

立法會
Legislative Council

LC Paper No. CB(2)3314/03-04
(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, 16 June 2004 from 8:30 am to 4:45 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 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
- Member absent** : Hon LEE Cheuk-yan
- 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)2601/03-04 (02), CB(2)2787/03-04(01) and CB(2)2839/03-04(01)]

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

Failure to establish Incorporated Management Committee

2. Members expressed grave concern about proposed section 40BR(1)(d) which empowered the Permanent Secretary for Education and Manpower (PSEM) to terminate the sponsoring agreement of an aided school if it failed to establish an Incorporated Management Committee (IMC) during the transition period. Some members considered that the provision would in effect allow the Government to take over the operation of the school until an IMC was established. They urged the Administration to consider the serious impact and consequence of terminating the sponsoring agreements of a large number of aided schools which failed to establish IMCs within the transition period. The Administration explained that the Government would endeavour to persuade schools to establish an IMC after the commencement date and would only consider implementing proposed section 40BR(1)(c) or (d) when persuasion and all other efforts failed to achieve the objective. The Chairman was not convinced and indicated that she would consider proposing a Committee Stage amendment (CSA) to delete section 40BR(1)(c) and (d).

Clause-by-clause examination of the Bill

3. The Bills Committee requested the Administration to -

Section 22 - Grounds for cancellation of registration or provisional registration of school

- (a) consider specifying the requirements and procedures for PSEM to cancel the registration or provisional registration of a school if it appeared to PSEM that the school was not managed satisfactorily or that the education of the pupils was not being promoted in a proper manner;

Section 31 - Grounds for cancellation of registration of manager

- (b) refine the drafting of section 31(1)(e) to reflect more clearly the policy intent of the section;

Proposed section 40CB - Schools scheduled to open within 6 months from commencement date

- (c) re-consider whether an aided school which had established an IMC within the transition period should be given an option to dissolve the IMC if it subsequently elected to become a DSS school under the proposed CSA to section 40CB(2);

Section 41 - Appointment of managers by Director

- (d) delete or refine the drafting of proposed section 41(1)(d);
- (e) specify in section 41(1) that PSEM could only appoint not more than two persons as managers of a school for such period as she considered appropriate;

Proposed section 57A - Principal selection committee

- (f) provide a flow chart to illustrate the steps and procedures for selection or transfer of a principal in an IMC school;

Section 66 - permission to operate school or to act pending appeal

- (g) clarify the date for an amendment to an IMC constitution to take effect if it was objected by PSEM but the decision of PSEM was subsequently reversed by an appeal board;

Section 83 - Power of the Director to close school or give directions in cases of danger or misconduct

- (h) explain the justifications for PSEM to issue an order to close school or give directions if it appeared to her that the conduct of teachers or pupils was or had been unsatisfactory (section 83(1)(b));
- (i) refine the drafting of section 83(1)(c) to reflect more clearly the policy intent of the section;

Section 84 - Regulations

- (j) clarify whether the Chief Executive in Council could by way of a regulation change the specified method and procedure for selection or transfer of principals in IMC schools in proposed section 57A;

Schedule 1

- (k) amend paragraph 4 of the Schedule to the effect that transfer of books, accounts, receipts or other document to an IMC should be restricted to those which were relevant to the functions and powers of the IMC in proposed sections 40AD(2) and AE;

Regulation 18 - Pupils using roof playgrounds to be under supervision

- (l) consider deleting the word "balcony" from the regulation; and

Regulation 47 - Refreshment places

Regulation 48 - Cleaning and colour washing

- (m) examine whether criminal liability should be imposed on the supervisor and principal of an aided school which was found in violation of the above regulations.

Other CSAs

4. Members noted the draft CSA to section 40BJ proposed and tabled by the Chairman at the meeting [LC Paper No.CB(2)2839/03-04(02)]. Members also noted that the Administration would further amend proposed sections 40AJ, 40BM and Schedule 1.

II. Any other business

5. Members noted that the next meeting would be held on 17 June 2004 at 2:00 pm in Conference Room B.
6. The meeting ended at 4:45 pm.

