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EDUCATION (AMENDMENT) BILL 2002

COMMITTEE STAGE

Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting "Director of Education's" and substituting "Permanent Secretary for Education and Manpower's".
1(2)	By deleting everything after "on" and substituting "1 January 2005.".
2(b)	(a) In subparagraph (ii), in the proposed definition of "manager", in paragraph (b), by deleting "40AH" and substituting "40AJA".

(b) In subparagraph (iv), in the proposed definition of "sponsoring body", by deleting "Director" and substituting "Permanent Secretary".

(c) By adding -

"(iva) in the definition of "supervisor", by repealing everything after "means" and substituting -
"-

(a) in relation to a school without IMC, a manager who is -

(i) approved as the supervisor of the school under section 34 or 38(2) or under either of the repealed Ordinances; or

(ii) approved as the acting supervisor of the school under section 38A(2);

(b) in relation to an IMC school, a manager who is -

(i) appointed or elected under

section 40AI(2) as
the supervisor of
the school; or

(ii) appointed or
elected under
section 40AI(2A) as
the acting
supervisor of the
school." ;".

(d) In subparagraph (v), by deleting the
proposed definition of "DSS school".

(e) In subparagraph (v), by deleting the
proposed definition of "non-aided school in
receipt of Government subsidies".

2(c) In the proposed section 3(2), by deleting
"Director" and substituting "Permanent
Secretary".

3 In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".

3(a) In subparagraph (ii), in the proposed section
8(1)(da)(ii), by deleting "40AH(2)" and
substituting "40AJA(2)".

3(b) In the proposed section 8(3), by deleting
"register maintained under subsection (1)(da)

shall be made available in such manner as the Director" and substituting "entries referred to in subsection (1)(da)(i) and (ii) shall be made available in such manner as the Permanent Secretary".

4

By deleting everything after "Section" and substituting -

"9 is amended -

(a) by adding before subsection (1) -

"(1A) In this section,

"interested persons" means, in relation to a school -

(a) the owners of the school;

(b) the managers of the school;

(c) the teachers of the school;

(d) persons who are not owners, managers or teachers of the school but manage or take part in the management of the school; or

(e) the students of the school.";

- (b) in subsection (1), by repealing
"owners, managers, teachers and
pupils" and substituting
"interested persons";
- (c) in subsection (1)(a), by repealing
everything after "the Government"
and substituting a semicolon;
- (d) in subsections (2), (3)(b) and
(5)(c), by repealing "owners,
managers, teachers or pupils" and
substituting "interested
persons".".

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- (a) In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".
- (b) By adding -
 - "(aa) in subsection (2), by repealing
"A supervisor" and substituting
"The supervisor of a school
without IMC";".

7(b)

- (a) In the proposed section 18A(3), by deleting
everything after "subsection (1)" and
substituting "with the consent or connivance
of a manager of the school, the manager
shall be guilty of an offence and shall be
liable on conviction to a fine at level 3
and to imprisonment for 3 months.".

(b) By deleting the proposed section 18A(4).

11 By deleting the clause.

12(a) By deleting subparagraph (i) and substituting -
"(i) by repealing paragraph (d);".

12(b) (a) In the proposed section 30(1A), by deleting
"Director may" and substituting "Permanent
Secretary may".

(b) In the proposed section 30(1A), by deleting
paragraphs (a) and (b) and substituting -

"(a) a school if the applicant -

(i) is a bankrupt within the
meaning of the
Bankruptcy Ordinance
(Cap. 6) or has entered
into a voluntary
arrangement under that
Ordinance; or

(ii) has previously been
convicted in Hong Kong
or elsewhere of a
criminal offence
punishable with
imprisonment;

(b) a school if the applicant is under
the age of 18 years;

(c) a school if -

- (i) the applicant has
attained the age of 70
years and he fails to
produce a medical
certificate issued by a
registered medical
practitioner within 2
months before the date
of his application
certifying that the
applicant is physically
fit to perform the
functions of a manager;
or
- (ii) the applicant is under
the age of 70 years and
he fails to produce,
upon a request by the
Permanent Secretary, a
medical certificate
issued by a registered
medical practitioner
after the date of such
request certifying that
the applicant is
physically fit to
perform the functions of

a manager; or

- (d) an IMC school or a school in respect of which a submission has been made under section 40BJ or 40BU if the applicant has been registered as a manager of 5 or more schools."

- 12(c)
 - (a) In the proposed section 30(2)(a), by deleting "if it appears to the Director" and substituting "without IMC if it appears to the Permanent Secretary".
 - (b) In the proposed section 30(2)(b)(i), by deleting "Director" and substituting "Permanent Secretary".
 - (c) In the proposed section 30(2)(b)(ii), by adding "subject to any exemption granted under section 40AP," before "the registration".

- 13(a)(iv)
 - (a) In the proposed section 31(1)(g), by deleting "Director" and substituting "Permanent Secretary".
 - (b) In the proposed section 31(1)(g)(i), by deleting everything after "without" and substituting "the consent of the committee

from all meetings of the committee in a school year; and".

- (c) By deleting the proposed section 31(1)(h) and (i).
- (d) In the proposed section 31(1)(j) -
 - (i) by deleting "Director" and substituting "Permanent Secretary";
 - (ii) by adding "physically" before "fit".
- (e) In the proposed section 31(1)(k), by deleting "署" and substituting "常任秘書".

13(b)

- (a) By deleting subparagraph (i) and substituting -
 - "(i) by repealing paragraph (a);".
- (b) In subparagraph (ii), in the proposed paragraph (aa), by deleting everything after "receives a" and substituting "notice under section 39(2)(a) or 40AJ(1)(b)(i) in respect of the manager.".
- (c) In subparagraph (ii), in the proposed paragraph (ab), by deleting "署" and substituting "常任秘書".

13

By adding -

"(c) by adding -

"(2A) The Permanent Secretary shall cancel the registration of a manager of

a school without IMC if it appears to him that the manager is no longer acceptable as a manager of the school to the majority of the managers of the school."."

17

- (a) By deleting the part heading of the proposed Part IIIB and substituting -

"PART IIIB

MANAGEMENT OF IMC SCHOOLS".

- (aa) By deleting the proposed section 40AA and substituting -

"40AA. Application of certain provisions of this Part

Sections 40AC to 40BG apply to IMC schools only.".

- (ab) In the proposed section 40AB, in the definition of "alternate manager", by adding ", alternate sponsoring body manager" before "or".

- (ac) In the proposed section 40AB, by adding -

"alternate sponsoring body manager" (替

代辦學團體校董) means a manager who

is nominated for registration as

such under section 40AK;".

- (ad) In the proposed section 40AB, by deleting the definition of "chairperson".

- (ae) In the proposed section 40AB, by deleting

the definition of "commencement date".

(af) In the proposed section 40AB, by deleting the definition of "operating school".

(ag) In the proposed section 40AB, in the definition of "parent", by deleting everything after "pupil," and substituting -
"includes -

(a) a guardian of the pupil; and

(b) a person who is not the parent or guardian of the pupil but has the actual custody of the pupil;".

(ah) In the proposed section 40AB, by deleting the definition of "planned school".

(ai) In the proposed section 40AB, in the definition of "scheduled opening date", by deleting "Director" and substituting "Permanent Secretary".

