

6 July 2007

Education Bureau Circular No. 7/2007

**Education (Exemption)
(Private Schools Offering Non-Formal Curriculum) Order (Cap. 279F)**

[Note : This circular should be read by -

- (a) Supervisors, Managers, Heads and Teachers of private schools offering non-formal curriculum – for necessary action as appropriate; and
- (b) Heads of Sections – for information]

Summary

This circular is to draw the attention of private schools offering non-formal curriculum (hereafter referred to as PSNFCs)^{Note} to the updated Guidelines on Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order.

Details

2. All PSNFCs are required to register under the Education Ordinance (EO) (Cap. 279).
3. The Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order (Cap. 279F) (hereafter referred to as the Exemption Order), which came into operation on 1 July 2004, grants exemption from certain provisions of EO and the Education Regulations (ER) to PSNFCs which -
 - (i) provide any educational course other than nursery, kindergarten, primary, secondary or post secondary education; and
 - (ii) are not funded wholly or partly by any subsidy from the Government.

The above schools are exempted schools under the Exemption Order, and are

^{Note} Private schools which offer educational courses such as tutorial, commercial, language and computer courses are categorized as private schools offering non-formal curriculum (PSNFCs).

exempted from certain requirements of the provisions of EO and ER relating to five categories, namely, fees, employment of teachers, teachers' qualifications, principals and holidays, subject to compliance with specified conditions. Schools can download [the Exemption Order here](#).

4. PSNFCs which provide any formal curriculum courses (such as arts, science or commercial courses at Secondary 4, 5, 6 or 7 level) or courses leading to post secondary qualifications (such as courses accredited by the Hong Kong Council for Academic Accreditation as equivalent to Associate Degree or Higher Diploma) in addition to non-formal curriculum courses are still required to comply with all provisions of EO and ER.

5. Exempted schools under the Exemption Order are still required to comply with the provisions of EO and ER other than those exempt provisions stipulated in the Exemption Order.

6. The Guidelines on the Exemption Order at the **Appendix** have been updated. Exempted schools which wish to be exempt from the relevant provisions of EO and ER should observe the Guidelines.

7. If an exempted school fails to comply with any conditions of a particular category specified in the Exemption Order, it is not entitled to the exemption granted under the category concerned. The school is then obliged to comply with those exempt provisions of that particular category, e.g. seeking approval from the Permanent Secretary for Education to collect course fees on an equal monthly basis, or to employ a person as a permitted teacher to teach in a school, or to appoint a teacher of the school to be the principal as appropriate. Appropriate action such as prosecution action, or cancellation of manager registration or school registration will be considered if the school fails to do so.

8. This circular replaces Education and Manpower Bureau Circular No. 10/2004 dated 30 June 2004.

Enquiry

9. For enquiries, please contact your respective Senior School Development Officer.

(Eddie CHEUNG)
for Permanent Secretary for Education

**Guidelines on Education (Exemption)
(Private Schools Offering Non-Formal Curriculum) Order**

Summary

This set of guidelines covering a wide range of principles and points to note on matters relating to the Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order (Cap. 279F) (hereafter referred to as the Exemption Order) serves to assist private schools offering non-formal curriculum (PSNFCs) in understanding the Exemption Order.

Principles

- The Exemption Order applies only to PSNFCs which -
 - (i) provide any educational course other than nursery, kindergarten, primary, secondary or post secondary education; and
 - (ii) are not funded wholly or partly by any subsidy from the Government.

They are exempted schools under the Exemption Order.

- PSNFCs which provide any formal curriculum courses (such as arts, science or commercial courses at Secondary 4, 5, 6 or 7 level) or courses leading to post secondary qualifications (such as courses accredited by the Hong Kong Council for Academic Accreditation (HKCAA) as equivalent to Associate Degree or Higher Diploma) in addition to non-formal curriculum courses are still required to comply with all provisions of the Education Ordinance (EO) and the Education Regulations (ER).
- Apart from the provisions exempted under the Exemption Order upon compliance with specified conditions, exempted schools are not exempt from school registration and are required to comply with other provisions of EO and ER.

