of the school to be the principal.

Approval of first principal of school.

(2) Subject to section 54, the Director shall approve as the principal of the school the teacher who is recommended under subsection (1).

54. 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 to be the principal of the school.

Grounds for refusal to approve principal.

55. The principal of a school shall hold office until—

- (a) he ceases to be registered as a teacher, or to be permitted to teach as a permitted teacher in the school;
- (b) he resigns;
- (c) the Director withdraws his approval of the principal under section 56; or
- (d) the Director approves another teacher of the school as the principal under subsection (2) of section 57.

Tenure of office of principal.

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

Grounds for withdrawal of approval of principal.

- (a) is no longer a fit and proper person to be the principal;
- (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.

57. (1) If in the case of any school—

- (a) the Director refuses under section 54 to approve a teacher who has been recommended to be the principal;

Approval of subsequent principals.

- (b) the principal ceased under section 55 to hold office;
- (c) the principal ceases to perform the duties of the principal; or
- (d) the principal is no longer acceptable as such to the majority of the management committee,

the management committee shall within one month recommend for the approval of the Director another teacher of the school to be the principal.

(2) Subject to section 54, the Director shall approve as the principal of the school the teacher who is recommended under subsection (1).

Functions of
principal.

58. (1) The principal of a school shall, subject to the directions of the management committee, be responsible for the teaching and discipline of the school and for such purposes shall have authority over the teachers and pupils of the school.

(2) The Director may address the principal of a school on any matter relating to the teaching and discipline in the school, and in such case the principal shall conduct correspondence directly with the Director.

PART V.

APPEALS.

The Appeals
Board.

59. (1) For the purposes of this Part, there shall be an Appeals Board appointed in accordance with subsection (2).

- (2) The Governor shall by notice in the *Gazette* appoint—
 - (a) not less than nine persons as members of the Appeals Board, of whom at least three shall be registered teachers;
 - (b) one of the persons appointed under paragraph (a) as chairman of the Appeals Board.

(3) A member of the Appeals Board shall hold office for such period as may be specified in such notice.

(4) Subject to subsection (5), five members of the Appeals Board shall be a quorum.

(5) The Appeals Board shall not hear or determine any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher unless at least three of the members comprising the quorum are registered teachers.

- (6) The Appeals Board may—
- (a) subject to any other provision in this Part, regulate its own procedure and make standing orders for that purpose; and
 - (b) appoint one of its members to act as chairman if the chairman is absent.

(7) The Appeals Board may at its request be assisted in the conduct of an appeal by a legal officer appointed by the Attorney General to act as legal assessor.

(8) The Governor shall appoint a person to be the secretary to the Appeals Board.

60. (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.

Director to serve notice of decision on person adversely affected.

TABLE.

<i>First Column.</i>	<i>Second Column.</i>
Section 14.	Applicant.
Paragraph (b) of subsection (5) of section 20.	Supervisor.
Subsection (1) of section 22.	Supervisor.
Section 25.	Applicant.
Subsection (1) of section 26.	Approved manager concerned.
Subsection (1) of section 30.	Applicant.
Subsection (1) of section 31.	Registered manager concerned.
Subsection (1) of section 35.	Person recommended to be supervisor.
Section 37.	Manager ceasing to be supervisor.
Section 46.	Applicant.
Section 47.	Teacher concerned.
Section 51.	Supervisor.
Subsection (1) of section 52.	Supervisor.
Section 54.	Supervisor.
Section 56.	Supervisor.

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

- (a) a refusal by the Director under subsection (1) of section 30 to register any person as a manager of the school;
- (b) the cancellation by the Director under subsection (1) of section 31 of the registration of any manager of the school;
- (c) a refusal by the Director under subsection (1) of section 35 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 subsection (1) of section 52 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.

Right of
appeal to
Appeals
Board.

61. (1) A person on whom a notice is served under subsection (1) of section 60 may, within twenty-one days after the service of the notice, appeal to the Appeals Board against the decision of the Director referred to in the notice, by delivering in duplicate to the secretary of the Appeals Board a notice of appeal in accordance with subsection (2).

(2) Every notice of appeal shall be in writing and shall specify—

- (a) the decision of the Director in respect of which the appeal is brought; and
- (b) the grounds on which the appeal is brought.

Procedure
on appeal.

62. (1) On receiving a notice of appeal in accordance with section 61, the secretary of the Appeals Board shall—

- (a) forthwith forward one copy of the notice of appeal to the Director;
- (b) fix a time and place for the hearing of the appeal by the Appeals Board; and

(c) give the appellant and the Director not less than fourteen days notice of the time and place fixed for the hearing of the appeal.

(2) On receiving a copy of a notice of appeal under subsection (1), the Director shall forthwith forward to the secretary of the Appeals Board a copy of the notice which has been served on the appellant under subsection (1) of section 60.

(3) At the hearing of an appeal, the appellant or his authorized representative, and the Director or any person appointed by him for such purpose, shall be entitled to be present and to be heard on the appeal.

(4) The hearing of an appeal may at the discretion of the Appeals Board be open to the public or in camera, or partly open to the public and partly in camera.

(5) If the hearing of an appeal is adjourned, no person shall be present as a member of the Appeals Board when the hearing is resumed unless he has been present at all previous hearings of the appeal.

(6) The Appeals Board may hear and determine an appeal in the absence of the appellant or the Director if due notice of the hearing of the appeal has been given to both of the parties.