(aj) In the proposed section 40AB, in the definition of "specialist staff", in paragraph (b), by deleting "Director" and substituting "Permanent Secretary".

(ak) In the proposed section 40AB, by adding -
"specified school" (指明學校) means a school specified in Schedule 3;".

(al) In the proposed section 40AB, in the definition of "sponsoring body manager", by deleting "by the sponsoring body".

(b) In the proposed section 40AB, in the definition of "teacher", by deleting everything after "means" and substituting -
"a permitted teacher or registered teacher employed in a school -

(a) to occupy a teacher post in the establishment of staff provided for in the code of aid for primary schools, code of aid for secondary schools or code of aid for special schools; or

(b) for a term for not less than 12 months to perform teaching duties or other duties directly related to teaching;".

(c) By adding -

**"40ABA. Secretary may amend
Schedule 3**

(1) The Secretary for Education and Manpower may by notice published in the Gazette amend Schedule 3.

(2) A school shall not be specified in Schedule 3 unless -

(a) the school is a primary school or secondary school;

- (b) the school is neither an aided school nor a DSS school;
 - (c) the school is a school without IMC;
 - (d) the school is not operated for the purpose of making profit;
 - (e) the sponsoring body of the school is not a profit-making organization;
 - (f) the school receives any subsidy from the Government; and
 - (g) the school is, in the opinion of the Permanent Secretary, financially sound."
- (ca) In the proposed section 40AD(1)(a), by deleting "Director" and substituting "Permanent Secretary".
- (cb) In the proposed section 40AD(1)((b), by deleting "out".
- (cc) In the proposed section 40AD(1), by adding -
"(ca) deciding the mode of receiving government aid;"
- (cd) In the proposed section 40AD(2)(a), by

adding "in accordance with the vision and mission set by the sponsoring body" after "school".

- (ce) In the proposed section 40AD(2)(c), by deleting "Director" and substituting "Permanent Secretary".
- (d) In the proposed section 40AD(2)(f), by deleting "self-evaluation" and substituting "self-improvement of the school".
- (da) In the proposed section 40AE(1), by deleting everything after "with," and substituting "the proper management, administration or operation of the school in accordance with the vision and mission and the general educational policies and principles set by the sponsoring body of the school.".
- (db) In the proposed section 40AE(2)(b), by adding "subject to section 40AEA," before "employ".
- (dc) In the proposed section 40AE(2)(d), by deleting "or received from the Government".
- (e) In the proposed section 40AE(2), by adding -
 - "(da) handle funds and assets received from the Government in the capacity of a trustee;".
- (ea) In the proposed section 40AE(3), by deleting paragraph (b) and substituting -.
 - "(b) guidelines (if any) issued by the

sponsoring body of the school

for -

(i) raising funds (including borrowing money); or

(ii) entering into any contract, agreement or arrangement involving funds other than funds received from the Government;".

(eb) In the proposed section 40AE(3)(c), by deleting everything after "school) the" and substituting "relevant code of aid;".

(f) In the proposed section 40AE(3)(d), by deleting "Director" and substituting "Permanent Secretary".

(fa) In the proposed section 40AE, by adding -

"(4) Without prejudice to the generality of subsection (3), if a person is employed by the incorporated management committee of an aided school to occupy a post in the establishment of staff provided for in the relevant code of aid, his terms and conditions of service determined pursuant to subsection (2)(b) must conform with those provided for in the relevant code of aid in relation to the post.

(5) In this section, "relevant

code of aid" means -

- (a) in relation to an aided school which is a primary school, the code of aid for primary schools;
- (b) in relation to an aided school which is a secondary school, the code of aid for secondary schools;
- (c) in relation to an aided school which is a special school, a practical school or a skills opportunity school, the code of aid for special schools."

(fb) By adding after the proposed section 40AE -

**"40AEA. Power of sponsoring body
over employment of
teaching staff**

(1) The sponsoring body of a school which is also the sponsoring body of another school -

(a) may request -

- (i) the incorporated management committee of the first-mentioned

school to terminate the employment of a person as the principal of the school; and

- (ii) the incorporated management committee of the other school to recommend for approval the person to be the principal of the school under section 53 or 57;

(b) may request -

- (i) the incorporated management committee of the first-mentioned school to terminate the employment of a person as a teacher of the school; and

- (ii) the incorporated management committee of the other school to employ the person as a teacher of the same rank of the school.

(2) A sponsoring body shall not request the taking of any action under subsection (1) unless -

- (a) the action is conducive to the professional development of the person concerned;
- (b) the action is necessary to avoid or alleviate over-establishment of staff due to a reduction of classes in the school concerned; or
- (c) the Permanent Secretary approves the request upon -
 - (i) an application by the sponsoring body; and
 - (ii) other good cause being shown to his satisfaction.

(3) An incorporated management committee shall take such action within its lawful authority as is necessary for the compliance with a request made of it under subsection (1).".

- (g) In the proposed section 40AF(1), by deleting "or the sponsoring body" and substituting ", the sponsoring body or any other person".

- (ga) By deleting the proposed subheading **"Composition of incorporated management committee"** before the proposed section 40AH and substituting **"Supervisor"**.

- (gb) By deleting the proposed section 40AH.

(gc) In the proposed section 40AI, by deleting everything before subsection (3) and substituting -

"40AI. Supervisor

(1) A school shall have a supervisor.

(2) The supervisor of a school -

(a) must be a manager of the school;

(b) must be -

(i) appointed by the sponsoring body of the school; or

(ii) elected by the managers of the school,

in accordance with the constitution of the incorporated management committee of the school; and

(c) shall hold and vacate office as such in accordance with the constitution.

(2A) If the supervisor of a school is unable to perform his functions during a period of not less than 28 days due to absence from Hong Kong or illness -

(a) (in the case of an appointed supervisor) the sponsoring body of the school shall

appoint another manager of
the school as the acting
supervisor to act in the
place of the supervisor
during the period;

(b) (in the case of an elected
supervisor) the other
managers shall elect amongst
themselves an acting
supervisor to act in the
place of the supervisor
during the period."

(gd) In the proposed section 40AI(3), by deleting
"chairperson" where it twice appears and
substituting "supervisor".

(ge) In the proposed section 40AI(4), by adding
"in writing" after "give notice".

(h) In the proposed section 40AI(4)(a), by
deleting "chairperson to the Director" and
substituting "supervisor to the Permanent
Secretary".

(ha) In the proposed section 40AI(4)(b), by
deleting everything after "subsequent" and
substituting "supervisor to the Permanent
Secretary within 14 days after his election
or appointment."

(hb) In the proposed section 40AI(5), by deleting
"chairperson and such other information as

the Director" and substituting "supervisor and such other information as the Permanent Secretary".

- (hc) In the proposed section 40AJ, by deleting everything before subsection (1)(b) and substituting -

"40AJ. Functions of supervisor

- (1) The supervisor of a school shall -
(a) preside over the meetings of the incorporated management committee of the school;".