- In accordance with regulation 94 of ER, exempted schools are required to report updated school information to the Education Bureau (EDB) whenever required by the Permanent Secretary for Education (PS(Ed)).
- If an exempted school fails to comply with any conditions of a particular category specified in the Exemption Order, it is not entitled to the exemption granted under the category concerned. It is then obliged to comply with those exempt provisions of that particular category, e.g. seeking approval from PS(Ed) to collect course fees on an equal monthly basis, or to employ a person as a permitted teacher to teach in a school, or to appoint a teacher of the school to be the principal as appropriate. Appropriate action such as prosecution action, or cancellation of manager registration or school registration will be considered if the school fails to do so.

A. Fees

<i>Exempted requirements</i>	The managers, the supervisor, the principal and the teachers of an exempted school are exempted from the requirements of the provisions related to fees under EO and ER. Provisions exempted are specified in Part 1 of Schedule 1 of the Exemption Order.
<i>Conditions to be complied with</i>	The exemption related to fees is subject to compliance with the conditions specified in Part 2 of Schedule 1 of the Exemption Order.
<i>Points to note</i>	<ol style="list-style-type: none"> 1. An exempted school is not required to seek approval from EDB for fees collections if it complies with all the conditions specified in Part 2 of Schedule 1 of the Exemption Order. EDB will not issue any fees certificate to it or grant any approval to any collection of fee. 2. Course name should reflect level and subject of the course concerned. 3. School name should reflect the courses the school operates. If the course nature changes after the registration of the school, the school should apply for amendment of school

	<p>name from the School Registration and Compliance Section of EDB accordingly.</p> <p>4. Before pupils enroll for a course, an exempted school should provide them with a course leaflet containing the following information -</p> <ul style="list-style-type: none"> (a) the school registration number, the school name and the school address as specified in the certificate of registration or provisional registration of the school; (b) the school telephone number for enquiries on course information; (c) information on the principal and teachers; (d) course details including course code (if applicable), course name, course content, fees (including entrance examination and pupil registration fees, if any), mode of delivery, course duration, course date, course time and course venue; (e) if the course name contains wording like ‘diploma’, the school should specify that the course has not been accredited by HKCAA; (f) school facilities, e.g. classrooms, lecture room, language laboratory or computer room; and (g) refund policies and procedures if the school fails to operate the course as scheduled. <p>5. Samples of course fees information sheet to be displayed in the school premises of an exempted school and formal receipt to be issued to pupils are at Annexes 1 and 2 respectively.</p> <p>6. An exempted school should follow the policies and procedures below in handling course fees refund -</p> <ul style="list-style-type: none"> (a) <u>Refund policies</u> <ul style="list-style-type: none"> (i) In case of school closure prior to the commencement of a course, the school should refund in full the course fee collected to pupils immediately. (ii) If a course cannot be operated according to the arrangements specified in the fee receipts and pupils decline the revised arrangements offered
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by the school, the school should refund in full or on a pro-rata basis the course fee collected to pupils as soon as possible and in any event not later than one month after the pupils have requested for the refund.

(iii) If a course cannot be operated on the date or at the time specified in the course leaflet and pupils decline the revised arrangements offered by the school, the school should refund in full or on a pro-rata basis the course fee collected to pupils as soon as possible and in any event not later than one month after the pupils have requested for the refund.

(iv) In case of cessation of a course after its commencement, the school should refund to pupils the course fee collected on a pro-rata basis as soon as possible and in any event not later than one month after the cessation of the course.

(b) Refund procedures

(i) School should on its own initiative inform pupils of the refund arrangement either over the telephone or in writing. For pupils aged below 18, their parents or guardians can proceed with the refund procedures on the pupils' behalf.

(ii) School should refund the pupils in accordance with the policies stated in point 6(a) above.

(iii) When processing the refund, school should not take away the original fee receipts. Upon receipt of the refund, pupils or parents should sign to acknowledge the receipt.

(iv) The refund can be either in cash or by cheque. However, **the cheque should not be a post-dated one.**

Sample of refund policies and procedures is at **Annex 3**.

