

Protocol

FOR THE RECRUITMENT OF COMMONWEALTH TEACHERS

WAS
ADOPTED BY
MINISTERS OF EDUCATION
AT
STOKE ROCHFORD HALL CONFERENCE CENTRE
LINCOLNSHIRE, UNITED KINGDOM
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At 6:12pm

Motion moved by the Minister of Education of Jamaica,
Hon. Maxine Henry Wilson
Seconded by the Minister for Higher Education of the United Kingdom,
Hon. Alan Johnson



COMMONWEALTH SECRETARIAT

Acknowledgements

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His Excellency Audley Rodrigues, Jamaica's Ambassador to Venezuela

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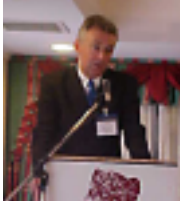


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Definitions

Recruited teacher: a teacher who is recruited for service in a country other than his/her own.

Recruiting country: the country that is seeking to recruit, or succeeds in recruiting, teachers from other countries.

Recruiting business/agency: a business/agency that recruits teachers in one country (source country) for service in another (recruiting country).

Source country: the country from which teachers are recruited for service abroad.

Organised recruitment: a systematic targeted recruitment programme of teachers from another country

Clearance certificate: A document from the appropriate authority of the source country which states that the recruited teacher has given the required notice and has complied with the terms and conditions of his/her contract of employment.

2



Introduction

Background and Purpose of the Protocol

2.1 Background

- 2.1.1** For some time now a number of Commonwealth member countries have been deeply concerned at the loss of scarce professionals as a result of targeted recruitment programmes, a problem that has caused particular difficulties for small states. Such concerns, affecting the health and education sectors among others, have been voiced at Ministerial meetings and in the case of health have resulted in the Commonwealth Code of Practice for the International Recruitment of Health Workers, endorsed by Ministers of Health in May 2003.
- 2.1.2** Ministers are conscious of the potential opportunities for countries that are available through a structured and well-managed programme of teacher exchanges and of trade in skills. It is acknowledged that recruited teacher mobility has great value. It can benefit individual teachers in their professional development as well as strengthen and enrich education systems.
- 2.1.3** However the recruitment of teachers must not be to the detriment of national education systems.
- 2.1.4** In May 2002 following large scale recruitment of teachers from Barbados, Guyana, Jamaica and Trinidad and Tobago, the Minister of Education of Jamaica, the Honourable Burchell Whiteman, requested the assistance of the Commonwealth in addressing the problem of teacher recruitment in the Caribbean. Caribbean

Education Ministers agreed the Savannah Accord in Barbados in July 2002 and, among other things, asked the Commonwealth Secretariat to develop a draft Protocol for the recruitment of teachers. The draft prepared by the Secretariat was reviewed at a subsequent meeting of six Ministers of Education of Small States (The Gambia, Mauritius, Namibia, St. Lucia, Samoa, Seychelles) who met in the Seychelles in March 2003. That meeting recommended that the revised version of the draft Protocol on Teacher Recruitment should be tabled at the Conference of Commonwealth Education Ministers scheduled in October 2003.

2.1.5 Ministers of Education at the 15th Conference of Commonwealth Education Ministers held in Edinburgh, Scotland, from October 27th–30th, 2003 discussed the critical issues of international teacher recruitment and viewed it as one of the most urgent issues to be addressed in “closing the gap”. They affirmed the unique value of the Commonwealth recognising that it is ideally placed to share expertise, resources and best practices in education as a vital component of attaining the individual and collective goals for their countries and they established a Working Group on Teacher Recruitment under the chairmanship of Deputy Secretary-General Winston Cox.

2.1.6 The Working Group was asked to have a clear focus on the organised recruitment of teachers in the Commonwealth, taking into consideration, where relevant the related issues of teacher mobility, retention and development. The brief of the Working Group was to:

- develop appropriate and ethical codes of conduct;
- report to all Ministers by the end of April 2004; and
- finalise the document with a Ministerial Group by September 2004.

