

BRIEF FOR THE EDUCATION PANEL OF THE LEGISLATIVE COUNCIL

The English Schools Foundation Ordinance (Cap. 1117)

THE ENGLISH SCHOOLS FOUNDATION (AMENDMENT) BILL 2007

INTRODUCTION

At a meeting of the English Schools Foundation ("the Foundation") held on 8 June 2006 the Foundation —

- (a) approved the introduction of a Bill into the Legislative Council to amend The English Schools Foundation Ordinance (Cap. 1117) ("the Ordinance"); and
- (b) approved the making of regulations under the Ordinance as amended by the Bill,

to make changes to the governance structure of the Foundation and the administration of schools of the Foundation.

2. To give effect to the proposed changes, The English Schools Foundation (Amendment) Bill 2007 at **Annex A** ("the Bill") will be introduced into the Legislative Council and the draft English Schools Foundation (General) Regulation at **Annex B** ("the draft Regulation") will be made by the Foundation after the Bill has been passed into law.

JUSTIFICATION

Reports of Director of Audit and Public Accounts Committee

3. The Bill provides for the amendment of the Ordinance to update the governance of the Foundation and the administration of schools of the Foundation in the light of —

- (a) the report of the Director of Audit published on 23 October 2004 (Report No. 43) (the "Director of Audit's report"); and

- (b) the report of the Public Accounts Committee of the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2004 and the Results of Value for Money Audit (Report No. 43) (the "PAC report").

Background

4. The Foundation was established in September 1967 under the Ordinance.

5. Upon its establishment the Foundation was vested with the power, subject to the provisions of the Education Ordinance (Cap. 279), to "own, manage, administer and operate within the Territory schools offering, without regard to race or religion, a modern liberal education through the medium of English to boys and girls who are able to benefit from such an education" (section 4(2) of the Ordinance).

6. The membership of the Foundation and its committees is provided for in Regulations made under the Ordinance (cf. section 10(1)(a) of the Ordinance). Present membership of the Foundation includes representatives from the Legislative Council, the Government, the community, parents of the students attending the Foundation's schools, teachers and the Chairmen of the School Councils. An Executive Committee (established under section 7(1) of the Ordinance) comprises eight members in addition to the Chairman. The Foundation is supported by a Foundation Office, headed by the Secretary of the Foundation, who is also the principal academic and administrative officer of the Foundation (section 9(6) of the Ordinance).

7. As at the end of the 2005-2006 school year there were —
- 10 primary schools, 5 secondary schools and one special school operated directly by the Foundation; and
 - 3 kindergartens and one international school (Phoenix International School, which has since closed) operated by the Foundation's associate company, ESF Educational Services Limited ("ESL").

The government has approved proposals for 2 new Private Independent Schools to be operated by ESL: Renaissance College at Ma On Shan, which opened in August 2006, and a school in Discovery Bay, due to open in the school year 2007/8. ESL was established as a charitable company limited by guarantee in 1994. As well as operating kindergartens, it offers English

Language classes and programmes of sports activities.

8. The schools operated directly by the Foundation, other than one primary school, receive a subvention from the government, which was frozen in the year 2000. Schools and kindergartens operated by ESL receive no government subsidy.

9. The most recently audited financial statements (for the year September 2004 to August 2005) show that the Foundation had a total income of HK\$1,086 million, of which HK\$769 million (70.8%) were school fees, HK\$278 million (25.6%) were government subsidies and HK\$39 million (3.6%) were other income.

Context for the reforms

10. There has been no radical review of the Foundation's governance since the Ordinance was first enacted, though some minor changes have been made to Regulations made under the Ordinance. Over the years, the increase in the number of schools has had an adverse effect on the effectiveness of the Foundation as the supreme governing body over the Executive Committee and the School Councils (as provided by section 7(2) of the Ordinance). This can be seen simply from the number of Foundation members, which currently stands at 133 (in accordance with Regulations made under the Ordinance which provide for each school to have a stated number of parent and teacher members, in addition to other categories of members).

11. On 1 March 2004, following the resignation of a majority of members of the Executive Committee, Professor Felice Lieh Mak, an independent member of the Foundation nominated by the University of Hong Kong, was elected Chairman of the Foundation.

12. On 24 March 2004, Professor Mak and the newly re-constituted Executive Committee proposed that the Director of Audit perform value-for-money audits of the Foundation and the Director of Audit subsequently carried out an audit under the Value for Money Audit Guidelines. The findings of that audit were published as the Director of Audit's report. Those findings were subsequently scrutinised by the Public Accounts Committee of the Legislative Council. The findings of that scrutiny were published as the PAC report. The current Secretary of the Foundation, Mrs Heather Du Quesnay, took up her post just before the publication of the PAC report.

Findings of the Director of Audit and the Public Accounts Committee

13. The principal findings of the Director of Audit, corroborated by the Public Accounts Committee, were published in three chapters of the Director of Audit's report, namely —

- Chapter 3 – 'Government Subsidies to the English Schools Foundation';
- Chapter 4 – 'Corporate Governance and Headquarters Administration of the English Schools Foundation';
- Chapter 5 – 'School Administration of the English Schools Foundation'.

The findings in Chapter 4 are the most relevant to the reform of governance and the revised Ordinance. Part 2 of Chapter 5 deals with the administration of schools.

14. The principal recommendations made by the Director of Audit about the governance of the Foundation were as follows —

- (a) the large membership size of the Foundation (132 members as at 1 April 2004) was not conducive to efficient decision-making and the Foundation needed to review this issue with reference to the best practice adopted by similar educational institutions (Director of Audit's report, Chapter 4, para 2.11(a); PAC report, Chapter 3, para 64);
- (b) the Foundation needed to update the provisions of the Ordinance and Regulations to reflect the latest developments in the community (Director of Audit's report, Chapter 4, para 2.11(b));
- (c) the Foundation should consider establishing an advisory body to allow stakeholders to contribute to its development (Director of Audit's report, Chapter 4, para 2.11(c));
- (d) the Foundation should conduct a review of the composition of Foundation members with a view to ensuring that external members will constitute a majority at Foundation meetings (Director of Audit's report, Chapter 4, para 2.21(a); PAC report, Chapter 3, para 64);
- (e) large percentages of both internal and external members did not attend meetings; the Foundation should, therefore, consider increasing the ratio of external members and issue reminders to related organisations if their attendance

rates were low (Director of Audit's report, Chapter 4, para 2.21 (b) and (c); PAC report, Chapter 3, para 64);

- (f) in order to avoid conflicts of interest, staff of the Foundation should not participate in voting on matters concerning Foundation staff benefits (Director of Audit's report, Chapter 2, para 21(d); PAC report, Chapter 3, para 64);
- (g) the Foundation should set up an Audit Committee to exercise independent monitoring of the performance of its executive body, report its findings and make recommendations for improvement to its governing body directly (Director of Audit's report, Chapter 4, para 2.27(a); PAC report, Chapter 3, para 64);
- (h) the Foundation should consider repealing section 10 (2) of the Ordinance so that subsidiary legislation in the form of regulations made under the Ordinance is required to be published in the Gazette and tabled in the Legislative Council (PAC report, Chapter 3, para 64).

15. In relation to the administration of schools, the following recommendations were made in Part 2 of Chapter 5 of the Director of Audit's report —

- (a) while the Foundation's practice of developing a participatory governance framework for its schools within which community representatives, parents of students, teachers and school management were represented was to be commended, schools should consider inviting alumni to join School Councils (Director of Audit's report, Chapter 5, para 2.7 and 2.9; PAC report, Chapter 4, para 68);
- (b) the Foundation should request School Councils to clearly set out and document their decision-making powers and review these periodically (Director of Audit's report, Chapter 5, para 2.15; PAC report, Chapter 4, para 68);
- (c) the Foundation should encourage its School Councils to participate in the management and implementation of significant school activities and to consider setting up appropriate sub-committees (Director of Audit's report, Chapter 5, para 2.22; PAC report, Chapter 4, para 68);
- (d) School Councils should hold at least three meetings a year and consider holding more meetings than the current minimum requirement (Director of Audit's report, Chapter 5, para 2.29; PAC report, Chapter 4, para 68);

- (e) the Foundation should establish proper procedures to require council members to declare any conflict of interest and document the declarations of conflict of interest made (Director of Audit's report, Chapter 5, para 2.33; PAC report, Chapter 4, para 68).

Response to the Director of Audit's and PAC reports

16. The Foundation's review of the Ordinance and Regulations has taken detailed cognizance of the Director of Audit's and PAC reports. The following measures are proposed in relation to the governance of the Foundation —

- (a) the supreme governing body is to be a Board of Governors (whose members will constitute the Foundation), comprising 26 voting members, 22 of whom are external members, that is to say, are persons who are not employees of the Foundation, and only 4 of whom are employees of the Foundation (Bill clause 8, new section 6);
- (b) of the 22 external members of the Board of Governors, 10 will be independent community representatives nominated by a Nominating Committee, whose members include persons nominated by The Hong Kong General Chamber of Commerce, The British Chamber of Commerce in Hong Kong and one of Hong Kong's higher education institutions (Bill clause 8, new section 8);
- (c) the Chairman of the Board of Governors will have discretion to terminate the membership of a member who is absent from three meetings in succession or from half the meetings in any calendar year (draft Regulation section 3(1));
- (d) a quorum of the Board requires not less than one-third of the members to be present, with a majority being external members; the Chief Executive Officer or his representative must also be present (Bill clause 8, new section 7(6));
- (e) there will be 5 advisory committees advising the Chief Executive Officer (Bill clause 8, new section 12);
- (f) issues of remuneration and benefits for the Foundation staff will be considered by an independent Remuneration and Terms and Conditions of Service Committee (Bill clause 8, new section 9(c)); an employee of the Foundation will not be eligible for appointment as a member of the Committee (draft Regulation section 11(2));

- (g) the Foundation will agree a Code of Conduct requiring members of the Board, Committees and School Councils to declare any interest they may have in matters under discussion and a record will be kept of these declarations (draft Regulation section 28);
- (h) the Foundation will have an independent Audit Committee on which employees of the Foundation are not eligible to serve (Bill clause 8, new section 9(a); draft Regulation section 11(2)); this committee will take over the work of the existing Audit Committee which was established by the Foundation in December 2004.

17. In relation to the administration of schools, the following measures are proposed —

- (a) School Councils will be retained with a membership very similar to that which currently applies, though neither the Principal nor the Chief Executive Officer will have a vote (Bill clause 8, new section 14);
- (b) one member of the Board of Governors is required to be an alumnus of a school of the Foundation (Bill clause 8, new section 6(4)); in addition, School Councils will be encouraged to recommend alumni for appointment by the Board as community representatives under new section 14(1)(b)(i) of the Ordinance (Bill clause 8) or to invite them to attend meetings of the Council (in exercise of the power to be conferred under section 22(9) of the draft Regulation);
- (c) the functions of School Councils will be set out more clearly in the revised Ordinance (Bill clause 8, new section 13(2)) and, in addition to this —
 - (i) a new handbook for School Councils was published in September 2006; and
 - (ii) the Foundation's policies and procedures are now published and regularly reviewed to ensure that guidance on decision-making is available and is up to date;
- (d) under the leadership of the existing Management Committee (which comprises the Chairman of every School Council), School Councils have become more actively engaged in the life of their schools; in addition, School Councils will in future be encouraged to establish sub-committees where appropriate, which is provided for under section 23(1) of the Ordinance.

- (e) School Councils will be required to meet at least 3 times per year (draft Regulation section 22(1)) and members of a Council will have power to request the Chairman to call a meeting (draft Regulation section 22(2)).