7. Before pupils enroll for a course, an exempted school should request the pupils/their parents to acknowledge the following –

	<p>(a) pupils/parents have received the course leaflet containing course details, fees, information on the principal and teachers of the exempted school, and refund policies and procedures; and</p> <p>(b) pupils/parents understand that the fee for the course is collected on an equal monthly basis.</p> <p>Sample of acknowledgement is at Annex 4.</p>
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B. Employment of teachers

<i>Exempted requirements</i>	<ol style="list-style-type: none"> 1. The managers, the supervisor and the principal of an exempted school are exempted from the requirements of the provisions related to employment of teachers under EO. Provisions exempted are specified in Part 1 of Schedule 2 of the Exemption Order. 2. The exemption does not apply in relation to a person who is required - <ol style="list-style-type: none"> (a) in the course of teaching, to carry out or supervise practical experiments or demonstrations in a science laboratory; (b) in the course of teaching, to carry out or supervise practical activities in a school workshop; or (c) to teach physical education.
<i>Conditions to be complied with</i>	The exemption related to employment of teachers is subject to compliance with the conditions specified in Part 2 of Schedule 2 of the Exemption Order.
<i>Points to note</i>	<ol style="list-style-type: none"> 1. An exempted school is not required to submit an application to EDB for permission to employ a person as a permitted teacher if it complies with all the conditions specified in Part 2 of Schedule 2 of the Exemption Order. EDB will not issue any teaching permit to it. 2. The supervisor of an exempted school should take the following steps to ensure that the qualifications the teachers claim to have acquired are genuine -

	<p>(a) to check the original documents relating to the qualifications of teachers;</p> <p>(b) to endorse the photocopies of the concerned documents by putting the words “Original Seen”, his/her signature, full name in block letters and post title (i.e. Supervisor) on each of the photocopies; and</p> <p>(c) to keep the endorsed photocopies of documents relating to teachers’ qualifications in the exempted school premises.</p> <p>An exempted school should provide the above documents to EDB whenever required.</p> <p>3. The supervisor of an exempted school should require teachers to provide valid chest X-ray certificates and medical certificates in order to ensure that they are physically and mentally fit to teach. All these documents should be kept in the exempted school premises.</p> <p>4. The supervisor of an exempted school is required to report the information on the new teachers to the respective District School Development Section of EDB within one month after the teachers commence to teach in the exempted school.</p> <p>5. The Exemption Order only exempts exempted schools from application to employ permitted teachers. Persons possessing qualifications for registration as registered teachers (RTs) may apply to the Teacher Registration Team of EDB for registration as RTs direct.</p> <p>6. An exempted school should require a teacher applicant to provide his/her previous conviction record, if any, upon his/her application for employment as a teacher. Sample of the part on a teacher’s conviction record included in an application form for employment as a teacher is at Annex 5. If an exempted school wishes to employ a person convicted of an offence stipulated in section 7 of Part 2 of Schedule 2 of the Exemption Order as a teacher, it is required to apply for permission to employ the person as a permitted teacher</p>
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	<p>from the Teacher Registration Team of EDB. The application will be processed according to section 50 of EO.</p> <p>7. If an exempted school wishes to employ a teacher with non-local qualifications, the supervisor should ask the teacher applicant to approach HKCAA for a qualification assessment direct. HKCAA would issue an assessment report which facilitates the supervisor's evaluation as to whether the teacher applicant has a qualification equivalent to one of those stated in Part II and/or Part III of the Second Schedule to ER.</p>
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C. Teachers' qualifications

<i>Exempted requirements</i>	<ol style="list-style-type: none"> 1. The teachers of an exempted school are exempted from the requirements of the provisions related to teachers' qualifications under EO. Provisions exempted are specified in Part 1 of Schedule 3 of the Exemption Order. 2. The exemption does not apply in relation to a teacher who is required - <ol style="list-style-type: none"> (a) in the course of teaching, to carry out or supervise practical experiments or demonstrations in a science laboratory; (b) in the course of teaching, to carry out or supervise practical activities in a school workshop; or (c) to teach physical education.
<i>Conditions to be complied with</i>	The exemption related to teachers' qualifications is subject to compliance with the conditions specified in Part 2 of Schedule 3 of the Exemption Order.
<i>Points to note</i>	<ol style="list-style-type: none"> 1. Persons possessing qualifications for registration as RTs may apply to the Teacher Registration Team of EDB for registration as RTs direct. <p>Teachers with non-local qualifications can approach HKCAA for qualification assessment direct.</p>