- (hd) In the proposed section 40AJ(1)(b), by deleting "Director" and substituting "Permanent Secretary".
- (he) In the proposed section 40AJ(1)(d), by deleting "of the event to the Director" and substituting "in writing of the event to the Permanent Secretary".
- (hf) In the proposed section 40AJ(3), by deleting "chairperson" and substituting "supervisor".
- (hg) By deleting the proposed subheading **"Election and nomination of managers and vacation of office"** before the proposed section 40AK and substituting **"Composition of incorporated management committee and office of managers"**.
- (i) By adding immediately before the proposed

section 40AK -

**"40AJA. General requirement
of composition**

(1) An incorporated management committee shall, subject to the other provisions of this Ordinance, be constituted in accordance with the constitution of the committee.

(2) Without prejudice to subsection (1), the composition of an incorporated management committee as provided for in its constitution shall be -

- (a) subject to subsection (3),
such number of sponsoring
body manager as the school
sponsoring body may nominate;
- (b) the principal of the school,
who shall be an ex-officio
manager;
- (c) not less than one teacher
manager;
- (d) not less than -
 - (i) (in the case of a school
other than a bi-
sessional school) one
parent manager; or
 - (ii) (in the case of a bi-
sessional school) one

parent manager for each
of the A.M. session and
P.M. session;

- (e) one or more alumni managers
where such manager or
managers is or are nominated;
- (f) not less than one independent
manager;
- (g) not more than one alternate
sponsoring body manager;
- (h) where the constitution allows
the nomination of not more
than one teacher manager, one
alternate teacher manager;
and
- (i) where the constitution allows
the nomination of -
 - (i) not more than one parent
manager, one alternate
parent manager; or
 - (ii) (in the case of a bi-
sessional school) not
more than one parent
manager for the A.M.
session and one parent
manager for the P.M.
session, one alternate
parent manager for the

A.M. session and one
alternate parent manager
for the P.M. session.

(3) The numbers of sponsoring body
manager shall not exceed 60% of the maximum
number of managers that the incorporated
management committee may have under its
constitution.

(4) In calculating the maximum number
of managers for the purposes of subsection
(3), an alternate manager or a manager
appointed under section 41 shall not be
counted.

(5) No manager shall serve in an
incorporated management committee in more
than one capacity mentioned in any paragraph
of subsection (2).".

(ia) In the proposed section 40AK, by deleting
everything after "school may" and
substituting -

"nominate -

(a) such number of persons
for registration as
sponsoring body manager
of the school as may be
provided for in the
constitution of the
incorporated management

committee of the school;

and

- (b) a person for
registration as
alternate sponsoring
body manager of the
school."

- (ib) By deleting the proposed section 40AL and
substituting -

"40AL. Nomination of teacher manager

(1) The principal of a school shall
nominate such number of teachers of the
school for registration as teacher manager
or alternate teacher manager of the school
as may be provided for in the constitution
of the incorporated management committee of
the school.

(2) A person nominated under subsection

(1) -

- (a) must be a teacher of the school;
- (b) must not be the principal of the
school;
- (c) must be elected in that behalf
in an election -
 - (i) held pursuant to the
constitution of the
incorporated management
committee of the school;

(ii) in which all teachers of
the school have equal
voting right and right of
candidature;

(iii) the voting for which is
conducted by secret ballot;
and

(iv) the system of which is
otherwise fair and
transparent.

(3) In this section, "teachers"
includes, in relation to a special school,
the specialist staff of the school."

(ic) In the proposed section 40AM(3), by deleting
everything after "under its" and
substituting -

"constitution only -

- (a) parents of current
pupils of the school; or
- (b) serving teachers of the
school,

may elect or become office-bearers of
the body."

(id) In the proposed section 40AM(5), by deleting
paragraphs (a) and (b) and substituting -

"(a) must be a parent of a current
pupil of the school;

(b) must not be a teacher of the

school; and

(c) must be elected in that behalf in
an election -

(i) conducted by the
recognized parent-
teacher association of
the school;

(ii) in which all parents of
the current pupils of
the school have equal
voting right and right
of candidature;

(iii) the voting for which is
conducted by secret
ballot; and

(iv) the system of which is
otherwise fair and
transparent.".

(ie) In the proposed section 40AN(1), by deleting
"of the school" and substituting "or
sponsoring body of a school, as may be
provided for in the constitution of the
committee".

(if) In the proposed section 40AN(2), by deleting
"of the school" and substituting "or
sponsoring body of a school, as may be
provided for in the constitution of the
committee".

- (ig) In the proposed section 40AN(3), by adding before paragraph (a) -
 - "(aa) its membership is open to all alumni of the school;".
- (ih) In the proposed section 40AN(3), by adding after paragraph (b) "In this subsection, a reference to school includes, where applicable, a reference to the A.M. session or P.M. session of the school."
- (ii) In the proposed section 40AO(2)(a), by adding "or (where applicable) specialist staff" after "teacher".
- (ij) In the proposed section 40AO(2)(b), by deleting "the parent" and substituting "a parent".
- (ik) In the proposed section 40AO(2)(d)(ii), by deleting "or parent or a child" and substituting "or a grand-parent, parent, brother, sister, child or grand-child".
- (il) In the proposed section 40AO(2)(d), by deleting everything after subparagraph (iii) and substituting "of the governing body (however described) of the sponsoring body of the school."
- (im) In the proposed section 40AP(2)(a), by deleting "may be registered" and substituting "shall be nominated for registration".

(in) In the proposed section 40AP(2)(b), by deleting "may be registered" and substituting "shall be nominated for registration".

(io) In the proposed section 40AP, by adding -

"(2A) If the incorporated management committee of a school is established under section 40BM, the first parent manager of the school shall be nominated for registration as such at any time within 3 months from the establishment of the committee.".

(j) In the proposed section 40AP(3) and (4), by deleting "Director" and substituting "Permanent Secretary".

(ja) In the proposed section 40AP, by deleting subsection (5) and substituting -

"(5) The Permanent Secretary shall decide an application under subsection (3) by -

(a) where he is satisfied that -

(i) the incorporated management committee has taken all reasonable steps to secure compliance with the requirement; and

(ii) it is reasonable in the

circumstances of the
case to grant the
exemption applied for,
granting the exemption
subject to such condition (if
any) as he thinks fit; or

(b) where he is not satisfied in
the manner prescribed in
paragraph (a), refusing to
grant the exemption."

(jb) in the proposed section 40AP(6), by deleting
"Director shall not take any action under
section 22, 31 or 41 in respect of the
school concerned only because that" and
substituting "Permanent Secretary shall not
take any action under section 22, 31 or 41
in respect of the school concerned only
because".

(jc) In the proposed section 40AQ, by adding -

"(1A) An alternate sponsoring body
manager of a school shall not vote on
any matter to be resolved by the
incorporated management committee by
voting unless -

(a) (in the case of a matter
to be resolved at a
meeting of the
committee) any

sponsoring body manager
of the school is absent
from the meeting;

- (b) (in the case of a matter
to be resolved
otherwise) any
sponsoring body manager
of the school is, for
any reason, unable to
vote on the matter."

(jd) In the proposed section 40AQ(4), by deleting
"30(2), 31(2)(a),".

(je) In the proposed section 40AQ(4), by adding
before paragraph (a) -

"(aa) an alternate sponsoring body
manager shall not be counted
unless there is a vacancy of
sponsoring body manager of the
school for the time being;".

