

12 October 2007

Education Bureau Circular No. 12/2007

Results of the Review on Job-related Allowances

[Note : This circular should be read by –

- (a) Supervisors/Heads of All Government and Aided Primary and Secondary Schools (including Aided Special Schools) – for necessary action; and
- (b) Heads of Sections – for information.]

Summary

This circular announces the results of the Government's review on the job-related allowances (JRAs). Schools are requested to bring to the attention of all teaching and non-teaching staff the contents of this circular.

Details

2. The periodic review of JRAs was initiated by the Civil Service Bureau (CSB) in end 2002. The Education Bureau (EDB) completed the first round of review in 2003 and the second round of review in 2005 and 2006. EDB has recently completed the third round of review as required by CSB.

Results of JRA Review

Special Education Allowance (SEA) (also known as extraneous duties allowance in the Civil Service) payable to teaching staff who are engaged in special education duties and have completed the recognized special education training

3. The following arrangements of the SEA will be retained subject to further review:

- (a) With effect from 1 September 2003, the SEA had ceased to be payable to new recruits and existing teaching staff who had not yet commenced their recognized special education training in the 2002/03 school year. This is applicable to all teaching staff of special classes, intensive remedial teaching programmes, integrated education programmes and aided special schools (abbreviated as teaching staff of special education hereunder).

- (b) As for the existing teaching staff of special education, who are in receipt of the SEA or were pursuing their studies in recognized special education courses in the 2002/03 school year, the following arrangements have taken effect from 1 September 2003:
- (i) Teaching staff of special education, including Principal I in the aided sector, who are in receipt of the SEA will retain the SEA of one salary point above their substantive salary, provided that the sum of their substantive salary and the SEA should not exceed their maximum pay point on their respective pay scale regardless of their existing pay point, except in the circumstances specified in sub-paragraph (ii) below;
 - (ii) Teaching staff of special education who had already reached the maximum pay point in the 2002/03 school year will be allowed to retain the SEA of one salary point above the maximum pay point;
 - (iii) Teaching staff of special education who had been pursuing their studies in recognized special education courses in the 2002/03 school year are, in principle, allowed to be paid the SEA of one salary point above their substantive salary with effect from September of the following school year on successful completion of the recognized special education courses, provided that they remain as teaching staff of special education. However, the sum of their substantive salaries and the SEA should not exceed their maximum pay point on their respective pay scales; and
 - (iv) Teaching staff of special schools in receipt of other responsibility allowance are not allowed to retain the SEA with effect from 1 September 2003.
- (c) The arrangements mentioned in sub-paragraph 3(b) above will be applicable to the existing teaching staff of special education on transfer to another aided school as teaching staff of special education without a break of service, provided that the posts they fill
- (i) had been created in the 2002/03 school year, or
 - (ii) are created after the 2002/03 school year due to expansion of classes or with explicit permission of EDB for the post-holders to retain their SEA.

Responsibility Allowance (RA) (also known as extraneous duties allowance in the Civil Service) for heads / deputy heads of primary schools

4. (a) The RA payable to teaching staff at the Principal Assistant Master/Mistress and Senior Assistant Master/Mistress ranks who take up the headship duties of primary schools on a full-time basis has been ceased with effect from 1 September 2007.
- (b) The RA payable to teaching staff at the Primary School Master/Mistress and Assistant Master/Mistress ranks who take up the headship duties of primary schools on a full-time basis will be retained subject to further review in due course.
- (c) The RA payable to teaching staff at the Primary School Master/Mistress and Assistant Master/Mistress ranks who take up the deputy headship duties of primary schools on a full-time basis will be retained until the implementation of the new deputy head rank as announced in the 2007 Policy Address.

Allowance Payable in the Aided Sector Only

5. Heads of aided special schools and mainstreamed practical schools with a boarding section may retain the Boarding Responsibility Allowance subject to further review and on condition that they should not be paid other JRAs, namely, the RA for taking up headship and the SEA.
6. The RA for wardens of mainstreamed practical schools with 60 to 120 boarders at Chief Social Work Assistant or Assistant Social Work Officer rank will be retained subject to review in due course.
7. The RA for assistant wardens at Social Work Assistant (SWA) rank of aided special schools and mainstreamed practical schools and houseparent-in-charge at SWA rank of aided special schools will be retained subject to review in due course.

Contractual Considerations for Cessation or Reduction of JRAs in respect of Teaching and Non-teaching Staff in the Aided Sector

8. In general, a school that needs to cease or reduce a JRA may give due regard to its contractual obligations and the law, including in particular the Employment Ordinance which governs private employment contracts. The Ordinance provides for variation of contract terms through mutual consent and termination of contracts, and sets out the rights and obligations of employers as well as protection available to employees.

9. Where the employment contracts have provisions for remunerations to be made in accordance with the relevant Codes of Aid, including, without limitation, relevant government circulars/circular memorandum as may be issued from time to time by EDB, it is not necessary to seek prior consent of the concerned staff to implement the cessation or reduction of a JRA.

10. If the employment contract does not carry an explicit reference to the relevant Codes of Aid or the possibility of a cessation or reduction of a JRA, a school will, as the employer, have to obtain the prior consent of each individual employee concerned to cease or reduce a JRA. Whenever in doubt, schools should contact the Labour Relations Division of the Labour Department for enquiries on the Employment Ordinance or seek their own legal advice as necessary.

11. For cases where a school management has to seek prior consent of an employee to a cessation or reduction of a JRA under the conditions of the employment contract and the employee refuses to give such consent, the school may have to consider termination of the contract with requisite termination payments as stipulated in the Employment Ordinance. In this regard, schools may refer to EDB Circular No. 45/99 for the guidelines and standard form for processing severance payment or long service payment.

New Contracts in respect of Teaching Staff in the Aided Sector

12. In preparing letters offering appointments to new teachers or upon contract renewal for serving teachers employed in accordance with the terms as spelt out in the Codes of Aid, schools are required to make reference to the specimen letter and draft conditions of service as detailed in the circular memorandum on letter of appointment for teachers of aided schools currently in force.

13. Schools should also review and revise the provisions in their new employment contracts as they see fit if they consider that the terms of their existing contracts may be inadequate to cover the upward and downward adjustments and the freeze or cessation of a JRA, or any other payments.

Enquiries

14. Enquiries relating to this Circular may be directed to the respective Senior School Development Officers.

Mrs Fanny K F Lam
for Secretary for Education