2.2 The Working Group

- 2.2.1** The countries represented at official level on the Working Group were Barbados, India, Jamaica, Lesotho, Mauritius, Nigeria, Papua New Guinea, St. Lucia, Seychelles, South Africa, United Kingdom, and Zambia.
- 2.2.2** The following Commonwealth Civil Society and professional organisations were permanent observers of the group: The Commonwealth Teachers Grouping, The Commonwealth Consortium for Education and the Centre for Comparative Education Research, University of Nottingham.
- 2.2.3** The first meeting of the Working Group in Maseru, Lesotho, was hosted by Deputy Prime Minister and Minister of Education and Training of Lesotho, the Honourable Lesao Lehohla on 23rd to 24th February 2004. The Terms of Reference were finalised and members were brought up to date on recent developments that had taken place to improve teacher retention and recruitment practice, an initial draft document was prepared for circulation.

2.3 Purpose of the Protocol

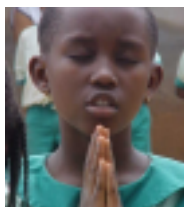
- 2.3.1** This Protocol aims to balance the rights of teachers to migrate internationally, on a temporary or permanent basis, against the need to protect the integrity of national education systems, and to prevent the exploitation of the scarce human resources of poor countries. The Protocol also seeks to safeguard the rights of recruited teachers and the conditions relating to their service in the recruiting country.
- 2.3.2** In doing so, the Protocol seeks to promote the positive benefits which international teacher migration can bring and to facilitate

the sharing of the common wealth of human resources that reside within the Commonwealth.

2.3.3 This document is similar in terms of purpose, content and status to the Commonwealth Code of Practice for health professionals. It holds moral authority on the matters it addresses. Within the context of the Commonwealth principles of co-operation and consensus, and within the framework of relevant international and other agreements, governments will subscribe to the Protocol and implement it, maintaining the integrity of their national education systems.

2.3.4 Although this Protocol does not hold any legal authority all the member countries are encouraged to develop such regulations and legislation that are necessary to meet the commitments of this Protocol.





Rights and Responsibilities of Recruiting Countries

- 3.1** It is the responsibility of the authorities in recruiting countries to manage domestic teacher supply and demand in a manner that limits the need for resort to organised recruitment in order to meet the normal demand for teachers. At the same time the right of any country to recruit teachers from wherever these may be obtained is recognised.
- 3.2** It is recognised that the organised recruitment of teachers may be detrimental to the education systems of source countries, and to the costly human resource investments they have made in teacher education. Recruiting and source countries should agree on mutually acceptable measures to mitigate any harmful impact of such recruitment. Where requested by source countries, recruiting and source countries shall enter into bi-lateral discussions and make every effort to reach an agreement which will provide for such measures. Consideration will be given to forms of assistance such as technical support for institutional strengthening, specific programmes for recruited teachers, and capacity building to increase the output of trained teachers in source countries.

Acceptable Recruiting Processes

- 3.3** Recruiting countries shall make every effort to ensure that departure of recruited teachers is avoided during the course of the academic year of the source country, to prevent the disruption of teaching programmes.



ST LUCIA

Recruitment Policy

Since 1997, the Ministry of Education, Human Resource Development, Youth & Sports of St. Lucia changed its approach to the recruitment of Caribbean – specially Guyanese teachers – for its secondary schools. The new policy debarred poaching from Guyanese schools and instituted the following measures (in collaboration with the Resident Consul for Guyana):

- Caribbean teachers are no longer be recruited from within their countries but from among Caribbean residents in St. Lucia or among teachers applying from a St. Lucian address;
- Recruited teachers are given 2 year contracts that would remove the year to year uncertainty over the continuation of their status.
- Notification of continuing status must be done at least 3 months in advance of the date;
- Institution of better systems for the planning of school staffing, including projection of completion and reinstatement dates for nationals returning from higher education study.

3.4 A recruiting country shall provide to a source country, all relevant information regarding the status of teachers recruited. This information should also be made available, without prejudice, to the Commonwealth Secretariat for monitoring purposes. Where such information is not available, Commonwealth countries are encouraged to develop mechanisms for this purpose.

3.5 Where required by source countries, recruiting countries shall make every effort to obtain a clearance certificate from a source country prior to any contract of employment being signed, and this shall not be unreasonably withheld.

3.6 A recruiting country should ensure the establishment of a complaints mechanism and procedure in regard to recruitment to be made known to the teacher at the start of the process.



UNITED KINGDOM

The Quality Mark

The Quality Mark is an initiative begun in 2002 to improve the standards of supply teachers for both supply teachers and the schools that use them.