(jff) In the proposed section 40AQ(5), by adding
before paragraph (a) -

"(aa) an alternate sponsoring body
manager of the school shall not be
counted unless there is a vacancy
of sponsoring body manager of the
school for the time being;".

(jg) In the proposed section 40AQ(6), by adding
"(1A)," after "subsection".

(jh) In the proposed section 40AQ, by adding -

"(6A) An alternate teacher manager and a teacher manager of a school shall be elected in the same manner for nomination for registration as a manager.

(6B) An alternate parent manager and a parent manager of a school shall be elected in the same manner for nomination for registration as a manager."

(k) By deleting the proposed section 40AR and substituting -

"40AR. Endorsement of application for registration as manager

If a person is nominated for registration as a manager of a school under this Part and he applies for such registration, his application shall be -

- (a) endorsed by the body or person that nominates him; and
- (b) (where he is on the list of proposed managers referred to in section 40BL(1)(a) or 40BW(1)(a)) endorsed by the sponsoring body in such manner as the

Permanent Secretary may
specify.".

- (ka) In the proposed section 40AS(2), by deleting
"one month" and substituting "three months".
- (kb) In the proposed section 40AS(2)(a), by
deleting "or elected".
- (kc) In the proposed section 40AS(2)(b), by
deleting "Director" and substituting
"Permanent Secretary".
- (kd) In the proposed section 40AS(3), by deleting
"Director" and substituting "Permanent
Secretary".
- (l) In the proposed section 40AS(4), by deleting
"or elected".
- (m) By deleting the proposed section 40AT.
- (ma) By adding immediately before the proposed
section 40AU -

**"40ATA. Parent manager or independent
manager ceases to hold
office under certain
circumstances**

(1) If a parent manager ceases to
be a parent of a current pupil of the
school in a school year, his term of
office as a manager shall continue
until its expiry or the end of the
school year, whichever is the earlier.

(2) If in a school year an
independent manager becomes a person

referred to in section 40AO(2)(a), (b) or (d), his term of office as a manager shall continue until its expiry or the end of the school year, whichever is the earlier."

- (n) In the proposed section 40AU(1), by deleting "Director" and substituting "Permanent Secretary".
- (na) In the proposed section 40AU(2)(a), by deleting "or a teacher of the school".
- (nb) In the proposed section 40AU(2)(b), by deleting "a teacher of" and substituting "employed in".
- (nc) In the proposed section 40AV, in the heading, by deleting "**teacher manager, etc.**" and substituting "**managers**".
- (o) In the proposed section 40AV, by deleting subsections (1) and (2) and substituting -
 - "(1) An incorporated management committee shall, upon receiving a request under subsection (2), (3), (4) or (5), issue a notice in writing to the Permanent Secretary as regards the cancellation of the registration of the manager specified in the request.
 - (2) If -
 - (a) the teachers and (where applicable) specialist staff

of a school pass a resolution that any teacher manager or alternate teacher manager of the school is not suitable to continue to hold office as such; and

- (b) the resolution is passed in a manner which is, as far as reasonably practicable, similar to the manner in which the manager is elected for nomination,

the principal of the school shall make a written request to the incorporated management committee to issue a notice under subsection (1) in respect of the manager.".

- (ob) In the proposed section 40AV(6), by deleting "(2),".
- (oc) In the proposed section 40AV(6)(b), by deleting "or elected for nomination, as may be appropriate" and substituting "for nomination".
- (od) In the proposed 40AV, by adding -

"(6A) The incorporated management committee of a school may issue a written notice to the Permanent Secretary as regards the cancellation of the registration of any independent

manager of the school.".

(oe) In the proposed section 40AW(1)(a), by deleting "Director" and substituting "Permanent Secretary".

(p) In the proposed section 40AW, by deleting subsections (2) and (3) and substituting -

"(2) An incorporated management committee may by resolution amend its constitution in the manner provided for in the constitution.

(3) An amendment to the constitution of an incorporated management committee -

(a) shall be lodged with the Permanent Secretary; and

(b) shall not take effect before the expiry of one month after it is so lodged.

(3A) The Permanent Secretary may, by notice in writing to the incorporated management committee concerned, object to an amendment lodged with him before the amendment takes effect. The reason for the objection shall be specified in the notice.

(3B) Subject to section 66(1)(ba), an amendment objected to by the Permanent Secretary shall be void.

(3C) The Permanent Secretary may, by notice to an incorporated management committee, require its constitution to be amended in such manner as he may specify to secure compliance with law and general education policies. The committee shall amend its constitution accordingly.

(3D) Subsections (3) and (3A) do not apply to an amendment under subsection (3C).

(3E) If an objection under subsection (3A) to an amendment of constitution which is intended to take effect on a certain date ("original effective date") is reversed under section 64, the amendment shall -

(a) where the Permanent Secretary does not appeal against the reversal under section 65 within the period of 14 days referred to in that section, take effect -

(i) at the expiry
of that
period; or

(ii) on the
original
effective
date,

whichever is the later;

(b) where the Permanent
Secretary appeals
against the reversal
under section 65 and the
reversal is upheld, take
effect on -

(i) the date on
which the
reversal is
upheld; or

(ii) the original
effective
date,

whichever is the
later.".

(pa) In the proposed section 40AW(4), by deleting
"the approval of an amendment to its
constitution, lodge a copy of its
constitution as amended with the Director"
and substituting "any amendment to its

constitution takes effect, lodge a copy of its constitution as amended with the Permanent Secretary".

- (q) In the proposed section 40AX(1), by deleting ") to a manager other than an alternate manager" and substituting "and regulation 76 of the Education Regulations (Cap. 279 sub. leg. A)) to any manager of the school".
- (r) By deleting the proposed section 40AY and substituting -

**"40AY. Permanent Secretary's nominee
may attend meeting**

If it appears to the Permanent Secretary that the attendance of any meeting of the incorporated management committee of the school by a public officer will be conducive to the operation and performance of the school -

- (a) the Permanent Secretary may, by notice in writing to the committee, nominate the public officer to attend the meeting; and
- (b) the public officer may attend the meeting and offer such advice at the

meeting as he thinks

fit.".

(s) In the proposed section 40AZ(1)(a)(ii) and (c), by deleting "Director" wherever it appears and substituting "Permanent Secretary".

(sa) In the proposed section 40AZ(2)(b), by deleting "chairperson of the incorporated management committee and one other manager authorized" and substituting "supervisor of the school and one other manager authorized by the incorporated management committee of the school".

(sb) In the proposed section 40AZ(4)(c) and (e) and (5)(a), by deleting "Director" and substituting "Permanent Secretary".

(t) In the proposed section 40BC, by deleting paragraph (c) and substituting -

"(c) the properties owned by the committee immediately before its dissolution shall be vested in the Permanent Secretary as the corporation sole constituted under the Permanent Secretary for Education and Manpower Incorporation Ordinance (Cap. 1098) who shall -

(i) as far as reasonably

practicable, apply the properties to settle the liabilities (if any) of the committee which are outstanding immediately before its dissolution in such manner as he considers fair;

(ii) where after such settlement (if any) any property which was donated to the committee remains, return the property to the donor unless the donor indicated at the time of the donation that he did not wish to reclaim the property in the event of the dissolution of the committee;

(iii) where after such settlement or return (if any) any property remains, apply the property towards any purpose which is conducive to education

in Hong Kong.".