The consultation process

18. The Chairman of the Foundation presented to the Foundation on 9 December 2004 a set of guidelines for the reform of the governance of the Foundation. This paper was approved and the Foundation established a Governance Task Force.

19. The Governance Task Force, comprising 14 people, most of whom were parents or independent members, met on 10 occasions between January and June 2005. The Task Force held three public meetings at schools to explain and discuss their proposals.

20. A framework for the future governance of the Foundation was approved by the Foundation with a significant majority at a meeting on 29 June 2005.

21. Since June 2005 the detailed drafting process has proceeded, led by the Chief Executive Officer of the Foundation and steered by the Chairman and the Executive Committee.

22. In the course of the drafting process, detailed consultation has taken place with various groups of stakeholders. This consultation has included the following —

- (a) successive drafts of the Bill and Regulation have been posted on the Foundation website and key drafts have been emailed to all Foundation members;
- (b) drafts of the Bill and Regulation have been a regular agenda item for meetings of the Executive Committee and the Foundation's current Standing Committees: the Management Committee (School Council Chairmen), the Academic Committee (Principals), the Staff Council (teachers), and the Joint Council of Parent Teacher Associations;
- (c) discussions have taken place with the Association of Professional Teachers in the English Schools Foundation

and the Support Staff Association of the English Schools Foundation;

- (d) detailed briefing meetings were offered to Foundation members and to parents on two separate occasions for each group.

23. At a meeting of the Foundation on 8 June 2006 the proposed amendments to the Ordinance and the proposed provisions of the draft Regulation were approved by 69 votes to 27 with 5 abstentions.

THE BILL

24. The key provisions of the Bill are as follows —

- (a) **Clause 6** amends section 3 of the Ordinance to provide that the members of the Foundation shall be the persons who are members of the Board of Governors.
- (b) **Clause 7** amends section 4 of the Ordinance to give the Foundation power to operate schools and provide educational services both in Hong Kong and elsewhere (section 4(1)). Section 4 also authorises the Foundation to delegate such matters as it thinks fit to a company controlled by it, with the effect that any schools operated by such a company shall be treated for governance purposes as if they were schools of the Foundation. The purpose of this clause is to make more transparent the objects and powers of the Foundation's associate company ESL.
- (c) **Clause 8** also adds a new **section 5** which sets out the functions of the Board of Governors. These include setting the strategic direction of the Foundation, responsibility for the quality of education and overseeing the efficient use of resources.
- (d) **Clause 8** also adds a new **section 6** which provides for the composition of the Board of Governors as follows —
 - 2 persons nominated by the members of the Legislative Council from among their own number;
 - 3 persons elected by the Chairmen of the School Councils from among their own number;

- 6 persons elected by the parents of students of schools of the Foundation that provide primary or secondary education from among their own number;
 - one person elected by the Committee of Parents from among the members of the committee;
 - one person elected by the Principals of the schools of the Foundation from among their own number;
 - 2 persons, one of whom is a teacher of primary level students and the other of secondary level students, elected by the Committee of Teaching Staff from among the members of the committee;
 - one person elected by the Committee of Support Staff from among the members of the committee;
 - 10 persons who are not eligible for nomination or election under any other paragraph of this section, nominated by the Nominating Committee; and
 - the Chief Executive Officer, ex officio.
- (e) **Clause 8** also adds a new **section 7** dealing with meetings of the Board. This section —
- (i) states that the Chief Executive Officer is not eligible to vote at meetings of the Board; and
 - (ii) establishes the quorum for meetings of the Board as not less than one-third of the Board's membership, a majority of whom must be external members including one of the officers of the Board, plus the Chief Executive Officer or his representative.
- (f) **Clause 8** also adds a new **section 8** which provides for the establishment of a Nominating Committee comprising —
- 2 persons nominated by the Committee of School Council Chairmen from among the members of the committee;
 - 2 persons from the business sector, one of whom is nominated by The Hong Kong General Chamber of Commerce and the other by The British Chamber of Commerce in Hong Kong;
 - one person who is active in the field of higher education nominated by one of the following higher education institutions, namely —
 - The University of Hong Kong established by the University of Hong Kong Ordinance (Cap. 1053);

- The Chinese University of Hong Kong established by The Chinese University of Hong Kong Ordinance (Cap. 1109);
- The Hong Kong Institute of Education established by The Hong Kong Institute of Education Ordinance (Cap. 444); and
- one person nominated by the Committee of Parents from among the members of the committee.

The Nominating Committee is required to have regard to the desirability of having as wide a range of experience and expertise represented on the Board as is practicable. It is also required to invite professional groups and business organisations to submit the names of persons eligible to be nominated to the Board.

- (g) **Clause 8** also adds a new **section 9** which provides for the establishment of standing committees for audit, finance and remuneration and terms and conditions of service. Section 11(2) of the draft Regulation provides that employees of the Foundation are not eligible to be members of these committees.
- (h) **Clause 8** also adds a new **section 10** which states that the officers of the Foundation shall be the Chairman, Vice-Chairman and Treasurer, and that these offices shall be honorary.
- (i) **Clause 8** also adds a new **section 11** which provides for the appointment of a Chief Executive Officer as the principal academic and administrative officer of the Foundation.
- (j) **Clause 8** also adds a new **section 12** which establishes 5 advisory committees whose members are —
 - Principals of schools of the Foundation;
 - Chairmen of School Councils of schools of the Foundation;
 - parents of students of schools of the Foundation that provide primary or secondary education;
 - members of the teaching staff of schools of the Foundation that provide primary or secondary education;
 - members of support staff of schools of the Foundation that provide primary or secondary education.

- (k) **Clause 8** also adds a new **section 13** which sets out the functions of School Councils, including establishing the strategic direction of the school, monitoring the provision of education in the school, approving a curriculum for the school that is in accordance with the general curriculum strategy set by the Board and securing the efficient use of resources delegated to the school.
- (l) **Clause 8** also adds a new **section 14** which sets out the composition of School Councils as—
- a Chairman appointed by the Board;
 - an equal number being not less than 2 and not more than 4, of —
 - persons from the general community;
 - persons elected by teaching staff;
 - parents;
 - a representative of the support staff;
 - the CEO or his representative (ex-officio and non-voting);
 - the Principal (ex-officio and non-voting).
- (m) **Clause 8** also adds a new **section 15** which provides for each school to have a Principal who is the principal academic and administrative officer of the school. The section also sets out the Principal's powers and duties.
- (n) **Clause 8** also adds a new **section 16** which provides for the establishment of a Parent Teacher Association for each school. By virtue of section 24 (1) of the draft Regulation, all parents will be members of the Parent Teacher Association of the school.
- (o) **Clause 8** also adds a new **section 17** which states that persons nominated, elected or appointed to the Board or to any School Council or committee are to act as members on a personal basis.
- (p) **Clause 9** amends section 18 of the Ordinance to allow the payment to employees of the Foundation of any dividend or bonus that is payable under their contract of employment.
- (q) **Clause 10** adds a new **section 20** which provides for the right of appeal to an Appeals Panel by employees of the Foundation whose employment is terminated or by parents of any student of a school of the Foundation who is expelled from school.

- (r) **Clause 10** also adds a new **Section 21** to provide that no act or resolution of the Foundation or any of its subsidiary bodies shall be invalid by reason of any vacancy in the body concerned or any want of qualification or invalidity in the process by which an officer or member was nominated, elected or appointed.
- (s) **Clause 10** also adds a new **section 22** which confers on officers and members of the Foundation and its subsidiary bodies immunity from liability in civil proceedings for anything done in good faith as an officer or member.
- (t) **Clause 12** amends the regulation-making power under **section 24** to provide that a resolution of the Board for this purpose requires the approval of at least two-thirds of the members of the Board eligible to vote on the resolution. The existing subsection (2), which states that it shall not be necessary for any regulations made under this section to be published or laid on the table of the Legislative Council, is repealed.
- (u) **Clause 16** provides for the addition of a schedule setting out the transitional arrangements.

ENQUIRIES

25. Any enquiries about this brief can be directed to the office of the Hon Abraham Shek, Member of the Legislative Council, at Room 806, Manning House, 48 Queen's Road Central, Hong Kong, telephone number 2588 1060. fax number 2588 1623.

《 2007 年英基學校協會(修訂)條例草案 》

THE ENGLISH SCHOOLS FOUNDATION (AMENDMENT) BILL 2007

**THE ENGLISH SCHOOLS FOUNDATION (AMENDMENT)
BILL 2007**

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A BILL

To

Amend The English Schools Foundation Ordinance to make changes to the governance structure of The English Schools Foundation established under that Ordinance and to the administration of the schools of The English Schools Foundation, and for related purposes.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as The English Schools Foundation (Amendment) Ordinance 2007.

(2) This Ordinance shall come into operation on a day to be appointed by the Chairman of The English Schools Foundation by notice published in the Gazette.

2. Sections repealed

Sections 7, 9 and 11 of The English Schools Foundation Ordinance (Cap. 1117) (“the principal Ordinance”) are repealed.

3. Sections renumbered

(1) Sections 5, 6, 8, 10, 12, 13 and 14 are amended by renumbering them as sections 18, 19, 23, 24, 25, 26 and 28 respectively.

(2) In this Ordinance, a reference to a section of the principal Ordinance as renumbered is a reference to that section as renumbered in accordance with this section.

4. Interpretation

(1) Section 2(1) is amended by repealing everything after “requires –” and substituting –

““advisory committee” (諮詢委員會) and “advisory committee of the Chief Executive Officer” (行政總裁的諮詢委員會) mean a committee established by the Chief Executive Officer under section 12;

“Board of Governors” (協會管理局) and “Board” (管理局) mean the board established under section 5(1);

“Chief Executive Officer” (行政總裁) means the person who is Chief Executive Officer for the purposes of section 11(1);

“Committee of Parents” (家長委員會) means the committee established by the Chief Executive Officer under section 12(1)(c);

“Committee of School Council Chairmen” (校董會主席委員會) means the committee established by the Chief Executive Officer under section 12(1)(b);

“Committee of Support Staff” (非教學人員委員會) means the committee established by the Chief Executive Officer under section 12(1)(e);

“Committee of Teaching Staff” (教學人員委員會) means the committee established by the Chief Executive Officer under section 12(1)(d);

“employee of the Foundation” (協會僱員) means any –

(a) member of staff of the Foundation; or

(b) Principal or member of staff of a school of the Foundation;

“external member” (外界成員), in relation to the Board of Governors, means a person who is a member of the Board under section 6(1)(a), (b), (c), (d) or (h);

“Foundation” (協會) means The English Schools Foundation established and incorporated under section 3;

“independent member” (獨立成員), in relation to the Board of Governors, means a person who is a member of the Board under section 6(1)(h);

“Nominating Committee” (提名委員會) means the committee established under section 8(1);

“officer” (主管人員), in relation to the Foundation, means a person holding the office of Chairman, Vice-chairman or Treasurer of the Foundation as provided in section 10(1);

“parent” (家長), in relation to a student of a school of the Foundation, includes –

- (a) a guardian of the student; and
- (b) a person who is not the parent or guardian of the student but has the actual custody of the student;

“parent member” (家長成員), in relation to the Board of Governors, means a person who is a member of the Board under section 6(1)(c) or (d);

“Parent Teacher Association” (家長教師會) means an association established under section 16(1);

“Permanent Secretary” (常任秘書長) means the Permanent Secretary for Education and Manpower;

“Principal” (校長), in relation to a school of the Foundation, means the principal of the school for the purposes of the Education Ordinance (Cap. 279);

“school” (學校), in the context of a school within Hong Kong, has the same meaning as the expression “school providing

nursery, kindergarten, primary or secondary education” has for the purposes of the Education Ordinance (Cap. 279), and the expressions “school that provides nursery education” (提供幼兒教育的學校), “school that provides kindergarten education” (提供幼稚園教育的學校), “school that provides primary education” (提供小學教育的學校) and “school that provides secondary education” (提供中學教育的學校), in the context of a school within Hong Kong, shall be construed accordingly;

“School Council” (校董會) means a council established under section 13(1);

“school of the Foundation” (協會學校) means a school that is owned, managed, administered or operated by the Foundation;

“special school” (特殊學校), in the context of a school within Hong Kong, has the same meaning as in the Education Ordinance (Cap. 279);

“staff” (職員) —

- (a) in relation to a school of the Foundation, means the persons employed by the Foundation to carry out duties at the school, but does not include the Principal of the school; and
- (b) in relation to the Foundation, means the persons employed by the Foundation other than as the Principal or staff of a school of the Foundation;

“standing committee” (常務委員會), in relation to the Board of Governors, means a committee established by the Board of Governors under section 9;

“support staff” (非教學人員), in relation to a school of the Foundation, means the staff of the school other than the teaching staff;

“teaching staff” (教學人員), in relation to a school of the Foundation, means the staff of the school who are employed as teachers at the school.”.

