

立法會
Legislative Council

LC Paper No. CB(2)3107/03-04

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/02

**Bills Committee on
Education (Amendment) Bill 2002**

**Minutes of meeting
held on Wednesday, 19 May 2004 from 8:30 am to 12:35 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Cyd HO Sau-lan (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon SZETO Wah
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
- Public Officers attending** : Mr M Y CHENG, JP
Deputy Secretary for Education and Manpower (3)
- Mr Andrew POON
Principal Assistant Secretary for Education and
Manpower (Quality Assurance)
- Mrs YU LAW Siu-man
Senior Education Officer (School Registration and
Compliance)
Education and Manpower Bureau
- Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting and
Administration)
Department of Justice

Mr W L CHEUNG
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2)2

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mr Stanley MA
Senior Council Secretary (2)6

I. Meeting with the Administration

[LC Paper Nos. CB(2)1964/03-04(01) and CB(2)2066/03-04(02)]

The Bills Committee deliberated (Index of proceedings at **Annex**).

Clause-by-clause examination of the Bill

2. The Bills Committee noted that:

- (a) the proposed sections 40BI, 40BT, 40CB and 40CC would be deleted; and
- (b) the proposed sections 40AA, 40BX, 40BZ, 28, 30 and 31(2) would be amended.

3. The Administration was requested to -

Proposed section 40BQ - Transitional provisions for dissolution of school management company

- (a) notify schools with school management companies the effect of the proposed Schedule 2;

Proposed section 40BR - Failure to establish Incorporated Management Committee (IMC)

- (b) clarify the circumstances falling under section 40BR(1)(b);

- (c) elaborate on the interpretation of a "fit and proper person" in section 30 in terms of a person's suitability for registration as an IMC manager; list out the criteria that the Permanent Secretary for Education and Manpower (PSEM) would consider and the contexts in which the term was used in other legislation, in particular highlighting whether those contexts relate to an elected or appointed person; and examine whether the Chinese version of "fit and proper" carried the same meaning as the English version;
- (d) confirm whether a person at the age of 70 or above could be accepted for registration as a manager if his application for registration was supported by a medical certificate regarding his fitness;
- (e) refine the drafting of section 40BR(1) to make clear the policy intent that termination of the service agreement between the Government and the sponsoring body on the operation of a school would only be taken as the last resort against an aided school which failed to establish an IMC;

Proposed section 40BU - Sponsoring body to establish incorporated management committee in respect of planned school

- (f) refine the drafting of the section to make clear the arrangements for the submission of an IMC constitution and the applications for registration of its managers to PSEM in respect of a planned school;

Proposed section 40BW - Approval of list of proposed managers

- (g) refine the drafting of the section along the line of the amendments to proposed section 40BL and the consideration in paragraphs 2(c) and (d) above;

Section 9 - Exemption of schools from Ordinance

- (h) explain the justifications for exempting Government schools from the Education Ordinance, and describe the composition of the School Management Committee (SMC) of Government schools and explain how SMC managers were protected against civil liability claims;

Section 30 - Grounds for refusal to register manager

- (i) clarify the policy of maintaining the age of 70 years as a criterion for registration under the Education Ordinance and the power of

requiring the production of a medical certificate;

Section 31 - Grounds for cancellation of registration of managers

- (j) review the provisions of the section in the light of the role and functions of IMC, and consider specifying a requirement that any cancellation of the registration of an IMC manager should be recommended by the IMC and approved by PSEM;
- (k) consider excluding IMC schools from the application of section 31(1)(e) having regard to the fact that the decisions of an IMC were made by IMC managers on a collective basis; and

Section 41 - Appointment of managers by Director

- (l) explain how the composition of IMC or SMC might affect the school under 41(1)(b), why the test of likelihood was introduced in section 41(1)(b) as opposed to section 41(1)(a), and refine the drafting of the sections as appropriate.

II. Any other business

- 4. The meeting ended at 12:35 pm.

