

**The Catholic Diocese of Hong Kong
Comments on the Education (Amendment) Bill 2002**

Section	Provision	Comment
40AC	IMC to manage school	
	When an IMC has been established in respect of a school, the school shall, subject to section 40AD, be managed by the IMC.	
40AD	Functions of SB & IMC	
(1)	The SB of a school shall be responsible for—	- The SB is not adequately empowered to fulfill its functions, especially in overseeing the performance of the IMC.
(a)	meeting the cost of furnishing and equipping the new school premises of the school to, where applicable, standards as recommended by the Director;	
(b)	setting out the vision and mission for the school;	
(c)	maintaining full control of the use of funds and assets owned by it;	
(d)	ensuring, through the SB managers, that the mission is carried out;	
(e)	giving general directions to the IMC in the formulation of education policies of the school;	
(f)	overseeing the performance of the IMC; and	
(g)	drafting the constitution of the IMC.	
(2)	The IMC of a school shall be responsible for—	
(a)	formulating education policies of the school;	- There is no mechanism for the SB to ensure the proper functioning of the IMC.
(b)	planning and managing financial and human resources available to the school;	
(c)	accounting to the Director and the SB for the performance of the school;	

(d)	ensuring that the mission of the school is carried out;	
(e)	ensuring that the education of the pupils of the school is promoted in a proper manner; and	
(f)	school planning and self-evaluation.	
40AE	Powers of IMC	
(1)	An IMC of a school may do anything that appears to it to be necessary or expedient for the purposes of, or in connection with, proper management, administration or operation of the school.	- The SB should have the power to dissolve the IMC when it does anything which deviates from its vision and mission.
(2)	Without limiting subsection (1), an IMC of a school may—	
(a)	take on lease, purchase or otherwise acquire, and hold, manage and enjoy property of any description, and sell, let or otherwise dispose of the same;	- The SB should have the power to appoint a Supervisor to oversee the day to day running of the school and to serve as its link with the IMC, especially when the latter is not in session.
(b)	employ such teaching staff and non-teaching staff as it thinks fit and determine the terms and conditions of service of such staff;	
(c)	engage the service of such professionals or other persons as it thinks fit and determine their remuneration;	
(d)	use and dispose of the funds and assets owned by it or received from the Government;	
(e)	open and operate bank accounts and invest its funds in such manner and to such extent as it thinks fit;	
(f)	borrow money in such manner and on such security or terms as may be expedient;	
(g)	apply for and receive any grant in aid on such terms as may be expedient;	
(h)	solicit and receive gifts or donations, whether on trust or otherwise, and act as trustee of moneys or other property vested in it on trust;	
(i)	enter into any contract, agreement or arrangement, and	

(j)	do such other things as are provided for by this Ordinance or as are necessary for, or incidental or conducive to, the furtherance of the object of the school.	
(3)	The exercise of the power of an IMC shall be subject to—	
(a)	the provisions of this Ordinance or any other law;	- The direction of the SB should also be included.
(b)	any direction given by the Director under section 40CC;	
(c)	(in the case of an aided school) the code of aid for primary schools, the code of aid for secondary schools or the code of aid for special schools (as may be applicable);	
40AH	General requirement of composition	
(1)	An IMC shall, subject to other provisions of this Part, be constituted in accordance with the constitution of the committee.	
(2)	Without prejudice to subsection (1), the composition of an IMC as provided for in its constitution shall be—	
(a)	subject to subsection (3), such number of SB manager as the SSB may nominate;	
(b)	the principal of the school, who shall be an-ex-officio manager;	
(c)	not less than one teacher manager;	
(d)	not less than— (i) (where a recognized PTA is recognized in respect of the school) one parent manager, or (ii) (where 2 recognized PTAs are recognized in respect of the A.M. session and P.M. session of the school which is bi-sessional school) one parent manager for each of the A.M. session and P.M. session;	
(e)	one or more alumni managers where such manager or managers is or are nominated;	
(f)	not less than one independent manager;	
(g)	where the constitution allows the election of not more than one teacher manager, one alternate teacher manager; and	Though alternate managers do not have voting power, their presence in the IMC meetings would raise the percentage of non-SB managers to more than 40. Alternate managers should attend meetings only when the registered managers fail to turn up.

