

**Bills Committee on Education (Amendment) Bill 2002**  
**Administration's Response to Issues Raised at Meetings**  
**on 27 February, 17 & 27 March, 11 April, 9, 12 & 30 May 2003**

**Part A : Issues related to specific category of stakeholders**

Issues	Members'/Deputations' Concerns	Administration's Response
<b>1. School Sponsoring Bodies (SSBs)</b>		
<i>SSB to dissolve IMC</i>	To clarify whether an IMC constitution could contain provisions empowering an SSB to dissolve an IMC which failed to perform its functions in a satisfactory manner or to carry out the vision and mission set by the SSB. (17.3.2003)	Para. 5, L C Paper 1723/02-03(01) Proposed section 40AV provides that SSB may make a written request to IMC to issue a notice to the Permanent Secretary for Education and Manpower (PSEM) to cancel the registration of SSB managers. SSB may specify in the IMC constitution its authority to appoint the IMC chairperson. In fact, SSB will be able to steer the decision-making in IMC through its SSB managers who make up to 60% of the total membership of IMC. In addition, SSB may specify in its own constitution the duties, nomination and cancellation of registration of SSB managers. Proposed section 40AD also sets out that SSBs shall give general directions to IMC in the formulation of education policies of the school; IMC shall ensure that the mission of the school (set by SSB) is carried out; and IMC is accountable to PSEM and SSB for the performance of the school. Hence, there are adequate measures for SSB to ensure that managers and IMCs perform their functions satisfactorily. We do not consider it necessary or appropriate for SSB to be empowered in the IMC Constitution to dissolve the IMC.

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<b><i>Powers of SSB</i></b>	SSB's power is not clearly stated in the Bill to enable it to perform its functions. (Deputation's concern)	<u>Para. 32, L C Paper 1723/02-03(01)</u> Proposed section 40AD already sets out the functions of SSB, including its power to oversee IMC's performance and stipulates that IMC shall be accountable to PSEM and SSB for the performance of the school. SSB can exert its influence in IMC through its representatives who may make up to 60% of IMC.
<b><i>Resolving conflict between SSB and IMC</i></b>	How would the Administration resolve conflict between SSB and IMC in case they held different educational ideals and were not co-operating to work towards achieving the vision and mission ? (17.3.2003)	<u>Para. 7, L C Paper 1723/02-03(01)</u> Since SSB is to draft the IMC constitution and its representatives may make up to 60% of IMC, SSB should be able to steer IMC. If there are conflicting views in discussions and members cannot come to terms, they should always refer to the school's vision and mission and act in the interests of the students. If necessary, PSEM may give directions to IMC.
<b><i>Relationship between SSB and IMC</i></b>	To elaborate on the mechanism to resolve conflicts between SSB and IMC which may arise from the exercise of the functions of SSB in proposed new section 40AD. (9.5.2003)	IMC will manage the school in accordance with the education policies of the Education and Manpower Bureau (EMB), agreed strategic and development plan and the relevant procedural manuals set up in the school. If SSB is not satisfied with the proposals of the IMC in managing the school, it can exercise its influence on the decisions of IMC through the SSB managers who may make up to 60% of the IMC. If the SSB managers are found not working in accordance with the vision and mission of SSB or not following its instructions, SSB may exercise its power under the proposed section 40AV to request IMC to notify PSEM to cancel the registration of the relevant SSB managers and nominate another manager.  SSB may also notify PSEM of any improper act or mismanagement of IMC. PSEM may send the staff in the Regional Education Office (REO) to investigate the issues, if necessary. Section 82 provides that if it appears to PSEM that a school is not being managed satisfactorily or the education of the pupils of a school is not being promoted in a proper manner or any provision of the Education Ordinance has been contravened in respect of a school,

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		PSEM may give such directions as he thinks necessary to the school to remedy the situation.
<b><i>SSB cease operating schools</i></b>	To consider contingency procedures in case a large SSB decided to cease operation of its schools as a protest against implementation of the proposals in the Bill. (27.2.2003 & 11.4.2003)	<p><u>Para. 6, L C Paper 1983/02-03(01)</u></p> <p>SSBs are unlikely to cease operating schools as -</p> <ul style="list-style-type: none"> <li>• They have a strong sense of mission and commitment to providing quality education;</li> <li>• Participatory-decision making by key stakeholders will enhance transparency and accountability of school management and has the general support of the community;</li> <li>• The Bill has addressed most of SSBs' concerns like reducing the no. of parent and teacher managers from 2 to 1, setting the vision and mission of the school, maintaining full control of the use of their funds and assets, clearly setting out the functions of SSBs and IMCs, providing a 5-year transitional period, allowing SSB to draft IMC constitution, allowing SSB to appoint IMC Chairperson, waiving the 5-school cap for SSB managers and principal selection committee on sound justification, retaining the post of supervisor, and greater protection of liability for managers;</li> <li>• The principle of participatory-decision is generally supported by the community; and</li> <li>• EMB will assist schools to meet the requirements in the Bill.</li> </ul>

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<i>SSB should have veto power over decisions of IMC</i>	To consider whether a SSB should be empowered to veto the decision of an IMC that the SSB considered in conflict with the vision and mission for the school. (11.4.2003)	<u>Para. 7, L C Paper 1983/02-03(01)</u> It is not necessary to state explicitly that SSB may veto the decision of IMC since SSB should be able to steer IMC as it - <ul style="list-style-type: none"> <li>• is empowered to set out the vision and mission for the school and ensure through the SSB managers that the mission is carried out;</li> <li>• gives general directions to the IMC in the formulation of education policies of the school and oversees the performance of IMC as stipulated in proposed section 40AD;</li> <li>• is responsible for drafting the IMC constitution; and</li> <li>• makes up to 60% of IMC membership.</li> </ul>
<i>Operational problems of large SSBs in implementation of new governance structure</i>	To address the practical problems which a large SSB may face in appointing up to 60% of the maximum number of managers to each of its sponsored school, having regard to the restriction that a school manager might serve no more than five IMCs. (11.4.2003)	<u>Para. 8, L C Paper 1983/02-03(01)</u> Assuming that 7 SSB managers will be required by each IMC to meet the 60% quota. It is observed that the existing number of SSB managers in the two largest SSBs (operating 30 schools or more) will be sufficient to meet the new requirement. The other 3 SSBs that adopt a central SMC system expressed that they have plans to resolve the problem.
	To explore the operational problems a large SSB might face as it had to co-ordinate attendance of sufficient SSB managers at IMC meetings and supervise the work of these IMCs. (11.4.2003)	<u>Para. 9, L C Paper 1983/02-03(01)</u> Proposed section 40AD already empowers SSB to give general directions to IMC in the formulation of education policies of the school and oversee the performance of IMC. SSB may stipulate in the IMC constitution requiring IMC to submit the school Annual Report to the SSB. SSB may also enter into an agreement with the IMC in managing the school. As SSB managers are appointed by SSB, they may state clearly the duties and responsibilities of SSB managers in the SSB constitution and the appointment letters issued to the relevant managers. Large SSBs usually employ full-time administrative staff to support the school management committees of their sponsored schools. This kind of staff may be exempted from the requirement that a manager can serve in not more than five IMCs.

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<i>SSB to restrict the powers of IMC on lease, purchase, acquire properties, borrow money, invest its funds</i>	SSB should be allowed to restrict in the IMC constitution the power of IMC provided under section 40AE(2), i.e. IMC may take on lease, purchase of otherwise acquire properties, borrow money, invest its funds or enter into any contract. (Deputation's concern)	Para. 34, L C Paper 1723/02-03(01) Proposed section 40AE(3) already stipulates that the exercise of these powers of IMC shall be subject to (in the case of aided schools) the Codes of Aid, and any direction given by PSEM under proposed section 40CC. Restriction has already been imposed on aided schools, e.g. they are not allowed to borrow money or invest government funds in high-risk investment.
<i>General directions issued by SSB</i>	To explain the type of "general directions" to be given under proposed section 40AD(1)(e). (9.5.2003)	Some examples of "general directions" given by SSB under proposed section 40AD(1)(e) are - <ul style="list-style-type: none"> <li>• giving directions on the priorities of school development such as implementation of new initiatives promulgated by education and curriculum reform (reading, IT, moral education, etc.);</li> <li>• giving directions regarding home-school cooperation policies, e.g. every school should have a parent teacher association (PTA) in place;</li> <li>• setting criteria for principal selection on top of the mandatory requirements; and</li> <li>• giving directions on staff appraisal policy, e.g. whether it will be linked to staff promotion exercises.</li> </ul>
<b>2. Managers</b>		
<i>Nomination, election and terms of office of IMC managers</i>	To provide detailed arrangements and procedures for nomination and election of SSB, teacher, parent, alumni and independent IMC managers, and information on their terms of office. (17.3.2003)	Para. 9, L C Paper 1723/02-03(01) Proposed sections 40AK – 40AV already provide for the principles of election of teacher and parent managers and nomination of SSB and alumni managers. Under proposed regulation 75A, the constitution of IMC has to provide, among other things, for the number of each category of managers, the procedures for nominating or electing managers and their tenure of office. To help schools draft their IMC constitutions and elect their teacher and parent managers, EMB will issue a sample IMC constitution and election guidelines. Briefing sessions will be organised to familiarise stakeholders with the principles and related

