

**立法會**  
***Legislative Council***

LC Paper No. CB(2)3109/03-04

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/02

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

**Minutes of meeting  
held on Thursday, 27 May 2004 from 2:00 pm to 4:48 pm  
in Conference Room B of the Legislative Council Building**

**Members  
present**

: Hon Cyd HO Sau-lan (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Hon CHEUNG Man-kwong  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon SZETO Wah  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Member  
absent**

: Hon YEUNG Yiu-chung, BBS

**Public Officers  
attending**

: Mr M Y CHENG, JP  
Deputy Secretary for Education and Manpower (3)

Mr Andrew POON  
Principal Assistant Secretary for Education and  
Manpower (Quality Assurance)

Mrs YU LAW Siu-man  
Senior Education Officer (School Registration and  
Compliance)  
Education and Manpower Bureau

Mr Gilbert MO  
Deputy Law Draftsman (Bilingual Drafting and  
Administration)  
Department of Justice

Mr W L CHEUNG  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Doris CHAN  
Chief Council Secretary (2)2

**Staff in attendance** : Ms Bernice WONG  
Assistant Legal Adviser 1  
  
Mr Stanley MA  
Senior Council Secretary (2)6

---

**I. Meeting with the Administration**  
[LC Paper No. CB(2)2066/03-04(02)]

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

Further consultation with deputations

2. Members agreed that in view of time constraints, the Bills Committee would not conduct another round of consultation with organizations. Members also agreed that organizations wishing to express views to the Bills Committee should be asked to do so in writing.

Meeting with the Secretary for Education and Manpower (SEM)

3. Members noted that SEM had proposed to attend the meeting on 3 June 2004. The Chairman advised the Administration that the Bills Committee would like to clarify with SEM whether the Administration would -

- (a) provide a five-year period for schools to establish an Incorporated Management Committee (IMC) and implement the proposals of the Bill on a discretionary basis;

- (b) review the powers of the Permanent Secretary for Education and Manpower (PSEM) in regulating the operation of IMC schools under the Education Ordinance; and
- (c) or would not require the establishment of IMC in Direct Subsidy Scheme schools.

Offences and penalties under section 87

4. Mr CHEUNG Man-kwong pointed out that unlike School Sponsoring Bodies (SSB) and supervisors, IMC managers were elected or appointed to participate in school-based management on a voluntary basis and would unlikely be familiar with the civil and criminal liabilities which might arise from the execution of IMC functions. He considered it inappropriate to impose criminal penalties against an IMC or a manager for failure to carry out certain administrative functions within a specified time limit under the Bill or the Education Ordinance. He suggested that the Administration should review whether non-compliance with sections 38(1), 40, 40AJ(1)(b), 53(1), 57(1) and 71 should be criminal offences, given that an IMC might delegate any function (except those conferred under section 40AD) to a manager other than an alternate manager.

5. The Chairman shared the view of Mr CHEUNG Man-kwong, and requested the Administration to review whether section 87 should apply to IMC schools in whole or in part. DS(EM)3 undertook to consider members' views and concerns.

Admin

Clause-by-clause examination of the Bill

6. The Bills Committee requested the Administration to -

*Regulation 53 - Infectious diseases*

- (a) explain the power of an IMC to decide the temporary closing of a school under the threat of an infectious disease, and clarify whether the exercise of such power would be subject to or affected by the view or decision of PSEM under the Education Ordinance and Regulations;
- (b) explain the methods and procedures for a principal to report to a medical officer in case of any suspected or known cases of infectious disease amongst teachers, pupils or employees of a school;

*Proposed Regulation 74A - General provisions*

- (c) refine the drafting of regulation 74A(1) to reflect more clearly the policy intent that PSEM would only amend an approved constitution in accordance with the requirements of the Education Ordinance and the Education Regulations;

*Regulation 76 - Majority vote in certain cases*

- (d) refine the drafting of the regulation to reflect more clearly the policy intent that the appointment and dismissal of any member of the teaching staff should be supported by a majority of the managers of that school, and consider excluding temporary staff with a very short period of service from the restriction;

*Regulation 81 - Director may disapprove*

- (e) consider replacing "the responsible person" with "the management authority" in the regulation;

*Regulation 96 - Expulsion and suspension of pupils*

- (f) clarify the policy intent of empowering PSEM to require a principal to expel a pupil whose behaviour was, in the opinion of PSEM, undesirable or improper or contrary to the good of the school or the other pupils;
- (g) describe how PSEM would follow up the matter in case the principal did not act in accordance with her request to expel a pupil;

*Regulations 101 and 102 - Offences and Penalties*

- (h) review the need for the offences in regulation 101 in the light of school-based management and the operation of IMC, and the justifications for the penalties under regulation 102 in the light of members' views in paragraphs 4 and 5 above; and

*Schedule 2 to the Bill*

- (i) examine whether the functions or responsibilities of supervisors in the regulations specified under Schedule 2 could be transferred to the "management authority" instead of the "responsible person" after the establishment of IMC.