The Quality Mark sets the minimum standards for agencies and local education authorities (LEAs) to reach in such areas as the way they recruit and interview supply teachers, the way they check and manage their supply teachers and the way they stay at the forefront of changes in the teaching sector. The main objectives of the Quality Mark are:

- To recognise private sector supply agencies and LEAs who are able to demonstrate that they meet standards of good practice in recruiting, managing and providing supply teachers for schools;
- To enable schools and temporary teachers to feel confident about the quality of the agencies and LEAs with which they are dealing;
- To raise the standards and status of supply teaching; and
- To recognise the contributions made by supply teachers, agencies and LEAs in supporting schools.

3.7 The government of any country which makes use of the services of a recruiting agency, directly or otherwise, shall develop and maintain a quality assurance system to ensure adherence to this Protocol and fair labour practices. The recruiting countries should ensure compliance. Where agencies do not adhere, they will be removed from the list of approved agencies.

3.8 The recruiting agency has an obligation to contact the intended source country in advance, and notify it of the agency's intentions. Recruiting countries will inform recruiting agencies of this obligation. Recruiting countries should inform source countries of any organised recruitment of teachers.

- 3.9** Prior agreement should be reached between the recruitment agency and the government of the source country, regarding means of recruitment, numbers, and adherence to the labour laws of the source country. Recruitment should be free from unfair discrimination and from any dishonest or misleading information, especially in regard to gender exploitation.

Employment Conditions for Recruited Teachers

- 3.10** Wherever appointed, recruited teachers shall enjoy employment conditions not less than those of nationals of similar status and occupying similar positions. The recruiting countries should also provide dedicated programmes to enable such teachers to achieve fully qualified status in accordance with any domestic requirements of the recruiting country.
- 3.11** The recruited teacher is bound and subject to rules of national labour law and is also governed by any legislation or administrative rules relating to permission to work and suitability to work with children in the recruiting country.
- 3.12** Further, where a complaints mechanism and procedure in relation to teachers' contracts of employment does not already exist in national legislation or administrative provision, one should be established for the purpose. The recruiting agency shall inform recruited teachers of the names and contact details of all teachers unions in recruiting countries.
- 3.13** Recruited teachers should be employed by a school or educational authority. Only schools and education authorities should obtain work permits to enable the employment of recruited teachers.

3.14 A recruiting country shall ensure that the newly recruited teachers are provided with adequate orientation and induction programmes, including cultural adjustment programmes, with a focus on the school and its environment.

3.15 As a targeted and responsive mode of reciprocation, bilateral agreements will provide for specific professional development opportunities or experiences for recruited teachers, who are about to return to the country of origin after a fixed term.



4



Rights and Responsibilities of Source Countries

- 4.1** It is the responsibility of source countries to manage teacher supply and demand within the country, and in the context of organised recruitment. The country should have effective strategies to improve the attractiveness of teaching as a profession, and to ensure the recruitment and retention of qualified teachers in areas of strategic importance. Source countries should be advised of the necessity to establish policy frameworks which set out clear guidelines as to categories of teachers whose recruitment they will not support, in order to protect their most scarce resources.

GOOD PRACTICE



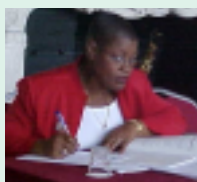
THE SEYCHELLES

Teacher Retention

Against a background of on-going recruitment of teachers to work outside their home countries and as part of the national strategy to retain teachers and sustain the qualitative development of the national education system, the Ministry of Education and Youth has recently set up a teacher retention committee mandated to consider ways and means to better promote teacher retention issues being addressed by the committee. These include:

- Attracting a sufficient number of able and motivated young people to the teaching profession;
- Facilitating development of the careers of teachers;
- Reviewing salaries and conditions of service;
- Giving incentives to enhance self-esteem and teacher image.

- 4.2** Any country has the right to be informed of any organised recruitment of its teachers by or on behalf of other countries. There will be some circumstances in which a country may not be able to support the release of its teachers. If a country decides to refuse any organised recruitment, the recruiting country should be informed of such a decision. In these circumstances, at the request of the recruiting country, bilateral discussions should be held through which both countries should endeavour to reach agreement on recruitment. If agreement cannot be reached countries have the right to determine their own position in regard to the organised recruitment of teachers.
- 4.3** The source country shall endeavour to respond to requests for approval to recruit within 30 days.
- 4.4** The source country should include within its terms and conditions of service for teachers, if not already in place, provisions that relate to release of teachers under international exchange and organised teacher recruitment arrangements, and to their re-integration into the source-country education system on their return from abroad.