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		arrangements.
	To examine whether IMC should be required to submit an updated membership list each year to PSEM. (12.5.2003)	Proposed section 40AJ requires the Chairperson of IMC to give notice to PSEM if any person ceases to be a manager of the school. Amended section 8 (da) provides that EMB should keep a register of IMC and the name, tenure of offices and category of manager. The register will be updated upon any reported changes of IMC membership. The list will be posted on EMB homepage. It is therefore not necessary to require IMC to report its membership annually as this may cause additional administrative work.
	To examine whether the Bill should incorporate a provision to the effect that the constitution should specify the duration of the term of office of managers appointed by SSB. (12.5.2003)	Proposed Regulation 75A already requires the IMC constitution to state the tenure of office of the managers. It is up to SSB to specify the tenure of office of SSB managers in the IMC constitution.
	To consider whether re-appointment of an IMC manager should follow the procedures for registration of a manager. (12.5.2003)	Registration of a manager is not related to the tenure of office. Re-appointment of a manager upon renewal of tenure will not require the manager to go through the registration procedures again.
	To consider whether re-appointment of a manager who was above the age of 70 should be supported by a medical certificate for his fitness. (12.5.2003)	Proposed amendment to section 31 already provides that PSEM may cancel the registration of a manager if the manager fails to produce, upon request of PSEM, a medical certificate issued by a registered medical practitioner after the date of such request certifying that the manager is fit to perform the functions of a manager. Managers whose age are over 70 will be one of the grounds for PSEM to exercise such power.
	To provide a draft IMC constitution incorporating sample procedures for election, nomination and termination of appointment for different categories of IMC managers as well as a draft constitution of PTA incorporating sample	A sample IMC constitution will be provided in due course.  A sample PTA constitution is already provided by the Home School Co-operation Committee. EMB will issue a guideline on the

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	procedures for election, nomination and change of parent manager in IMC. (12.5.2003)	election and nomination procedures for parent and teacher managers when the Bill is enacted.
	To explain whether and how an ex-officio manager of SMC designated by virtue of an ordinance governing an existing school could be exempted from the requirement on duration of the term of office, if specified and the grounds for cancellation of registration of manager specified in proposed amended section 31(1)(g). (12.5.2003)	As the Bill will not specify the duration of the term of office of managers, there will be no restriction on the ex-officio manager of SMC designated by virtue of an ordinance governing an existing school. The exercise of power under the proposed amended section 31(1)(g) is at the discretion of PSEM and is based on IMC's written notice that a manager has been absent without leave from 3 consecutive meetings of the committee. If SSB can provide justifications acceptable to PSEM or the IMC does not request PSEM to exercise his power under the proposed amended section 31(1)(g), these ex-officio managers will not be affected.
<b><i>Minimum qualifications of managers</i></b>	Apart from parent managers, other managers should have a minimum qualification of secondary education and at least one third of the managers in IMC should hold post-secondary qualifications. (Deputations' suggestion)	<u>Para. 47, L C Paper 1723/02-03(01)</u> Setting different qualification requirements for different categories of managers may be discriminatory and divisive, which might discourage people from serving on SMCs.
<b><i>Managers' absence from 3 consecutive IMC meetings to resign automatically</i></b>	It should be mandatory for a manager who had absent from three consecutive IMC meetings or for a school year to resign automatically. (Deputations' suggestion)	<u>Para. 45, L C Paper 1723/02-03(01)</u> For effective school management, IMC should hold at least three meetings a year. EMB would consider including "a manager does not attend all IMC meetings in a school year" in the grounds for cancellation of registration of managers under section 31 of the Education Ordinance.
<b><i>Managers required to sign an agreement before attending training</i></b>	Managers should be asked to sign an agreement before attending training or be qualified to serve as school managers only after they had attained certain targets or standard in the training. (Deputations' suggestion)	<u>Para. 50, L C Paper 1723/02-03(01)</u> Most school managers attend training courses on a voluntary basis in their own time. It would put them under undue pressure if they were required to sign any agreement on the training requirements. At present, managers who have attended 80% of a five to six

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		half-day manager training course will be issued an Attendance Certificate which serves as a recognition of their fulfilling certain training requirements. EMB will ensure that quality will be maintained in the training courses for managers.
<b><i>Grounds for cancellation of registration of managers</i></b>	To review the grounds for cancellation of registration of managers under section 31 or the Education Ordinance and consider setting out the procedure in the Bill. (9.5.2003)	Proposed section 31(g)(i) provides that the IMC may request PSEM to cancel the registration of a manager who has been absent without leave from 3 consecutive meetings of the committee. EMB would consider including “a manager does not attend all IMC meetings in a school year” in the grounds for cancellation of registration of managers under section 31 of the Education Ordinance. Procedures for cancellation of managers are administrative measures and we do not consider it necessary to have them set out in the Bill.
	To review the power of PSEM to cancel the registration of a manager and consider whether additional restrictions should be imposed over the exercise of such power; and to elaborate on the operation of the appeal mechanism provided under the Bill. (9.5.2003)	In exercising the power under section 31(1) in canceling the registration of a manager, PSEM must act reasonably and on justifiable ground. Before canceling the registration of a manager, the manager will be asked to make representation. The manager can lodge an appeal to the Appeals Board under section 61 against the decision of PSEM. Further appeal can be made to the Chief Executive in Council. The same appeal mechanism applies to the new grounds for cancellation of registration of manager provided in the Bill. Since PSEM's decision is subject to the above appeal mechanism, we do not consider it necessary to have additional restrictions over such power.
	To clarify by whom where leave for absence would be granted under the amended section 31(1)(g)(i) and consider how to facilitate fair and consistent enforcement. (9.5.2003)	It can be spelt out in the IMC constitution the person to be responsible for granting leave for absence for managers. The person can be the IMC Chairperson or the majority of IMC managers.  To better reflect the intention of the provision in the proposed amended section 31(1)(g), the Administration will consider revising



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		the Chinese version on the ground for cancellation of registration for a manager who was absent from 3 consecutive IMC meeting without leave to “沒有合理解釋” instead of “未經許可”.
	To explain the rationale for the proposed amendment of the Chinese version of the proposed amended section 31(2)(a); i.e., by repealing “校董會多數校董不再接受該校董為該學校的校董”after “覺得” and substituting“多數校董不接受該校董為該學校的校董”. (9.5.2003)	The Chinese version is revised by repealing “校董會多數校董不再接受該校董為該學校的校董” and substituting with “多數校董不接受該校董為該學校的校董” because “不再接受” implied that some mechanism already existed to decide whether a manager was acceptable or not.
<i><b>Vacation of office of managers</b></i>	To explain whether an SSB could terminate the appointment of a parent, teacher, alumni or independent managers and if yes, elaborate on the appeal mechanism available to the manager whose appointment was terminated. (9.5.2003)	SSB is empowered to make written request to IMC for the cancellation of SSB managers. IMC must notify PSEM to cancel the registration of a manager upon request of the relevant nominating bodies. The registration of a manager will also be cancelled under section 31(2) if he is no longer acceptable as a manager to the majority of the management committee.  The Bill proposes to include new section 40AV under section 60 so that a manager whose registration is cancelled on notification of IMC upon request of relevant nominating bodies, like SSB or PTA can also lodge an appeal under section 61.
<i><b>Roles of individual managers</b></i>		The roles of individual managers in the IMC are listed out in <u><b>Appendix I</b></u> .
<b>3. SSB managers</b>		
<i><b>Nomination of SSB managers</b></i>	To consider whether certain restrictions should be imposed, by provisions in the Bill or by administrative guidelines issued by PSEM on the nomination of SSB managers to the effect that the spouse, parents or children of SSB managers would not be the managers of the same IMC.	Proposed section 40BE already provides for declaration of pecuniary or personal interests by school managers. Though there is no restriction on the relationship among the managers, PSEM may give directions to the IMC when he finds that a school is not being managed satisfactorily.

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	<p>(30.5.2003)</p> <p>If PSEM would issue the administrative guidelines to impose restrictions, a copy of the draft should be provided to the Bills Committee.</p> <p>(30.5.2003)</p>	<p>Administrative guidelines will be issued to schools after enactment of the Bill.</p>
<b>4. Parent managers</b>		
<b><i>Higher percentage of parents' membership in IMC</i></b>	<p>To consider whether parent managers should comprise a higher percentage of IMC membership, say not less than 30%.</p> <p>(17.3.2003)</p>	<p><u>Para. 15, L C Paper 1723/02-03(01)</u></p> <p>The Advisory Committee on School-based Management (ACSBM) had taken into consideration the background and development of the management of aided schools in recommending the IMC composition. The success of the education system in Hong Kong owes much to the contributions of SSBs and most schools have been governed by school management committees (SMCs) comprising members mainly appointed by SSBs. ACSBM also recognised the need for an incremental approach to change time-honoured practices. Thus, after balancing the interests and concerns of different parties, it recommended that SSB representatives make up to 60% of the total membership so that SSBs could continue to play an active role in the management of schools. If parent managers comprise a higher percentage of IMC membership, the number of SSB or other categories of managers will be affected. The IMC may become too unwieldy and cannot operate effectively and efficiently.</p>
<b><i>Election and nomination of parent managers in case there were more than one parent association</i></b>	<p>To describe the existing practices/procedures for the establishment of parent associations in schools and clarify whether there were existing schools with more than one parent association, and explain how parent manager(s) should be nominated in case there were more than one parent association in a school with an IMC.</p> <p>(27.3.2003)</p>	<p><u>Paras. 18 &amp; 19, L C Paper 1723/02-03(01)</u></p> <p>At present, there are no standard procedures for formation of PTAs in schools. Usually, a school will establish a preparatory committee consisting of parents and teachers to draft a constitution for a proposed PTA. Parents and teachers will then be invited to a PTA Formation Meeting to endorse the constitution and elect office-bearers of the PTA. We have no record of schools having</p>