Council Business Division 2
Legislative Council Secretariat
21 September 2004

**Proceedings of the meeting of the Bills Committee on
Education (Amendment) Bill 2002
on Wednesday, 16 June 2004 from 8:30 am to 4:45 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
Draft CSAs to clause 17 (Parts IIIB and IIIC) proposed by the Administration as at 1.6.04 [LC Paper No.CB(2)2601/03-04(02)]			
0000 - 1230	Chairman Admin Mr CHEUNG Man-kwong Ms Audrey EU Ms Emily LAU	Section 40BJ - Establishment of IMC in respect of operating school	See para 4 of the minutes
1231 - 1525	Chairman Admin Mr CHEUNG Man-kwong	Section 40BK - Approval of draft constitution Section 40BL - Approval of list of proposed managers	
1526 - 2140	Chairman Admin	Section 40BM - Incorporation	See para 4 of the minutes
2141 - 2430	Chairman Admin Mr CHEUNG Man-kwong	Section 40BP - Dissolution of school management company	
2431 - 012224	Chairman Admin Mr CHEUNG Man-kwong Mr LEUNG Yiu-chung Ms Emily LAU Mr SZETO Wah	Section 40BQ - Transitional provision for dissolution of school management company Section 40BR - Failure to establish IMC	See para 2 of the minutes
012225 - 012800	Chairman Admin	Sections 40BS, BT, BU, BV, BW, BX, BY and BZ	
012801 - 013540	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEUNG Yiu-chung	Section 40 CA - Pre-incorporation contracts	
013541 - 015715	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEUNG Yiu-chung	Section 40CB - Schools scheduled to open within 6 months from commencement date	See para 3(c) of the minutes
015716 - 021850		Break	

Draft CSAs to clauses 1 -33 (excluding clause 17 - Part IIIB and IIIC) proposed by the Administration as at 15.6.04 [LC Paper No.CB(2)2787/03-04(01)]			
021851 - 022446	Chairman Admin Ms Emily LAU	Section 3 - Interpretation	
022447 - 022700	Chairman Admin	Section 8 - Director to maintain register Section 9 - Exemptions of Schools from Ordinance	
022701 - 022908	Chairman Admin	Sections 14, 18, 18A, 20 and 21.	
022909 - 024500	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU	Section 22 - Grounds for cancellation of registration or provisional registration of school	See para 3(a) of the minutes
024501 - 024620	Chairman Admin	Section 27 - Managers of schools to be registered Section 28 - Application for registration of manager	
024621 - 032300	Chairman Admin Ms Emily LAU Mr CHEUNG Man-kwong ALA1	Section 30 - Grounds for refusal to register manager Section 31 - Grounds for cancellation of registration of manager	See para 3(c) of the minutes
032301 - 032343	Chairman Admin	Sections 31A, 32, 34, 35, 36, 38, 38A and 40	
032344 - 035852	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEUNG Yiu-chung	Section 41 - Appointment of managers by Director	See para 3(d) and (e) of the minutes
035853 - 040000	Chairman Admin	Sections 49, 50, 53, 56 and 57	
040001 - 041642	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU	Section 57A - Principal selection committee	See para 3(f) of the minutes
041643 - 060603		Break	
060604 - 060903	Chairman Admin	Sections 58, 58AA, 58B and 60	
060904 - 061318	Chairman Admin ALA1	Section 66 - Permission to operate school or to act pending appeal	See para 3(g) of the minutes

061319 - 061410	Chairman Admin	Sections 72A, 74 and 82	
061411 - 062758	Chairman Admin Mr CHEUNG Man-kwong Mr LEUNG Yiu-chung	Section 83 - Power of the Director to close school or give directions in cases of danger or misconduct	See para 3(h) and (i) of the minutes
062759 - 063100	Chairman Admin Mr CHEUNG Man-kwong	Section 84 - Regulations	See para 3(j) of the minutes
063101 - 063448	Chairman Admin Mr CHEUNG Man-kwong	Section 87 - Offences and penalties	
063449 - 070100	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEUNG Yiu-chung	Section 91 and Schedule 1	See para 3(k) and 4 of the minutes
070101 - 070930	Chairman Admin Mr CHEUNG Man-kwong	Schedules 2 and 3	
070931 - 071237	Chairman Clerk Mr CHEUNG Man-kwong	Legislative time-table and deadline for CSA.	
Draft CSAs to clauses 34 - 57 of the Bill in respect of the Education Regulations [LC Paper No.CB(2)2839/03-04(01) tabled at the meeting]			
071238 - 071830	Chairman Admin Ms Emily LAU Mr CHEUNG Man-kwong ALA1 Mr LEUNG Yiu-chung Mr YEUNG Yiu-chung	Discussion on future meeting arrangements and the deliberation progress of the Bills Committee.	
071831 - 072255	Chairman Admin Mr CHEUNG Man-kwong	Regulations 2, 3, 15, 16 and 17	
072256 - 075414	Chairman Admin Mr CHEUNG Man-kwong Mr YEUNG Yiu-chung Mr LEUNG Yiu-chung Ms Emily LAU	Regulation 18 - Pupils using roof playgrounds to be under supervision Direct supervision of pupils in the balcony by a teacher and the criminal liability for failure to do so.	See para 3(l) of the minutes
075415 - 081350	Chairman Admin Mr CHEUNG Man-kwong Ms Emily LAU Mr LEUNG Yiu-chung	Regulations 19, 20, 21, 23, 37, 44 and 48	See para 3(m) of the minutes
081351 - 081450	Chairman Admin	Regulations 52 and 53	

081451 - 081510	Chairman	Date of next meeting.	
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Council Business Division 2
Legislative Council Secretariat
21 September 2004