(ta) In the proposed section 40BF, by deleting paragraphs (a) and (b) and substituting -

"(a) keep a register of all
declarations made under section
40BD;

(b) keep a register of all disclosures
made under section 40BE;

(c) permit any inspector of schools to
inspect the register kept under
paragraph (a) or (b) at any
reasonable time to enable the
Permanent Secretary to ascertain
where section 40BD or 40BE, as the
case may be, is complied with; and

(d) permit the public to inspect the
register kept under paragraph (b)
at any reasonable time.".

(tb) In the proposed section 40BG(2), by deleting everything after "omitted to be" where it first appears and substituting "done by him in good faith in the performance or purported performance of any function of his office as the manager.".

(tc) In the proposed section 40BG, by adding -

"(2A) No civil proceedings shall be
brought against a manager of a school
for anything done or omitted to be done

by or on behalf of the incorporated
management committee of the school
unless he has not acted in good faith
in relation to the thing or omission.".

(te) In the proposed section 40BG(3), by deleting
"subsection (2)(b)" and substituting
"subsection (2)".

(u) In the proposed section 40BH, by deleting
everything before "in writing" and
substituting -

**"40BH. Establishment of incorporated
management committee in
respect of operating DSS
school or specified school**

The sponsoring body of-

(a) a DSS school which -

(i) is a school
without IMC;
and

(ii) has commenced
operation
(whether or
not before 1
January 2005);
or

(b) a specified school,

may notify the Permanent Secretary".

(ua) By deleting the proposed section 40BI.

(ub) By deleting the proposed section 40BJ and

substituting -

**"40BJ. Submission for the purpose
of establishment of
incorporated management
committee in respect of
operating school**

(1) This section applies to -

(a) an aided school which -

(i) is a school without

IMC; and

(ii) has commenced

operation before 1

January 2005;

(b) a DSS school in respect

of which a notice has

been given under section

40BH; and

(c) a specified school in

respect of which a

notice has been given

under section 40BH.

(2) The sponsoring body of a school shall submit to the Permanent Secretary a draft of the constitution of the proposed incorporated management committee.

(3) A submission made under subsection (2) shall be made -

(a) in the case of an aided school, by 1 January

2009;

- (b) in the case of a DSS school or specified school, within 6 months from the date of the notice given under section 40BH in respect of the school.

(4) The sponsoring body shall provide to the Permanent Secretary such further information relating to the submission as he may reasonably require for the purpose of enabling him to exercise his power under section 40BK or 40BL."

(uc) In the proposed section 40BK, by deleting "Director" and substituting "Permanent Secretary".

(ud) By deleting the proposed section 40BL and substituting -

"40BL. Approval of list of proposed managers

(1) Upon the approval of the draft constitution, the sponsoring body shall submit to the Permanent Secretary -

- (a) a list of the proposed managers of the school;

and

- (b) an application by each proposed manager for registration as a manager of the school that complies with section 28.

(2) The Permanent Secretary shall approve a list of proposed managers submitted under subsection (1) if -

- (a) the composition of the proposed incorporated management committee -
 - (i) complies with this Part; and
 - (ii) is consistent with the draft of the constitution as approved under section 40BK; and
- (b) having regard to the grounds prescribed in section 30, he is satisfied that all the proposed managers are fit for registration as

a manager of the
school.".

- (ue) In the proposed section 40BM(1), by deleting "Director" and substituting "Permanent Secretary".
- (v) In the proposed section 40BM(2)(c), by deleting everything before "shall be established" and substituting "the incorporated management committee".
- (va) In the proposed section 40BM(3)(c), by deleting "chairperson and one other manager authorized" and substituting "supervisor of the school and one other manager authorized by the committee".
- (vb) In the proposed section 40BM(4), by adding "by the Government" after "payable".
- (vc) In the proposed section 40BP(1), by deleting "before the commencement date".
- (vd) In the proposed section 40BR(1)(b), by deleting "Director" and substituting "Permanent Secretary".
- (ve) In the proposed section 40BR(1), by deleting everything after paragraph (b) and substituting -

"the Permanent Secretary may -

- (c) without prejudice to
section 41, appoint one
or more persons to be

the managers of the
school; and

- (d) without prejudice to
section 31, cancel the
registration of any
manager of the school."

(vf) In the proposed section 40BR, by adding -

"(1A) A manager appointed under
subsection (1) -

- (a) shall hold office
until -

- (i) the term of
office for
which he is
appointed
expires; or

- (ii) the
incorporated
management
committee of
the school is
established,

whichever is the
earlier; and

- (b) shall for the purposes
of this Ordinance be
treated as a manager
appointed under section

41.".

- (w) In the proposed section 40BR(2), by deleting "Director" and substituting "Permanent Secretary".
- (wa) In the proposed section 40BS, by deleting "Director" and substituting "Permanent Secretary".
- (wb) By deleting the proposed section 40BT.
- (wc) In the proposed section 40BU, by deleting everything before subsection (3) and substituting -

**"40BU. Submission for the purpose
of establishment of
incorporated management
committee in respect of
planned school**

(1) This section applies to -

- (a) an aided school the
scheduled opening date
of which falls on or
after 1 January 2005;
and
- (b) a DSS school in respect
of which a notice has
been given under section
40BS.

(2) The sponsoring body of a
school shall submit to the Permanent
Secretary -

- (a) a draft of the

constitution of the
proposed incorporated
management committee;
and

(b) an application for
registration of the
school under section
11."

(wd) In the proposed section 40BU(3)(b), by
deleting "Director" and substituting
"Permanent Secretary".

(we) In the proposed section 40BU(4), by deleting
"Director" and substituting "Permanent
Secretary".

(x) In the proposed section 40BV, by deleting
"Director" and substituting "Permanent
Secretary".

(xa) By deleting the proposed section 40BW and
substituting -

**"40BW. Approval of list of
proposed managers**

(1) Upon the approval of the
draft constitution, the sponsoring body
shall submit to the Permanent
Secretary -

(a) a list of the proposed
managers of the school;
and

(b) an application by each
proposed manager for
registration as a
manager of the school
that complies with
section 28.

(2) The Permanent Secretary shall
approve a list of proposed managers
submitted under subsection (1) if -

(a) the composition of the
proposed incorporated
management committee -
(i) complies with
this Part; and
(ii) is consistent
with the draft
of the
constitution
as approved
under section
40BV; and

(b) having regard to the
grounds prescribed in
section 30, he is
satisfied that all the
proposed managers are
fit for registration as
a manager of the

school.".