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		<p>more than one PTA.</p> <p>Proposed section 40AM(1) provides that IMC is the authority to recognise a PTA for the purpose of making parent manager nomination.</p>
<b><i>Role of parent managers</i></b>	<p>Parent managers should report their work or collect views of parents. (Deputations' concern)</p>	<p>Para. 26, L C Paper 1723/02-03(01)</p> <p>Parent manager(s) shall work together with other managers as a whole for the interests and benefits of students and the school. Despite the sectors they come from, managers serve on IMC in their personal capacity and they shall be accountable to IMC instead of their respective constituencies. As regards how parent managers should report their work or collect views of parents, individual PTAs may set this out in their constitutions.</p>
<b><i>Recognition of PTAs and Alumni Associations</i></b>	<p>To set out the criteria and procedures for an IMC to recognize a PTA or an alumni association in schools where more than one PTA or an alumni association has been established. (12.5.2003)</p> <p>To explore the need to establish a system of rules and procedures for nomination and election of parent, alumni and independent managers in order to avoid any disputes in the process. (12.5.2003)</p>	<p>The Bill provides that IMC shall only recognize one PTA or one alumni association subject to section 40AM(1) and 40AN(1). The Bill has already provided certain criteria on the recognition of PTAs and alumni associations in section 40AM(3) and 40AN(3). IMC/SSB may set out other criteria for recognition of PTAs or alumni association in the IMC constitution.</p> <p>EMB will issue a guideline on nomination of independent manager and the election and nomination procedures for parent and teacher managers when the Bill is enacted.</p> <p>A survey conducted by the Education and Manpower Bureau in April 2003 revealed that 92.55% (870 no.) of aided schools have established a PTA recognized by the existing school management committee (SMC). Only a very small percentage of schools (about 7%) do not have a recognized PTA. Some of them are preparing for the establishment of the PTAs while some are seeking their SMC's endorsement in recognizing the PTA established in school. Statistics show that schools do not seem to encounter difficulties in the recognition of PTA.</p>

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		As for alumni associations, 33.5% (319 no.) aided schools have an alumni association recognized by SMC. The Bill already allows flexibility in the composition requirements. Proposed section 40AP(5) empowers PSEM to grant exemption if IMC has taken all reasonable steps to secure compliance of the composition requirement. This covers genuine difficulty encountered by new schools and primary schools in having alumni manager. Schools may appoint an alumni to fill up the post of alumni manager under proposed section 40AN(5). Unfilled alumni manager posts do not need to be filled by additional independent managers.
<b><i>Two parent managers</i></b>	There should be two parent managers in IMC for continuity sake. (Deputations' suggestion)	Para. 25, L C Paper 1723/02-03(01) If IMC has two parent managers (and probably also two teacher managers), SSBs will need to secure more SSB managers to maintain a 60% majority. As a result, the size of IMC will become unwieldy to operate effectively and efficiently.
<b><i>2-day paid leave for parent managers</i></b>	Employers should be required by legislation to give 2-day paid leave to their employees who were parent managers. (Deputations' suggestion)	Para. 48, L C Paper 1723/02-03(01) The suggestion has far-reaching implications. SMCs usually arrange their meetings on dates and at a time convenient to all members, such as in the evenings, on Saturday afternoons or during holidays.

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<b>5. Alternate managers</b>		
<b><i>Requirements for alternate managers</i></b>	To explain the roles, status and voting rights of alternate managers. (Deputations' concern)	<u>Paras 29, L C Paper 1723/02-03(01)</u> The requirement on alternate parent manager or alternate teacher manager applies to IMCs having only one parent or teacher manager respectively. The alternate manager plays the same role and enjoys the same rights as the regular manager save for voting right. The alternate manager will be entitled to vote when the regular manager cannot attend IMC meetings. The arrangement allows continuity and collegiality while avoiding the size of IMC becoming unwieldy.
<b><i>Attendance of meetings by alternate managers</i></b>	Alternate managers should only be allowed to attend meeting when the regular manager is not present. (Deputations' concern)	<u>Para. 30, L C Paper 1723/02-03(01)</u> As set out in proposed section 40AH(4) that an alternate manager shall not be counted in the calculation of IMC composition, his/her attendance will therefore not change the percentage of SSB managers in IMC.
<b><i>Alternate SSB managers</i></b>	SSB should also be allowed to have alternate SSB managers. (Deputations' suggestion)	<u>Para. 31, L C Paper 1723/02-03(01)</u> As SSB managers are already the majority in IMC, the provision for alternate SSB managers is not necessary. The provision of alternate managers is not an arrangement for proxy.
<b>6. Alumni managers</b>		
<b><i>Flexibility for new and primary schools in nominating alumni managers</i></b>	Flexibility should be allowed for independent managers to take up the places of alumni managers if the school has difficulties to fill the places. (Deputations' concern)	<u>Para. 27, L C Paper 1723/02-03(01)</u> The Bill already allows flexibility in the composition requirements. Proposed section 40AP(5) empowers PSEM to grant exemption if IMC has taken all reasonable steps to secure compliance of the composition requirement. This covers genuine difficulty encountered by new schools and primary schools in having alumni manager. Unfilled alumni manager posts need not be filled by additional independent managers. Besides, the Bill does not set any restriction on the maximum number of independent managers in IMC.

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<b>7. Independent managers</b>		
<i>Flexibility for appointing independent managers</i>	The requirements of independent managers are too stringent and there should be more flexibilities for their appointment. (Deputations' concern)	<u>Para. 28, L C Paper 1723/02-03(01)</u> Proposed section 40AQ(2) requires that independent managers shall not be parents, teachers or SSB members. The requirement is to ensure that independent managers are distinct from other categories of managers in IMC. Should schools have difficulty in complying with the IMC composition after taking all reasonable steps, it can apply for exemption from PSEM.
<i>Nomination of independent managers</i>	To consider whether re-appointment of an independent manager should be subject to the restriction in proposed new section 40AO(2)(b), i.e. a person shall not be nominated if he was the parent of a current pupil of the school. (30.5.2003)	The provisions in section 40AO(2)(d) are necessary to ensure the "independence" status of independent managers. If an independent manager is found involved in such kind of situation, SSB may nominate him to be an SSB manager or he may choose to join the IMC as a parent manager.
<b>8. Principal</b>		
<i>Check and balance on powers of the principal and school operation</i>	To elaborate on the checks and balance in respect of the day-to-day operation of IMC schools to prevent possible abuse of powers of principals and the appeal channels for teaching and non-teaching staff in IMC schools after the commencement of the Bill. (27.2.2003)	<u>Paras 5 to 7, L C Paper 1570/02-03(04)</u> <ul style="list-style-type: none"> <li>• The principal is accountable to the IMC which shall be responsible, as stipulated in the Bill, for formulating education policies, planning and managing financial and human resources. As there will be check and balance on the operation of a school under the supervision of IMC, the principal will not be able to abuse his/her powers.</li> <li>• All schools have been advised, through guidelines issued by EMB from time to time, to set up proper procedures for handling staff grievances and appeals. Staff members can always approach the IMC or its Chairman if they have any grievances.</li> <li>• Under the spirit of school-based management (SBM), a school will be more accountable for its performance and the use of public funds. Through school self-evaluation, school</li> </ul>

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		development plans, annual plans and annual reports, parents and members of the public will be able to monitor the performance of a school. Furthermore, the principal has to report the progress of school operation to the IMC and the internal quality assurance mechanisms of schools are subject to inspections by EMB.
<b><i>Powers of school principal and appeal mechanism in IMC schools</i></b>	To elaborate on the checks and balance of the powers of principals in day-to-day administration of IMC schools. (17.3.2003)	<u>Para. 10, L C Paper 1723/02-03(01)</u> Proposed section 58(1) stipulates that the principal shall be subject to the directions of IMC in carrying out his responsibilities. Besides, an enhanced mechanism for transparency and accountability of school operation is in place under SBM. Apart from reporting progress to IMC, the principals have been advised in an EMB circular to make available school plans, school reports etc. for the perusal of parents, teachers and even members of the public in order to enhance the transparency and accountability of school management. In fact, schools may assign the IMC chairperson or any other IMC member to supervise the work of principals.
<b><i>Role of principal</i></b>	<p>Principals would be placed in a difficult position under the new governance structure as they had to mediate among managers who came from different sectors and might hold very different views. (Deputations' concern)</p> <p>Principals might not be ready to take up the responsibilities transferred to them from the supervisor. (Deputations' concern)</p>	<p><u>Paras. 35 &amp; 36, L C Paper 1723/02-03(01)</u> Being a key administrator, a professional and a leader of the school, the principal should be able to promote a collaborative school climate. EMB will also provide support to schools in the transformation, including training for managers.</p> <p>The responsibilities to be transferred to the principal are mainly operational matters, e.g. to submit to PSEM plans of school premises, syllabuses, time-table and school holidays list. Such duties are currently carried out by the principals and they fall within the principals' professional expertise and responsibilities.</p>
<b><i>Selection and appointment of principal</i></b>	To elaborate on the requirement to establish a selection committee for selection and appointment of a principal in an IMC school, and the circumstances which justified the	<u>Para. 13, L C Paper 1723/02-03(01)</u> The principal selection committee shall be composed of representatives of SSB, IMC and such other persons provided for in