**II. Any other business**

7. Members noted that the next meeting would be held on 28 May 2004 after the House Committee meeting.
8. The meeting ended at 4:48 pm.

Council Business Division 2  
Legislative Council Secretariat  
16 July 2004

**Proceedings of the meeting of the Bills Committee on  
Education (Amendment) Bill 2002  
on Thursday, 27 May 2004 from 2:00 pm to 4:48 pm  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subjects</b>	<b>Action required</b>
0000 - 1430	Chairman Mr CHEUNG Man-kwong Admin Mr LEE Cheuk-yan Mr Tommy CHEUNG Mr SZETO Wah	Further consultation with deputations and meeting with SEM.	<b>See para 2 and 3 of the minutes</b>
1431 - 2900	Chairman Mr CHEUNG Man-kwong Mr Tommy CHEUNG Mr SZETO Wah Admin	Section 87 : Offences and penalties	<b>See para 4 and 5 of the minutes</b>
2901 - 3030	Chairman ALA1	Schedules 1 and 2	
3031 - 4510	Chairman Admin Mr CHEUNG Man-kwong Mr SZETO Wah	Regulation 2 - Interpretation	
4511 - 4710	Chairman Admin	Regulation 21 - Safety precautions; and  Regulation 37 - Notice requiring safety equipment against fire	
4711 - 5106	Chairman Admin	Regulation 61 - Fees other than inclusive fee prohibited	
5107 - 5205	Chairman Admin Mr CHEUNG Man-kwong Mr SZETO Wah ALA1	Regulation 66 - Prohibition of collections without permission of Director	
5206 - 010205	Chairman Admin Mr CHEUNG Man-kwong Mr SZETO Wah ALA1	Regulation 74A - General provisions;  Regulation 75 - Constitution of school management committee	<b>See para 6(c) of the minutes</b>
010206 - 010611	Chairman Admin Mr CHEUNG Man-kwong Ms Audrey EU	Regulation 75A - Constitution of IMC; and  Part XII - Appointment of teachers	
010612 - 011820	Chairman Mr CHEUNG Man-kwong Admin ALA1 Ms Audrey EU	Regulation 76 - Majority vote in certain cases	<b>See para 6(d) of the minutes</b>

011821 - 012505	Chairman Admin Mr CHEUNG Man-kwong Mr LEUNG Yiu-chung	Regulation 81 - Director may disapprove	<b>See para 6(e) of the minutes</b>
012506 - 012540	Chairman Admin	Regulation 83 - List of holidays to be posted	
012541 - 013135	Chairman ALA1 Admin Mr CHEUNG Man-kwong	Regulation 92 - Syllabus and time-table subject to approval of Director	
013136 - 015715	Chairman Mr CHEUNG Man-kwong Admin Ms Audrey EU Ir Raymond HO	Regulation 96 - Expulsion and suspension of pupils	<b>See para 6(f) and (g) of the minutes</b>
015716 - 015940	Chairman Admin Mr CHEUNG Man-kwong	Regulation 99A - Business or trading operations	
015941 - 020550	Chairman Admin Mr CHEUNG Man-kwong ALA1	Regulations 101 - Offences Regulation 102 - Penalties	<b>See para 6(h) of the minutes</b>
020551 - 020727	Chairman Admin Mr CHEUNG Man-kwong	Schedule 4 - Appeals to Appeals Board	
020728 - 020830	Chairman Admin	Grant Schools Provident Fund Rules - Rule 2 - Interpretation  Subsidized Schools Provident Fund Rules Rule 2 - Interpretation	
020831 - 024100	Chairman Mr CHEUNG Man-kwong Admin Mr SZETO Wah Mr Tommy CHEUNG Mr LEUNG Yiu-chung	Sections and Regulations covered by -  - Clause 55 - Substitution of "management authority" for "supervisor"  - Clause 56 - Substitution of "responsible person for "supervisor"  - Clause 57 - Substitution of "manager" for "registered manager"	<b>See para 6(a), (b) and (i) of the minutes</b>
024101 - 024505	Chairman Mr CHEUNG Man-kwong Admin Mr LEUNG Yiu-chung	Items for discussion at the next meeting.	