

立法會
Legislative Council

LC Paper No. CB(2)3317/03-04

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/02

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

**Minutes of meeting
on Friday, 25 June 2004 from 4:10 pm to 5:55 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)2942/03-04(01)-(05), CB(2)2927/03-04(01) and CB(2)2614/03-04(01)]

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

2. Members noted the final set of Committee Stage amendments (CSAs) proposed by the Administration as at 25 June 2004 [LC Paper No.CB(2)2942/03-04(05)] which was tabled at the meeting. Assistant Legal Adviser 1 advised that the legal and drafting aspects of the CSAs were in order.

3. Members also noted the CSAs proposed by Ms Emily LAU [LC Paper No.CB(2)2942/03-04(03)], Ms Cyd HO [LC Paper No.CB(2)2942/03-04(02)] and Mr LEE Cheuk-yan [LC Paper No.CB(2)2942/03-04(04)].

CSAs to proposed section 40BJ

4. At the request of the Chairman, ALA1 explained the different implications of the CSAs to proposed section 40BJ to be moved by the Administration [LC Paper No. CB(2)2927/03-04(02)], Mr CHEUNG Man-kwong [LC Paper No. CB(2)2721/03-04(01)] and Ms Cyd HO [LC Paper No. CB(2)2942/03-04(02)] in respect of the submission of draft constitutions by aided schools to the Permanent Secretary for Education and Manpower (PSEM) for the establishment of an Incorporated Management Committee (IMC).

5. Mr LEUNG Yiu-chung, Mr CHEUNG Man-kwong, Mr SZETO Wah and Ms Emily LAU expressed strong reservations about the Administration's CSA to section 40BJ which specified that the Legislative Council might, by a resolution passed between 1 October 2008 and 1 July 2009, amend section 40BJ(3)(a) by repealing "1 July 2009" and substituting a date after 1 July 2009

but before 2 July 2011. They considered that given the controversy about the mandatory establishment of an IMC for aided schools, the Administration should not specify a period of two years for extension of the five-year transition period.

6. Mr YEUNG Yiu-chung expressed a different view. He considered it reasonable to specify a period of two years for an extension of the transition period for aided schools to prepare for the establishment of an IMC.

Appeal mechanism under the Education Ordinance

7. Members requested the Administration to elaborate on the implication of section 64(3) of the Interpretation and General Clauses Ordinance (Cap. 1) on the appeal mechanism under the Education Ordinance. Some members considered that the law should allow an appellant to seek a judicial review of the decision of the Chief Executive in Council made under the appeal mechanism. They requested the Administration to clarify whether the decision of the Chief Executive in Council was amenable to judicial review. The Administration undertook to provide a written response for discussion at the next meeting to be held on 30 June 2004.

Admin

II. Any other business

Date of next meeting

8. Members agreed to cancel the meeting scheduled for Tuesday, 29 June 2004 and hold the next meeting on Wednesday, 30 June 2004 at 9:30 am.

9. The meeting ended at 5:55 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 Friday, 25 June 2004 from 4:10 pm to 5:55 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
0000 - 010500	Chairman ALA1 Admin Mr LEUNG Yiu-chung Mr CHEUNG Man-kwong Mr LEE Cheuk-yan Mr SZETO Wah Mr YEUNG Yiu-chung Ms Emily LAU	Final CSAs proposed by the Administration as at 25 June 2004 [LC Paper No.CB(2)2942/03-04(05)] and CSAs to clause 17 (section 40BJ) proposed by the Chairman [LC Paper No.CB(2)2942/03-04(02)]and Mr CHEUNG Man-kwong [LC Paper No.CB(2)2721/03-04(01)].	
010501 - 010800	Chairman Ms Emily LAU	CSAs proposed by Ms Emily LAU [LC Paper No.CB(2)2942/03-04(03)] and the Chairman. [LC Paper No.CB(2)2942/03-04(02)].	
010801 - 012600	Chairman Mr LEE Cheuk-yan Admin Mr CHEUNG Man-kwong Mr LEUNG Yiu-chung Mr Tommy CHEUNG	CSA to section 40AEA proposed by Mr LEE Cheuk-yan [LC Paper No.CB(2)2942/03-04(04)] in respect of deployment of non-teaching staff among schools operated by the same sponsoring body.	
012601 - 012643	Chairman Admin	Cancellation of the meeting scheduled for 29 June 2004.	
012644 - 014650	Chairman ALA1 Admin Mr CHEUNG Man-kwong Mr SZETO Wah Mr Audrey EU Mr LEUNG Yiu-chung Clerk	Appeal mechanism under the Education Ordinance Implication of section 64(3) of the Interpretation and General Clauses Ordinance (Cap.1) on the appeal mechanism under the Education Ordinance.	See para 7 of the minutes
014651- 015130	Chairman Admin	Date of the next meeting and CSA to section 40AZ.	