

LEGISLATIVE COUNCIL BRIEF

MERGER OF EDUCATION AND MANPOWER BUREAU WITH EDUCATION DEPARTMENT AND EDUCATION COMMISSION WITH BOARD OF EDUCATION

INTRODUCTION

At the meeting of the Executive Council on 29 October 2002, the Council ADVISED and the Acting Chief Executive ORDERED that -

- (a) Education and Manpower Bureau (EMB) and Education Department (ED) should be merged from 1 January 2003 and EMB (the new organization after merger) would take charge of both the formulation and implementation of education policies;
- (b) The Board of Education (BoE) should be subsumed in the Education Commission (EC); and
- (c) the Education Reorganization (Miscellaneous Amendments) Bill 2002, at Annex A, should be introduced into the Legislative Council to reflect the changes arising from (a) and (b) above.

JUSTIFICATION

General Background

2. With the implementation of the accountability system from 1 July 2002, the Administration has undertaken that the principal officials will review the relationship between their bureaux and executive departments. The overall direction will be to streamline the structure and working relationship of the two, merging and integrating similar functions being performed by both, making better use of resources and enhancing the efficient and effective implementation of policies and delivery of services to the public. The Administration as a whole is expected to achieve sufficient savings within 12 months to make the introduction of the accountability system a cost neutral exercise.

Merger of EMB and ED

3. The Secretary for Education and Manpower (SEM) has reviewed the scope of responsibilities and the staffing establishment of both EMB and ED. He considers that there are merits to merge the two organizations to ensure better synergy between policy formulation and implementation and to reduce duplication of efforts. The hierarchy will be flattened to enable better integration of efforts and to minimise double-handling of work. The new organisation will still be called EMB and the proposed organization chart is at Annex B.

4. Under the proposed directorate structure, we will delete five civil service posts including the post of Director of Education (DE), partially offset by the creation of one directorate post through upgrading. In addition, we will also delete one non-civil service post. The Permanent Secretary for Education and Manpower (PSEM) will assume the existing function of DE. There will be redistribution of duties and responsibilities amongst the remaining directorate staff, including the redeployment of a post of Administrative Officer Staff Grade C to SEM's office to serve as his administrative assistant.

5. We have sought to balance, as far as possible, the interests of the different grades presently working in EMB and ED, taking into account their respective strengths and competencies. We shall re-assess the workload in two years' time as the education reform progresses, and review the organization and staffing structure then.

Merger of EC and BoE

6. The BoE was established in 1920 to advise DE on educational matters. On the recommendation of the visiting panel reviewing education in Hong Kong, EC was set up in 1984 to advise the Government on education objectives and policies as well as to co-ordinate advice on education at all levels. The established convention since then is that EC advises on policies and issues of general concern to all education sectors while BoE focuses on school education and operational matters.

7. In practice, given the pivotal role of school education in the entire education system, EC's emphasis has been on major policy issues affecting school education. Past experience also shows that it is unsatisfactory to discuss policy issues without considering the operational aspects. The problem of overlap with BoE is exacerbated in the deliberation and implementation of the education reform which spans 10 years. The EC considers it necessary to monitor the implementation of the reform recommendations so that it will be better placed to advise on how the reform measures should be adjusted in the light of experience. Over the past year or so, very often, the same issues were discussed at both BoE and EC; examples include through-train schools, Basic Competency Assessment and Secondary School Places Allocation system. There is thus room for streamlining the consultation process.

8. The reorganisation of EMB and ED into one entity represents an attempt to integrate policy making and implementation. In line with this objective, and following the proposed abolition of the post of DE, it is logical to merge the BoE and EC.

9. The existing terms of reference (ToR) of BoE and EC and the revised ToR of EC are at Annexes C and D respectively. The major changes are explained as follows. First, consistent with the spirit of the accountability system, EC will advise SEM, instead of the Chief Executive (CE). On major policy issues, SEM will continue to consult CE and the Executive Council on the recommendations of EC and, where he may take a different view, highlight the differences, as was done in the past.