(2) Section 2(2) is repealed.

(3) Section 2 is amended by adding –

“(3) A reference in this Ordinance to a school of the Foundation is, unless expressly provided otherwise, a reference to a school of the Foundation in Hong Kong.

(4) For the avoidance of doubt, a reference in this Ordinance to a school of the Foundation in Hong Kong that provides education at one or other of the levels mentioned in the definition of “school” in subsection (1), that is to say, that provides nursery, kindergarten, primary or secondary education –

(a) includes a reference to a school that provides education at that level and also at any other of those levels; and

(b) includes a reference to such a school that is a special school.”.

5. Cross-heading added

The following is added immediately before section 3 –

“The Foundation”.

6. Incorporation of the English Schools Foundation

(1) Section 3 is amended, in the English text, in the heading, by repealing “**the**” and substituting “**The**”.

(2) Section 3 is amended by renumbering the first sentence as section 3(1), the second sentence as section 3(2) and the third sentence as section 3(3).

(3) Section 3(1) is amended, in the Chinese text, by repealing ““The English Schools Foundation”” and substituting ““**英基學校協會**””.

(4) Section 3(2) is repealed and the following substituted –

“(2) The members of the Foundation shall be the persons who are for the time being the members of the Board of Governors.”.

(5) Section 3(3) is amended by repealing everything after “name and shall have” and substituting “a common seal.”.

7. Section substituted

Section 4 is repealed and the following substituted –

“4. Objects and powers of Foundation

(1) The objects of the Foundation are –

- (a) to own, manage, administer and operate within Hong Kong or elsewhere schools offering, without regard to race or religion, a modern liberal education through the medium of the English language to boys and girls who are able to benefit from such an education; and
- (b) to provide educational services generally, within Hong Kong or elsewhere, as a means of raising revenue for the Foundation.

(2) The Foundation shall have full power, in the furtherance of its objects –

- (a) to take by gift or otherwise purchase and hold, grant, demise, mortgage or otherwise dispose of real or personal estate; and
- (b) to borrow or raise money in such manner as it sees fit,

and in addition shall have all other powers conferred by, under or by virtue of this Ordinance.

(3) The Foundation may delegate to a body corporate that is controlled by the Foundation (“controlled body corporate”) such matters in connection with its objects as it thinks fit including the ownership, management, administration or operation of any school or the provision of any educational service, and a reference in this Ordinance to the Foundation shall, unless the context requires otherwise, be construed as including a reference to any such controlled body corporate in so far as the controlled body corporate’s activities are activities that are undertaken for the purpose of a delegation by the Foundation made under this subsection.

(4) Without limiting the generality of subsection (3), a company incorporated under the Companies Ordinance (Cap. 32) whose articles of association provide that only persons who are members of the Board of Governors or of the Committee of School Council Chairmen are eligible to be members of the company shall for the purpose of that subsection be taken to be a controlled body corporate.

(5) The Foundation may provide to a controlled body corporate such funds as it considers appropriate for use by the body corporate in carrying out activities that are undertaken for the purpose of a delegation by the Foundation made under this section.

(6) Nothing in this section derogates from the Education Ordinance (Cap. 279).”.

8. Cross-heading and sections added

The following are added –

“Board of Governors

5. Establishment of Board of Governors

(1) There shall be a Board of Governors which shall be the governing body of the Foundation and which shall administer the property and manage the affairs of the Foundation.

(2) Without limiting the generality of subsection (1), the functions of the Board shall be –

- (a) to establish, with the Chief Executive Officer, the strategic direction of the Foundation;
- (b) to approve and keep under review a curriculum strategy for the schools of the Foundation as a whole;
- (c) to be responsible for the quality and standards of education provided in the schools of the Foundation;
- (d) to ensure effective communication between the Foundation and parents of students of, and staff of, the schools of the Foundation, and to that end to publish an annual report on the activities of the Foundation;
- (e) to ensure that there are effective procedures for the recruitment, retention, management, development and support of all employees of the Foundation;
- (f) to oversee the efficient use of the resources of the Foundation and approve an annual budget;

- (g) to select the person to be appointed as Chief Executive Officer, and to appraise the performance of the Chief Executive Officer;
- (h) to consider for approval the proposed appointment of any person as –
 - (i) a member of staff of the Foundation reporting directly to the Chief Executive Officer; or
 - (ii) the Principal of a school of the Foundation; and
- (i) to keep under review this Ordinance and regulations made under it.

(3) A resolution of the Board shall, in accordance with its terms, be regarded as binding on any School Council, school of the Foundation, standing committee of the Board or committee established under section 23(1).

(4) The Board shall provide for the custody of the common seal of the Foundation.

6. Composition of Board of Governors

(1) The Board of Governors shall comprise the following members –

- (a) 2 persons nominated by the members of the Legislative Council from among their own number;
- (b) 3 persons elected by the Chairmen of the School Councils from among their own number;
- (c) 6 persons elected by the parents of students of schools of the Foundation that provide primary or

secondary education from among their own number;

- (d) one person elected by the Committee of Parents from among the members of that Committee;
- (e) one person elected by the Principals of the schools of the Foundation from among their own number;
- (f) 2 persons, one of whom is a teacher of primary level students and the other of secondary level students, elected by the Committee of Teaching Staff from among the members of that Committee;
- (g) one person elected by the Committee of Support Staff from among the members of that Committee;
- (h) 10 persons who are not eligible for nomination or election under any other paragraph of this subsection, nominated by the Nominating Committee; and
- (i) the Chief Executive Officer, ex officio.

(2) A person who is an employee of the Foundation or is the spouse of such an employee is not eligible for nomination or election as a member of the Board under subsection (1)(a), (b), (c), (d) or (h).

(3) A person who is a member of the Nominating Committee is not eligible for nomination or election as a member of the Board.

(4) At least one member of the Board shall be an alumnus of —

- (a) a present or former school of the Foundation; or
- (b) a school that, before the commencement of The English Schools Foundation (Amendment) Ordinance 2007 (of 2007), was owned, managed, administered or operated by ESF Educational Services Limited, a company

incorporated under the Companies Ordinance
(Cap. 32).

(5) The term of office of a member, other than an ex officio member, shall be 3 years.

(6) A member is eligible for renomination or re-election at the expiry of his term as a member, but a person shall not serve as a member consecutively for more than 2 terms.

7. Meetings, etc. of Board of Governors

(1) There shall be a Chairman, a Vice-chairman and a Treasurer of the Board of Governors who are elected by the members of the Board from among the independent members of the Board.

(2) If the person who is Chairman, Vice-chairman or Treasurer ceases to be an independent member of the Board that office thereby becomes vacant.

(3) The Chief Executive Officer shall ensure that legal advice is available to the Board on matters of procedure of meetings of the Board.

(4) The Chief Executive Officer shall not be eligible to vote in any matter to be decided by a vote of the members of the Board.

(5) The Chief Executive Officer may nominate a representative to attend any meeting of the Board on his behalf.

(6) For the purpose of any meeting of the Board, a quorum is present if –

- (a) not less than one third of the Board's membership is present;
- (b) the majority of the members present are external members;
- (c) the members present include the Chairman, Vice-chairman or Treasurer of the Board; and

- (d) the Chief Executive Officer or his representative is present.

8. Nominating Committee

(1) There shall be a Nominating Committee whose function is to nominate persons to serve as members of the Board of Governors for the purposes of section 6(1)(h).

(2) The Nominating Committee shall comprise the following members –

- (a) 2 persons nominated by the Committee of School Council Chairmen from among the members of the Committee;
- (b) 2 persons from the business sector, one of whom is nominated by The Hong Kong General Chamber of Commerce and the other by The British Chamber of Commerce in Hong Kong;
- (c) one person who is active in the field of higher education nominated by one of the following higher education institutions, namely –
 - (i) the University of Hong Kong established by the University of Hong Kong Ordinance (Cap. 1053);
 - (ii) The Chinese University of Hong Kong established by The Chinese University of Hong Kong Ordinance (Cap. 1109); or
 - (iii) The Hong Kong Institute of Education established by The Hong Kong Institute of Education Ordinance (Cap. 444); and

- (d) one person nominated by the Committee of Parents from among the members of that Committee.

(3) The higher education institutions mentioned in subsection (2)(c) shall act in rotation in nominating a person for the purposes of that paragraph.

(4) In selecting persons for nomination as members of the Board, the Nominating Committee shall have regard to the desirability of having as wide a range of experience and expertise represented on the Board as is practicable.

(5) In order to broaden the pool of candidates available for nomination as a member of the Board under section 6(1)(h), the Nominating Committee shall invite professional groups and business organizations to submit the names of persons who are eligible to be nominated as such a member.

(6) Any decision of the Nominating Committee concerning nominations to the Board shall be final.

9. Standing committees of the Board of Governors

The Board of Governors shall establish the following standing committees –

- (a) a committee to advise the Board on matters relating to the auditing of the conduct of the Foundation's business;
- (b) a committee to advise the Board on matters relating to the management of the finances of the Foundation;
- (c) a committee to advise the Board on matters relating to the remuneration and terms and conditions of service of the staff of the Foundation.

Officers and staff of the Foundation

10. Officers of the Foundation

(1) The officers of the Foundation shall be a Chairman, Vice-chairman and Treasurer.

(2) The offices of Chairman, Vice-chairman and Treasurer shall be honorary offices.

(3) The persons who are for the time being the Chairman, Vice-chairman and Treasurer of the Board of Governors shall be the Chairman, Vice-chairman and Treasurer of the Foundation respectively.

11. Chief Executive Officer

(1) The Foundation shall employ a person in the position of Chief Executive Officer to be the principal academic and administrative officer of the Foundation and head of the employees of the Foundation.

(2) The appointment of any person as Chief Executive Officer shall be subject to the approval of the Board of Governors.

(3) If for any reason the person who is Chief Executive Officer is unable to perform the duties of that office, the Board of Governors may appoint a person to act as Chief Executive Officer in his place and the person so appointed shall, while acting, have all the powers and duties of the Chief Executive Officer.