(7) The onus of proving that the grounds stated by the Director under subsection (1) of section 60 for his decision are not correct, or do not justify the decision, shall be upon the appellant.

(8) Except with the permission of the Appeals Board, neither the appellant nor the Director may rely at the hearing of an appeal on any grounds other than those stated by the Director in the notice served on the appellant under subsection (1) of section 60, and those specified by the appellant in the notice of appeal.

63. (1) For the purposes of hearing an appeal, the Appeals Board may—

(a) subject to subsection (4), hear and examine witnesses on oath;

(b) subject to subsection (4), summon any person to attend any hearing of the Appeals Board to give evidence or produce any document or other thing in his possession and examine him as a witness or require him to produce any document or other thing in his possession;

(c) order an inspection of any premises;

(d) enter and view any premises.

(2) A summons under subsection (1) shall be in such form as the chairman of the Appeals Board shall direct and shall be signed by the chairman and the secretary.

Witnesses and inspections.

- (3) Subject to subsection (4), any person who—
- (a) being summoned under subsection (1) to attend any hearing of the Appeals Board to give evidence or to produce any document or other thing in his possession, or to refuses or neglects to do so; or
- (b) being examined under subsection (1) as a witness by or before the Appeals Board, refuses or neglects to answer any question put to him by or with the concurrence of the Appeals Board, or to produce any document or other thing in his possession when required to do so,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

(4) Every person who appears as a witness before the Appeals Board shall be entitled to the same privileges in respect of the giving of evidence and the production of any document and other thing as he would be entitled to if appearing as a witness in civil proceedings before the Supreme Court.

(5) Any person who—

- (a) behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the Appeals Board; or
- (b) wilfully disrupts the proceedings of the Appeals Board,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

Decision
of Appeals
Board.

64. (1) On the hearing of an appeal, the Appeals Board may confirm, reverse or vary the decision of the Director appealed against, and shall state its reasons for its decision.

(2) The secretary of the Board shall serve on the appellant and the Director notice in writing of the decision of the Appeals Board together with the reasons of the Board for its decision.

Further right
of appeal to
Governor in
Council.

65. The Director or the appellant may within fourteen days after being served under subsection (2) of section 64 with a notice of the decision of the Appeals Board appeal by way of petition to the Governor in Council.

Permission
to operate
school or to
act pending
appeal.

66. (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 subsection (1) of section 22;

- (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 subsection (1) of section 31, or is deemed to have been cancelled under subsection (3) of section 31 by reason of the decision of the Director to withdraw under subsection (1) of section 26 his approval of such person to be a manager;
- (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 subsection (1) of section 52.

(2) Any permission given by the Director under subsection

(1) shall remain in force—

(a) until—

(i) the expiry of the time specified in subsection (1) of section 61 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.

PART VI.

ADDITIONAL PROVISIONS AS TO REGISTRATION,
APPROVALS AND PERMITS TO TEACH.

Director
may require
interview
or further
information.

- 67.** If an application is made for—
- (a) the registration of a school;
 - (b) approval to be a manager;
 - (c) registration as a manager or a teacher; or
 - (d) to employ a person as a permitted teacher in a school,
- the Director may require the applicant or the proposed permitted teacher—
- (i) to attend an interview with such person as the Director may specify; or
 - (ii) to make any declaration or to supply any further particulars that the Director considers necessary in connexion with the application.

Additional
powers of
Director in
respect of
teachers.

- 68.** (1) Notwithstanding any other provision in this Ordinance, the Director may—
- (a) refuse to register any person as a teacher;
 - (b) cancel the registration of any person as a teacher;
 - (c) refuse to issue a permit to teach under subsection (1) of section 50 in respect of any person; or
 - (d) cancel a permit to teach issued in respect of any person,
- if the Director is satisfied that the environment in which the person has received any part of his education has been such as to make the person unsuitable as a teacher in Hong Kong.
- (2) The Director shall, if he refuses under paragraph (a) of subsection (1) to register any person as a teacher, or cancels under paragraph (b) of subsection (1) the registration of any person as a teacher, serve notice in writing of his decision on the person.
- (3) The Director shall—
- (a) if he refuses under paragraph (c) of subsection (1) to issue a permit to teach in respect of any person, serve notice in writing of his decision on the supervisor of the school in which the person was to be employed to teach; or
 - (b) if he cancels under paragraph (d) of subsection (1) a permit to teach, serve notice in writing of his decision on the supervisor of the school in which the permitted teacher is employed to teach.

(4) A person on whom a notice is to be served under subsection (2) or (3) may, within twenty-one days after the service of the notice on him, appeal by way of petition to the Governor.

(5) On consideration of an appeal under subsection (4), the Governor may—

- (a) reverse the decision of the Director; or
- (b) refer the appeal to the Governor in Council.

(6) On consideration of an appeal referred to him under subsection (5), the Governor in Council may confirm or reverse the decision of the Director.

(7) The Director may, if he cancels under paragraph (b) of subsection (1) the registration of any teacher, or cancels under paragraph (d) of subsection (1) a permit to teach, by notice in writing to the teacher whose registration is cancelled or to the supervisor of the school in which the permitted teacher is employed to teach, permit the teacher to continue to teach upon such conditions, if any, as the Director thinks fit until—

- (a) the expiry of the time specified in subsection (4) for the bringing of an appeal to the Governor; and
- (b) the determination of any appeal brought under subsection (4) to the Governor.