Issues	Members'/Deputations' Concerns	Administration's Response
	grant of an exemption from such requirement. (17.3.2003)	the IMC constitution. It has the skill to choose the best leader for the school collectively. The spirit is to put in place selection processes that are open, fair and transparent. Proposed section 57A(4) provides that PSEM may, on an application and upon good cause shown to her satisfaction, exempt any IMC from the requirement. Such good cause may include operational needs to deploy principals among sponsored schools in the case of reduction of classes.
	To explain the conditions and procedures for an IMC to apply for an exemption from the requirement to establish a principal selection committee under proposed new section 57A(2) in respect of any principal of the school. (30.5.2003)	Proposed 57A(4) provides that PSEM may, on application and upon good cause shown to his satisfaction, exempt any IMC from the requirement. If an IMC wishes to seek exemption, it should give a written request to PSEM stating justifiable conditions for PSEM's consideration. Such conditions, for instance, may include operational needs to deploy principals amongst sponsored schools under the same SSB due to promotion or redundancy that resulted from reduction of classes.
	To clarify whether an IMC of a school could refuse to accept a principal who was deployed to that school by the SSB concerned. (30.5.2003)	<p>EMB had already provided clear and detailed guidelines to SSB or IMC on principal's selection and appointment. The composition of the selection committee would be stated in the IMC constitution. It was the IMC, not the SSB, to recommend the principal to PSEM for approval.</p> <p>Since deployment of school heads amongst sponsored schools was based on administrative needs such as reduction of classes, the SSB should be allowed to make such decision. SSB might exercise its influence through the 60% SSB managers if the IMC did not accept a principal deployed by the SSB. SSB may also agree with IMC on the arrangements concerning the deployment of principals and teachers among sponsored schools in the IMC constitution.</p>



Issues	Members'/Deputations' Concerns	Administration's Response
<b>9. Chairperson</b>		
<i>Vacation of office</i>	Whether any contingency measures could be provided in the IMC constitution if the IMC Chairperson who should vacate office but refused to issue a written notice to PSEM. (Deputations' concern)	<u>Para. 43, L C Paper 1723/02-03(01)</u> As stipulated in proposed section 40AI(1)(b), the vacation of office by the chairperson shall be handled in accordance with the IMC constitution. Hence, SSB shall set out the procedures in the IMC constitution. For example, the vacation of office by the IMC chairperson may take effect upon a resolution made by the majority of managers or a written notice to PSEM signed by the majority of managers.
<b>10. Supervisors</b>		
<i>Retaining the post of Supervisor</i>	To reconsider the roles and functions of supervisors in supervising the principal's work. (Deputations' concern)	<u>Paras. 11 &amp; 21, L C Paper 1723/02-03(01)</u> The existing supervisor played an important role in school management, e.g. serving as a conduit among various parties and a check on the principal's power. Schools in fact have the discretion to retain the post of supervisor according to their own needs. In such case, SSB should set out the duties of the supervisor in the IMC constitution, such as monitoring the day-to-day operation of the school or serving as a conduit between IMC and the principal. However, IMC will be accountable for all the decisions made.
<i>Distribution of power between an IMC chairperson and a supervisor</i>	To elaborate how the roles and functions of an IMC chairperson and those of a supervisor, if the IMC had appointed one, would be delineated in the IMC constitution, and how disputes between the two in day-to-day school administration could be resolved. (27.3.2003)	<u>Paras. 20 &amp; 21, L C Paper 1723/02-03(01)</u> The existing duties of the supervisor are stipulated in section 39 of the Education Ordinance. The supervisor mainly serves as a channel of communication between management committee and EMB - a role very similar to the proposed role for the IMC chairperson.  Schools are free to retain the post of supervisor, if deemed necessary, and have his/her duties clearly defined in the IMC constitution. In fact, the IMC can delegate to the chairperson or any other member of IMC the existing duties of the supervisor.

Issues	Members'/Deputations' Concerns	Administration's Response
		Nevertheless, under any circumstances, IMC is responsible for managing the school. It shall be held accountable for the decision-making and performance of the school.
<b><i>Role and functions of supervisor and principal</i></b>	To list out the role and funtions of supervisor under the existing Education Ordinance and the persons who would take over these role and functions after the enactment of the Bill. (30.5.2003)	The tables on the transfer of role and functions of supervisor to IMC Chairperson , IMC and principal are in <b><u>Appendices II, III &amp; IV</u></b> .

## Part B : Other general issues

Issue	Members'/Deputations' Concerns	Administration's Response
<b>11. IMC</b>		
<b><i>Powers of IMC in personnel matters</i></b>	<p>To consider improving the proposed section 40AE(2)(b) and (c) to provide expressly that IMCs should be subject to the respective Codes of Aid for primary, secondary and special schools in determining the terms and conditions of employment for their teaching staff under the approved establishments. (27.2.2003)</p> <p>To redraft section 40AE(2)(b) to reflect the legislative intent that an IMC of an aided primary, secondary or special school should adhere to the respective Codes of Aid in determining the terms and conditions of employment for its teaching staff under the approved establishment. (17.3.2003)</p> <p>To provide the Bills Committee with a draft Committee Stage amendment (CSA) to the new section 40AE(2)(b) to state explicitly that IMCs shall be subject to the respective Codes of Aid for primary, secondary and special schools in determining the terms and conditions of employment for</p>	<p>Para. 8, L C Paper 1570/02-03(04) &amp; Para. 2, L C Paper 1723/02-03(01)</p> <p>The proposed sections 40AE(2)(b) and (c) will empower the IMC to employ teaching staff and non-teaching staff as it thinks fit, and determine the terms and conditions of service of such staff; and to engage the service of such professionals or other persons as it thinks fit and determine their remuneration. According to the proposed section 40AE(3)(c), the exercise of the power of the IMC in aided schools is subject to the Codes of Aid. The Administration is considering the proposal for improving proposed section 40AE(2)(b) and (c) to state explicitly that IMCs should be subject to the respective Codes of Aid for primary, secondary and special schools in determining the terms and conditions of employment for teaching staff under the approved establishment.</p>

Issue	Members'/Deputations' Concerns	Administration's Response
	teaching staff under the approved establishment and certain non-teaching staff. (11.4.2003)	
<b><i>Appointment of managers by PSEM and dissolution of IMC</i></b>	To explain the existing procedures for the Administration to intervene in the management of a school, i.e. urging the School Management Committee of a school to consider changing its senior management, appointing government officials or suitable persons as managers of a school, or taking over the operation of a school. (9.5.2003)	<p>Inspections of schools are conducted by the officers of Regional Education Offices and the Quality Assurance Division of EMB. If there is problem in the management of the school, support will be provided to the school. If required, PSEM may appoint one or more persons to be managers of the school under section 41. PSEM may also direct remedial measures to the management committee under section 82(2).</p> <p>The Bill provides that the IMC Chairperson can be appointed by SSB or elected among IMC members. Since SSB already maintains a steering position in IMC and has the power to remove SSB managers, it is not necessary to empower SSB to dissolve IMC. Dissolution of IMC will engage technical problems like transfer of assets and properties as well as legal liabilities, which will be quite complicated. Therefore, if the school is found not managed satisfactorily, restructuring of IMC through appointing or canceling registration of managers is preferred to dissolution of IMC. The Bill only provides that an IMC will be dissolved upon cancellation of registration of a school. Other than that, no party can initiate the dissolution of IMC.</p> <p>If the IMC does not follow the remedial measures directed by PSEM under section 82(2), PSEM may cancel the registration of the school.</p>
	To give an account of past cases of such intervention taken place since 1997. (9.5.2003)	Since 1997, there are 4 cases that the Administration cancelled the registration of a manager on request of the majority of managers of the school. There are 5 cases where managers were appointed to

Issue	Members'/Deputations' Concerns	Administration's Response
		improve the management of the school.
	To elaborate on the appeal channels available to the parties who were affected by the Administration's actions (appointing government officials or suitable persons as managers of a school, or taking over the operation of a school.) (9.5.2003)	Section 41 empowers the PSEM to appoint additional managers to the IMC. The existing appeal mechanism under the Education Ordinance is not applicable to this section.  If the provisional registration or registration of a school is being cancelled under section 22(1), the supervisor of the school may lodge an appeal to the Appeals Board under section 61.
<b>12. Liability</b>		
<i>Greater protection against legal liabilities for IMC managers and to grant immunity from legal suit to IMC managers</i>	Managers should be offered greater protection to ensure immunity from litigation as legal proceedings would incur expenditure on the part of individual managers. (Deputations' concern)	<p><u>Para. 38, L C Paper 1723/02-03(01)</u> Proposed section 40BG sets out that a manager shall not incur any civil liability in respect of anything done or is omitted to be done in the performance of his functions as a manager if he acts in good faith. Proposed section 87(10) and regulation 101(9) provide for a defence to a criminal charge if he proves that the provision was contravened without his knowledge or consent. Hence, the Bill provides much enhanced protection for individual managers as compared to the existing arrangement.</p> <p><u>Para. 39, L C Paper 1723/02-03(01)</u> It is not appropriate to grant immunity from legal suit to IMC managers. As a matter of policy, managers should not be exempted from liabilities in respect of acts done otherwise than in good faith. Whether an act is done in good faith must be determined by the court. If managers are immune from suit, the court will not have the jurisdiction to decide on that crucial question. Because of the exemption provided for in proposed section 40BG, a manager who acts in good faith is unlikely to be sued.</p>

Issue	Members'/Deputations' Concerns	Administration's Response
<b>Insurance coverage for liability</b>	The Government should arrange insurance to cover managers' liabilities. (Deputation's concern)	Para. 40, L C Paper 1723/02-03(01) Legal liabilities of individual managers in the discharge of their manager duties are protected under proposed section 40BG provided that they act in good faith. Besides, the Government has arranged a Block Insurance Policy for all aided schools, which provides coverage for Employees' Compensation, Public Liability and Group Personal Accident. If necessary, IMCs might arrange insurance on their own to cover any other liabilities.
<b>13. Constitution of IMC</b>		
<b>Constitution</b>	The constitution should not be subject to PSEM's approval.  What are the criteria to be adopted by PSEM in approving the IMC constitution?  (Deputations' concern)	Paras. 41 & 42, L C Paper 1723/02-03(01) In order to ensure that provisions in the Education Ordinance are complied with, proposed sections 40BK and 40BV provide that PSEM shall approve or refuse to approve a draft of an IMC constitution. According to proposed regulation 75A(1) of the Education Regulations, PSEM shall not approve a draft constitution unless he is satisfied that the operation of IMC in accordance with the constitution is likely to be satisfactory. He may refuse to approve the constitution if it does not provide for the items listed in proposed section 75A(2), for example, the number of each category of managers, the procedures for nominating or electing persons for registration as managers, the appointment or election of a manager to be or to act as the chairperson, the secretary and the treasurer, etc. According to proposed section 60(1), SSB may lodge an appeal to an Appeals Board against the decision of PSEM under proposed sections 40BK and 40BV.  To facilitate SSBs in drawing up the IMC constitution, EMB will provide a sample IMC constitution for their reference.