10. Second, it is within the existing ToR of EC to advise on matters that concern the planning and development of education at all levels. However, the present formulation of the ToR has given rise to misunderstanding about EC's interface with the University Grants Committee (UGC) and other independent organisations. With the recent establishment of the Manpower Development Committee, which oversees the development of vocational and continuing education, it is desirable to spell out more clearly EC's role, namely, to advise on the planning and development of early childhood and school education and, in carrying out its tasks, to co-ordinate the work of the UGC, the Vocational Training Council and other education advisory bodies.

11. Third, as the main education committee to advise SEM, it is reasonable to allow flexibility in the ToR for SEM to refer educational issues to the EC for advice, where necessary.

12. As EC has all along been functioning well as a non-statutory body and BoE does not play any executive function, there is no need to turn EC into a statutory body after it takes over the functions of BoE.

THE BILL

13. The Education Reorganisation (Miscellaneous Amendments) Bill (Annex A) aims to amend –

- (I) the Education Ordinance, Cap.279 and its subsidiary legislation to –
 - (a) replace DE with PSEM;
 - (b) replace ED with EMB;
 - (c) repeal S.5(1) regarding delegation to Deputy DE; and
 - (d) repeal S.7 and 7A on the BoE; and
- (II) other relevant ordinances to –
 - (a) replace DE with PSEM;
 - (b) replace ED with EMB;
 - (c) replace the two corporations known as "DE" and "DE Incorporated" with "PSEM" and "PSEM Incorporated";
 - (d) delete ED from The Ombudsman Ordinance (Cap. 397) (EMB covered by that Ordinance under the head of Government Secretariat); and
 - (e) remove the provision for the Chief Executive to appoint a public officer to serve as a member of the Hong Kong Examinations and Assessment Authority (the public officer used to be PSEM or his representative. Under the new structure, PSEM will replace DE as a member of the Authority. It is not necessary to have two representatives from EMB).

LEGISLATIVE TIMETABLE

14. Our target is to implement the proposal with effect from 1 January 2003. We intend to seek the approval of the Establishment Subcommittee and the Finance Committee on the changes to the directorate structure and the 2002-03 Estimates (regarding the Controlling Officer for ED) in November/December. The legislative timetable for the introduction of the Bill into the Legislative Council is -

Publication in the Gazette	8 November 2002
First Reading and commencement of Second Reading debate	20 November 2002
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

15. The proposal has economic, financial and civil service implications as set out at Annex E.

16. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, environmental or sustainability implications. The Bill will not affect the current binding effect of the Ordinances it amends.

PUBLIC CONSULTATION

Merger of EMB and ED

17. We have consulted the staff representatives of departmental grades in ED. They are generally receptive to the merger proposal. We have also informed all staff of ED of the proposal through an open letter. So far no adverse reactions have been detected. We shall continue to maintain a dialogue with the staff and address their concerns, if any should arise.

18. We have sounded out the chairmen of the school councils and the three major teacher organizations in Hong Kong. They all support the proposed merger.

19. We consulted the Legislative Council Panel on Education (Panel) on the proposed merger on 28 October 2002. The Panel is generally supportive of the proposal.

Merger of EC and BoE

20. The chairmen of the school councils represented on BoE as well as the EC Chairman and Members have been consulted and they support the proposal to subsume BoE in EC. They see this as a logical step following the merger of EMB and ED. We will further consult the Panel on 18 November 2002.