12. Advisory committees of the Chief Executive Officer

(1) The Chief Executive Officer shall establish the following committees, namely –

- (a) a committee whose members are drawn from the Principals of schools of the Foundation;
- (b) a committee whose members are drawn from the Chairmen of School Councils of schools of the Foundation;

- (c) a committee whose members are drawn from the parents of students of schools of the Foundation that provide primary or secondary education, other than such parents who are also employees of the Foundation;
- (d) a committee whose members are drawn from the members of the teaching staff of schools of the Foundation that provide primary or secondary education; and
- (e) a committee whose members are drawn from the members of the support staff of schools of the Foundation that provide primary or secondary education.

(2) It shall be the function of each committee to advise the Chief Executive Officer in relation to matters affecting the interests of the group of persons from whom the committee's members are drawn.

School Councils, School Principals and Parent Teacher Associations

13. Functions of School Councils

(1) There shall be for each of the schools of the Foundation that provides primary or secondary education a School Council which shall have the regulation of matters relating to the provision of education within the school in accordance with the resolutions of the Board of Governors.

(2) Without limiting the generality of subsection (1), the functions of the School Council of a school shall be –

- (a) with the Chief Executive Officer, to design and implement a process for the selection of the Principal of the school;

- (b) to establish, with the Principal, the strategic direction of the school within the framework set by the Board;
- (c) to monitor the provision of education in the school to ensure that it meets the needs of the students;
- (d) to approve a curriculum for the school that is in accordance with the curriculum strategy approved by the Board for the schools of the Foundation as a whole;
- (e) to secure the efficient use of resources delegated to the school, and to approve the school's annual budget;
- (f) to report to the Board, the Chief Executive Officer and parents of students of the school from time to time on the performance of the school;
- (g) to consider for approval any proposal by the Principal of the school for the appointment of staff of the school who report directly to the Principal or the promotion of staff within the school;
- (h) to ensure the implementation of effective procedures for the management, development and support of the staff of the school;
- (i) together with the Chief Executive Officer, to appraise the performance of the Principal of the school;
- (j) to advise the Chief Executive Officer and the Board on issues affecting the school; and
- (k) to contribute to the strategic development of the Foundation.

14. Composition, etc. of School Councils

(1) The School Council of a school shall comprise the following members –

- (a) a Chairman, appointed by the Board, who is neither an employee of the Foundation nor the parent of a student of the school;
- (b) an equal number, being not less than 2 and not more than 4, of each of the following groups of persons –
 - (i) persons from the general community who are neither employees of the Foundation nor parents of students of the school, appointed by the Board;
 - (ii) persons elected by the members of the teaching staff of the school from among their own number; and
 - (iii) a group comprising –
 - (A) one person, who is not an employee of the Foundation, elected by the parent members of the committee of the Parent Teacher Association of the school from among their own number; and
 - (B) one or more persons, who are not employees of the Foundation, elected by the parents of students of the school from among their own number;

- (c) one person elected by the members of the support staff of the school from among their own number;
- (d) the Chief Executive Officer, ex officio; and
- (e) the Principal of the school, ex officio.

(2) The Chairman of the School Council of a school shall, in consultation with the Board of Governors, determine the number that shall apply for the purposes of subsection (1)(b).

(3) The term of office of a member, other than an ex officio member, shall be 3 years.

(4) A member is eligible for reappointment or re-election at the expiry of his term as a member, but a person shall not serve as a member consecutively for more than 2 terms.

(5) Neither the Chief Executive Officer nor the Principal of the school shall have a vote in any matter to be decided by a vote of the members of the School Council.

(6) The Chief Executive Officer may nominate a representative to attend any meeting of a School Council on his behalf.

15. School Principals

(1) The Principal of a school of the Foundation shall be the principal academic and administrative officer of the school and head of the staff of the school.

(2) Without limiting the generality of subsection (1), the Principal of a school of the Foundation shall have the following powers and duties –

- (a) together with the School Council, to establish the strategic direction of the school within the framework set by the Board of Governors;
- (b) to be responsible for –

- (i) the quality and standards of education provided; and
 - (ii) the welfare of and standards of behaviour observed by students, within the school;
- (c) to advise the School Council on curriculum development;
- (d) to select and to recommend to the Foundation persons for appointment as members of staff of the school, having regard to any selection procedures determined by the Chief Executive Officer and to the staffing and budgetary framework approved by the School Council;
- (e) to manage the members of staff of the school and appraise their performance, and to be responsible for the development and welfare of the members of staff of the school;
- (f) to make efficient use of the school's resources, and to recommend an annual budget to the School Council;
- (g) to develop mutually supportive relationships with parents of students of the school and the wider community;
- (h) to manage the day-to-day operation of the school;
- (i) to contribute to the strategic development of the Foundation; and
- (j) to account to the School Council and the Chief Executive Officer for the performance of the school and the discharge of his duties.

(3) The selection of a person for recommendation to the Permanent Secretary under section 53(1) or 57(1) of the Education Ordinance (Cap. 279) for approval as Principal of a school of the Foundation shall follow a process that takes account of the views of different groups within the school community and is determined by the Chief Executive Officer and the School Council of the school jointly.

(4) The recommendation of the name of a person to the Permanent Secretary as provided in subsection (3) shall be subject to the approval of the Board of Governors.

(5) Any recommendation by the Principal of a school under subsection (2)(d) in relation to the appointment of staff who will report directly to the Principal, or any promotion by the Principal of a school of teaching staff within the school, shall be subject to the approval of the School Council.

16. Parent Teacher Associations

(1) There shall be established for each of the schools of the Foundation that provides primary or secondary education a Parent Teacher Association comprising –

- (a) the parents of each student of the school (“parent members”);
- (b) all members of the teaching staff of the school (“teaching staff members”); and
- (c) the Principal of the school.

(2) It shall be the function of the Parent Teacher Association of a school to promote co-operation between the parents of students of the school and members of the teaching staff of the school.

(3) A parent of a student of a school who is also a member of the teaching staff of the school shall be regarded as a parent member and

not as a teaching staff member of the Parent Teacher Association of the school.

(4) A Parent Teacher Association may be constituted either as an unincorporated association or as a company limited by guarantee.

Miscellaneous

17. Nomination, etc. as member to be on a personal basis

A person who is nominated, elected or appointed from among a group of eligible persons to be a member of the Board of Governors, of any School Council or of any committee provided for under this Ordinance is nominated, elected or appointed on a personal basis and not as the delegate of the group of eligible persons.”.

9. Dividends prohibited

Section 18 as renumbered is amended –

- (a) by repealing “its members or to any of the staff or” and substituting “the officers or employees of the Foundation, any of the members of the Board of Governors or any of the”;
- (b) by repealing everything after “except” and substituting –
“–

- (a) by way of prize, reward or special grant; or
- (b) in the case of an employee of the Foundation, by way of a dividend or bonus payable under his contract of employment.”.

10. Sections added

The following are added –

“20. Appeals

(1) There shall be the following right of appeal to an Appeals Panel constituted under this section –

- (a) an employee of the Foundation may appeal against any decision of the Foundation terminating his employment;
- (b) the parent of a student of a school of the Foundation may appeal against any decision of the Foundation expelling the student from the school.

(2) An Appeals Panel shall comprise the following members –

- (a) a Chairman and 2 other members nominated by the Board of Governors from among the independent members of the Board; and
- (b) one member nominated as follows –
 - (i) in the case of an appeal by a member of the teaching staff of a school of the Foundation, nominated by the committee of the Association of Professional Teachers in English Schools Foundation Schools from among the members of the committee;
 - (ii) in the case of an appeal by a member of the support staff of a school of the Foundation, nominated by the committee of the Support Staff Association of the English Schools Foundation from among the members of the committee;
 - (iii) in the case of an appeal by a Principal of a school of the Foundation or a member of the staff of the Foundation, nominated by

the Board of Governors from among the Chairmen of the School Councils; or

- (iv) in the case of an appeal by the parent of a student, nominated by the Board of Governors from among the parent members of the Board.

(3) An Appeals Panel may determine its own procedure in performing its functions under this section.

(4) Any decision of the Foundation appealed against under this section shall have effect in accordance with the terms of the decision of the Appeals Panel disposing of the appeal.

21. Validation of acts of Foundation, Board of Governors, Nominating Committee or School Council

No act or resolution of the Foundation, the Board of Governors, the Nominating Committee or a School Council shall be invalid by reason only of –

- (a) any vacancy in any office or membership of such body; or
- (b) any want of qualification by, or invalidity in the nomination, election or appointment of, any officer or member of any such body.

22. Immunity from civil liability

A person who is an officer or member of the Foundation or a member of the Board of Governors, the Nominating Committee, a standing committee of the Board of Governors, an advisory committee of the Chief Executive Officer, a School Council, a Parent Teacher Association, an Appeals Panel or any committee established under section 23(1) is not liable in civil proceedings for anything done or omitted to be done by him

in good faith in the performance or purported performance of his duties as such officer or member.”.

11. Committees generally

(1) Section 23(1) as renumbered is amended by repealing “The Foundation, the Executive Committee” and substituting “The Board of Governors, the Chief Executive Officer”.

(2) Section 23(2) as renumbered is amended by repealing everything after “committee” and substituting “established under this section may consist partly of persons who are not members of the Board, staff of the Foundation or members of the School Council, as the case may be.”.

(3) Section 23(3) as renumbered is amended –

- (a) by repealing “the Foundation, the Executive Committee” and substituting “the Board, the Chief Executive Officer”;
- (b) by adding “established under this section” after “committee”.

12. Regulations

(1) Section 24(1) as renumbered is repealed and the following substituted –

“(1) The Foundation may, by resolution of the Board of Governors, make regulations –

- (a) providing for the management, operation, administration and control of the Foundation and the schools of the Foundation and with regard to any ancillary matter;
- (b) providing for any matter in relation to any board, council, committee, panel, association or other body established or

provided for under this Ordinance, including but not limited to –

- (i) the nomination, election or appointment of persons as members of the body;
 - (ii) membership of the body generally (including vacancies in the membership of the body and the removal from office of any member of the body);
 - (iii) any thing that is to be or may be done by the body in discharging its functions; and
 - (iv) procedures to be followed at meetings of the body; and
- (c) generally, for the carrying into effect of this Ordinance.”.

(2) Section 24(2) as renumbered is repealed.

(3) Section 24 as renumbered is amended by adding –

“(3) A resolution of the Board of Governors for the purposes of subsection (1) requires the approval of at least two thirds of the members of the Board eligible to vote on the resolution.”.

13. Form of contract

(1) Section 25(1)(b) and (c) as renumbered is amended by repealing “Executive Committee” and substituting “Board of Governors”.

(2) Section 25(4) as renumbered is amended by repealing “, and counter-signed by the Secretary” and substituting “of the Foundation and countersigned by the Chief Executive Officer”.

14. Registration with Registrar of Companies

(1) Section 26(1) as renumbered is amended –

- (a) in paragraph (a) , by adding “and” at the end;
- (b) by repealing paragraph (b);
- (c) in paragraph (c), by repealing everything after “members of the” and substituting “Board of Governors and any change therein, certified as correct by the Chairman of the Foundation and the Chief Executive Officer.”.

(2) Section 26(2) as renumbered is amended by repealing “the making of the regulations or of any change or appointment” and substituting “any change or nomination or election”.

15. Section added

The following is added –

“27. Transitional arrangements

The arrangements set out in the Schedule shall have effect.”.

16. Saving

Section 28 as renumbered is amended by repealing “persons” and substituting “person”.

17. Schedule added

The following is added –

“SCHEDULE

[s. 27]

TRANSITIONAL ARRANGEMENTS

Interpretation

1. In this Schedule, unless the context otherwise requires –

“amendment Ordinance of 2007” (《 2007 年修訂條例 》) means The English Schools Foundation (Amendment) Ordinance 2007 (of 2007);

“repealed Regulations” (《 已廢除規例 》) means Regulations made under this Ordinance and in effect immediately before the commencement of the amendment Ordinance of 2007.