Issue	Members'/Deputations' Concerns	Administration's Response
<b>14. Implementation</b>		
<i>Support for managers</i>	To elaborate on the support services which would be made available to parent managers for participation in IMC work. (17.3.2003)	<p><u>Paras. 16 &amp; 17, L C Paper 1723/02-03(01)</u></p> <ul style="list-style-type: none"> <li>• The staff of EMB will offer professional advice and support to managers to help them comply with the new legislation.</li> <li>• To enhance managers' understanding of their roles and functions, training courses consisting of five to six sessions each are being organised for managers on an on-going basis. The target participants include serving and new managers as well as potential managers like executive members of PTAs. Thematic experience-sharing sessions are also organised for managers.</li> <li>• School managers can find information and reference materials on school-based management on the website of EMB. We have also published a "School Administration Guide" and a booklet entitled "Responsibilities of School Managers" for references of managers. When the Bill is enacted, a "School Managers' Handbook" will be issued to help managers better perform their functions.</li> </ul>
<i>Supporting measures for schools</i>	To provide a timetable for implementing the SBM proposals in the Bill and the resource implications of the supporting measures to be provided to schools in the establishment of IMCs. (27.2.2003)	<p><u>Para. 10, L C Paper 1570/02-03(04)</u></p> <p>If the Bill is passed and the new legislation comes into effect, EMB will take the following supporting measures to help schools fulfill the requirements as soon as possible:</p> <ul style="list-style-type: none"> <li>• sample constitution, guidelines on election, training for school managers, etc. will be provided to schools;</li> <li>• schools which do not have parent-teacher associations will be assisted to set up the associations;</li> <li>• new schools which were allocated school premises with effect from the School Allocation Exercise 1999 and have started operation will be assisted to incorporate their SMCs as soon as possible;</li> </ul>

Issue	Members'/Deputations' Concerns	Administration's Response
		<ul style="list-style-type: none"> <li>• schools which have incorporated their SMCs under the Companies Ordinance will be assisted to incorporate their SMC limited companies under the Education Ordinance; and</li> <li>• the School Development Sections of EMB for the respective districts will provide support and assistance to individual schools to help them overcome any technical difficulties in complying with the requirements of the new legislation the soonest possible during the transition period. EMB will also work with the sponsoring bodies to resolve common problems encountered by schools under their sponsorship.</li> </ul>
<b>15. Governance structure</b>		
<b><i>Two-tier/multi-tier management structure of SMC</i></b>	SSB should be allowed to adopt a two-tier management structure with parents and teachers joining the second tier, which is advisory in function. (Deputations' concern)	<p><u>Annex A, para. 15, L C Paper 1570/02-03(04)</u> The ACSBM considered that whether a school has a one-tier or multi-tier governance structure is not the issue. Rather, the issue is that all key stakeholders (SSBs, parents, teachers, alumni and community members) should have meaningful participation at the decision-making level. Schools may depending on their own circumstances, set up advisory bodies to advise on aspects of school operations or policies. The spirit of SBM is that all stakeholders participate in important decisions of the school management to enhance the transparency and accountability of school governance.</p> <p><u>Para. 23, L C Paper 1723/02-03(01)</u> SBM promotes participatory governance which aims to enhance transparency and accountability in school management and provide a forum for different views for the betterment of the school. Under the spirit of SBM, each school should have its own management committee comprising all key stakeholders and is responsible for major school policies and decisions. Schools may adopt a two-tier or multi-tier governance structure by establishing advisory bodies in</p>



Issue	Members'/Deputations' Concerns	Administration's Response
		the school.
<b>16. Legislation</b>		
<b><i>Justifications for legislating the SBM framework</i></b>	<p>To explain the justifications for enacting the Bill to give formal legal backing to the SBM governance framework. (27.2.2003)</p> <p>To elaborate on the justifications for establishing a statutory framework for implementation of SBM in place of the existing practice which allows schools to decide when and how parents and teachers should be invited and participate in school management. (17.3.2003)</p>	<p>Paras. 10 – 15, L C Paper 1983/02-03(01)</p> <p><b><i>Accountability and transparency of school management</i></b></p> <p>The implementation of SBM will give schools greater autonomy in the delivery of education and deployment of resources. The Government has spent huge resources on school education every year (aided secondary school \$38 million and aided primary school \$19 million per year). As the quality of education provided by schools directly impacts on learning outcomes of pupils, the quid pro quo to additional autonomy is that schools have to be more transparent and accountable to the community for their performance and the proper use of funds. The implementation of a participatory governance framework involving the principal, teachers, parents, alumni and independent community members is necessary as it would increase the transparency and accountability of school governance and provide a forum for the views of different key stakeholders for the betterment of the school.</p> <p><b><i>Practical and technical reasons for going down the legislative route</i></b></p> <ul style="list-style-type: none"> <li>• Legislating the SBM requirements will give the framework a higher and credible status. This will demonstrate the Government's commitment to implement the requirements and ensure compliance on the part of SSBs.</li> <li>• the roles of school management committee (SMC) and SSB are not currently defined in law. The Education Ordinance will therefore need to be amended to better reflect the respective roles of IMC and SSB under the proposed SBM framework.</li> <li>• The incorporation of SMCs and the protection for managers'</li> </ul>

Issue	Members'/Deputations' Concerns	Administration's Response
		<p>liability could only be effected by legislation.</p> <ul style="list-style-type: none"> <li>Several key elements of the scheme can only be effected by statutory provisions. For example, transfer of several statutory functions, school managers' exemption from legal liabilities and vesting of assets and liabilities of existing school management committees in incorporated management committees (IMC). [LC Paper 1570/02-03(04), para. 3]</li> </ul> <p><i>Other options</i></p> <ul style="list-style-type: none"> <li>Not effective to enforce the SBM framework through encouraging compliance by persuasion and support The experience with School Management Initiative (SMI) showed that after the promotion of participatory governance for over 10 years, only 65 SMI schools had included teachers and parents in their SMCs. Most schools were adopting a wait-and-see attitude.</li> <li>Amending Codes of Aid will unlikely be any more straightforward than the legislative route. Moreover, the sanction for non-compliance of the Codes of Aid is to reduce subsidies, whereby students' interests may be affected.</li> <li>Requiring SMCs to incorporate under the Companies Ordinance will cause inconvenience to SMCs and their members as they will be required to comply with various legislative requirements under the Companies Ordinance, for example, putting in place a memorandum and articles of association, filing annual returns to the Companies Registry and paying registration fees, etc. some of which may not be entirely applicable to schools.</li> </ul>
<b>17. SBM</b>		
<b>Background and</b>	To give an account of the historical development of SBM	Annex A, L C Paper 1570/02-03(04)

Issue	Members'/Deputations' Concerns	Administration's Response
<i>development of School-based management</i>	and the scope of consultation conducted in respect of its implementation in public sector primary and secondary schools. (27.2.2003)	Annex B, L C Paper 1983/02-03(01)
<i>How SBM influences learning outcomes</i>		A framework on how SBM influences learning outcomes is at <u>Appendix V</u> .
<b>18. Codes of Aid</b>		
<i>Procedures for amending the Codes of Aid</i>	To explain the procedures for amending these Codes of Aid. (11.4.2003)	Para. 5, L C Paper 1983/02-03(01) Consult schools councils, major school sponsoring bodies, associations of school heads, teachers' unions and other educational bodies as appropriate. If the amendments involve funding commitments, the proposals will be submitted to the LegCo Panel on Education for support and the Finance Committee for funding approval. Aided schools will be informed of any approved changes via circulars. The Codes of Aid will be amended accordingly.
<i>Whether non-teaching staff in aided schools were subject to the respective Codes of Aid</i>	To confirm whether non-teaching staff in aided schools were subject to the respective Codes of Aid for primary, secondary and special schools. (17.3.2003)	Para. 3, L C Paper 1723/02-03(01) Aided schools make use of an Administration Grant to employ administrative/clerical and/or janitor staff and contract out ancillary services according to their own needs. They decide the number, ranks as well as salaries and terms of service of these staff. Thus, administrative/clerical and janitor staff in aided schools are not subject to the Codes of Aid. However, aided primary and special schools which opt for the Revised Administration Grant introduced in 1999 as a transitional measure have to follow the conditions of appointment of clerical staff set out in the Codes of Aid. EMB has