69. (1) Notwithstanding any other provision in this Ordinance, if it appears to the Governor in Council that it would be prejudicial to the public interest or the welfare of pupils or of education generally—

(a) that—

- (i) a school should be registered;
- (ii) a person should be approved to be a manager;
- (iii) a person should be registered as a teacher; or
- (iv) a person should be a permitted teacher;

(b) that a school should continue to be registered or provisionally registered;

(c) that a person should continue to be an approved manager;

(d) that a teacher should continue to be registered; or

(e) that a person should continue to be a permitted teacher,

the provisions of this section shall apply.

Special powers
of Governor
in Council.

(2) The Governor in Council may cause a notice in writing, stating that it is made under this section, to be served—

- (a) in any case referred to in sub-paragraph (i), (ii) or (iii) of paragraph (a) of subsection (1), on the applicant, calling on him to show cause why the application should not be refused;
- (b) in the case referred to in sub-paragraph (iv) of paragraph (a) of subsection (1), on the supervisor of the school in which the person is to be employed to teach calling on him to show cause why the application should not be refused;
- (c) in any case referred to in paragraph (b) of subsection (1), on the supervisor of the school, calling on him to show cause why the registration or provisional registration of the school should not be cancelled;
- (d) in the case referred to in paragraph (c) of subsection (1), on the approved manager, calling on him to show cause why his approval to be a manager should not be withdrawn;
- (e) in the case referred to in paragraph (d) of subsection (1), on the registered teacher, calling on him to show cause why his registration as a teacher should not be cancelled; or
- (f) in the case referred to in paragraph (e) of subsection (1), on the supervisor of the school in which the permitted teacher is employed to teach, calling on the supervisor to show cause why the permit to teach issued in respect of the permitted teacher should not be cancelled.

(3) The Governor in Council may—

- (a) in any case referred to in paragraph (b) of subsection (1), suspend the registration or provisional registration of the school until the determination of the proceedings under this section;
- (b) in the case referred to in paragraph (c) of subsection (1), suspend the approval of the person to be a manager until the determination of the proceedings under this section;
- (c) in the case referred to in paragraph (d) of subsection (1), suspend the registration of the teacher until the determination of the proceedings under this section; or

(d) in the case referred to in paragraph (e) of subsection (1), suspend the permit to teach issued in respect of the permitted teacher until the determination of the proceedings under this section,

by a statement to that effect in the notice served under subsection (2), and in such case the suspension shall take effect from the date of service of the notice and shall continue in effect until the proceedings under this section are determined.

(4) A person whose approval to be a manager has been suspended under subsection (3) shall, during the period of suspension, be deemed, if he is registered as a manager of any school, to have had such registration also suspended.

(5) A person who is served with a notice under subsection (2) shall be entitled to appear in person, and to hear the grounds on which it is proposed to take the course specified in the notice and to make such representations as he wishes against the course being taken.

(6) If, after opportunity for appearance and for making representations has been afforded under subsection (5), the Governor in Council is satisfied—

(a) in any case referred to in paragraph (a) of subsection (1), that the application should be refused;

(b) in any case referred to in paragraph (b) of subsection (1), that the registration or provisional registration of the school should be cancelled;

(c) in the case referred to in paragraph (c) of subsection (1), that the approval of the person to be a manager should be withdrawn;

(d) in the case referred to in paragraph (d) of subsection (1), that the registration of the teacher should be cancelled;
or

(e) in the case referred to in paragraph (e) of subsection (1), that the permit to teach issued in respect of the permitted teacher should be cancelled,

he shall order accordingly, and the order shall be put into effect by the Director.

(7) Notwithstanding subsection (2) of section 16, if the Governor in Council orders under subsection (6) that an applica-

tion for registration of a school be refused, and at the time when such order is made the school is already provisionally registered, the Director shall cancel the provisional registration of the school.

(8) The Governor may suspend the operation of an order made under subsection (6) for such period and on such conditions as he thinks fit.

(9) If under subsection (6)—

- (a) the approval of a person to be a manager is withdrawn;
- (b) the registration of a person as a teacher is cancelled; or
- (c) a permit to teach issued in respect of any person is cancelled,

the person shall not thereafter be approved to be a manager nor be registered as a manager or a teacher, nor shall a permit be issued under subsection (1) of section 50 in respect of such person.

(10) The Governor may waive the provisions of subsection (9) in a particular case on such conditions, if any, as he thinks fit.

Effect of closure under section 69 on managers and teachers.

70. (1) The Director shall, on cancelling the registration or provisional registration of a school under subsection (6) of section 69, also withdraw his approval of every registered manager of the school.

(2) Any registered manager whose approval is withdrawn under subsection (1) may appeal by way of petition to the Governor in Council within fourteen days of the making of the order under subsection (6) of section 69 cancelling the registration or provisional registration of the school.

(3) If—

- (a) the approval of any person to be a manager is withdrawn under subsection (1); or
- (b) the permit to teach issued in respect of any permitted teacher is deemed to be cancelled under subsection (2) of section 52 by reason of the cancellation of the registration or provisional registration of a school under subsection (6) of section 69,

the person shall not thereafter be approved to be a manager, nor be registered as a manager nor shall a permit to teach be issued in respect of such person unless an appeal under subsection (2) has been allowed against the withdrawal of the approval or the cancellation of the registration.