Board of Governors

2. As at the commencement of the amendment Ordinance of 2007 –
- (a) a person who immediately before that commencement was a member of the Executive Committee of the Foundation by virtue of a provision of regulation 5.3 of the repealed Regulations specified in column 2 of the table shall be deemed to be a member of the Board of Governors nominated or elected for the purposes of the provision of section 6(1) of this Ordinance specified in relation to that person in column 3 of the table; and
 - (b) the persons so deemed to be members of the Board by virtue of items 1, 2 and 3 of the table shall be deemed to be the Chairman, Vice-chairman and Treasurer of the Board respectively elected for the purposes of section 7(1) of this Ordinance –

TABLE

Item	Provision of regulation 5.3 of repealed Regulations	Provision of section 6(1) of this Ordinance
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- | | |
|--|--|
| 1. Paragraph (i) (The Chairman of the Foundation) | Paragraph (<i>h</i>) (persons who are not eligible for nomination or election under any other paragraph of section 6(1) and are not the spouse of a person who is so eligible, nominated by the Nominating Committee) |
| 2. Paragraph (ii) (The Vice-chairman of the Foundation) | Paragraph (<i>h</i>) (persons who are not eligible for nomination or election under any other paragraph of section 6(1) and are not the spouse of a person who is so eligible, nominated by the Nominating Committee) |
| 3. Paragraph (iv) (The Treasurer of the Foundation) | Paragraph (<i>h</i>) (persons who are not eligible for nomination or election under any other paragraph of section 6(1) and are not the spouse of a person who is so eligible, nominated by the Nominating Committee) |
| 4. Paragraph (vi) (The Chairman of the Management Committee) | Paragraph (<i>b</i>) (persons elected by the Chairmen of the School Councils from among their own number) |
| 5. Paragraph (vii) (The Chairman of the Academic Committee) | Paragraph (<i>e</i>) (person elected by the Principals from among their own number) |
| 6. Paragraph (viii) (The Chairman of the Staff Council) | Paragraph (<i>f</i>) (person elected by the Committee of Teaching Staff from among the members of the Committee) |
| 7. Paragraph (ix) (The Chairman of the Joint | Paragraph (<i>d</i>) (person elected by the Committee |

Council of Parent Teacher Associations)	of Parents from among the members of the Committee)
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3. The term of office of a person deemed to be a member of the Board under section 2 of this Schedule shall be the period beginning with the commencement of the amendment Ordinance of 2007 and ending with the first nomination or election of a person to that membership position by a nomination or election made or held after that commencement (and for the purpose of any such first nomination or election the membership position shall be regarded as being vacant).

4. Until such time as all membership positions of the Board have been filled by nomination or election or appointment made or held after the commencement of the amendment Ordinance of 2007, the quorum for a meeting of the Board shall be two thirds of the number of members of the Board deemed to be appointed under section 2 of this Schedule plus the Chief Executive Officer or his representative.

5. Where a vacancy in a membership position of the Board to which section 2 of this Schedule applies arises before the first nomination or election of a person to that membership position as mentioned in section 3 of this Schedule, the Board may appoint a person to be a member of the Board pending that first nomination or election.

Nominating Committee

6. As at the commencement of the amendment Ordinance of 2007, a person specified in column 3 of the table shall be deemed to be a member of the Nominating Committee nominated for the purposes of the provision of section 8(2) of this Ordinance specified in relation to that person in column 2 of the table –

TABLE

Item	Provision of section 8(2) of this Ordinance	Member
1.	Paragraph (a) (persons nominated by the Committee of School Council Chairmen from among the members of the Committee)	(a) Mr Gordon Lamb (b) Ms Glynis Gibson
2.	Paragraph (b), person from the business sector nominated by The Hong Kong General Chamber of Commerce	Mr Neville Shroff
3.	Paragraph (b), person from the business sector nominated by The British Chamber of Commerce in Hong Kong	Brigadier Christopher Hammerbeck CB
4.	Paragraph (c) (person active in the field of higher education, nominated by one of the higher education institutions specified in that paragraph)	Professor Victor On-kwok Li
5.	Paragraph (d) (person nominated by the Committee of Parents from among the members of the Committee)	Mr Chris Tringham

7. The deeming under section 6 of this Schedule of a person to be a member of the Nominating Committee for the purpose of section 8(2)(c) of this Ordinance shall not be regarded as a nomination under that paragraph

for the purposes of section 8(3) of this Ordinance and, accordingly, the first nomination of a person as a member of the Nominating Committee under section 8(2)(c) of this Ordinance to be made after the commencement of the amendment Ordinance of 2007 shall be made by the higher education institution specified in section 8(2)(c)(i) of this Ordinance.

Chief Executive Officer

8. As at the commencement of the amendment Ordinance of 2007, the person who immediately before that commencement was the Secretary of the Foundation shall be deemed to be the Chief Executive Officer of the Foundation appointed for the purposes of section 11(1) of this Ordinance.

School Councils

9. As at the commencement of the amendment Ordinance of 2007, a person who immediately before that commencement was a member of the School Council of a school of the Foundation for the purposes of a provision of regulation 14.9 or 14.10 of the repealed Regulations as specified in column 2 of the table shall be deemed to be a member of the School Council of the school nominated, elected or appointed for the purposes of the provision of section 14(1) of this Ordinance specified in relation to that person in column 3 of the table –

TABLE

Item	Provision of regulation 14.9 or 14.10 of repealed Regulations	Provision of section 14(1) of this Ordinance
1.	Paragraph (d)(i) (Person appointed by the Executive Committee as chairman of the Council)	Paragraph (a) (a Chairman, appointed by the Board)

- | | |
|---|---|
| 2. Paragraph (a) (“Government and Community”) | Paragraph (b)(i) (persons from the general community who are neither employees of the Foundation nor parents of students of the school, appointed by the Board) |
| 3. Paragraph (b) (“Parents”) | <p>Paragraph (b)(iii) (a group comprising –</p> <p>(a) one person, who is not an employee of the Foundation, elected by the parent members of the committee of the Parent Teacher Association of the school from among their own number; and</p> <p>(b) one or more persons, who are not employees of the Foundation, elected by the parents of students of the school from among their own number)</p> |
| 4. Paragraph (c) (“Teachers”) | Paragraph (b)(ii) (persons elected by the members of the teaching staff of the school from among their own number) |

10. The term of office of a person deemed to be a member of a School Council under section 9 of this Schedule shall be the period beginning with the commencement of the amendment Ordinance of 2007 and ending with the first nomination or election of a person to that membership position by a nomination or election made or held after that commencement (and for

the purpose of any such first nomination or election the membership position shall be regarded as being vacant).

11. Where a vacancy in a membership position of a School Council to which section 9 of this Schedule applies arises before the first nomination or election of a person to that membership position as mentioned in section 10 of this Schedule, the School Council may appoint a person to be a member of the School Council pending that first nomination or election.”.

18. Regulations repealed

The regulations made under the principal Ordinance before the commencement of this Ordinance are repealed.

19. Saving

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.

Explanatory Memorandum

The main purpose of this Bill is to amend The English Schools Foundation Ordinance (Cap. 1117) (“the principal Ordinance”) to revise the governance structure of The English Schools Foundation (“the Foundation”) established under the principal Ordinance and to make changes to the administration of the schools of the Foundation.

2. Clause 2 repeals sections 7 (“Foundation, Executive Committee, School Councils, their constitution, powers and duties”), 9 (“Officers and staff, their appointment, powers, duties and emoluments”) and 11 (“Members”) of the principal Ordinance.

3. Clause 3 provides for the renumbering of the sections of the principal Ordinance from section 5 onwards.
4. Clause 4 amends section 2 of the principal Ordinance. Clause 4(1) amends section 2(1) to add definitions of terms used in the principal Ordinance as amended, and to repeal definitions of terms that are no longer mentioned in that Ordinance. Clause 4(2) repeals section 2(2) of the principal Ordinance which refers to a term that is no longer mentioned in the Ordinance. Clause 4(3) adds new section 2(3) and (4) which supplements the definition of the term “school” in section 2(1).
5. Clause 5 adds a new cross-heading for sections 3 and 4 of the principal Ordinance.
6. Clause 6 amends section 3 of the principal Ordinance to provide that the members of the Foundation are to be the persons who are for the time being the members of the Board of Governors of the Foundation.
7. Clause 7 repeals and replaces section 4 of the principal Ordinance to better define the objects and powers of the Foundation and to expand those objects and powers so as to authorize the Foundation –
 - (a) to operate schools outside Hong Kong (section 4(1)(a));
 - (b) to provide educational services as a means of raising revenue (section 4(1)(b));
 - (c) to borrow or raise money (section 4(2)(b));
 - (d) to pursue any of its objects by delegating its powers to a company controlled by it (section 4(3)).
8. Clause 8 adds new cross-heading and sections 5 to 17 to the principal Ordinance.
9. New sections 5 to 9 of the principal Ordinance as added by clause 8 deal with the Board of Governors. Specifically –
 - (a) new section 5 provides for the establishment of a Board of Governors, to be the governing body of the Foundation

with power to make resolutions binding on the other bodies within the Foundation;

- (b) new section 6 provides for the Board of Governors to consist of 27 members, 10 of whom are to be independent members nominated by a Nominating Committee established under the principal Ordinance;
- (c) new section 7 provides for the election of a Chairman, Vice-chairman and Treasurer of the Board of Governors from among the independent members of the Board, and for other matters relating to meetings of the Board;
- (d) new section 8 provides for the establishment of a Nominating Committee to nominate the independent members of the Board of Governors;
- (e) new section 9 provides for the establishment of standing committees to advise the Board of Governors on matters relating to the auditing of the conduct of the Foundation's business activities, the management of the Foundation's finances and the remuneration of the Foundation staff.

10. New sections 10 to 12 of the principal Ordinance as added by clause 8 deal with the officers and staff of the Foundation. Specifically –

- (a) new section 10 provides for there to be 3 honorary offices of the Foundation, namely the Chairman, Vice-chairman and Treasurer of the Foundation, and for those offices to be filled by the persons who are for the time being the Chairman, Vice-chairman and Treasurer of the Board of Governors;
- (b) new section 11 provides for there to be a Chief Executive Officer of the Foundation, who will be the principal academic and administrative officer of the Foundation and head of all employees of the Foundation;

- (c) new section 12 requires the Chief Executive Officer to establish 5 advisory committees, each consisting of members drawn from a particular class of persons who have a connection with the schools of the Foundation, namely, Principals, School Council Chairmen, parents of students, teachers and support staff.

11. New sections 13 to 16 of the principal Ordinance as added by clause 8 deal with School Councils, School Principals and Parent Teacher Associations of schools of the Foundation. Specifically –

- (a) new section 13 provides for the establishment of a School Council for each school of the Foundation that provides primary or secondary education, and sets out the functions of the School Councils;
- (b) new section 14 provides for the membership of the School Councils, to include persons from the general community who are neither employees of the Foundation nor parents of students of the school in question;
- (c) new section 15 sets out the powers and duties of School Principals and the procedure for the selection of a new Principal;
- (d) new section 16 requires the establishment of a Parent Teacher Association for every school of the Foundation that provides primary or secondary education, to consist of the parents of all students of the school and the teachers of the school.