Issue	Members'/Deputations' Concerns	Administration's Response
		no intention to withdraw or reduce such flexibility currently enjoyed by schools and the Bill is not going to change the provisions in the Codes of Aid.
<b><i>Professionals and other persons serving in aided schools</i></b>	To confirm whether professionals and other persons serving in aided schools are subject to the Codes of Aid. (11.4.2003)	<u>Annex A, para. 11, L C Paper 1983/02-03(01)</u> As need arises, aided schools will acquire professional services to handle tasks beyond the expertise of school staff, such as architects for repairs projects, geotechnical engineers for slope maintenance, and certified public accountants for auditing of school accounts. These are not staff employed in the school and they are paid service fees for the professional service they render in accordance with the terms of service contracts between them and the schools. Aided schools may also use the Operating Expenses Block Grant to employ temporary or part-time staff such as IT technicians, teaching assistants, etc. Nevertheless, this kind of staff do not fall within the school's approved establishment or are considered as professionals under the Codes of Aid.
<b>19. Others</b>		
<b><i>Schools opted for Administration Grant</i></b>	To provide the number of aided primary and special schools which had opted for the Revised Administration Grant introduced in 1999 as a transitional measure and which had to follow the conditions for appointment of clerical staff set out in the respective Codes of Aid for primary and special schools. (11.4.2003)	<u>Para. 3, L C Paper 1983/02-03(01)</u> At present, 71 aided primary and 11 special schools have opted for the Administration Grant and 438 aided primary and 62 special schools, the Revised Administration Grant.
<b><i>Existing schools with their own Ordinances</i></b>	To explain whether and how the Administration would amend or repeal the ordinance governing an existing school containing provisions in conflict with the Bill after the enactment of the Bill. (12.5.2003)	After the enactment of the Bill, the Administration will liaise with the aided schools which have their own Ordinances to see whether they need to amend their own Ordinances in order to meet the new requirements.

Issue	Members'/Deputations' Concerns	Administration's Response
<i>Responsibilities of EMB, SSB &amp; IMC</i>		The delineation of responsibilities among EMB, SSB and IMC is at <u>Appendix VI</u> .

(Note: Date(s) in brackets denote(s) date(s) of Bills Committee Meeting.

Education and Manpower Bureau

September 2003

### Roles and Responsibilities of Individual Managers in an Incorporated Management Committee (IMC)

<b>Chairperson of IMC</b>	<p><i>[Based on section 40AJ of the Bill]</i></p> <ul style="list-style-type: none"> <li>• Presides over the meetings of IMC.</li> <li>• Within one month from the happening of any of the following events, gives notice of the event to the Permanent Secretary for Education and Manpower (PSEM) – <ul style="list-style-type: none"> <li>- any person ceases to be a manager of the school;</li> <li>- the principal of the school ceases to hold office as such;</li> <li>- any teacher of the school is employed to teach or commences teaching at the school;</li> <li>- any teacher of the school ceases to hold office as such; or</li> <li>- there is a change in any particulars furnished under the Education Ordinance in respect of the tenancy of the school premises.</li> </ul> </li> <li>• Signs the statement of accounts of IMC.</li> <li>• Within one month of – <ul style="list-style-type: none"> <li>- the receipt or issue of a writ or other originating process (except one issued in proceedings in the Small Claims Tribunal within the meaning of the Small Claims Tribunal Ordinance (Cap. 338) and the Minor Employment Claims Adjudication Board within the meaning of the Minor Employment Claims Adjudication Board Ordinance (Cap. 453)) by the committee; or</li> <li>- the handing down of the judgment in the proceedings to which such writ or originating process relates,</li> </ul> gives notice of the event to the PSEM. </li> <li>• Performs such functions as may be provided for in the constitution of IMC.</li> <li>• Signs any notice required to be given by IMC .</li> </ul>
<b>School Sponsoring Body (SSB) Manager</b>	<ul style="list-style-type: none"> <li>• Ensures the vision of the SSB for its sponsored schools is carried out.</li> <li>• Provides advice on broad directions for school policy.</li> <li>• Liaises over any private funds owned by the SSB.</li> <li>• Promotes collaboration among the sponsored schools.</li> </ul>

<b>Teacher Manager</b>	<ul style="list-style-type: none"> <li>• Brings to IMCs experience in curriculum development, classroom instruction, student activities and educational enrichment.</li> <li>• Provides professional expertise for the improvement of student learning and associated school management.</li> <li>• Be a solid link between the IMCs and the staff of the schools.</li> </ul>
<b>Parent Manager</b>	<ul style="list-style-type: none"> <li>• Shares in decision-making in the interests of student education.</li> <li>• Forms a vital link between school management and other parents.</li> <li>• Raises concerns on all matters relating to the education and development of students.</li> </ul>
<b>Alumni Manager and Independent Manager</b>	<ul style="list-style-type: none"> <li>• Contributes specific areas of expertise and experience to the improvement of learning outcomes and management processes.</li> <li>• Provides a fresh perspective on school and educational issues from the point of view of the community in general.</li> </ul>
<b>Principal</b>	<ul style="list-style-type: none"> <li>• Manages the school in accordance with the Education Ordinance and in line with the governance directives of the IMC.</li> <li>• Provides the IMC with adequate information and give advice for school improvement.</li> <li>• Leads and promotes teaching and learning.</li> <li>• Leads and manages the staff of the school.</li> <li>• Oversees and be accountable for the day-to-day operation of the school and makes decisions on educational, personnel, and administrative matters.</li> <li>• Subject to the directions of the IMC, be responsible for the teaching and discipline of the school and for such purposes shall have authority over the teachers and students of the school.</li> <li>• Takes up the responsibilities as required under the Education Ordinance and Education Regulations.</li> </ul>

## Transfer of Responsibilities from Supervisor to the Chairperson of IMC in the Education (Amendment) Bill 2002

### Relevant Section in the Education Ordinance

Section	Content
39(2)	<p><b>Duties of supervisor</b></p> <p>(2) The <u>supervisor</u> of a school shall within 1 month after the happening of such event give notice in writing to the Permanent Secretary if-</p> <ul style="list-style-type: none"> <li>(a) any person ceases to be a manager of the school;</li> <li>(b) the supervisor ceases to perform the duties of the supervisor;</li> <li>(c) the principal ceases to perform the duties of the principal;</li> <li>(d) any teacher commences to teach or is employed to teach at the school;</li> <li>(e) any teacher ceases to teach or ceases to be employed to teach at the school;</li> <li>(f) the supervisor becomes aware of a change in any particulars furnished under this Ordinance with respect to any landlord or tenant of the premises in which the school is operated.</li> </ul>

### Proposed Section under the Education (Amendment) Bill 2002

Proposed section	Content
40AJ(1)	<p><b>Functions of chairperson</b></p> <p>(1) The <u>chairperson</u> of an incorporated management committee of a school shall –</p> <ul style="list-style-type: none"> <li>(b) within one month from the happening of any of the following events, give notice of the event to the Director (Permanent Secretary) – <ul style="list-style-type: none"> <li>(i) any person ceases to be a manager of the school;</li> <li>(ii) the principal of the school ceases to hold office as such;</li> <li>(iii) any teacher of the school is employed to teach or commences teaching at the school;</li> <li>(iv) any teacher of the school ceases to hold office as such; or</li> <li>(v) there is a change in any particulars furnished under this Ordinance in respect of the tenancy of the school premises;</li> </ul> </li> </ul>



## Transfer of Responsibilities from Supervisor to IMC in the Education (Amendment) Bill 2002

### A. Relevant Sections in the Education Ordinance

Section	Content
18(2)&(3)	<p><b>Certificate of registration or provisional registration</b></p> <p>(2) Except as provided in subsection (3), section 20 and section 71, the <u>supervisor</u> of a school shall cause the certificate or a copy issued by the Permanent Secretary under subsection (1) to be exhibited at all times in a conspicuous place in each of the premises specified in the certificate.</p> <p>(3) If the Permanent Secretary extends the period of provisional registration of a school under section 15(2), the <u>supervisor</u> shall within one month after the date when he is notified of the extension deliver the certificate of provisional registration and every copy of the certificate to the Permanent Secretary, who shall amend the certificate and the copies thereof accordingly and return them to the <u>supervisor</u>.</p>
18A(1)	<p><b>Approval of Permanent Secretary required for post secondary education</b></p> <p>(1) No <u>supervisor</u> of a school shall cause or allow post secondary education to be provided at the school unless he received the approval of the Permanent Secretary to do so.</p>
20(1)	<p><b>Change of premises</b></p> <p>(1) The <u>supervisor</u> of a school may apply in writing to the Permanent Secretary to amend the certificate of registration or provisional registration by –</p> <ul style="list-style-type: none"> <li>(a) specifying in the certificate any additional or alternative premises; or</li> <li>(b) deleting from the certificate reference to any premises or to any part of any premises.</li> </ul>
21(2)&(3)	<p><b>Changes in design or use of premises increasing fire risk</b></p> <p>(2) If the Director of Fire Services delivers to the Permanent Secretary a notice under subsection (1) in respect of a school specifying any provision which the Director of Fire Services considers should be made by the school, the Permanent Secretary may by notice in writing served on the <u>supervisor</u> of the school require such provision to be made.</p> <p>(3) If the Building Authority delivers to the Permanent Secretary a notice under subsection (1A) in respect of a school specifying any provision which the Building Authority considers should be made by the school, the Permanent Secretary may by notice in writing served on the <u>supervisor</u> of the school require such provision to be made.</p>

<b>Section</b>	<b>Content</b>
49(1)(a)	<b>Application to employ permitted teacher</b> (1) An application to employ a person as a permitted teacher in a school shall be made to the Permanent Secretary - (a) in the case of a school which is registered or provisionally registered, by the <u>supervisor</u> ;

## **B. Relevant regulations in the Education Regulations**

<b>Regulation</b>	<b>Content</b>
15(1),(2) & (3)	<b>Periodic inspection of premises</b> (1) The <u>supervisor</u> of any such school shall, at intervals not exceeding 3 years in the case of premises of reinforced concrete construction and at intervals not exceeding 12 months in the case of premises with timber floors, cause the premises to be inspected by an authorized person in order to determine whether the premises are in sound structural condition.  (2) (a) Where, upon any inspection under paragraph (1), the authorized person is satisfied that the premises are in sound structural condition, he shall deliver to the <u>supervisor</u> of the school a certificate, in writing, that he is so satisfied.  (b) The <u>supervisor</u> shall deliver such certificate to the Permanent Secretary.  (3) Where, upon any such inspection, the authorized person is not satisfied that the premises are in sound structural condition, he shall, in writing, report the fact to the Permanent Secretary and shall notify the <u>supervisor</u> of the school thereof.
44	<b>Improvements to sanitation</b> The <u>supervisor</u> shall carry out such alterations and improvements to the sanitary arrangements in the school premises as may be required by the Permanent Secretary by notice in writing within a period specified in such notice.
48(2)	<b>Cleaning and colour washing</b> (2) The <u>supervisor</u> shall, if so required in writing by the Permanent Secretary, cause the whole or any part of the school premises to be suitably colour-washed or repainted.