(h)	where the constitution allows the nomination of— (i) not more than one parent manager, one alternate parent manager; or (ii) (in the case of a bi-sessional school in respect of which 2 recognized PTAs are recognized for the A.M. session ad P.M. session) not more than one parent manager for the A.M. session and one parent manager for the P.M. session and one alternate parent manager for the P.M. session.	
(3)	Subject to subsection (5), the numbers of SB manager shall not exceed 60% or the maximum number of managers that the IMC may have under its constitution.	
(4)	In calculating the maximum number of managers for the purposes of subsection (3), an alternate manager shall not be counted.	
(5)	Subsection (3) shall not apply in relation to a school in the first 3 years of its operation.	
40AI	Chairman of IMC	
(1)	The IMC of a school shall have a chairperson who shall—	
(a)	be a manager of the school; and	
(b)	hold and vacate office as such in accordance with the constitution of the committee.	
(2)	If the chairperson is unable to perform his duties during a period of not less than 28 days due to absence from Hong Kong or illness, the other managers shall elect amongst themselves a manager to act as the chairperson during the period.	
(3)	The principal or a teacher of the school shall not be the chairperson or act as the chairperson.	
(4)	The IMC shall give notice of the assumption of office—	- Which IMC member shall be responsible for these? – the ambiguity of this is one of the many defects of group responsibility!
(a)	of the first chairperson to the Director within 14 days after its establishment; and	
(b)	of any subsequent chairperson to the Director within 14 days after his election.	
(5)	A notice given under subsection (4) shall contain the English and Chinese names of the chairperson and such other information as the Director may specify.	

40AJ	Functions of chairperson	
(1)	<p>The Chairperson of an IMC of a school shall—</p> <p>(a) Preside over the meetings of the committee;</p> <p>(b) Within one month from the happening of any of the following events, give notice of the event to the director—</p> <ul style="list-style-type: none"> (i) any person ceases to be a manager of the school; (ii) the principal of the school ceases to hold office as such; (iii) any teacher of the school is employed to teach or commences teaching at the school; (iv) any teacher of the school ceases to hold office as such; (v) there is a change in any particulars furnished under this Ordinance in respect of the tenancy of the school premises; <p>(c) Sign the statement of accounts of the committee;</p> <p>(d) Within one month of—</p> <ul style="list-style-type: none"> (i) the receipt or issue of a writ or other originating process (except one issued in proceedings in the small Claims Tribunal within the meaning of the small Claims Tribunal within the meaning of the Small Claims Tribunal Ordinance (Cap. 338) and the Minor Employment Claims Adjudication Board within the meaning of the Minor Employment Claims Adjudication Board Ordinance (Cap. 453) by the committee; or (ii) the handing down of the judgment in the proceedings to which such functions as may be provided for in the constitution of the committee. 	<p>- It seems that the chairperson is expected just to chair the meetings and to handle paper work. He/she should be appointed by the SB to supervise the Principal, ensuring that the school is run according to its vision and mission.</p>
(2)	A notice given under subsection (1)(b) in respect of an event shall—	
	(a) Be in writing;	
	(b) Specify the date of the event; and	

	(c) Specify the name and address of the person to whom the notice relates and, if he is a registered or permitted teacher, his registration number or permitted teacher reference number.	
(3)	A notice required to be given by the IMC shall be given in the name of and signed by the chairperson.	
40BK	Approval of draft constitution	
	The Director shall approve or refuse to approve a draft of a constitution submitted under section 40BJ(2) in accordance with any regulation made under section 84 for the purposes of this section.	- The draft constitution should not be subject to the approval of the Director. The SB should have full autonomy in deciding the provisions of the constitution as it is an agreement between the SB and the IMC the performance of which it is supposed to oversee 【40AD(1)(g)】 .
55 & Sch. 1	Substitution of ‘supervisor’ by ‘management authority’ in various provisions of the Ordinance and the subsidiary legislation made under the ordinance.	- The substitution of ‘management authority’ for ‘supervisor’ results in group responsibility. This means that nobody would really get down to work regularly or to supervise/monitor the Principal who is the ‘responsible person’ in the running of the school.
56 & Sch.2	Substitution of ‘supervisor’ by ‘responsible person’ in various provisions of the Regulations.	- With no one supervising/monitoring the Principal’s work, his/her responsibility will become too great. This will create problems with adverse effects on teaching and learning if the Principal is inexperienced and/or incompetent.