- (xb) In the proposed section 40BX(1), by deleting "Director" and substituting "Permanent Secretary".
- (xc) In the proposed section 40BX(2), by deleting everything after "incorporation," and substituting "the incorporated management committee shall be established as a body corporate with perpetual succession.".
- (xd) In the proposed section 40BX(3)(c), by deleting "chairperson and one other manager authorized" and substituting "supervisor of the school and one other manager authorized by the committee".
- (xe) In the proposed section 40BZ(1)(a), by deleting "a sponsoring body" and substituting "the scheduled opening date of an aided school falls on or after 1 January 2005 and the sponsoring body of the school".
- (y) In the proposed section 40BZ(1) and (2), by deleting "Director" wherever it appears and substituting "Permanent Secretary".
- (ya) By deleting everything after the proposed section 40BZ and substituting -

"40CA. Pre-incorporation contract

Where -

- (a) any person enters into a contract with another

party for the supply of
goods or service for the
benefit of a school
before the incorporated
management committee of
the school is
established under
section 40BX;

(b) he enters into the
contract with the
written authority of the
sponsoring body of the
school;

(c) before he enters into
the contract he advises
the other party that the
incorporated management
committee of the school
will upon its
establishment become a
party to the contract by
virtue of this section;
and

(d) the contract is
subsisting immediately
before the establishment
of the committee,

the following provisions apply on the

establishment of the committee -

- (e) the committee shall for all purposes substitute for the person as the party to the contract and shall be regarded as having always been the party;
- (f) all rights and liabilities of the person under the contract shall vest in the committee; and
- (g) the person shall cease to be a party to the contract.

**Provisions applicable where
a school ceases to be
an IMC school**

**40CB. An aided IMC school may
become a DSS school
without IMC**

(1) If an IMC school which is an aided school becomes a DSS school, the sponsoring body of the school may apply to the Permanent Secretary for an approval for the school to become a school without IMC.

(2) The Permanent Secretary shall grant an approval applied for if -

- (a) all conditions (if any) subject to which the school may become a DSS school have been fulfilled;
- (b) a company has been incorporated under the Companies Ordinance (Cap. 32) for the purposes of operating the school as stated in its memorandum of association;
- (c) the company has been designated as a school management company under section 3(2);
- (d) applications have been made under section 28 for the registration of a sufficient number of people as the managers of the DSS school; and
- (e) a person has been recommended under section 38 to be the supervisor of the DSS school.

(4) Upon the granting of an approval in relation to a school -

- (a) the incorporated management committee shall be dissolved;
- (b) the name of the committee shall be removed from the register of incorporated management committees; and
- (c) Schedule 2 has effect in relation to the dissolution of the committee."

New

By adding -

"17A. Subheading substituted

The subheading **"Appointed managers"** before section 41 is repealed and the following substituted -

"PART IIIC

PERMANENT SECRETARY MAY APPOINT MANAGERS". "

18

- (a) In the heading, by deleting **"Director"** and substituting **"Permanent Secretary"**.
- (b) By deleting paragraph (a)(i) and substituting -

"(i) in paragraph (b), by repealing ";
or" and substituting a
semicolon;".

(c) By deleting paragraph (a)(iii).

22

By deleting the proposed section 57A and
substituting -

**"57A. Selection of principal
of IMC school**

(1) This section applies to an IMC school.

(2) Before recommending any person under
section 57, the incorporated management committee
shall appoint a principal selection committee.

(3) A principal selection committee shall -

(a) be accountable to the incorporated
management committee; and

(b) be composed of -

(i) representatives of the
sponsoring body of the
school;

(ii) managers of the school acting
as representatives of the
incorporated management
committee; and

(iii) (where applicable) such other
persons as may be provided
for in the constitution of
the incorporated management

committee.

(4) A principal selection committee shall select in an open, fair and transparent manner a suitable person for recommendation under section 57 from candidates nominated in an open, fair and transparent manner by the sponsoring body or the incorporated management committee of the school or both as may be provided for in the constitution of the incorporated management committee.

(5) The incorporated management committee of a school shall recommend under section 57 the person selected by the principal selection committee.

(6) Subsections (2), (3), (4) and (5) do not apply if -

- (a) the sponsoring body of the school makes a request of the incorporated management committee under section 40AEA(1)(a)(ii); or
- (b) the Permanent Secretary exempts, on an application by the sponsoring body or incorporated management committee and upon good cause being shown to his satisfaction, the committee from those subsections in respect of any principal of the school."

24 By deleting "40AH(2)(b)" and substituting
"40AJA(2)(b)".

26 In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".

26(c) (a) By deleting -
"Section 40BI. Sponsoring body."
and substituting -
"Section 40AW. Incorporated
management
committee."
(b) By deleting "Section 40BR(1)(c)(i)" and
substituting "Section 40BR(1)(c)".
(c) By deleting "Section 40BR(1)(c)(ii) or (d)"
and substituting "Section 40BR(1)(d) or
(1A)".
(d) In paragraph (c), by deleting -
"Section 40BT. Sponsoring body.".

New By adding _

**"26A. Permission to operate school
or to act etc. pending appeal**

Section 66(1) is amended by adding -

"(ba) by notice in writing to an
incorporated management
committee permit an amendment

to the constitution of the
committee to take effect
after he has objected to the
amendment under section
40AW(3A);".".

28 In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".

29 In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".

30 In the heading, by deleting "**Director**" and
substituting "**Permanent Secretary**".

30(b) In the proposed section 83(1AA), by deleting
"Director" where it twice appears and
substituting "Permanent Secretary".

31(b) By deleting the proposed section 84(4) and
substituting -

"(4) The Permanent Secretary may waive -

(a) by circular issued to schools
generally or a particular type of
schools, wholly or partly the
requirement of any regulation in
respect of a particular type of

schools or teachers;

- (b) on application by a supervisor or incorporated management committee of a school and by notice in writing to the applicant, wholly or partly the requirement of any regulation in respect of the school, the applicant or a particular teacher of the school; and

- (c) on application by a teacher and by notice in writing to the applicant, wholly or partly the requirement of any regulation in respect of the applicant,

on such conditions, if any, as he thinks fit."

32(b) By deleting subparagraph (iii) and substituting -

"(iii) in paragraph (b), by adding
"without IMC" after "school";

- (iv) in paragraph (i), by repealing "a supervisor or any other manager of a school" and substituting "the supervisor or a manager of a school without IMC";".

32(c) By deleting the paragraph and substituting -

"(c) in subsection (3) -

- (i) in paragraph (a), by adding
"without IMC" after "school";
- (ii) by repealing paragraph (d);
- (iii) in paragraph (n), by adding
"without IMC" after
"school";".

32(d) By deleting the paragraph and substituting -

"(d) by adding -

"(6) If -

- (a) an IMC school is operated,
with the consent or
connivance of any manager of
the school, in contravention
of section 19(1); or
- (b) an incorporated management
committee, with the consent
or connivance of any manager
of the school concerned -
 - (i) fails to comply
with any notice
served on it under
section 82; or
 - (ii) in or in connection
with any
application under
this Ordinance

makes any statement
or furnishes any
information which
is false in any
material particular
and which it knows
or reasonably ought
to know is false in
such particular,

the manager shall be guilty of an offence
and shall be liable on conviction to a fine
of \$250,000 and to imprisonment for 2 years.

(7) If -

- (a) an IMC school is operated,
with the consent or
connivance of any manager of
the school, in any name other
than its registered name;
- (b) an incorporated management
committee, with the consent
or connivance of any manager
of the school concerned,
employs or permits any person
to teach in a school in
contravention of section
42(1) or (2); or
- (c) an IMC school contravenes
section 86 with the consent

or connivance of any manger
of the school,

the manager commits an offence and shall be
liable on conviction to a fine at level 5
and to imprisonment for 2 years.

(8) If an incorporated management
committee contravenes section 74(2A) or (2B)
with the consent or connivance of any
manager of the school concerned, the manager
commits an offence and shall be liable on
conviction to a fine at level 3 and to
imprisonment for 3 months."."