12. New section 17 of the principal Ordinance as added by clause 8 provides that members of the Board of Governors or of other bodies under the principal Ordinance are members in their personal capacity and not as delegates of the group of eligible persons from among which they were nominated, elected or appointed.

13. Clause 9 makes consequential amendments to renumbered section 18 of the principal Ordinance.
14. Clause 10 adds new sections 20, 21 and 22 to the principal Ordinance.
15. New section 20 of the principal Ordinance as added by clause 10 provides for a right of appeal to an Appeals Panel by an employee of the Foundation whose employment is terminated or by the parent of a student who is expelled from a school of the Foundation.
16. New section 21 of the principal Ordinance as added by clause 10 preserves the validity of proceedings of the Foundation, the Board of Governors, the Nominating Committee or a School Council in the event of any irregularity in the membership of such body.
17. New section 22 of the principal Ordinance as added by clause 10 confers immunity from civil liability on officers and members of the Board of Governors and other bodies provided for under the principal Ordinance.
18. Clause 11 makes consequential amendments to renumbered section 23 of the principal Ordinance.
19. Clause 12 amends renumbered section 24 of the principal Ordinance. Clause 12(1) expands the regulation making power under section 24(1) to take account of the revisions to the principal Ordinance. Clause 12(2) repeals section 24(2). The effect of this repeal is that regulations made under the principal Ordinance will in future be required to be laid on the table of the Legislative Council (and be subject to the negative vetting procedure under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1)). Clause 12(3) adds new section 24(3) which stipulates a two-thirds majority for resolutions of the Board of Governors that provide for the making of regulations under that section.
20. Clauses 13 and 14 make consequential amendments to renumbered sections 25 and 26 of the principal Ordinance.
21. Clause 15 adds new section 27 of the principal Ordinance which, when read together with the new Schedule to the principal Ordinance added by clause 17, provides for certain transitional arrangements. These include –

- (a) arrangements whereby the current members of the Executive Committee of the Foundation are to become members of the Board of Governors, until such time as nominations are made or elections are held under the principal Ordinance as amended for those positions (sections 2(a), 3, 4 and 5 of the Schedule), and the current Chairman, Vice-chairman and Treasurer of the Foundation are to become the Chairman, Vice-chairman and Treasurer respectively of the Board of Governors (section 2(b) of the Schedule);
- (b) the names of the members of the Nominating Committee (section 6 of the Schedule);
- (c) the appointment of the current Secretary of the Foundation as Chief Executive Officer (section 8 of the Schedule); and
- (d) arrangements whereby the current members of the School Council of each school of the Foundation are to become members of the School Council of the school under the principal Ordinance as amended, until such time as nominations are made or elections are held under the principal Ordinance as amended (sections 9, 10 and 11 of the Schedule).

22. Clause 16 amends renumbered section 28 of the principal Ordinance by updating the saving provision.

23. Clause 18 repeals all existing regulations made under the principal Ordinance.

24. Clause 19 contains the saving provision required by Rule 50(8) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administration Region.

THE ENGLISH SCHOOLS FOUNDATION (GENERAL) REGULATION

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THE ENGLISH SCHOOLS FOUNDATION (GENERAL) REGULATION

(Made by The English Schools Foundation under section 24 of The English Schools Foundation Ordinance (Cap. 1117))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Chairman of The English Schools Foundation by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires –

“Audit Committee” (審計委員會) means the committee established by the Board of Governors under section 9(a) of the Ordinance;

“Finance Committee” (財務委員會) means the committee established by the Board of Governors under section 9(b) of the Ordinance;

“Remuneration Committee” (薪酬委員會) means the committee established by the Board of Governors under section 9(c) of the Ordinance.

Board of Governors

3. Membership of Board of Governors

(1) If a member of the Board of Governors is absent from 3 meetings of the Board in succession or from half the meetings in any calendar year, and the Chairman of the Board receives no satisfactory explanation for the absence, the Chairman may declare the member's position to be vacant.

(2) Vacancies in the membership of the Board shall be filled as soon after they occur as is reasonably practicable.

(3) A member of the Board whose membership position becomes vacant shall continue to act as a member until the vacancy has been filled.

(4) If a member has given notice of his intended absence from Hong Kong for 3 months or more, the Board may appoint another person to act as

member in his place during that absence; but an acting appointment so made shall cease to have effect on the return of the absent member to Hong Kong.

(5) If a member ceases to be eligible for nomination or election as a member for the purposes of the provision of the Ordinance under which his nomination or election was made, the Chairman shall, upon the matter coming to his knowledge, declare the member's position to be vacant.

(6) The person who is the Chairman, Vice-chairman or Treasurer of the Board may be removed from office by resolution of the Board approved by two-thirds of the members of the Board who are eligible to vote on the resolution.

(7) The person who is the Chairman, Vice-chairman or Treasurer of the Board may resign his office by giving notice in writing to the Board.

(8) Any member of the Board may resign his membership by giving notice in writing to the Board.

(9) The Board may invite other persons to attend meetings of the Board, in order to broaden the range of experience and expertise available to it.

(10) In this section, a reference to a member of the Board is a reference to a member other than an ex officio member.

4. Arrangements for meetings of Board of Governors

(1) The Board of Governors shall meet at least 6 times in each academic year.

(2) Not less than 1 month before the end of each academic year, the Chairman of the Board shall publish the dates for meetings of the Board to be held in accordance with subsection (1) for the next academic year.

(3) If any 5 members of the Board request the Chairman of the Board in writing to convene a meeting of the Board, the Chairman shall call a meeting of the Board to be held on a date within 14 days of his receipt of the request.

(4) The Chairman may at any time call a meeting of the Board by giving to the members, not less than 14 days before the meeting, notice in

writing of the meeting and of the nature of the business to be transacted at the meeting.

- (5) Any urgent business of the Board arising may be dealt with –
 - (a) by the Chairman in consultation with either the Vice-chairman or the Treasurer, after taking the advice of the Chief Executive Officer; or
 - (b) at a meeting of the Board convened for the purpose, to be held not less than 3 days after receipt by the members of the Board of notice in writing of the meeting and of the business in question,

but any decision taken by the Chairman under paragraph (a) shall be reported to the Board by the Chairman at the next meeting of the Board.

- (6) Where for any reason a date fixed for a meeting under subsection (2) is vacated the Chairman shall fix an alternative date and shall give members notice in writing of the alternative date.

5. Formalities of meetings of Board of Governors

- (1) The Chairman of the Board shall preside at any meeting of the Board at which he is present.

- (2) In the absence of the Chairman –
 - (a) the Vice-chairman shall preside; or
 - (b) if the Vice-chairman also is absent, a person elected by the members present from among their own number, in an election to be arranged by the Chief Executive Officer or his representative, shall preside,

and a person so presiding shall have all the powers and duties of the Chairman as regards the conduct of business at the meeting.

- (3) Except for matters of a minor and routine nature, which may be dealt with by circulation of information among members, all business of the Board shall be decided by a majority of votes at a meeting of the Board.

6. Procedure at meetings of Board of Governors

(1) The Board of Governors shall determine its own procedure, and shall make its determinations available in writing for the information of members.

(2) A formal record shall be kept of the proceedings of meetings of the Board.

(3) In the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

(4) In the case of an issue of confidence, the relevant officer or the Chief Executive Officer or his representative present at the meeting may be asked by a majority of the members present to leave the meeting, but an absence from a meeting under this subsection shall not affect the question of a quorum for the meeting.

(5) The Chief Executive Officer may require any employee of the Foundation to be present at a meeting of the Board.

7. Nominating Committee

(1) The term of office of a member of the Nominating Committee shall be 3 years.

(2) A member of the Nominating Committee is eligible for renomination or reappointment, but no person shall serve as a member consecutively for more than 2 terms.

(3) The members of the Nominating Committee shall elect a Chairman from among their own number.

(4) The Chief Executive Officer shall act as secretary to the Nominating Committee.

Standing Committees of Board of Governors

8. Audit Committee

(1) The Audit Committee shall comprise –

- (a) up to 3 persons appointed by the Board of Governors from among the independent members of the Board; and
- (b) up to 2 persons appointed by the committee members appointed under paragraph (a).

(2) The Chief Executive Officer and the senior finance executive of the Foundation may attend any meeting of the Committee other than a meeting held in private with the external auditors of the Foundation.

(3) The Committee shall meet in private with the external auditors of the Foundation on at least one occasion in each year.

(4) In advising the Board, the Committee shall, with the assistance of the Chief Executive Officer and the senior finance executive of the Foundation –

- (a) review the Foundation's financial reporting processes and internal controls;
- (b) recommend persons for appointment as external auditors;
- (c) advise on the scope of the audit to be carried out by the external auditors and monitor the implementation of any recommendation they may make in that regard;
- (d) monitor and review the work of the internal audit service;
- (e) review the annual financial statements of the Foundation;
- (f) consider any audit-related matters arising from the reports of external bodies;
- (g) make such recommendations to the Board as it thinks necessary to secure the good corporate governance of the Foundation,

and for these purposes the Committee may as it thinks fit investigate any activity, require information from any employee and obtain outside professional advice in carrying out its activities.

(5) The Committee shall meet at least 3 times in each academic year.

(6) If any 3 members of the Committee request the Chairman in writing to convene a meeting of the Committee, the Chairman shall call a

meeting of the Committee to be held on a date within 14 days of his receipt of the request.

9. Finance Committee

- (1) The Finance Committee shall comprise –
 - (a) at least one and not more than 2 persons appointed by the Board of Governors from among the independent members of the Board;
 - (b) the Treasurer of the Foundation, ex officio;
 - (c) a School Council Chairman, who is not a member of the Board of Governors, appointed by the Board; and
 - (d) 2 persons appointed by the members of the Committee appointed under, or who are members by virtue of, paragraphs (a), (b) and (c).

(2) The Chief Executive Officer and the senior finance executive of the Foundation may attend meetings of the Committee to assist the Committee in its work.

- (3) In advising the Board, the Committee shall –
 - (a) prepare recommendations on long and medium term financial strategy including investments;
 - (b) recommend annually a budget;
 - (c) recommend annually a set of accounts;
 - (d) recommend and keep under review a programme of capital expenditure;
 - (e) receive regular monitoring reports on income and expenditure;
 - (f) review and recommend annually fee levels.

10. Remuneration Committee

- (1) The Remuneration Committee shall comprise –

- (a) at least one and not more than 2 persons appointed by the Board of Governors from among the independent members of the Board;
- (b) a School Council Chairman, who is not a member of the Board of Governors, appointed by the Board; and
- (c) at least one and not more than 2 persons appointed by the members of the Committee appointed under paragraphs (a) and (b).

(2) The Chief Executive Officer and the senior human resources executive of the Foundation may attend meetings of the Committee to assist the Committee in its work.

- (3) In advising the Board, the Committee shall –
 - (a) keep under review the remuneration, terms and conditions of service and benefits of the employees of the Foundation, having regard to market conditions and good employment practice;
 - (b) appraise the financial implications of any proposed revisions to the salaries, terms and conditions of service and benefits of employees of the Foundation;
 - (c) advise the Board on revisions to its policy on remuneration, terms and conditions of service and benefits for employees of the Foundation;
 - (d) ensure that appropriate arrangements are made for consulting and communicating with employees of the Foundation in relation to matters concerning salaries, terms and conditions of service and benefits.

11. Membership of standing committees

(1) The Board shall appoint one of the members of each standing committee to be the Chairman of the committee.

(2) A person who is an employee of the Foundation is not eligible for appointment as a member of a standing committee.

(3) If a member of a standing committee is absent from 3 meetings of the committee in succession or from half the meetings of the committee in any calendar year, and the Chairman of the committee receives no satisfactory explanation for the absence, the Chairman may declare the member's position to be vacant.

