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By Fax (2834 6881)

11 December 2007

Mrs Heather Du Quesnay
Chief Executive
English Schools Foundation
438 Stubbs Road
Hong Kong

Dear Mrs Du Quesnay

The English Schools Foundation (Amendment) Bill 2007

In anticipation of the clause-by-clause examination of the captioned Bill, I have the following comments on its provisions for your consideration –

(a) Clause 4

The definition of "Permanent Secretary" may need to be updated and the same with the reference in the re-numbered section 19 of the principal ordinance;

(b) Clause 6

In section 3 of the principal ordinance, would consideration be given to adding the Chinese name of the Foundation in the English text and vice versa in the Chinese text?

(c) Proposed section 6, clause 8

In subsection (1)(c), if a Foundation school is established outside Hong Kong, how would this provision be implemented? Whilst subsection (1)(e) refers to schools of the Foundation, which by definition includes nurseries up to secondary schools, subsection (1)(c) and (f) refer to primary and secondary schools or their teachers only. In subsection (4),

at least one member of the Board shall be an alumnus of a Foundation school. How could this be ensured in the context of the section? Should there be any provision governing resignation of a Board member and the filling of vacancy?

(d) Proposed section 8, clause 8

Is it necessary to provide for the term of office of members of the Nominating Committee? Without a term of office, how would the rotation referred to in subsection (3) be implemented? Would it be possible for the Nominating Committee to select its own member to be a Board member? Is it necessary to provide for resignation of members and filling of vacancies?

(e) Proposed section 12(1), clause 8

There does not appear to be any provision relating to Foundation nurseries and kindergartens apart from, presumably, paragraph (a);

(f) Proposed section 13, clause 8

Does the reference to "schools of the Foundation that provides primary or secondary education" in subsection (1) include any provision of nursery or kindergarten so that the School Councils also cover pre-primary institutions?

(g) Proposed section 15, clause 8

It is not clear how the distinction between "members of staff of the school" in subsection (2)(d) and "staff who will report directly to the Principal" in subsection (5) is drawn.

Yours sincerely,

(Arthur Cheung)
Senior Assistant Legal Adviser

cc. Clerk to Bills Committee