<b>Regulation</b>	<b>Content</b>
53(1)	<p><b>Infectious diseases</b></p> <p>If a medical officer of schools certifies that any teacher, pupil, or employee should be excluded from school by reason of suffering or having recently suffered from any infectious disease or by reason of having been in contact with or living in the same house as a person suffering from an infectious disease, the <u>supervisor</u> shall, if so required in writing by the medical officer in charge of the school health services, cause such teacher, pupil, or employee to be excluded from school for such period as shall seem necessary .</p>
56(6)	<p><b>Boarding schools</b></p> <p>The <u>supervisor</u> of every boarding school shall, if so required by the Permanent Secretary in writing, appoint a warden to be in charge of the boarders.</p>
60	<p><b>Submission of particulars of inclusive fees</b></p> <p>The <u>supervisor</u> of every school shall submit to the Permanent Secretary when required by him particulars of the inclusive fee.</p>
61(1)	<p><b>Fees other than inclusive fee prohibited</b></p> <p>(1) Subject to regulation 99A and to paragraph (2), no <u>supervisor</u>, manager or teacher shall charge or accept payment of any money or any school fees whatsoever other than the inclusive fees as printed on the certificate issued under regulation 60A(1)(ii):</p> <p>Provided that additional charges, moneys or fees (including entrance examination fees and pupil registration and withdrawal fees) may be charged if previously approved by the Permanent Secretary in writing and if such approval is kept exhibited together with the certificate kept exhibited under regulation 67.</p>
62(2)	<p><b>Method of payment</b></p> <p>Notwithstanding paragraph (1), a <u>supervisor</u> may require a pupil to register for an educational course by paying the first monthly instalment not earlier than one month before the commencement of the educational course.</p>
63	<p><b>Formal receipts</b></p> <p>The payment of every sum of money by or on behalf of a pupil to a <u>supervisor</u>, manager or teacher shall be forthwith acknowledged in writing by such <u>supervisor</u>, manager or teacher on a proper form of receipt.</p>

64	<p><b>Accounts</b></p> <p>The <u>supervisor</u> of every school shall —</p> <p>(a) keep proper accounts;</p> <p>(b) make the accounts and any vouchers relating to the accounts available at all reasonable times for inspection by the Permanent Secretary or any inspector of schools; and</p> <p>(c) retain the accounts and vouchers for a period of not less than 7 years.</p>
77	<p><b>Appointment of teachers</b></p> <p>The <u>supervisor</u> shall be responsible for issuing to all teachers letters of appointment which shall set out —</p> <p>(a) conditions of service;</p> <p>(b) salary scale; and</p> <p>(c) conditions of termination of appointment.</p>
78	<p><b>Salaries of teachers</b></p> <p>The <u>supervisor</u> shall be responsible for ensuring that the salaries of all teachers are paid in full when due.</p>
91(2)	<p><b>Equipment and educational facilities</b></p> <p>(2) The Permanent Secretary may give directions in writing to the <u>supervisor</u> of any school providing nursery, kindergarten, primary, secondary or post-secondary education or any other educational course that the school shall be provided with any such apparatus, equipment, teaching materials or general facilities as may be specified by the Permanent Secretary in such directions.</p>
94	<p><b>Information to be given concerning school and pupils</b></p> <p>The <u>supervisor</u> shall submit to the Permanent Secretary, whenever required by the Permanent Secretary, such information concerning the school or pupils thereof as may be required by the Permanent Secretary.</p>

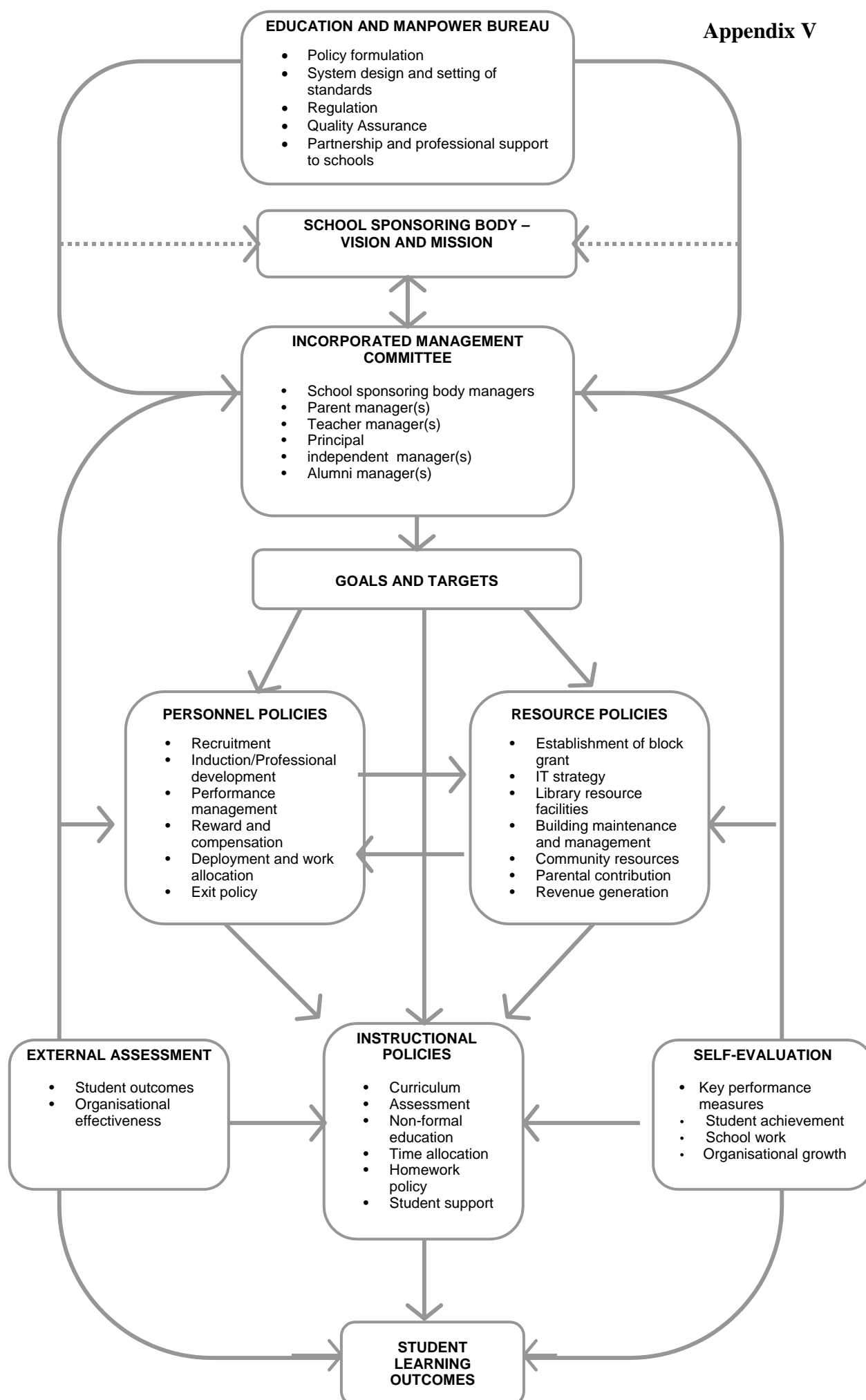
98(2)	<p><b>Prejudicial activities</b></p> <p>(2) The Permanent Secretary may give directions in writing or other guidance to the <u>supervisor</u> of any school as to the dissemination of information or expression of opinion of a political nature in that school, so as to ensure that that information or opinion is unbiased.</p>
99A(2)	<p><b>Business or trading operations</b></p> <p>(2) Where permission has been granted for the purposes of paragraph (1), the <u>supervisor</u> of the school shall —</p> <p>(a) within 4 months after the end of the financial year of the school, or such extended period as may be permitted by the Permanent Secretary, furnish to the Permanent Secretary an annual audited statement of accounts of every such business or trading undertaking, or business or trading arrangement; and</p> <p>(b) furnish together with such statement of accounts a statement indicating how the profits have been applied or are intended to be applied.</p>

