

**Bills Committee on Education (Amendment) Bill 2002**  
**Administration's Response to Issues Raised at the Meetings**  
**on 21 & 28 April 2004**

Issues	Members' Concerns	Administration's Response
<p><i><b>Establishment of IMCs in aided schools</b></i></p>	<p>The Administration should consult aided schools again on whether they can choose to establish IMCs or not. (21.4.2004)</p>	<p>The Government spends huge resources on school education every year, approximately \$38 million for an aided secondary school and \$22 million for an aided primary school. It is therefore the responsibility of the school to be accountable to the Government and the public for the use of the resources. The purpose of the Education (Amendment) Bill 2002 (the Bill) is to enhance the transparency and accountability of school management through a participatory governance framework so as to ensure proper use of public funds. The Bill requires all aided schools to establish an incorporated management committee (IMC) which consists of representatives of school sponsoring body (SSB), principal, teachers, parents, alumni and community members. They will participate in school decision-making and be responsible for formulating education policies and managing public funds, thus enhancing the transparency and accountability of school governance. This will lead to better school management and enhance the teaching effectiveness.</p> <p>The core principle of the Bill which has been clearly spelt out in the past is to establish an IMC in school with participation, transparency and accountability. We therefore consider it not necessary to conduct any consultation on this issue.</p>

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<i>Service Agreement</i>	Whether the SSBs, which have entered into a service agreement with the Administration, will take legal actions against the Government if it is mandatory for aided schools to establish an IMC? (21.4.2004)	<p>Since 1999, SSBs of new aided schools are required to enter into a service agreement with the Government. The agreement states clearly that the school management committee (SMC) has to register as an incorporated body under the Companies Ordinance or other related ordinances. The agreement also provides that the SMC must consist of the principal, representatives of the SSB, parents, teachers, alumni and independent community members or professionals as required by the Education Ordinance. The composition of the SMC and the appointment of school managers are also subject to the provisions of the Education Ordinance or any directions given by the Permanent Secretary for Education and Manpower (PSEM). As such, SSBs could not take legal actions against the Government because of the requirement of establishment of an IMC stipulated in the amended Education Ordinance.</p>
<i>Transition period</i>	Whether the schools which established an IMC can opt out when they encountered implementation problems during the transition period? (21.4.2004)	<p>In principle, a responsible SSB should have careful consideration before deciding to establish an IMC and to put into practice the spirit of school-based management (SBM). The participatory SBM governance structure introduced in the Bill defines clearly the powers and responsibilities of an IMC and provides protection for managers against civil liability. SSBs should not easily opt out from this governance structure. If schools encounter problems in implementation, we will try our best to assist them to solve their problems. On the other hand, as the SMC has acquired a status of an independent legal entity, it should not readily change its status since it is unfair to the managers of the IMC by depriving them of the protection against civil liability.</p> <p>Nevertheless, since the Bill allows DSS schools to opt to establish an IMC, hence, after the enactment of the Bill, those DSS schools which have set up an</p>

		IMC may opt to change to DSS schools without an IMC. Aided schools which have set up an IMC may also opt to change to DSS schools without an IMC.
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<b><i>Legal Support Services</i></b>	Legal professionals should be contacted to provide voluntary legal services for the SSBs, parent-teacher associations (PTAs), alumni associations, etc. in respect of the establishment of an IMC and their future operation. (21.4.2004)	After the enactment of the Bill, we will invite legal professionals to provide the schools with voluntary web-based legal services to help them to establish their IMCs. These services include providing a sample IMC constitution and solutions to common problems encountered for reference of schools and SSBs. At the same time, we will encourage the SSBs to invite legal professionals who are keen in education to join their IMCs. Also, we will provide other voluntary legal services such as organising a legal professional support network to provide professional advices for schools through the Internet.
<b><i>Guidelines on Fund-raising or Contract Arrangements</i></b>	The Administration should provide sample guidelines for IMCs regarding the handling of non-government subsidies such as fund-raising or contracts as set out in section 40AE(3)(ba). (21.4.2004)	We will provide IMCs with guidelines for the said arrangements after the enactment of the Bill.
<b><i>Power of the PSEM</i></b>	Clarify whether the directions given by the PSEM under section 40AE(3)(b) in accordance with section 40CC will override the relevant provisions of the Codes of Aid when there are discrepancies between the two. (21.4.2004)	We understand the great concern of Members regarding the power of the PSEM in giving directions to IMCs as stipulated in section 40CC. Thus, we accept Members' suggestion and will propose an amendment to delete section 40CC.



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<i>Merger of schools</i>	<p>Whether the Administration will consider adding a provision to the Bill to deal with the recent merger of public sector schools due to under-enrolment? (21.4.2004)</p>	<p>A merger of schools can be effected upon deliberation and agreement of the management body of the school (such as SSB or SMC). The general arrangement of a merger is to cancel the registration of one of the schools and to terminate or arrange for transferring related contracts to the other school. On the other hand, the other school is required to change its school name and enter into new contracts with the persons affected by the cancellation of the school upon termination of their contracts. As this involves mainly administrative issues, the Bill will not obstruct a merger of schools.</p>
<i>Composition of IMC</i>	<p>The Administration should consider allowing bi-sessional schools to have more than one teacher manager in each of the sessions in section 40AJA(2)(c). (28.4.2004)</p> <p>The Administration should consider providing an alternate manager to the IMCs with more than one teacher manager or parent manager in order to align with the arrangement of SSB alternate manager set out in amended section 40AJA(2)(g). (28.4.2004)</p>	<p>The proposed IMC composition in the Bill aims to strike a balance between representation of different stakeholders and a reasonable and manageable size of the IMC.</p> <p>As there can be two recognised PTAs in a bi-sessional school, we propose that if this is the case, one parent manager be elected by the PTA of each of the two sessions. Since all teachers of a bi-sessional school are employed by the same management committee, the teacher manager can in principle be elected amongst teachers from both sessions. Therefore, we do not recommend the same arrangement for teacher manager in bi-sessional schools.</p> <p>If a teacher manager is made mandatory for each session of a bi-sessional school, some SSBs may appoint more SSB managers to maintain the 60% membership of the IMC. If two teacher managers, two parent managers and two alumni managers are included in the IMC of a bi-sessional school, the SSB will have to appoint 11 SSB managers to the IMC and the total number of managers in the IMC will increase to 18. This will increase the burden of SSBs, especially the big ones, in appointing sufficient number of SSB managers to sit on the IMCs of their sponsored schools.</p> <p>Allowing<sup>5</sup> alternate SSB manager to attend and vote for an absent SSB manager in an IMC meeting is to ensure the steering position of the SSB in the IMC. If we allow IMCs which already have two or more teacher managers or two or more parent managers to have one alternate teacher manager and one alternate parent manager, the total number of managers will continue to rise. With the</p>

<b><i>Nomination of manager</i></b>	To examine whether an alumnus who is also the parent of a current pupil of the school will be allowed to be nominated for election of both parent manager and alumni manager if both elections take place at the same time. (28.4.2004)	We will propose amendment to the Bill to specify that no one will be allowed to be a manager for more than one category in the IMC. So, there is no need for us to further restrict the eligibility of managers in their nomination.

Education and Manpower Bureau

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