32 By deleting paragraph (e).

33 (a) In the heading, by deleting "**1 and 2**".

(b) In the proposed Schedule 1, in section 2(c),
by adding "management" after "incorporated".

(c) In the proposed Schedule 1, by adding -

**"2A. Continuance of certain
contracts**

(1) This section applies to a
contract that is -

(a) entered into by the
supervisor, principal or
sponsoring body or a
manager of a school
("original party") with

a person before 1

January 2005;

(b) entered into for the supply of goods or service by the person for the benefit of the school (but not any other school); and

(c) is subsisting immediately before the transition date.

(2) Upon the commencement of the transition date -

(a) (if the money paid in consideration of the goods or service is provided by the Government) the transferee shall, with the consent of the person and the sponsoring body, for all purposes substitute for the original party as the party to the contract, and shall be regarded as having always been the party;

(b) (if the money paid in consideration of the goods or service is not provided by the Government) the sponsoring body or, where the sponsoring body so decides, the transferee shall, with the consent of the person, for all purposes substitute for the original party as the party to the contract, and shall be regarded as having always been the party.

(3) Where a substitution takes place under subsection (2) -

- (a) all rights and liabilities of the original party under the contract shall vest in the transferee or sponsoring body, as may be appropriate; and
- (b) the original party shall cease to be a party to

the contract.".

- (d) In the proposed Schedule 1, in section 3(1),
by adding "management" after "incorporated".
- (e) In the proposed Schedule 1, in section 4(1),
by deleting "related to the management of
the school" and substituting "that are
relevant to the functions and powers of the
transferee".
- (f) In the proposed Schedule 2, by deleting
everything before section 2 and
substituting -

"SCHEDULE 2 [ss. 40BQ &
40CB]

1. **Interpretation**

In this schedule -

- (a) where this Schedule applies
under section 40BQ -

- (i) "transferor" means
the school
management company
of the relevant
school;
- (ii) "transferee" means
the incorporated
management
committee of the
relevant school;
- (iii) "transition date"

means the date on
which the
incorporated
management
committee of the
relevant school is
established;

(b) where this Schedule applies
under section 40CB -

(i) "transferor" means
the incorporated
management company
of the relevant
school;

(ii) "transferee" means
the school
management
committee of the
relevant school;

(iii) "transition date"
means the date on
which the
incorporated
management
committee of the
relevant school is
dissolved.".

(g) In the proposed Schedule 2, in section 2(7),

by deleting everything after "Land" and
substituting -

"Registry -

- (a) where this Schedule
applies under section
40BQ, a copy of the
certificate of
incorporation issued to
it under section 40BM(1)
or 40BX(1) of this
Ordinance; or
- (b) where this Schedule
applies under section
40CB -

- (i) a copy of the
certificate of
incorporation
issued to it
under the
Companies
Ordinance
(Cap. 32);

- (ii) a copy of the
approval
granted in
respect of the
school under
section 40CB;

and

(iii) a copy of the
text of
section 40CB
and this
Schedule.".

- (h) In the proposed Schedule 2, in section 3(2),
by deleting "incorporated management
committee" and substituting "transferee".
- (i) In the proposed Schedule 2, in section 9(1),
by adding "in the control or possession of
the transferor" after "school".
- (j) By adding -

"SCHEDULE 3 [ss. 40AB &
40ABA]

Specified Schools

School Name	School Address
Confucius Hall Middle School	77 Caroline Hill Road, Hong Kong
Fung Kai No. 2 Secondary School	15 Jockey Club Road, Sheung Shui, New Territories
Hong Kong Sam Yuk Secondary School	17A Ventris Road, Hong Kong

International Christian Quality Music Secondary and Primary School	372 Shun Ning Road, Sham Shui Po, Kowloon.
ISF Academy	373 Queen's Road East, Wanchai, Hong Kong
Kowloon Sam Yuk Secondary School	52 Boundary Street, Mongkok, Kowloon
Mu Kuang English School	55 Kung Lok Road, Kwun Tong, Kowloon
Phoenix International School	5 Tonkin Street, Shamshuipo, Kowloon
Po Leung Kuk Choi Kai Yau School	6 Caldecott Road, Shamshuipo, Kowloon
Sam Yuk Middle School	1111 Clear Water Bay Road, Sai Kung, New Territories
S.K.H. All Saints'	11 Pak Po Street,

Middle School	Kowloon
Tai Po Sam Yuk Secondary School	2 Tai Po Tau Drive, Tai Po, New Territories
United Christian College	9 & 11 Tong Yam Street, Tai Hang Tung, Shamshuipo, Kowloon".

New

By adding -

"34A. Approval for roof playgrounds

Regulation 16 is amended by repealing
", verandah".

34B. Structural requirements

Regulation 17(2) is amended by
repealing ", verandah".

**34C. Pupils using roof playgrounds
to be under supervision**

Regulation 18 is amended by repealing
", verandah".

**34D. Numbers of pupils allowed on
a roof playground or balcony**

Regulation 19 is amended -

(a) by repealing paragraph (2);

(b) in paragraph (3), by
repealing ", verandah".

**34E. Limitation of activities on
roof playgrounds**

Regulation 20 is amended by repealing
", verandah".

35

By deleting the clause and substituting -

"35. Safety precautions

Regulation 21(2) is repealed and the
following substituted -

"(2) The principal and (in
the case of a school without IMC)
supervisor shall ensure that no
instruction is given in the use of
tools or the operation of machines
or in science experiments except
by -

(a) a responsible
teacher;

(b) (in the case of
tools or machines)
a workshop
instructor employed
in the school to
assist a
responsible

teacher; or

(c) (in the case of
science
experiments) a
laboratory
technician employed
in the school to
assist a
responsible
teacher."."

New

By adding -

"36A. Refreshment places

Regulation 47 is amended by repealing
"shop" and substituting "tuckshop".

36B. Sanitary condition

Regulation 48(2) is repealed."

37(b)

In the proposed regulation 61(3), by deleting
"Director" and substituting "Permanent
Secretary".

New

By adding -

"37A. Formal receipts

Regulation 63 is amended by adding "of
a school without IMC" before "shall be"."

38 By deleting the clause and substituting -

**"38. Prohibition of collections without
permission of Permanent Secretary**

Regulation 66 is amended by adding
before paragraph (1) -

"(1A) This regulation does not
apply to an IMC school."."

40 By deleting the clause.

41 By deleting everything after "Regulation" and
substituting "75(1) is amended by repealing ",
require the managers of any" and substituting "of
a school without IMC, require the managers of
the"."

42 In the proposed regulation 75A -

- (a) in paragraph (1), by deleting
"Director" and substituting "Permanent
Secretary";
- (b) in paragraph (2), by deleting "Director
may" and substituting "Permanent
Secretary may";
- (c) in paragraph (2)(c), by deleting "to
the Director under section 40AV of the
Ordinance for" and substituting "and
issuing a notice under section 40AV of
the Ordinance as regards";

- (d) in paragraph (2)(d), by deleting
"chairperson, the secretary and the
treasurer" and substituting "supervisor
of the school and the secretary and
treasurer of the committee";
- (e) in paragraph (2)(e), by deleting
"duties of the chairperson, the
secretary and the treasurer" and
substituting "functions of the
supervisor of the school and the
secretary and treasurer of the
committee";
- (f) in paragraph (2)(g), by deleting
everything after "for" and substituting
"the selection of the principal;".