BARBADOS

Education Policy

Barbados has established a policy framework which indicates the categories of teachers who will not be granted leave if recruited and the number of teachers to whom leave will be granted in any one year. These include persons who have received specialist training, persons teaching in areas where skills are in short supply, persons who are bonded and persons who have returned from similar leave or secondments within a given period.

5



Rights and Responsibilities of the Recruited Teacher

- 5.1** The recruited teacher has the right to transparency and full information regarding the contract of appointment. The minimum required information (see Appendix 1) includes information regarding complaints procedures.
- 5.2** Recruited teachers are in turn expected to show transparency in all dealings with their current and prospective employers, and to give adequate notice of resignation or requests for leave. Teachers also have a responsibility to inform themselves regarding all terms and conditions of current and future contracts of employment, and to comply with these.



6



Monitoring and Evaluation

- 6.1** The Commonwealth Secretariat should monitor the status of organised recruitment of teachers, including numbers, recruitment practices and effects, and evaluate the application of this Protocol, including the impact on developing countries, and report to Conferences of Commonwealth of Education Ministers.
- 6.2** Education Ministers should undertake a regular review of the operation of the Protocol commencing at the 16CCEM. The review should be informed by effective monitoring undertaken by education ministries in consultation with all stakeholders including the teacher unions and co-ordinated across the different regions of the Commonwealth.
- 6.3** Appendices 2, 3 and 4 illustrate obligations contained in international instruments for information purposes. Appendix 5 refers to the Dakar framework adopted by the World Education Forum 2000.





Future Action

- 7.1** Consistent with the terms of this Protocol Ministers commit to establishing a working group to identify how teachers across the Commonwealth can have greater access to teaching in other Commonwealth countries as a significant continuing professional development activity. The working group should include appropriate permanent observers from professional organisations and civil society.
- 7.2** Education Ministers request the Secretariat to establish a Working Group to investigate systems and criteria for assessment of equivalences of teacher qualifications and of professional registration status, where applicable, across the Commonwealth.
- 7.3** In order to fully understand the scale of teacher mobility within the Commonwealth, it is suggested that a comprehensive study of such teacher flows is undertaken. This should include both organised teacher recruitment and the more informal modes of teacher migration. This study would complement and develop the work which has been completed by the Commonwealth Secretariat and that which is currently being undertaken by the University of Nottingham.
- 7.4** The Commonwealth, shall in collaboration with international organisations such as such as the ILO and UNESCO, seek to promote this protocol as an international standard of best practice in organised teacher recruitment.



Appendices

Appendix 1

Minimum information to be provided in the course of recruitment prior to finalisation of any contract:

- Name and location of the school where the teacher is to serve.
- Brief description of the school.
- Accommodation arrangements for the teacher and cost implications.
- Transport arrangements and responsibility for transport costs.
- Work permit requirements and procedures.
- Clarity about terms and conditions of employment, including any deductions (for tax, insurance, superannuation or other purposes) from the gross salary offered; and rights of access of the employed teacher to social services and welfare benefits of the host country.
- Any provisions affecting the right of the teacher to be accompanied abroad by a spouse and dependants, including any assistance and allowances offered therewith, rights of spouse to work in the recruiting country, and access of dependants to education and other services.
- Orientation and induction programmes offered to recruited teachers, including assistance with cultural adjustment.
- Regulations governing repatriation of earnings and other benefits.



Appendix 2

ARTICLES 13, 26 AND 29 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 13

- 1** The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

- 2** The States Parties to the present covenant recognise that, with a view to achieving the full realization of this right:
 - a** primary education shall be compulsory and available free to all;
 - b** secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.



Appendix 3

ARTICLE 26 OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

- 1 Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- 2 Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.



Appendix 4

ARTICLE 29 OF THE CONVENTION OF THE RIGHTS OF THE CHILD

- 1** States parties agree that the education of the child shall be directed to:
 - a** the development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - b** the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - c** the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - d** the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - e** the development of respect for the natural environment.

- 2** No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.



Appendix 5

EDUCATION FOR ALL COMMITMENTS – DAKAR 2000

- Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children.
- Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality.
- Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programmes.
- Achieving a 50 percent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults
- Eliminating gender disparities in primary and secondary education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality.
- Improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills.