(4) Vacancies in the membership of a standing committee shall be filled as soon after they occur as is reasonably practicable.

(5) A member of a standing committee whose membership position becomes vacant shall continue to act as a member until the vacancy has been filled.

(6) If a member has given notice of his intended absence from Hong Kong for 3 months or more, the committee may appoint another person to act as member in his place during that absence; but an acting appointment so made shall cease to have effect on the return of the absent member to Hong Kong.

(7) If a member ceases to be eligible for appointment as a member for the purposes of the provision under which he was appointed as a member, the Chairman of the committee shall, upon the matter coming to his knowledge, declare the member's position to be vacant.

(8) The person who is the Chairman of a standing committee may resign his office by giving notice in writing to the Board.

(9) Any member of a standing committee may resign his membership by giving notice in writing to the Board.

(10) A standing committee may invite other persons to attend meetings of the committee, in order to broaden the range of experience and expertise available to it.

(11) The term of office of a member appointed under section 8(1)(b), 9(1)(d) or 10(1)(c) ("co-opted member") shall be 3 years.

(12) An appointed member of a committee is eligible for reappointment as a member at the end of his first term of office, but no person shall serve as an appointed member of the same standing committee consecutively for more than 2 terms or 6 years, whichever is the shorter.

12. Proceedings of standing committees

(1) A formal record shall be kept of the proceedings of every meeting of a standing committee, and a copy of that record shall be provided to the Board of Governors as soon after the meeting as is reasonably practicable.

(2) Except for matters of a minor and routine nature, which may be dealt with by circulation of information among members, all business of a standing committee shall be decided by a majority of votes at a meeting of the committee; in the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

(3) Not less than 1 month before the end of each academic year, the Chairman of each standing committee shall publish the dates for meetings of the committee for the next academic year (but nothing in this section shall preclude the calling or holding of a meeting under any other provision of this Regulation).

(4) The Chairman of a standing committee may call a meeting of the committee by giving to the members, not less than 14 days before the meeting, notice in writing of the meeting and of the nature of the business to be transacted at the meeting.

(5) Each standing committee shall report to the Board of Governors at least once in each year.

(6) Where for any reason a date fixed for a meeting of a standing committee under subsection (3) is vacated the Chairman of the committee shall fix an alternative date and shall give the members notice in writing of the alternative date.

(7) In relation to matters not otherwise provided for in the regulations, the Board of Governors shall determine the procedure of the standing

committees and shall make its determinations available in written form for the information of the members of the committees.

Officers of Foundation: Chief Executive Officer

13. Chairman, Vice-chairman and Treasurer

If for any reason the person who is the Chairman of the Foundation is unable to perform the duties of the Chairman, the person who is the Vice-chairman of the Foundation may act as the Chairman in his place and shall, while acting, have all the powers and duties of the Chairman.

14. Consultation and communication between Chief Executive Officer and staff on employment issues

(1) The Chief Executive Officer shall establish procedures to consult and communicate with the employees of the Foundation on matters of remuneration, terms and conditions of service and benefits.

(2) Where the Association of Professional Teachers in English Schools Foundation Schools or the Support Staff Association of the English Schools Foundation has nominated representatives from among its members to communicate with the Chief Executive Officer on behalf of the association, then, for the purposes of subsection (1), any consultation or communication by the Chief Executive Officer with those representatives shall be regarded as consultation or communication with every member of the association.

(3) The agenda for any meeting between the Chief Executive Officer and any representative of an association mentioned in subsection (2) shall be as agreed by the Chief Executive Officer and the Chairman of the association.

Chief Executive Officer's Advisory Committees

15. Committee of Principals

(1) The Committee of Principals shall comprise –

- (a) the Principal of each school of the Foundation that provides primary or secondary education; and
- (b) not more than 3 persons elected by the Principals of schools of the Foundation that provide nursery or kindergarten education only from among their own number.

(2) For the purposes of section 12(2) of the Ordinance, matters that affect the interests of Principals of schools of the Foundation include –

- (a) the development of an educational vision and strategy for the Foundation and the schools of the Foundation;
- (b) the execution of the Foundation's education strategy within the schools of the Foundation;
- (c) the curriculum, teaching and learning strategies and assessment and reporting procedures of schools of the Foundation;
- (d) the performance management and professional development of all staff within the schools of the Foundation;
- (e) the promotion of the welfare, standards of behaviour and quality of education of students of schools of the Foundation;
- (f) the maintenance and development of effective communication with parents of students of schools of the Foundation, alumni of those schools and the wider community;
- (g) the securing of a clear and coherent identity and collaborative culture across all the schools of the Foundation.

16. Committee of School Council Chairmen

(1) The Committee of School Council Chairmen shall comprise the Chairman of each of the School Councils.

(2) For the purposes of section 12(2) of the Ordinance, matters that affect the interests of Chairmen of School Councils of schools of the Foundation shall include –

- (a) the governance and strategic development of the Foundation and schools of the Foundation;
- (b) the distribution and management of funding and the capital programme;
- (c) the development and management of the staff of schools of the Foundation;
- (d) the development of effective communications with parents and the wider community.

17. Committee of Parents

(1) The Committee of Parents shall comprise –

- (a) the Chairman of the Parent Teacher Association of each school of the Foundation;
- (b) one parent member of each of the School Councils, elected by the parent members of each School Council from among their own number; and
- (c) the parent members of the Board of Governors.

(2) For the purposes of section 12(2) of the Ordinance, matters that affect the interests of parents of students of schools of the Foundation shall include –

- (a) the welfare, conduct and quality of education of students at schools of the Foundation;
- (b) the admission of students to schools of the Foundation;

- (c) the effectiveness of communication between the Foundation, the Principals and staff of schools of the Foundation and the parents of students of those schools;
- (d) financial matters affecting the parents of students at schools of the Foundation, including fee levels and the value for money offered by those schools.

(3) In this section, “parent member of a School Council” (校董會的家長成員) means a member of the School Council elected pursuant to section 14(1)(b)(iii) of the Ordinance.

18. Committee of Teaching Staff

(1) The Committee of Teaching Staff shall comprise –

- (a) 2 members of the staff of each school of the Foundation, other than a special school, that provides secondary education, elected by the members of the teaching staff of the school; and
- (b) one member of the staff of each school of the Foundation that –
 - (i) provides primary education only; or
 - (ii) is a special school that provides primary or secondary education,
 elected by the members of the teaching staff of the school.

(2) For the purposes of section 12(2) of the Ordinance, matters that affect the interests of members of the teaching staff of schools of the Foundation include –

- (a) the development of an educational vision and strategy for the Foundation and its schools;
- (b) the curriculum, teaching and learning strategies and assessment and reporting procedures of schools of the Foundation;

- (c) the promotion of the welfare, standards of behaviour and quality of education of students of schools of the Foundation;
- (d) the professional development and performance management of the teaching staff of schools of the Foundation;
- (e) the securing of a clear and coherent identity and collaborative culture across all schools of the Foundation.

19. Committee of Support Staff

(1) The Committee of Support Staff shall comprise –

- (a) two members of the staff of each school of the Foundation, other than a special school, that provides secondary education, elected by the members of the support staff of the school; and
- (b) one member of the staff of each school of the Foundation that –
 - (i) provides primary education only; or
 - (ii) is a special school that provides primary or secondary education,
 elected by the members of the support staff of the school.

(2) For the purposes of section 12(2) of the Ordinance, matters that affect the interests of members of the support staff of schools of the Foundation include –

- (a) the day-to-day administrative processes within the schools of the Foundation;
- (b) the operation of school libraries within the schools of the Foundation;
- (c) the work of school nurses within the schools of the Foundation;

- (d) the educational role of Educational Assistants within schools of the Foundation;
- (e) the care and security of school buildings within the schools of the Foundation;
- (f) the professional development and performance management of support staff of the schools of the Foundation;
- (g) the securing of a clear and coherent identity and collaborative culture across all of the schools of the Foundation.

20. Meetings of advisory committees

(1) Each advisory committee of the Chief Executive Officer shall elect a Chairman from among the members of the committee.

(2) A formal record shall be kept of the proceedings of every meeting of an advisory committee, and a copy of that record shall be provided to the Board of Governors as soon after the meeting as is reasonably practicable.

(3) All business of an advisory committee shall be decided by a majority of votes at a meeting of the committee; in the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

(4) In circumstances of the unavoidable absence of a committee member from a meeting, an alternate may attend the meeting with the agreement of the Chairman of the committee.

(5) The agenda for each meeting of an advisory committee shall be as agreed between the Chairman of the committee and the Chief Executive Officer.

(6) The term of office of an elected member of an advisory committee shall be 2 years; an elected member is eligible for re-election at the expiry of his term of office, but no person shall serve as an elected member of the same advisory committee consecutively for more than 3 terms.

School Councils, Principals and Staff of Schools

21. Membership of School Councils

(1) If a member of a School Council is absent from 3 meetings of the Council in succession or from half the meetings in any calendar year, and the Chairman of the Council receives no satisfactory explanation for the absence, the Chairman may declare the member's position to be vacant.

(2) Vacancies in the membership of a School Council shall be filled as soon after they occur as is reasonably practicable.

(3) A member of a School Council whose membership position becomes vacant shall continue to act as a member until the vacancy has been filled.

(4) If a member has given notice of his intended absence from Hong Kong for 3 months or more, the Council may appoint another person to act as member in his place during that absence; but an acting appointment so made shall cease to have effect on the return of the absent member to Hong Kong.

(5) If a member ceases to be eligible for election or appointment as a member of the Council for the purposes of the provision of the Ordinance under which he was elected or appointed as a member, the Chairman of the Council shall, upon the matter coming to his knowledge, declare the member's position to be vacant.

(6) The members of a School Council may elect a Vice-chairman from among their own number.

(7) The person who is the Chairman or Vice-chairman of a School Council may resign his office by giving notice in writing to the Council.

(8) The person who is the Chairman of a School Council may be removed from office by resolution of the Board of Governors approved at a meeting of the Board by two-thirds of the members of the Board who are eligible to vote on the resolution.

(9) Any member of a School Council may resign his membership by giving notice in writing to the Council.

22. Meetings of School Councils

(1) Each School Council shall meet at least 3 times in each academic year.

(2) If any 3 members of a School Council request the Chairman of the Council in writing to convene a meeting of the Council, the Chairman shall call a meeting of the Council to be held on a date within 14 days of his receipt of the request.

(3) A formal record shall be kept of the proceedings of every meeting of a School Council, and a copy of that record shall be provided to the Board of Governors as soon after the meeting as is reasonably practicable.

(4) Except for matters of a minor and routine nature, which may be dealt with by circulation of information among members, all business of a School Council shall be decided by a majority of votes at a meeting of the Council; in the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

(5) Not less than 1 month before the end of each academic year, the Chairman of each School Council shall publish the dates for meetings of the Council for the next academic year (but nothing in this section shall preclude the calling or holding of a meeting under any other provision of this Regulation).

(6) The Chairman of a School Council may call a meeting of the Council by giving to the members, not less than 14 days before the meeting, notice in writing of the meeting and of the nature of the business to be transacted at the meeting.

(7) Each School Council shall report regularly to the Chief Executive Officer and the Board.

(8) The Chief Executive Officer may nominate a representative to attend a meeting of a School Council on his behalf.

(9) A School Council may invite other persons to attend meetings of the Council, in order to broaden the range of experience and expertise available to it.

(10) A School Council may invite students of the school to attend its meetings as observers.