D. Principals

<i>Exempted requirements</i>	The managers, the supervisor, the principal and the teachers of an exempted school are exempted from the requirements of the provisions related to principals under EO. Provisions exempted are specified in Part 1 of Schedule 4 of the Exemption Order.
<i>Conditions to be complied with</i>	The exemption related to principal is subject to compliance with the conditions specified in Part 2 of Schedule 4 of the Exemption Order.
<i>Points to note</i>	<ol style="list-style-type: none">1. An exempted school is not required to seek approval from EDB for appointment of principal if it complies with all the conditions specified in Part 2 of Schedule 4 of the Exemption Order.2. Within one month after the appointment of the principal by the supervisor of an exempted school, the supervisor is required to inform the respective District School Development Section of EDB of the particulars of the principal. If there is any change in the particulars, the supervisor should also, within one month of becoming aware of the change, inform the respective District School Development Section of EDB of the change.

E. Holidays

<i>Exempted requirements</i>	The managers, the supervisor and the principal of an exempted school are exempted from the requirements of the provisions related to holidays under ER. Provisions exempted are specified in Schedule 5 of the Exemption Order.
<i>Conditions to be complied with</i>	Nil.
<i>Points to note</i>	An exempted school is required to observe and comply with the provisions stipulated in the Employment Ordinance (Cap. 57) in respect of rest days for its staff.

(Sample of Course Fees Information Sheet)

XX Tutorial School				
Course Fees Information Sheet				
School Registration Number : 123456				
Registered Address : X/F, XX Commercial Building, XX Road, Kowloon.				
Telephone Number : 1234 5678				
Course Code / Name	Course Duration	Tuition Fee per Month (\$)	No. of Months	Inclusive Fees per Course (\$)
ENG 0001 English Tutorial Class (P.6)	Sept. 2007 to June 2008	300.00	10	3,000.00
MATHS 0001 Mathematics Tutorial Class (P.5)	Sept. 2007 to June 2008	280.00	10	2,800.00
CHI 0001 Chinese Tutorial Class (S.2)	Sept. 2007 to Feb. 2008	320.00	6	1,920.00

- Notes :
- (1) Collection of the above fees is in accordance with the conditions stipulated in the Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order.
 - (2) The inclusive fees for an educational course shall be calculated on an equal monthly basis. Other than the first instalment, each instalment of the fees shall be collected on or after the first school day of each month of the period during which the educational course is conducted.
 - (3) Notwithstanding (2) above, the supervisor may require a pupil to register for an educational course by paying the first monthly instalment not earlier than one month before the commencement of the educational course.
 - (4) The payment of every sum of money by or on behalf of a pupil shall be acknowledged in writing on a proper form of receipt. Pupils should retain the receipts for refund purpose.
 - (5) If the school fails to operate the course as scheduled, the school should give the pupils a full or partial refund in accordance with the refund policies and procedures stated in the course leaflet.

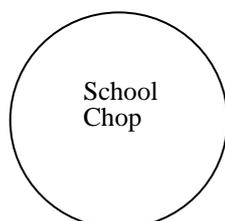
(Sample of Formal Receipt)**XX Tutorial School
Formal Receipt**

School Registration Number : 123456
 Registered Address : X/F, XX Commercial Building, XX Road, Kowloon.
 Telephone Number : 1234 5678

Receipt Number: 0001

Received from Chan XX the amount of HK\$ XXXXXX for enrolling in the course below. Details are as follows –

- (1) Course Code /Name : ENG 0001 English Tutorial Class (P.6)
- (2) Month covered by the fee paid: XX(Month), 2007
- (3) Course Venue: X/F, XX Commercial Building, XX Road, Kowloon.



