

立法會
Legislative Council

LC Paper No. LS67/08-09

**Paper for the House Committee Meeting
on 8 May 2009**

**Legal Service Division Report on
Proposed Resolution under section 40BK(5)
of the Education Ordinance (Cap. 279)**

The Secretary for Education (the Secretary) has given notice to move a motion under section 40BK(5) of the Education Ordinance (Cap. 279) at the Council meeting on 20 May 2009. The proposed resolution repeals "1 July 2009" and substitutes "1 July 2011" as the date by which the sponsoring body of an aided school shall submit a draft of the constitution of its proposed incorporated management committee (IMC).

2. The Education Ordinance was amended in 2004 (No. 27 of 2004) to provide for, inter alia, the establishment of IMC to manage certain types of schools. All aided schools are required to set up and be managed by their IMC. The legislative provisions for the establishment of IMCs came into effect on 1 January 2005 with a transitional period of five years. Under section 40BK(3)(a) of the Education Ordinance, school sponsoring bodies of aided schools shall submit their draft constitutions for the purpose of setting up IMC to manage schools before 1 July 2009. However, section 40BK(5) provides that the Legislative Council may, by a resolution passed after 1 October 2008 and before 1 July 2009, amend section 40BK(3)(a) by repealing the deadline of 1 July 2009 and substituting a date before 2 July 2011.

3. According to the draft speech of the Secretary, about 53% of the aided schools have either set up their IMC, submitted or undertaken to submit draft IMC constitutions. A consultancy study commissioned by the Administration shows that major school sponsoring bodies need to take longer time to prepare for the setting up of IMC and recommends that consideration be given to extend the deadline for submission of draft IMC constitutions to allow more time for these sponsoring bodies to make preparation (paragraphs 3 and 4 of the draft speech).

4. The Administration has consulted school sponsoring bodies, School Councils, the Federation of Incorporated Management Committees of Hong Kong Schools and District Federations of Parent-Teacher Associations and they have expressed understanding and support for the proposal to extend the deadline by two years (paragraph 5 of the draft speech).

5. The Administration has provided an information paper, "Progress of Implementation of Incorporated Management Committees", to the Panel on Education on 30 March 2009 (LC Paper No. CB(2)1130/08-09(01)). The proposed resolution was discussed at the special meeting of the Panel on Education held on 30 March 2009 and views from major school sponsoring bodies were received at the meeting. Members in general supported the proposed resolution and considered the extension of the deadline necessary to allow more time for the school sponsoring bodies to discuss with the Administration and to make preparation.

6. Section 40BK(5) of the Education Ordinance provides for extension of the deadline for aided schools to submit draft constitutions of IMC to a date before 2 July 2011, hence no further extension under the section will be allowed.

7. The drafting of the proposed resolution presents no difficulty.

Prepared by

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