## Transfer of Responsibilities from Supervisor to Principal in IMC Schools in the Education (Amendment) Bill 2002

### Relevant regulations in the Education Regulations

Regulation	Content
3	<b>Supervisor to furnish plan of school premises</b> The <u>supervisor</u> of every school shall on demand supply the Permanent Secretary with a plan or diagram, with dimensions, of the school premises.
20	<b>Limitation of activities on roof playgrounds</b> If any roof playground, verandah or balcony is used in contravention of these regulations, the Permanent Secretary may by notice in writing addressed to the <u>supervisor</u> prohibit the use thereof until such time as he may specify in such notice.
21(1)	<b>Safety precautions</b> (1) The <u>supervisor</u> shall ensure that all necessary safety precautions are adopted in school workshops and science laboratories and shall modify or extend those precautions as the Permanent Secretary may require.
23	<b>Plan of layout</b> Wherever it is desired to install any machinery or machine tools in a school workshop the <u>supervisor</u> shall submit to the Permanent Secretary a plan of the proposed layout of the workshop.
52(2)	<b>Medical examination of pupils</b> (2) If on such examination a medical officer of schools is of the opinion that the person or clothing of any pupil is infected with vermin or is in a foul or filthy condition, he may require the <u>supervisor</u> to exclude such pupil from the school forthwith until such time as the person and clothing of pupil have been cleansed to the satisfaction of a medical officer of schools.
57(1)	<b>Medical examination in boarding schools</b> (1) The <u>supervisor</u> of every boarding school shall ensure that every pupil who desires to become a boarder at that school shall be medically examined before he is admitted to that school as a boarder.
79	<b>Notice of school holidays</b> The <u>supervisor</u> shall send to the Permanent Secretary before 15 August in each year notice of all holidays it is intended to give in the coming school year, including any special holidays given in honour of any particular event, and of all dates on which the usual work of the school will be suspended.
82	<b>Permanent Secretary may require grant of holiday</b> The Permanent Secretary may by notice in writing to the <u>supervisor</u> of any school require that a holiday shall be given on any day specified in such notice and the <u>supervisor</u> shall ensure that such holiday is given accordingly.

89(2)	<p><b>Hours of instruction</b></p> <p>(2) No instruction shall be given by any school during such hours as may be specified by the Permanent Secretary in respect of that school by notice in writing to the <u>supervisor</u>.</p>
92(2)(3)(10) & (12)	<p><b>Syllabus and time-table subject to approval of Permanent Secretary</b></p> <p>(2) The <u>supervisor</u> of every school shall submit to the Permanent Secretary whenever so required by the Permanent Secretary the syllabus of instruction of each class or any other document he may specify for his approval.</p> <p>(3) The Permanent Secretary may give directions in writing to the <u>supervisor</u> of any school as to the instruction which shall be or shall not be included in any such syllabus.</p> <p>(10) The Permanent Secretary may give directions in writing to the <u>supervisor</u> of any school in respect of the time-table of work of any class and may require any <u>supervisor</u> to submit for his approval any such time-table.</p> <p>(12) The <u>supervisor</u> shall inform the Permanent Secretary of any change in the hours of school work.</p>





## Appendix VI

### Responsibilities of Education and Manpower Bureau (EMB), School Sponsoring Body (SSB) and Incorporated Management Committee (IMC)

EMB	SSB	IMC
<b>(a) School Goals and Mission</b>		
<ul style="list-style-type: none"> <li>encourages schools to have their own characteristics and develop quality education in accordance with the aims of education</li> </ul>	<ul style="list-style-type: none"> <li>sets out the vision and mission of the SSB for sponsored schools</li> <li>ensures the mission is carried out through the SSB managers</li> </ul>	<ul style="list-style-type: none"> <li>ensures the mission of the school is carried out.</li> <li>builds up a shared school mission and school goals; monitors and evaluates progress towards such goals</li> </ul>
<b>(b) IMC Constitution</b>		
<ul style="list-style-type: none"> <li>requires schools to have a properly formulated IMC constitution</li> <li>approves the IMC constitution</li> <li>mandates the IMC composition, as well as other statutory requirements in the Education Ordinance</li> </ul>	<ul style="list-style-type: none"> <li>drafts and submits for Permanent Secretary for Education and Manpower (PSEM)'s approval the draft constitution of the proposed IMC subject to the requirements of the Education Ordinance</li> </ul>	<ul style="list-style-type: none"> <li>conducts its affairs in accordance with the constitution.</li> </ul>
<b>(c) School Policies and Performance</b>		
<ul style="list-style-type: none"> <li>gives advice on formulating and implementing plans for school development and self-evaluation</li> <li>disseminates good practices</li> </ul>	<ul style="list-style-type: none"> <li>gives general directions to IMC in the formulation of education policies of the school</li> </ul>	<ul style="list-style-type: none"> <li>sets the school's objectives and policies</li> <li>approves the school development plan, school plan, school report and school profile</li> <li>consults key stakeholders and sets out administrative and operational procedures with an accountability mechanism built in</li> <li>reports to the EMB and parents on the performance of the school</li> <li>delegates to the principal and staff decisions on matters relating to daily operations, teaching and learning, and student discipline</li> </ul>

EMB	SSB	IMC
		<ul style="list-style-type: none"> <li>• sets up effective communication channels with staff, parents and students</li> </ul>
<b>(d) <i>Quality of Education</i></b>		
<ul style="list-style-type: none"> <li>• sets standards and assures the quality of school education</li> <li>• develops performance indicators for school self-evaluation and external monitoring</li> <li>• sets benchmarks for teachers</li> <li>• conducts quality assurance inspections</li> <li>• reports on the territory-wide standards of education</li> </ul>	<ul style="list-style-type: none"> <li>• oversees the performance of IMC</li> </ul>	<ul style="list-style-type: none"> <li>• evaluates and monitors school performance and student achievement against planned objectives and territory-wide standards</li> <li>• reports to the EMB, SSB and parents on the delivery of all-round education</li> <li>• accounts to the EMB, SSB and parents for the quality of education provided</li> </ul>
<b>(e) <i>Personnel</i></b>		
<ul style="list-style-type: none"> <li>• registers and cancels the registration of school managers and teachers</li> <li>• approves and withdraws approval of principal</li> <li>• investigates complaints against the IMC</li> <li>• appoints additional managers to IMC (under section 41 of the Education Ordinance), if necessary</li> </ul>	<ul style="list-style-type: none"> <li>• requests the IMC to give a written notice to the PSEM to cancel the registration of SSB managers, if necessary</li> <li>• takes part in the selection of the principal through an independent principal selection committee comprising SSB and IMC representatives and co-opted members</li> <li>• decides the appointment or election of IMC Chairperson subject to the IMC constitution</li> </ul>	<ul style="list-style-type: none"> <li>• gives written notice to the PSEM upon receipt of request of the constituency concerned to cancel the registration of non-SSB managers, if necessary</li> <li>• subject to the Codes of Aid and relevant regulations, sets out proper procedures for and handles the appointment, promotion, leave, dismissal and disciplinary matters of all teaching and non-teaching staff</li> <li>• recommends for PSEM's approval the appointment of the principal</li> <li>• establishes a formal staff appraisal system (including the principal) and staff development plans</li> <li>• handles complaints against staff (including the principal)</li> <li>• employs teaching and non-teaching staff</li> <li>• engages the service of professionals</li> </ul>

**(f) Finance**

- allocates grants to schools and monitors the use of grants in accordance with the Codes of Aid and other regulations
- sets out regulations and procedures for schools in the spending of public funds
- conducts external audit
- maintains full control of the use of funds and assets owned by it
- sets up an accountable mechanism for managing the spending of funds
- manages and reports to key stakeholders the effective use of public and private funds of schools (including donations, collections from students and parents, as well as funds raised for school purposes)
- approves the school budget and exercises discretion in the spending of funds
- ensures adherence to the Codes of Aid, other regulations and procedures set out by the EMB in the spending of public funds
- approves the collection of fees/fund-raising for school purposes
- approves trading/tuckshop operation in school and sets up a mechanism to safeguard against malpractice
- prepares annual audited account
- takes on lease, purchase and hold, manage and enjoy property
- Subject to the Codes of Aid and relevant regulations and procedures set out by EMB,
  - opens and operates bank accounts and invest its funds
  - borrows money
- solicits and receives gifts or donations

**(g) Curriculum**

- steers the direction and conducts continuous review of curriculum development
- provides curriculum framework
- gives advice on diverse curriculum models
- gives broad direction for the provision of a learner-focused curriculum for whole-person development and life-long learning
- provides learning experiences for whole person development in line with the curriculum framework developed by the Curriculum Development Council, catering to the needs of students and the community

**(h) School Premises and Equipment**

- allocates land and/or school premises
- sets the standard schedule of accommodation
- provides a furniture and equipment list for schools' reference
- contributes towards the furnishing and fitting out of all necessary furniture and equipment of new school premises
- retains full control over assets and property belonging to SSB
- be responsible for the purchase of furniture and equipment, as well as the maintenance and effective use of school premises
- approves change of room use without structural alteration
- recommends major construction, alteration or extension of school premises for approval by relevant departments and the EMB

**(i) Education Policies**

- conducts continuous review on education and curriculum reforms
- maps out broad directions of education
- sets priorities and targets for improvement in education
- gives broad directions to the sponsored schools on the implementation of education reform, curriculum reform and major education policies
- promotes collaboration among the sponsored schools on major education issues and gives advice when necessary
- ensures the delivery of quality education in line with the school's mission, education reform, curriculum reform and the policies of the EMB

**(j) Education Ordinance**

- enforces the Education Ordinance, conducts reviews and makes amendments when necessary
- fulfils the duties of SSB as stipulated in the Education Ordinance
- ensures the school is run in compliance with the Education Ordinance

**(k) *Community Interface***

- publicises and promotes new/major education policies to the wider community
- collaborates with other sectors to promote community involvement in education
- taps resources and support from the community to promote education in the sponsored schools
- sets up effective communication channels with the local community and the public
- taps resources and collaborates with the community to promote the all-round development of students