(11) Where for any reason a date fixed for a meeting of a School Council under subsection (5) is vacated the Chairman of the Council shall fix an alternative date and shall give the members notice in writing of the alternative date.

Parent Teacher Associations

23. Functions of Parent Teacher Associations

In the performance of its functions under the Ordinance, a Parent Teacher Association may in particular –

- (a) seek to facilitate the discussion between the parent members and teacher members of the association on matters relating to the education offered by the school including but not limited to –
 - (i) the school's curriculum;
 - (ii) the quality of education provided at the school;
 - (iii) the assessment of, and school reports on, students of the school; and
 - (iv) the behaviour of students of the school;
- (b) by agreement with the Principal of the school, organize extra-curricular and other supporting activities for students of the school;
- (c) raise funds to support the association and the school and, in consultation with the Principal, decide how to use the money raised;

- (d) engage in such other activities related to that function as the members of the association and the Principal may decide.

24. Membership fees of Parent Teacher Associations

(1) An annual membership fee shall be payable by the parent or by both parents jointly of each student of a school for membership as a parent member of the Parent Teacher Association of the school.

(2) The Board of Governors may determine a maximum amount that may be fixed by the Parent Teacher Association of a school as the membership fee payable under subsection (1).

(3) In the case of parents who have more than one child in attendance at the same school, only a single membership fee is payable in respect of those students.

(4) The membership fee for a school year becomes payable –

- (a) at the time at which the school fee for the first month of the school year becomes payable; or
- (b) where a child is admitted to a school during the course of the school year, at the time at which the school fee for the first month following the child's admission to the school becomes payable.

(5) Membership fees paid are non-returnable.

(6) The parent of any student applying for a place at a school of the Foundation shall be informed in writing of the requirements of the foregoing provisions of this section.

25. Committees of Parent Teacher Associations

(1) There shall be for each Parent Teacher Association a committee comprising the following members –

- (a) one of the parent members of the association, other than a parent who is also an employee of the Foundation, elected by the association to be its Chairman;
- (b) not less than 2 other members, at least one of whom shall be a parent member of the association, elected by the association; and
- (c) the Principal of the school, ex officio.

(2) The term of office of the elected members of a committee of a Parent Teacher Association shall be 1 year; no person shall serve as an elected member consecutively for more than 6 terms.

(3) If an elected member of the Parent Teacher Association of a school ceases to have a child at the school, the committee of the association shall, upon the matter coming to its knowledge, declare a vacancy in its membership.

(4) Where a vacancy occurs in the committee of a Parent Teacher Association, the committee may appoint a member of the association to fill the vacancy pending the holding of an election for membership of the committee.

26. Meetings of Parent Teacher Associations

(1) Any Parent Teacher Association may invite members of the community to join the association as honorary members.

(2) The Parent Teacher Association of a school may invite students of the school to join the association as student members.

(3) An honorary member or student member of a Parent Teacher Association shall not be entitled to vote at meetings of the association; no membership fee shall be payable by an honorary member or a student member.

(4) At any meeting of the Parent Teacher Association of a school, each family shall have one vote irrespective of the number of children they have in the school.

Miscellaneous

27. Appeals Panel

(1) The Chairman of the Appeals Panel shall convene the Panel as and when an issue of appeal arises.

(2) The Appeals Panel may take advice from a member of the legal profession who is independent of the Foundation.

28. Code of conduct

(1) The Board of Governors shall agree a code of conduct for itself and its standing committees, the advisory committees of the Chief Executive Officer and the School Councils.

(2) All members of the Board of Governors, the standing committees of the Board, the advisory committees of the Chief Executive Officer and the School Councils shall be asked to acknowledge in writing that they have received a copy of the code of conduct and that they agree to abide by it.

(3) The code of conduct shall require members of the Board of Governors, the standing and advisory committees and the School Councils –

- (a) to declare annually any pecuniary or personal interest, direct or indirect, that may have a bearing on their role as a member, or to state that they have no such interest;
- (b) to declare at any meeting any pecuniary or personal interest relating to an item on the agenda;
- (c) to abstain from voting on any matter in which they have a pecuniary interest and to speak only at the specific invitation of the Chairman on such a matter.

(4) The Board of Governors shall keep a record of all declarations of interest made by its members and permit the record to be inspected by the public at any reasonable time.

29. Election procedures

(1) Except as provided in subsection (2), Schedule 1 shall have effect in relation to references in the Ordinance to the election or nomination of any –

- (a) parent of a student;
- (b) member of the teaching staff; or
- (c) member of the support staff,

of a school of the Foundation to any board, council, committee, panel, association or other body provided for under the Ordinance.

(2) Subsection (1) does not apply to –

- (a) section 6(1)(b), (f) or (g) of the Ordinance (election to membership of the Board of Governors); or
- (b) section 14(1)(b)(iii)(A) of the Ordinance (election to membership of the School Council of a school).

30. Transitional arrangements

The arrangements set out in Schedule 2 shall have effect.

SCHEDULE 1

[s. 29]

ELECTION PROCEDURES

1. There shall be a secret ballot.
2. Candidates shall have a proposer and a seconder.
3. Candidates shall be invited to submit a statement giving brief details of their relevant experience and what they would intend to contribute to the body to which they are elected.
4. The ballot for school-level elections shall be organized by the school and for the election of parents to the Board by the Foundation.

5. In elections of teachers and support staff, each person in the electorate shall have one vote.

6. In elections of parents to the School Council or to the committee of the Parent Teacher Association of a school of the Foundation, each family shall be entitled to a single vote in respect of any vacant position, irrespective of the number of children a family has in the school.

7. In elections of parents to the Board of Governors or an advisory committee –

- (a) a family with children attending more than one school of the Foundation shall be entitled to a single vote at each school attended by their children; and
- (b) a family with more than one child at the same school shall be entitled to a single vote only at that school.

8. The winning candidate or candidates shall be decided by the number of votes cast for each candidate.

9. In elections of parents to the Board of Governors, the constituencies shall be the full body of parents of students of schools of the Foundation.

SCHEDULE 2

[s. 30]

TRANSITIONAL ARRANGEMENTS

1. As at the commencement of this Regulation –

- (a) a person who immediately before that commencement was a member of the committee of the Parent Teacher Association of a school of the Foundation for the purposes of regulation 15.9 of the repealed Regulations and was the Chairman of that committee shall be deemed to be the Chairman of the committee of the Parent Teacher

Association of that school for the purposes of section 25(1)(a) of this Regulation, pursuant to an election held in accordance with that paragraph;

- (b) a person who immediately before that commencement was a member of the committee of the Parent Teacher Association of a school of the Foundation for the purposes of regulation 15.9 of the repealed Regulations, other than the Chairman of that committee, shall be deemed to be a member of the committee of the Parent Teacher Association of that school for the purposes of section 25(1)(b) of this Regulation, pursuant to an election held in accordance with that paragraph.

2. The term of office of a person deemed to be a member of the committee of a Parent Teacher Association under section 1 of this Schedule shall be the period beginning with the commencement of this Regulation and ending with the first election of a person to that membership position under section 25 of this Regulation (and for the purpose of any such first election the membership position shall be regarded as being vacant).

3. In this Schedule, “repealed Regulations” (《已廢除規例》) means Regulations made under the Ordinance and in effect immediately before the commencement of The English Schools Foundation (Amendment) Ordinance 2007 (of 2007).

The English Schools Foundation

2007

Explanatory Note

The English Schools Foundation (Amendment) Ordinance 2007 (of 2007) (“the amendment Ordinance”) amends The English Schools Foundation Ordinance (Cap. 1117) (“the principal Ordinance”) to make changes to the governance structure of The English Schools Foundation (“the Foundation”) established under the principal Ordinance, and also repeals all Regulations made under the principal Ordinance up to the commencement of the amendment Ordinance. This Regulation replaces those repealed Regulations.

2. Sections 3 to 7 deal with the Board of Governors and the Nominating Committee of the Foundation. Specifically –

- (a) section 3 prescribes matters relating to membership of the Board, including vacancies in the membership of the Board and the procedure for removal from office of the Chairman, Vice-chairman and Treasurer of the Board;
- (b) section 4 prescribes the arrangements for meetings of the Board, including the giving of notice for regular meetings and the calling of special meetings;
- (c) section 5 prescribes matters relating to the conduct of business at meetings of the Board;
- (d) section 6 provides for the Board to determine its own procedure at meetings of the Board; and
- (e) section 7 prescribes matters relating to the Nominating Committee, including the term of office of members of the Committee.

3. Sections 8 to 12 deal with matters relating to the standing committees of the Board of Governors. Specifically –

- (a) sections 8, 9 and 10 prescribe, in relation to each standing committee separately, the composition of the committee

and the matters it shall have regard to in advising the Board;

- (b) section 11 prescribes matters relating to membership of the standing committees including the chairmanship, vacancies in membership and the term of office of members; and
- (c) section 12 prescribes the procedure for meetings of the standing committees and requires the standing committees to report to the Board.

4. Sections 13 and 14 deal with the officers of the Foundation and the Chief Executive Officer of the Foundation. Specifically –

- (a) section 13 provides for the Vice-chairman of the Foundation to act in place of the Chairman of the Foundation if the Chairman is unable to carry out the duties of the Chairman; and
- (b) section 14 requires the Chief Executive Officer to establish procedures to consult and communicate with employees of the Foundation on employment issues and, in that regard, gives recognition to the Association of Professional Teachers in English Schools Foundation Schools and the Support Staff Association of the English Schools Foundation.

5. Sections 15 to 20 deal with matters relating to the Chief Executive Officer's advisory committees. Specifically –

- (a) sections 15 to 19 prescribe the composition of the advisory committees and give further details of the matters on which the committees may be called upon to advise the Chief Executive Officer under section 12(2) of the principal Ordinance; and

- (b) section 20 prescribes procedural and membership matters relating to the advisory committees.

6. Sections 21 and 22 deal with School Councils of schools of the Foundation. Specifically –

- (a) section 21 prescribes matters relating to the membership of School Councils including the chairmanship of a School Council, vacancies in the membership of a School Council and provision for a Vice-chairman; and
- (b) section 22 prescribes the procedure for meetings of School Councils and requires School Councils to report to the Chief Executive Officer and the Board of Governors.

7. Sections 23 to 26 deal with Parent Teacher Associations. Specifically –

- (a) section 23 elaborates on certain aspects of the function of Parent Teacher Associations under the principal Ordinance;
- (b) section 24 provides for an annual membership fee to be payable by parent members of each Parent Teacher Association of an amount fixed by the association but subject to a maximum amount determined by the Board of Governors;
- (c) section 25 prescribes the composition of the committee of a Parent Teacher Association and the term of office of its committee members; and
- (d) section 26 prescribes the voting rights of parent members at meetings of a Parent Teacher Association.

8. Sections 27 to 30 of the Regulation and Schedules 1 and 2 deal with miscellaneous matters. Specifically –

- (a) section 27 prescribes matters relating to the proceedings of the Appeals Panel established under the principal Ordinance;

- (b) section 28 requires the Board of Governors to determine a code of conduct for its members and for the members of other bodies provided for under the principal Ordinance;
- (c) section 29 and Schedule 1 prescribe procedures for elections under the principal Ordinance that involve parents of students, members of the teachings staff and members of the support staff of schools of the Foundation; and
- (d) section 30 and Schedule 2 contain transitional arrangements that provide for the current members of the committee of the Parent Teacher Association of each school of the Foundation to become the members of the committee of the Parent Teacher Association of the school under the principal Ordinance as amended by the amendment Ordinance, pending the election of members to the committee under the principal Ordinance as so amended.