(4) The Governor may waive the provisions of subsection (3) in a particular case on such conditions, if any, as he thinks fit.

71. Notwithstanding any other provision in this Ordinance,

- if—
- (a) a school ceases to be registered or provisionally registered;
 - (b) a person ceases to be approved to be a manager;
 - (c) a person ceases to be registered as a manager or a teacher; or
 - (d) a person ceases to be a permitted teacher,

Return of
invalid cer-
tificates and
permits.

every person who has in his possession any certificate or copy of a certificate relating to such registration, provisional registration or approval or, in the case referred to in paragraph (d), the permit to teach or a copy of the permit to teach issued in respect of the permitted teacher, shall within one month after being required to do so by the Director deliver such document to the Director.

72. (1) If the registration or provisional registration of a school has been cancelled under section 22 or subsection (6) of section 69, or is suspended under subsection (3) of section 69, no person who has at any time been a manager, teacher or pupil of the school shall enter or remain in any premises—

Restrictions
on entry
into school
premises.

- (a) in which the school was operated; and
 - (b) which are being used for the purposes of a school,
- without the permission in writing of the Director.

(2) No person shall, without the permission in writing of the Director, enter or remain in any school—

- (a) if at any time—

- (i) he has been refused approval to be a manager, or having been so approved has had such approval withdrawn;

- (ii) he has been refused registration as a manager or a teacher, or having been so registered has had his registration cancelled;

- (iii) a permit to teach has been refused in respect of such person;

- (iv) he has been a permitted teacher in respect of whom a permit to teach has been cancelled; or

- (v) he has been refused approval as the supervisor of principal of a school, or having been so approved has had such approval withdrawn; or

(b) while—

- (i) his approval to be a manager;
- (ii) his registration as a teacher; or
- (iii) a permit to teach issued in respect of such person, is suspended under subsection (3) of section 69.

(3) The Director may attach to any permission given under this section such conditions as he thinks fit.

PART VII.

POWER OF DIRECTOR TO ORDER ATTENDANCE AT PRIMARY SCHOOL.

Interpretation
of Part VII.

73. In this Part—

“attendance order” means an order made under section 74;

“board” means the board of review established under section 75;

“child” means a child who has attained the age of six years but not the age of twelve years;

“parent” in relation to any child includes a guardian and the person having the actual custody of the child.

Power of
Director
to order
attendance
at primary
school.

74. (1) Where it appears to the Director that a parent of a child is withholding the child from attending primary school without any reasonable excuse, the Director may, after making such inquiries as he considers necessary, serve upon a parent an attendance order in the prescribed form requiring him to cause the child to attend regularly as a pupil the primary school named in the attendance order.

(2) The Director may at any time, by notice in writing serve upon a parent of the child to whom an attendance order relates—

(a) vary the order by substituting another primary school for that named in the order;

(b) otherwise vary or withdraw the order,

and any variation of an attendance order shall take effect on the expiry of the period of fourteen days after the date of service of the notice in writing.

Board of
review.

75. (1) For the purposes of this Part, there shall be a board of review, which shall consist of not less than five persons appointed by the Governor.

(2) The Governor may appoint a public officer to be the secretary of the board.

76. (1) Subject to this Ordinance, the practice and procedure on a review by the board shall be such as the board may determine.

Powers of board.

(2) For the purposes of a review the board shall have the following powers—

(a) to hear and examine witnesses on oath; and

(b) to summon any person to attend any hearing of the board to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession.

(3) A witness summons shall be in such form as the chairman of the board shall direct and shall be signed by the chairman.

(4) Any person who, being summoned to attend as a witness or to produce any document or any other thing at a hearing of the board, refuses or neglects to do so or to answer any questions put to him by or with the concurrence of the board shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months:

Provided that no person shall be bound to incriminate himself and every witness shall in respect of any evidence given by him before the board be entitled to the privileges to which he would be entitled if giving evidence before a court of justice.

(5) Any person—

(a) who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the board; or

(b) wilfully disrupts the proceedings of the board,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months.

77. (1) A parent aggrieved by—

(a) an attendance order; or

(b) any variation of an attendance order,

may within fourteen days of the date of the order or the notice in writing apply to the board for a review.

Review by board.

(2) An application under subsection (1) may be oral or in writing.

- (3) Upon a review the board may either—
- (a) confirm the attendance order or the variation; or
 - (b) cancel the attendance order or the variation.
- (4) The decision of the board shall be final.

(5) The secretary of the board shall notify the parent of the decision of the board.

Enforcement
of order.

78. Any parent who without reasonable excuse fails to comply with an attendance order (as the same may be varied from time to time) shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars and to imprisonment for three months:

Provided that—

- (a) if an application for a review of an attendance order is made, no offence shall be committed until after the secretary of the board has notified the parent under subsection (5) of section 77 of the decision on the review;
- (b) if an application for a review of any variation of an attendance order is made, no offence shall be committed, by reason of a failure to comply with the variation, until after the secretary of the board has notified the parent under subsection (5) of section 77 of the decision on the review.

PART VIII.

INSPECTION OF SCHOOLS.

Appointment
of inspectors.

79. The Governor may by notice in the *Gazette* appoint by name or office—

- (a) any officer of the Education Department to be an inspector of schools;
- (b) any Government medical officer to be a medical officer of schools; and
- (c) any health inspector to be a health inspector of schools.