Signature of
Supervisor : _____
 Name of
Supervisor : _____
 Date : _____

Note : Collection of the above fee is in accordance with the conditions stipulated in the Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order. The fee is collected on an equal monthly basis. If the school fails to operate the course as scheduled, the school will give the above pupil a full or partial refund in accordance with the refund policies and procedures stated in the course leaflet. The above pupil should retain this receipt for refund purpose.

(Sample of School Refund Policies and Procedures)**XX Tutorial School**

School Registration Number : 123456

Registered Address : X/F, XX Commercial Building, XX Road, Kowloon.

Telephone Number : 1234 5678

A. Refund Policies:

1. In case of school closure prior to the commencement of a course, our school will refund in full the course fee collected to pupils immediately.
2. If a course cannot be operated according to the arrangements specified in the fee receipts and pupils decline the revised arrangements offered by our school, our school will refund in full or on a pro-rata basis the course fee collected to pupils as soon as possible and in any event not later than one month after the pupils have requested for the refund.
3. If a course cannot be operated on the date or at the time specified in the course leaflet and pupils decline the revised arrangements offered by our school, our school will refund in full or on a pro-rata basis the course fee collected to pupils as soon as possible and in any event not later than one month after the pupils have requested for the refund.
4. In case of cessation of a course after its commencement, our school will refund to pupils the course fee collected on a pro-rata basis as soon as possible and in any event not later than one month after the cessation of the course.

B. Refund Procedures:

1. Our school will inform pupils of the refund arrangement either over the telephone or in writing. For pupils aged below 18, their parents or guardians can proceed with the refund procedures on behalf of the pupils.
2. Our school will refund pupils in accordance with the above policies.
3. When processing the refund, our school will not take away the original fee receipts. Upon receipt of the refund, pupils or parents should sign to acknowledge the receipt.
4. Our school will pay the refund either in cash or by cheque.

(Sample of Parent's/Pupil's Acknowledgement)**XX Tutorial School**

School Registration Number : 123456
 Registered Address : X/F, XX Commercial Building, XX Road, Kowloon.
 Telephone Number : 1234 5678

Before enrolling in the following course, I have received the course leaflet provided by the school. I am aware of the information contained in the leaflet, including course details, fees, information on the principal and teachers and refund policies and procedures. I understand that in accordance with the Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order, the fee is collected on an equal monthly basis. If the school fails to operate the course as scheduled, the school will give me a full or partial refund according to the refund policies and procedures stated in the course leaflet. The enrolled course is as below -

- (1) Course Code/Name : ENG 0001 English Tutorial Class (P.6)
 (2) Course Date : From XX(day)XX(month)XXXX(year) to
XX(day)XX(month)XXXX(year)
 (3) Course Time : Every XX (e.g. Monday) from X:00 p.m. to
X:00 p.m.
 (4) Course Venue : X/F, XX Commercial Building, XX Road,
Kowloon.

Signature of
 Pupil's Parent/Guardian
 or Pupil : _____

Name of
 Pupil's Parent Guardian
 or Pupil : _____

Date : _____

Note : This acknowledgement should be signed by a pupil aged 18 or above or by a parent or the guardian of a pupil aged below 18.

**(Sample of the Part on Teacher's Conviction Record Included in the
Application Form for Employment as Teacher)**

XX Tutorial School

School Registration Number : 123456
Registered Address : X/F, XX Commercial Building, XX Road, Kowloon.
Telephone Number : 1234 5678

Have you ever been found guilty of an offence in a court of law, whether in Hong Kong or elsewhere?

Yes

No

If yes, please give details.

- I have been convicted of an offence against the persons or involving violence or maltreatment of children.

Details: _____

- I have been convicted of an offence under Part XII of the Crimes Ordinance (Cap. 200) (which deals with sexual offences) or under the Prevention of Child Pornography Ordinance (Cap. 579).

Details: _____

- I have been convicted of an offence and received a custodial sentence, a probation order, a community service order or a fine exceeding \$10,000.

Details: _____

- Others. Please specify : _____

Insert a "✓" in the appropriate box.