Council Business Division 2
Legislative Council Secretariat
17 July 2004

**Proceedings of the meeting of the Bills Committee on
Education (Amendment) Bill 2002
on Wednesday, 19 May 2004 from 8:30 am to 12:35 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
0000 - 0255	Chairman	Briefing.	
0256 - 2650	Chairman Mr CHEUNG Man-kwong Admin Mr Tommy CHEUNG	Section 40BQ : Transitional provisions for dissolution of school management company and Schedule 2	See para 3(a) of the minutes
2651 - 013425	Chairman Admin Mr CHEUNG Man-kwong Mr SZETO Wah Ms Emily LAU Admin Mr CHEUNG Man-kwong Mr LEE Cheuk-yan	Section 40BR : Failure to establish incorporated management committee	See para 3(b), (c), (d) and (e) of the minutes
013426 - 014440	Chairman Admin Mr CHEUNG Man-kwong	Section 40BS : Establishment of incorporated management committee in respect of planned DSS school; and Section 40BT : Establishment of incorporated management committee in respect of planned non-aided school in receipt of Government subsidies	See para 2(a) of the minutes
014441 - 015151	Chairman Admin Mr CHEUNG Man-kwong ALA1	Section 40BU : Sponsoring body to establish IMC in respect of planned school	
015152 - 021311		Break	
021312 - 021955	Chairman Admin Mr CHEUNG Man-kwong ALA1	Section 40BU : Sponsoring body to establish IMC in respect of planned school	See para 3(f) of the minutes
021956 - 022050	Chairman Admin Mr CHEUNG Man-kwong	Section 40BV : Approval of draft constitution	
022051 - 022251	Chairman Admin	Section 40BW : Approval of list of proposed managers	See para 3(g) of the minutes
022252 - 022332	Chairman Admin	Section 40BX : Incorporation	See para 2(b) of the minutes
022333 - 022353	Chairman Admin	Section 40BY : Effect of certificate of incorporation	

022354 - 022624	Chairman Admin Mr CHEUNG Man-kwong	Section 40BZ : Failure to establish incorporated management committee	See para 2(b) of the minutes
022625 - 023025	Chairman Admin ALA1	Section 40CA : Pre-incorporation contracts	
023026 - 023320	Chairman Admin	Section 40CB : Schools scheduled to open within 6 months from commencement date	See para 2(a) of the minutes
023321 - 023340	Chairman Admin	Section 40CC : Director may give directions on certain matters	See para 2(a) of the minutes
023341 - 024547	Chairman Admin Mr CHEUNG Man-kwong ALA1	Section 3 : Interpretation	
024548 - 025010	Chairman Mr CHEUNG Man-kwong Admin	Section 8 : Director to maintain registers	
025011 - 025648	Chairman Mr CHEUNG Man-kwong Admin Ms Emily LAU	Section 9 : Exemption of schools from Ordinance	See para 3(h) of the minutes
025649 - 025950	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU	Section 14 : Grounds for refusal to register school	
025951 - 030532	Chairman Admin ALA1 Mr CHEUNG Man-kwong	Section 18 : Certificate of registration or provisional registration	
030533 - 030710	Chairman Admin	Section 22 : Grounds for cancellation of registration or provisional registration of school	
030711 - 030821	Chairman Admin	Part III : Managers of schools	
030822 - 031000	Chairman Admin Mr CHEUNG Man-kwong	Section 27 : Subheading repealed; and Section 28 : Application for registration of manager	See para 2(b) of the minutes
031001 - 031910	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEE Cheuk-yan ALA1	Section 30 : Grounds for refusal to register manager	See para 2(b) and 3(i) of the minutes

031911 - 034238	Chairman Admin Mr CHEUNG Man-kwong Mr LEE Cheuk-yan Mr LEUNG Yiu-chung Ms Emily LAU	Section 31 : Grounds for cancellation of registration of manager; and Appeal mechanism under the Education Ordinance.	See para 2(b), 3(j) and (k) of the minutes
034239 - 034319	Chairman Admin	Subheading for sections 32, 33 and 34.	
034320 - 035405	Chairman Mr CHEUNG Man-kwong Admin	Section 41 : Appointment of managers by Director	See para 3(l) of the minutes
035406 - 035745	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEE Cheuk-yan	Section 53 : Approval of first principal of school	
035746 - 040210	Chairman Mr CHEUNG Man-kwong Ms Emily LAU Mr LEE Cheuk-yan	Date of next meeting.	

Council Business Division 2
Legislative Council Secretariat
16 July 2004