Inspection
of schools.

80. The Director and any inspector of schools may inspect any school for the purposes of ascertaining whether this Ordinance is being complied with and whether the school is being conducted satisfactorily.

81. The Director and any inspector of schools may, for the purposes of section 80—

Powers of inspectors.

- (a) at all reasonable times enter the premises of any school;
- (b) enter any premises in which he has reason to suspect that an offence against this Ordinance has been or is being committed;
- (c) require any manager or teacher of a school to produce any book, document or other article relating to the management of the school, or to the teaching in or any other activity of the school, or to furnish any information relating to such management, teaching or activity;
- (d) remove for further examination any book, document or other article which he has reason to suspect is evidence of the commission of an offence against this Ordinance, or is evidence of a ground for the withdrawal of the approval of any person to be a manager, or for the cancellation of the registration of any school, manager or teacher, or for the cancellation of the provisional registration of any school, or for the cancellation of any permit to teach; and
- (e) do such other things as are necessary for the inspection of a school.

82. (1) The Director may, if it appears to him that—

Power of Director to direct remedial measures.

- (a) a school is not being managed satisfactorily;
- (b) the education of the pupils of a school is not being promoted in a proper manner; or
- (c) any provision of this Ordinance is being or has been contravened in respect of a school,

by notice in writing give such directions as he thinks necessary in order that the school will be operated satisfactorily, or that the education of the pupils of the school will be promoted in a proper manner, or that such provision of this Ordinance will be complied with in respect of the school.

(2) Any notice under subsection (1)—

- (a) may be served on the supervisor and every other manager of the school concerned; and
- (b) may specify a period of time within which the directions shall be complied with.

Powers of Director to close school or give directions in cases of danger or misconduct.

- 83.** (1) The Director may, if it appears to him that—
- (a) there is any danger or risk of danger to persons in any school premises;
 - (b) the conduct of the managers, teachers or pupils of a school is or has been unsatisfactory; or
 - (c) any provision of this Ordinance is being or has been contravened in respect of a school,
- by order in writing served on any manager of the school—
- (i) close the school premises, or any part of the school premises, for such period as he thinks fit or until further notice;
 - (ii) prohibit the use of any place for the purposes of a school for such period as he thinks fit or until further notice; or
 - (iii) give such directions and make such requirements as he thinks necessary.
- (2) The Director may, if any direction or requirement given or made by him under paragraph (iii) of subsection (1) has not been complied with to his satisfaction, by order in writing—
- (a) close the school premises, or any part of the school premises; or
 - (b) prohibit the use of any place for the purposes of the school,
- until the direction or requirement is so complied with.
- (3) The Director may by order in writing close any premises of a school which is not registered or provisionally registered.
- (4) The Director may, if a school is operated in any premises which are not specified in the certificate of registration or provisional registration of the school, by order in writing close such premises.
- (5) An order made by the Director paragraph (i) or (ii) of subsection (1) or subsection (2), (3) or (4) shall be published in the *Gazette*.
- (6) No person shall enter or remain in—
- (a) any premises or any part of any premises which have been closed by the Director under subsection (1), (2), (3) or (4); or
 - (b) any place the use of which for the purposes of a school has been prohibited by the Director under subsection (1) or (2),
- unless—
- (i) he is a public officer acting in the course of his duty; or
 - (ii) the Director has given him permission in writing to do so.

PART IX.

GENERAL PROVISIONS.

84. (1) The Governor in Council may make regulations Regulations.
providing for—
- (a) the structure, hygiene and sanitation of school premises;
 - (b) the precautions to be taken against fire or other peril likely to endanger the lives or health of pupils, and the authorizing of officers of the Fire Services Department to enter and inspect school premises and premises in which schools are situate and premises in the neighbourhood of schools;
 - (c) the control of entrances to and exits from school premises;
 - (d) the operation of schools in premises which, by reason of the loading for which they were designed and constructed, are unsuitable for the purposes of a school;
 - (e) the health inspection of schools and school premises and standards of hygiene to be maintained by schools;
 - (f) the medical examination of teachers and pupils and standards of medical fitness for teachers;
 - (g) the temporary exclusion from any school of any teacher or pupil, and any other measures necessary or desirable to preserve the health and well-being of teachers and pupils;
 - (h) the size of school classes;
 - (i) the control of instruction given by schools, including limitations on the subjects taught and the documents which may be upon school premises and which may be used by schools, and the preparation and contents of the syllabus to be used by any school or schools;
 - (j) the methods and hours of instruction provided by schools;
 - (k) the adequacy, suitability and use of school equipment, school laboratories and school workshops;
 - (l) the control of activities of managers, teachers, pupils and other persons in schools, and of pupils' associations;
 - (m) the prohibition of political, subversive or tendentious activities or propaganda in schools and amongst teachers and pupils;
 - (n) the control of the use to which school premises may be put and of the persons who may enter school premises;