PUBLICITY

21. We have arranged a background briefing for the media and shall issue a press release. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

22. Enquiries about this brief may be directed to-

Mr. John C. F. Leung
Principal Assistant Secretary (Education and Manpower) 9
Tel: 2810 3628
Fax: 2147 9448

Education and Manpower Bureau
6 November 2002

**EDUCATION REORGANIZATION (MISCELLANEOUS
AMENDMENTS) BILL 2002**

CONTENTS

Clause		Page
1.	Short title and commencement	1

PART 1

**AMENDMENTS TO THE EDUCATION
ORDINANCE AND ITS SUBSIDIARY
LEGISLATION**

Education Ordinance

2.	Interpretation	1
3.	Delegation of Permanent Secretary's powers	2
4.	The Board of Education	2
5.	Resignation of a member	2
6.	Changes in design or use of premises increasing fire risk	2
7.	Grounds for cancellation of registration or provisional registration of school	3
8.	Part heading amended	3
9.	Appointment of inspectors	3
10.	Transitional provisions regarding approved managers	4
11.	“Permanent Secretary” substituted for “Director”	4

Education Regulations

- | | | |
|-----|--|---|
| 12. | Maximum height of schools | 6 |
| 13. | Restriction on furniture to be in any classroom | 6 |
| 14. | “Permanent Secretary” substituted for “Director” | 6 |

Grant Schools Provident Fund Rules

- | | | |
|-----|--|---|
| 15. | Board of control | 9 |
| 16. | “Permanent Secretary” substituted for “Director” | 9 |

Subsidized Schools Provident Fund Rules

- | | | |
|-----|--|---|
| 17. | “Permanent Secretary” substituted for “Director” | 9 |
|-----|--|---|

Education (Amendment) Regulations 1982

- | | | |
|-----|--------------------------------|----|
| 18. | Citation and commencement | 10 |
| 19. | Addition of new regulation 40A | 10 |

PART 2

CONSEQUENTIAL AND RELATED AMENDMENTS

Transfer of Businesses (Protection of Creditors) Ordinance

20. Saving 11

Stamp Duty Ordinance

21. Interpretation of Part V 11

Places of Public Entertainment Regulations

22. Power of licensing authority to reduce or waive fees 11

Hong Kong Examinations and Assessment Authority Ordinance

23. Members of the Authority 12

Post Secondary Colleges Ordinance

24. Interpretation 12
25. “Permanent Secretary” substituted for “Director” 12

Post Secondary Colleges Regulations

26. Schedule amended 13
27. “Permanent Secretary” substituted for “Director” 13

The Ombudsman Ordinance

28.	Organizations to which this Ordinance applies	13
29.	Saving and transitional provisions	13

Education Scholarships Fund Ordinance

30.	Interpretation	14
31.	Establishment and vesting of fund	14
32.	“Permanent Secretary” substituted for “Director”	14
33.	Sections added	
	23. Saving and transitional provisions relating to the Education Reorganization (Miscellaneous Amendments) Ordinance 2002	15
	24. Provisions incidental and supplemental to section 23	16

Director of Education Incorporation Ordinance

34.	Long title amended	18
35.	Short title	18
36.	Permanent Secretary for Education and Manpower constituted a corporation sole	19
37.	Power of corporation to act as trustee, etc.	19
38.	Accounts, audit and annual report	19
39.	Sections added	
	9. Saving and transitional provisions relating to the	

	Education Reorganization (Miscellaneous Amendments) Ordinance 2002	19
10.	Provisions incidental and supplemental to section 9	20

**St. Paul's College Council Incorporation
Ordinance**

40.	Power of corporation	23
-----	----------------------	----

**Miscellaneous references to "Director of
Education"**

41.	Amendment of references to "Director of Education"	23
-----	--	----

PART 3

SAVING AND TRANSITIONAL PROVISIONS
RELATING TO THE BOARD OF EDUCATION,
THE DIRECTOR OF EDUCATION AND THE
EDUCATION DEPARTMENT

42.	Saving and transitional provisions relating to the Board of Education, the Director of Education and the Education Department	23
43.	Provisions incidental and supplemental to section 42	25
Schedule	Amendment of "Director of Education" to "Permanent Secretary for Education and Manpower"	29

A BILL

To

Amend the Education Ordinance to provide for the transfer of functions of the Director of Education, the Education Department and related bodies; to abolish the Board of Education; to make consequential and related amendments to other enactments and to provide for incidental and connected matters.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Education Reorganization (Miscellaneous Amendments) Ordinance 2002.

