

Bills Committee on Education (Amendment) Bill 2002
Administration's Response to Issues Raised at the Meeting
on 24 October 2003

Issues	Members' Concerns	Administration's Response
Distribution Of Powers Between IMC Chairperson And Supervisor		
<i>Retaining the post of supervisor</i>	Explain how a school with an incorporated management committee (IMC) could retain the post of supervisor and define his/her role and functions, or alternatively delegate to the chairperson or any other member of IMC the duties of the supervisor under the current legislation.	Proposed section 40AD(1)(g) provides that the school sponsoring body (SSB) shall be responsible for drafting the IMC constitution. Therefore, an IMC school may retain the post of supervisor and define the role and functions of the supervisor (except for those statutory responsibilities transferred to the IMC chairperson, IMC or the principal; and the functions of the IMC set out in section 40AD(2)) in the IMC constitution. IMC may also delegate the duties of the supervisor to the chairperson or any other member of IMC.
<i>Functions of supervisor and IMC chairperson</i>	Highlight the difference in statutory functions between the supervisor appointed in accordance with the current legislation and the IMC chairperson.	<p>The existing duties of the supervisor are provided for in section 39 of the Education Ordinance. The supervisor mainly serves as a link between the School Management Committee and the Education and Manpower Bureau, which is very similar to the functions of the IMC chairperson as set out in section 40AJ of the Bill.</p> <p>Proposed section 40AJ also empowers the IMC chairperson other responsibilities that are not provided for in the existing Education Ordinance which include: presiding over IMC meetings; signing the statement of accounts of IMC; informing PSEM upon receipt or issue of a writ or other originating process and the handing down of relevant judgment; and performing such functions as may be provided for in the IMC constitution.</p>

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IMC Chairperson		
<i>Number of schools to be served by the IMC chairperson</i>	Consider the suggestion that no person should be allowed to register as the IMC chairperson for more than three schools.	<p>The relevant provision in the Bill has balanced the consideration between the workload of the IMC chairperson and the difficulties encountered by SSBs in appointing IMC chairpersons.</p> <p>SSBs may not be able to appoint sufficient number of IMC chairpersons if the suggestion is to be adopted. We therefore do not agree that the number of schools to be served by the IMC chairperson should be restricted to three or less.</p>
<i>Procedures and requirements of the appointment of the IMC chairperson</i>	State the procedures and requirements of the appointment of the IMC chairperson; and clarify who would be empowered to appoint the chairperson and whether a parent manager, a teacher manager or an independent manager can be the chairperson.	<p>Since the Bill has stipulated that SSB shall be responsible for drafting the IMC constitution and proposed regulation 75A(2)(d) provides that the IMC constitution should set out the appointment or election of a manager to be or to act as the IMC chairperson, SSB may provide in the IMC constitution the relevant procedures and requirements of the appointment of the IMC chairperson.</p> <p>Section 40AI(3) already provides that the principal or a teacher of the school shall not be the chairperson or act as the chairperson. Other than this, the Bill does not impose restrictions on other categories of managers, including parent managers or independent managers to become the IMC chairperson.</p>
IMC Constitution		
<i>IMC constitution to be approved by the Permanent Secretary for Education and Manpower (PSEM)</i>	<p>Elaborate on the justifications for empowering the Permanent Secretary for Education and Manpower (PSEM) to approve the draft IMC constitution.</p> <p>Re-examine the need for empowering PSEM to approve amendments to the constitution passed by IMC.</p>	To ensure that the IMC constitution complies with the requirements of the Education Ordinance, proposed sections 40BK, 40BV and 40AW(2) provide that the draft IMC constitution and its subsequent amendments shall be approved by PSEM. Proposed sections 40BM and 40BX also provide that an IMC shall establish after the IMC constitution is approved.

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		<p>Regulation 75 in the existing Education Regulations already provides that the constitution of the management committee and its subsequent alternation or amendment shall have the approval of PSEM. Therefore, the Bill does not accord PSEM with any new authority.</p> <p>Aided secondary and primary schools receive about 40 and 20 million government subvention every year. Along with the devolution of responsibilities to schools, there should also be checks and balance to ensure proper school management and spending of public funds. Besides, the Bill has provided for an appeal mechanism, which allows SSBs to lodge an appeal to the Appeals Board to review PSEM's decision on the draft IMC constitution.</p> <p>IMCs operate in accordance with their constitutions. The Bill only provides broad directions for the IMC constitution. SSBs need to set out arrangements for the operation of IMC in the draft IMC constitution. Allowing PSEM to approve the IMC constitution will not only ensure compliance with legislative requirements, but also avoid any missing provisions which may lead to problems in decision-making or operation. This can ensure that IMC will operate smoothly and manage the school properly by following its constitution. Therefore, it is necessary for PSEM to approve the draft constitution and its amendments.</p> <p>Moreover, other countries like Australia, New Zealand, USA and UK also require the school managing bodies to submit their constitutions and subsequent amendments to the education authority for approval or scrutiny.</p> <p>We have considered Members' concern and will propose amendment to the Bill to extend the appeal mechanism to cover PSEM's decision on the subsequent amendments to the IMC constitution.</p>