- (o) school holidays;
 - (p) the constitution and duties of management committees;
 - (q) the keeping of school registers, time-tables and books of account;
 - (r) the amount and methods of payment of fees and other charges made by schools and the prohibition of any further fees and charges and of any specified fees or charges;
 - (s) the amounts of inclusive fees which may be charged by schools and the notification of such fees in the *Gazette* and the prohibition or restriction of variations from such fees;
 - (t) general matters of school management;
 - (u) the duties of supervisors and principals;
 - (v) the giving by supervisors to the Director of such information concerning schools and pupils therein as may be required by the Director;
 - (w) the qualifications of registered teachers and permitted teachers, and the qualifications to be held by teachers of various classes and subjects;
 - (x) the control of salaries paid to teachers;
 - (y) discipline in schools and methods of enforcement of discipline, and the conduct and dress of teachers and pupils;
 - (z) anything which is to be prescribed under this Ordinance; and
 - (aa) the better carrying into effect of the provisions of this Ordinance in relation to any matter as to which it may be convenient to make regulations.
- (2) Any regulation made under this section may—
- (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.
- (3) Regulations made under this section may provide that a contravention thereof shall be an offence punishable on conviction by a fine not exceeding five thousand dollars and a term of imprisonment not exceeding two years.

(4) The Director may by notice in writing to the supervisor of any school waive wholly or partly the requirements of any regulation in respect of the school.

85. (1) For the purpose of maintaining any provident fund (whether established before or after the commencement of this Ordinance) for the benefit of teachers employed by schools to which grants in aid or subsidies are made by the Government, the Governor in Council may make rules providing for—

Rules for
provident
funds.

- (a) the objects and method of control and management and investment of such fund;
- (b) the persons or classes of persons who shall be eligible for membership of such fund, and the persons or classes of persons who shall be compulsory contributors to such fund;
- (c) contributions to such fund, and the method of payment;
- (d) the method of dealing with any contribution which may be made by the Government to such fund;
- (e) the constitution of a reserve fund to meet fluctuations in the value of investments, and for the allocation to a reserve fund of any investment income of the provident fund;
- (f) the method of, conditions precedent for, and authority for withdrawals and benefits, and the permissible amount of withdrawals and benefits;
- (g) the appointment of any trustees who may be considered necessary, and the powers and duties of the trustees; and
- (h) generally for the purpose of the maintenance of such fund.

(2) Such sums as may be necessary to meet the contributions payable by the Government to any provident fund in accordance with rules made under subsection (1) shall be met from moneys provided by the Legislative Council.

(3) Subject to any rules made under subsection (1), no contribution or donation to or dividend or interest on a dividend from a provident fund shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever.

(4) ~~On the death of a contributor to any provident fund, the first five thousand dollars payable out of such contributor's account in respect of his death shall be deemed to be an amount in respect of which the Accountant General, on being satisfied~~

72 of 1971, s. 3.

Notes-up 29/1971

(Cap. 10.)

of the expediency of dispensing with probate or administration, may under section 59 of the Probate and Administration Ordinance authorize payment to such person or persons as he may consider entitled thereto without requiring the production of probate or administration.

Prohibition of issue of degrees or documents resembling degrees.

Offences and penalties.

86. No person or school shall—

- (a) award a degree to a person; or
- (b) issue any document which could reasonably be taken as signifying the award of a degree to a person.

87. (1) Any person who—

- (a) is an owner or a manager of or a teacher in a school which is not registered or registered provisionally;
- (b) is an owner or a manager of a school which is operated in contravention of subsection (1) of section 19;
- (c) contravenes section 27; or
- (d) obstructs—
 - (i) the Director or an inspector while the Director or inspector is carrying out an inspection of a school;
 - (ii) any manager appointed under subsection (1) of section 41 in the performance of his functions as a manager;
- (e) is an owner or a manager of a school which is operated while its registration or provisional registration is suspended under subsection (3) of section 69;
- (f) teaches in a school while its registration or provisional registration is suspended under subsection (3) of section 69;
- (g) manages a school while his registration as a manager of such school is deemed to be suspended under subsection (4) of section 69;
- (h) refuses to produce any book or document or other article or to furnish any information upon being so required under section 81, or furnishes information which is false in a material particular and which he knows or reasonably ought to know is false in such particular;
- (i) being a supervisor or any other manager of a school, fails to comply with any notice served on him under section 82;
- (j) contravenes subsection (6) of section 83; or
- (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 twenty-five thousand dollars and to imprisonment for two years.

(2) Any person who—

- (a) is a member of any management committee which contravenes subsection (1) of section 38, or section 40;
- (b) not being the supervisor of a school or a member of the management committee of a school acting under section 40, performs any function of the supervisor of the school;
- (c) not being the principal of a school, performs any function of the principal of the school; or
- (d) contravenes subsection (1) or (2) of section 72,

shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for two years.

(3) Any person who—

- (a) is an owner or manager of a school which is operated in any name other than its registered name;
- (b) contravenes subsection (2) or (3) of section 18;
- (c) contravenes subsection (2) of section 19;
- (d) contravenes subsection (2) or (3) of section 39;
- (e) contravenes subsection (1) or (2) of section 42;
- (f) employs or permits any person to teach in a school in contravention of subsection (1) or (2) of section 42;
- (g) is a member of a management committee which contravenes subsection (1) of section 53 or subsection (1) of section 57;
- (h) teaches in a school while his registration as a teacher is suspended under subsection (3) of section 69;
- (i) being a permitted teacher, teaches in a school while the permit to teach issued in respect of him is suspended under subsection (3) of section 69;
- (j) employs or permits any registered teacher whose registration is suspended under subsection (3) of section 69 to teach in a school;
- (k) employs or permits any permitted teacher to teach in a school while the permit to teach issued in respect of such teacher is suspended under subsection (3) of section 69;

- (l) contravenes section 71;
- (m) contravenes section 86; or
- (n) is an owner or a manager of a school which contravenes section 86.

shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for two years.