44

By deleting the clause and substituting -

"44. Regulation substituted

Regulation 76 is repealed and the
following substituted -

**"76. Teachers' appointment or
dismissal needs approval
by managers**

(1) The appointment of any
teacher who is to be employed in
the school -

- (a) to occupy a teacher
post in the
establishment of

staff provided for
in the code of aid
for primary
schools, code of
aid for secondary
schools or code of
aid for special
schools; or

(b) for a term for not
less than 6 months,
shall be approved by the majority
of the managers of the school.

(2) The dismissal of any
teacher who is employed in the
school -

(a) to occupy a teacher
post in the
establishment of
staff provided for
in the code of aid
for primary
schools, code of
aid for secondary
schools or code of
aid for special
schools; or

(b) for a term for not
less than 6 months,

shall be approved by the majority of the managers of the school at a meeting of the management committee or incorporated management committee (as may be appropriate).".".

45

- (a) In the heading, by deleting "**Director**" and substituting "**Permanent Secretary**".
- (b) By deleting everything after "repealing" and substituting "everything from "The" to "thereupon" and substituting "The Permanent Secretary may by notice in writing to the management authority forbid the granting of a holiday on any specified day. The management authority and the principal shall upon such notice".".

New

By adding -

"46A. Regulation substituted

Regulation 85 is repealed and the following substituted -

"85. Specifications for exit door

Any exit door of the premises of any school must be capable of being opened from inside without using a key when any pupil who

does not reside in the school
premises is in the school
premises."

46B. Size of classes

Regulation 88 is amended by adding
"(other than an IMC school)" after "course".

46C. Hours of instruction

Regulation 89 is repealed.

46D. Regulation substituted

Regulation 93 is repealed and the
following substituted -

**"93. Restriction on training
for teachers**

Unless permitted by the
Permanent Secretary, no school
shall provide any course of
training the completion of which
qualifies the participant for
being registered as a registered
teacher."

46E. Non-resident pupils

Regulation 95 is repealed."

substituting **"Permanent Secretary"**.

48 By deleting everything after "Regulation" and substituting "96(1) is amended by repealing "supervisor and".".

New By adding -

"48A. Expelled pupil not to enter school premises without permission

Regulation 97 is amended -

- (a) in paragraph (1), by repealing "Permanent Secretary" and substituting "management authority of the school";
- (b) by repealing paragraph (2).".

49 By deleting the clause and substituting -

"49. Business or trading operation

Regulation 99A(4) is amended, in paragraph (a) of the definition of "school in receipt of public funds", by adding "which is a school without IMC" after "school".

49A. Regulation added

The following is added -

"99B. Restriction on use of

**profit arising from
business or trading
arrangement by
incorporated management
committee**

(1) This regulation applies to an IMC school.

(2) The incorporated management committee of a school shall not, without the prior permission in writing by the Permanent Secretary, apply any profits or net income arising from -

- (a) any business or trading undertaking operated by or with the permission of the committee on the school premises; or
- (b) any business or trading arrangement entered into by the committee, directly or indirectly, with any person for the supply of food, drinks, books, stationery, uniforms or any other thing that is required by the school to be possessed or used by its pupils,

for any purpose not directly benefiting

the pupils of the school."."

50

By deleting the clause and substituting -

"50. Offences

Regulation 101 is amended -

(a) in paragraph (1)-

(i) by repealing "19(1) or
(2),";

(ii) by repealing ", 89(1);

(b) by repealing paragraphs (2), (3),
(4), (5), (6), (6A), (7) and (8)
and substituting -

"(2) Any manager of a school
without IMC who contravenes
regulation 61, 63 or 66(2) shall
be guilty of an offence.

(2A) Any manager of an IMC
school who contravenes regulation
61 shall be guilty of an offence.

(3) If regulation 10, 22,
37, 62, 65, 84(1) or (2) or 93 is
contravened in respect of a school
without IMC, the managers of the
school shall each be guilty of an
offence.

(3A) If regulation 10, 22, 37,
84(1) or (2) or 93 is contravened
in respect of an IMC school with

the consent or connivance of any manager of the school, the manager shall be guilty of an offence.

(4) The supervisor of a school without IMC who contravenes regulation 21(1) or (2), 53(1), 61, 63, 64, 77, 79, 81, 82, 83(1) or (3), 92(2) or (12) or 99A(2) shall be guilty of an offence.

(4A) If an incorporated management committee contravenes regulation 53(1), 61, 64, 77 or 99B(2) with the consent or connivance of any manager of the school, the manager shall be guilty of an offence.

(5) The principal of a school without IMC who contravenes regulation 21(2), 32, 38, 39(1), 52(1), 53(2) or 83(2) or (3) shall be guilty of an offence.

(5A) The principal of an IMC school who contravenes regulation 21(1) or (2), 32, 38, 39(1), 52(1) or 53(2) shall be guilty of an offence.

(5B) If regulation 92(9) is contravened in respect of any

school, the principal of the school shall be guilty of an offence.

(6) If regulation 16, 31, 34(2), 46A, 67, 80, 85, 87(2), 88, 89A, 90 or 92(4) or (9) is contravened in respect of a school without IMC, the supervisor and principal of the school shall each be guilty of an offence.

(6AA) If regulation 16, 31, 34(2), 85, 87(2) or 92(4) or (9) is contravened in respect of an IMC school, the principal of the school shall be guilty of an offence.

(6A) Any supervisor or manager who contravenes regulation 99A(1) or (3) shall be guilty of an offence.

(6B) If the management committee of a school without IMC contravenes regulation 99A(1) or (3), the managers of the school shall each be guilty of an offence.

(7) Any teacher who contravenes regulation 33, 58, 61,

63 or 66(2) shall be guilty of an offence.".

(c) by repealing paragraph (9) and substituting -

"(9) If a person is charged with an offence under paragraph (6B), it shall be a defence to the charge if he proves that-

(a) the other members of the management committee concerned contravened regulation 99A(1) or (3) without his knowledge or consent; or

(b) he took all reasonable steps to prevent the other members of the management committee from

contravening
the
regulation."."

51 By deleting everything after "by" and
substituting "repealing everything before "by
virtue" and substituting "A person who is guilty
of an offence under regulation 101(6) or
(6AA)"."

New By adding -

"Societies Ordinance

**58. Persons to which the Ordinance
does not apply**

The Schedule to the Societies Ordinance
(Cap. 151) is amended by adding -

"(4A) Any incorporated
management committee as defined in
section 3(1) of the Education
Ordinance (Cap. 279)."."

Schedule 1 (a) Under the heading "Education Ordinance (Cap.
279)", by deleting "and (2)".
(b) Under the heading "Education Regulation(Cap.
279 sub. leg.", by -
(i) deleting "48(2),";
(ii) deleting "63,";
(iii) deleting "94, 98(2) and 99A(2)"

and substituting "94 and 98(2)".

Schedule 3 By deleting "Sections 3(1) (definition of
"supervisor"), 8(1)(d)(i)" and substituting
"Sections 8(1)(d)(i)".