(4) If a registered manager of a school is charged with an offence by reason of being a member of a management committee which has contravened a provision of this Ordinance specified in paragraph (a) of subsection (2) or in paragraph (g) of subsection (3), it shall be a defence to the charge if he proves that—

- (a) the other members of the management committee contravened such provision without his knowledge or consent; or
- (b) he took all reasonable steps to prevent the other members of the management committee from contravening such provision.

Evidence.

88. In any prosecution for an offence against this Ordinance—

- (a) if it is proved that any equipment, materials or documents of an educational nature or suitable for the purposes of a school were found at any place, it shall be presumed until the contrary is proved that a school was being operated at such place;
- (b) if it is proved that any person did any act in connexion with the organization or operation of a school, it shall be presumed until the contrary is proved that such person took part in the management of such school; and
- (c) if it is proved that any person was in charge of or issued instructions to any person under twenty-one years of age in any school premises, it shall be presumed until the contrary is proved that the first-mentioned person was teaching in that school.

Liability of landlord and tenant of premises in which school is unlawfully operated.

89. (1) A magistrate may, if satisfied that—

- (a) a school which is not registered or provisionally registered is being operated in any premises; or
- (b) a school is being operated in any premises which are not specified in the certificate of registration or provisional registration of the school,

order that a notice in writing of the fact shall be served on the landlord and the tenant of the premises or, if the landlord or

tenant is absent or under disability, on his attorney or agent or the rent collector of the landlord or, if the landlord or tenant is a corporation, on the secretary or manager of the corporation.

(2) A magistrate may at the request of any person on whom a notice has been served in accordance with subsection (1), make an order terminating as from the date of the order the tenancy of the premises in which the school is being operated, and on the making of the order the tenancy shall cease and determine for all purposes and any tenant or occupier (other than the landlord) may be treated as a trespasser.

(3) An order under subsection (2) shall be recognized and given effect to in any proceeding in any court.

(4) An order under subsection (2) shall be sufficient authority to any police officer to enter at any time between the hours of 9 a.m. and 5 p.m., by force if necessary, the premises in respect of which the order is made and to give possession of such premises to the landlord or his agent.

(5) The powers conferred by subsection (4) shall be in addition to and not in derogation of any power conferred by any other enactment.

(6) If, after a notice has been served in accordance with subsection (1) on any person—

- (a) a school which is not registered or provisionally registered is operated in the premises in respect of which the notice was given; or
- (b) a school is operated in the premises in respect of which the notice was given and such premises are not specified in the certificate of registration or provisional registration of the school,

the person on whom the notice has been served (and the landlord or the tenant of the premises, if the person on whom such service is made is an attorney, agent, rent collector, secretary or manager for and on behalf of the landlord or tenant) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for two years, unless he proves to the satisfaction of the magistrate—

- (a) that a request has been made to a magistrate for an order under subsection (2); or
- (b) that he did not know and had no reasonable means of knowing that a school was being so operated on the premises.

(7) A person shall not be guilty of an offence under subsection (6) unless a reasonable time has elapsed, following the service of the notice in accordance with subsection (1) on him, during which a request could have been made to a magistrate for an order under subsection (2).

(8) In this section—

“landlord” includes the holder of any lease or tenancy who has sublet his holding or any part thereof;

“tenancy” includes any sub-tenancy;

“tenant” includes any sub-tenant.

Powers of police officers to enter premises and remove suspected persons.

90. (1) A magistrate may, if satisfied by information on oath that there is reasonable ground for suspecting that section 72 or subsection (6) of section 83 has been or is being contravened in respect of any premises or place, issue a search warrant authorizing any police officer named therein to enter at any time such premises or place and to search the premises or place and every person found therein and to remove therefrom any person who is or is reasonably suspected to be contravening section 72 or subsection (6) of section 83.

(2) A police officer may, if he reasonably suspects that section 72 or subsection (6) of section 83 has been or is being contravened in respect of any premises or place other than a dwellinghouse—

- (a) enter such premises or place without a warrant, if necessary by force;
- (b) search such premises or place and every person found therein; and
- (c) remove from such premises or place any person found therein who is or is reasonably suspected to be contravening section 72 or subsection (6) of section 83.

(3) Notwithstanding subsections (1) and (2), no person shall be searched under this section except by a person of the same sex.

Service of notices.

91. (1) Where provision is made in this Ordinance for the Governor in Council or a public officer to serve a notice or to cause a notice to be served on a person, it shall be sufficient service if the notice is served—

- (a) by causing it to be delivered personally to the person on whom it is to be served;
- (b) by causing it to be sent by registered post to the last known address of the person on whom it is to be served;

- (c) if the person on whom it is to be served is an owner, manager, supervisor, principal, teacher or pupil of a school, by causing it to be sent by registered post to any premises specified in the certificate of registration or provisional registration of the school, or any premises in which the school is operated; or
- (d) if the person on whom the notice is to be served is an owner, manager, supervisor, principal or teacher of a school, by causing the notice to be posted in a conspicuous place upon or in any premises specified in the certificate of registration or provisional registration of the school, or any premises in which the school is operated.
- (2) Without prejudice to the provisions of subsection (1), where a notice is to be served on a person under section 89, it shall be sufficient service if it is served by causing the notice to be posted in a conspicuous place upon the premises to which it relates.

PART X.

RECORDED SCHOOLS.

92. This Part applies only to schools which—

- (a) were in operation both on the 9th day of July 1971 and on the date of commencement of this Part;
- (b) have not been registered or provisionally registered;
- (c) have not been refused registration; and
- (d) are not exempted from the provisions of this Ordinance under section 9.

Application of Part X.

93. In this Part—

“recorded school” means a school the existence of which has been recorded by the Director under section 95;

“request” means a request made under section 94 to the Director to record the existence of a school.

Interpretation of Part X.

94. (1) A manager of a school to which this Part applies may, at any time before the 31st day of March 1972, request the Director to record the existence of the school under section 95.

(2) Every request made under subsection (1) shall be—

- (a) in the prescribed form; and
- (b) accompanied by a plan, specifying dimensions, of every premises in which the school is operated.

Application by school to be recorded.

Director to record school on receipt of completed application.

95. (1) On receiving a request in accordance with section 94, the Director shall—

- (a) record the existence of the school referred to in the request; and
- (b) issue to the applicant a written statement in the prescribed form and sufficient copies of the statement so that the statement or a copy may be exhibited in each of the premises specified in the request.

(2) The statement or any copy thereof issued under subsection (1) in respect of a recorded school shall be exhibited at all times in a conspicuous place in each of the premises specified in the request to record the existence of the school.

Recorded school to be exempt from Ordinance.

96. Subject to sections 97 and 98, a recorded school and the owners, managers, teachers and pupils of the school shall be exempt from the provisions of this Ordinance other than section 3 (which deals with the interpretation of words and expressions used in this Ordinance), section 91 (which provides for the service of notices) and this Part, and shall be deemed to have been so exempted at all times prior to the date on which the existence of the school was recorded under section 95.

Duration of exemption.

97. (1) Section 96 shall, subject to the provisions of this section and section 98, cease to apply to a recorded school and to the owners, managers, teachers and pupils of the school on the 1st day of August 1974.

(2) Notwithstanding the provisions of subsection (1), the Director may, by notice in writing to the manager of any recorded school, permit section 96 to continue to apply to the school for such period after the 1st day of August 1974 as may be stated in such notice and subject to such conditions as the Director may specify therein.

(3) Notwithstanding subsections (1) and (2), section 96 shall cease to apply to a recorded school and to the owners, managers, teachers and pupils of the school if—

- (a) the school is registered or provisionally registered;
- (b) the Director notifies any manager of the school in writing that he is of the opinion that, without his permission—
 - (i) the school has been operated in any name not specified in the request as the name in which the school is operated;
 - (ii) the school has been operated in any premises not specified in the request as premises in which the school was operated;

(iii) any person not specified in the request as an owner of the school has become an owner of the school;

(iv) any person not specified in the request as a manager of the school has become a manager of the school;

(v) the school has provided any type of education not specified in the request; or

(vi) subsection (2) of section 95 has been contravened, at any time since the date on which the existence of the school was recorded under section 95; or

(c) the Director notifies any manager of the school in writing that he is of the opinion that the school is not being managed satisfactorily or the education of the pupils is not being promoted in a proper manner.

98. (1) The Director of Fire Services or the Building Authority may, if he is of the opinion that the condition of any premises of a recorded school is such that the lives of persons using the premises are endangered, deliver a notice to that effect to the Director.

Director may prohibit use of dangerous premises by recorded school.

(2) On receipt of a notice under subsection (1), the Director may, by notice in writing served on any manager of the recorded school, order that the premises shall no longer be used by the school.

(3) If a notice is served on a manager of a recorded school under this section, section 96 shall cease to apply to the school, and to the owners, managers, teachers or pupils of the school, in respect of the operation of or any activity of or in connexion with the school in the premises to which the notice relates.

PART XI.

REPEAL, SAVING AND TRANSITIONAL PROVISIONS.

99. (1) The Education Ordinance is repealed.

Repeal and saving.
(Cap. 279.)

(2) Notwithstanding the repeal of the Education Ordinance, any appointment which has been made under either of the repealed Ordinances and which was in effect immediately prior to the commencement of this Part, shall continue to have effect as if, at the date when it was made, such appointment had been made under this Ordinance.

Transitional
provisions.
(Cap. 279.)

100. (1) Notwithstanding the repeal of the Education Ordinance (hereinafter in this subsection referred to as Chapter 279), any application or appeal made under Chapter 279 which has not been finally determined before the commencement of this Part shall be—

- (a) determined in accordance with Chapter 279 as if this Ordinance had not been enacted; and
- (b) deemed to have been determined under Chapter 279 immediately prior to its repeal by this Ordinance.

(2) Notwithstanding any other provision in this Ordinance, a person who was registered as a manager of a school under either of the repealed Ordinances and whose registration is in effect immediately prior to the commencement of this Part shall be deemed to have been approved to be a manager under subsection (1) of section 24 of this Ordinance on the date on which he was so registered as a manager.

Passed by the Hong Kong Legislative Council this 1st day of September, 1971.

R. J. FRAMPTON,
Clerk to the Legislative Council.

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

R. J. FRAMPTON,
Clerk to the Legislative Council.