(2) This Ordinance shall come into operation on 1 January 2003.

PART 1

AMENDMENTS TO THE EDUCATION ORDINANCE
AND ITS SUBSIDIARY LEGISLATION

Education Ordinance

2. Interpretation

(1) Section 3 of the Education Ordinance (Cap. 279) is amended by repealing the definition of “Director”.

(2) Section 3 is amended by adding –

““Permanent Secretary” (常任秘書長) means the Permanent Secretary for Education and Manpower;”.

(3) Section 3 is amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

(a) the definition of “certificate of provisional registration”;

- (b) the definition of “certificate of registration”;
- (c) the definition of “code of aid for primary schools”;
- (d) the definition of “code of aid for secondary schools”;
- (e) the definition of “code of aid for special schools”;
- (f) the definition of “practical school”;
- (g) the definition of “skills opportunity school”;
- (h) the definition of “special school”;
- (i) the definition of “specified form”;
- (j) the definition of “sponsoring body”.

3. Delegation of Permanent Secretary's powers

- (1) Section 5(1) is repealed.
- (2) Section 5(2) is amended by repealing “Director” wherever it appears and substituting “Permanent Secretary”.
- (3) Section 5(2) is amended by repealing “Education Department” and substituting “Education and Manpower Bureau”.

4. The Board of Education

Section 7 is repealed.

5. Resignation of a member

Section 7A is repealed.

6. Changes in design or use of premises increasing fire risk

- (1) Section 21(1) is amended by repealing “Director” where it secondly appears and substituting “Permanent Secretary”.
- (2) Section 21(1A) is amended by repealing “Director” and substituting “Permanent Secretary”.
- (3) Section 21(2) is amended by repealing “Director” where it secondly and last appears and substituting “Permanent Secretary”.

(4) Section 21(3) is amended by repealing “Director” where it twice appears and substituting “Permanent Secretary”.

7. Grounds for cancellation of registration or provisional registration of school

(1) Section 22(1) is amended by repealing “The Director” and substituting “The Permanent Secretary”.

(2) Section 22(1)(c) is amended by repealing “Director” and substituting “Permanent Secretary”.

(3) Section 22(1)(e) is amended by repealing “Director” and substituting “Permanent Secretary”.

(4) Section 22(1)(f) is amended by repealing “Director” and substituting “Permanent Secretary”.

(5) Section 22(1)(g) is amended by repealing “Director” and substituting “Permanent Secretary”.

(6) Section 22(1)(h) is amended by repealing “Director” where it first appears and substituting “Permanent Secretary”.

(7) Section 22(1)(ha) is amended by repealing “Director” and substituting “Permanent Secretary”.

(8) Section 22(1)(j) is amended by repealing “Director” and substituting “Permanent Secretary”.

(9) Section 22(2) is amended by repealing “Director” and substituting “Permanent Secretary”.

8. Part heading amended

The heading to Part VII is amended by repealing “DIRECTOR” and substituting “PERMANENT SECRETARY”.

9. Appointment of inspectors

Section 79(a) is amended by repealing “Education Department” and substituting “Education and Manpower Bureau”.

10. Transitional provisions regarding approved managers

(1) Section 100(2) is amended by repealing “Director” where it first appears and substituting “Director of Education”.

(2) Section 100(2) is amended by repealing “Director” where it secondly appears and substituting “Permanent Secretary”.

11. “Permanent Secretary” substituted for “Director”

The Ordinance is amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) section 6(1);
- (b) section 8(1) and (2);
- (c) section 9(5);
- (d) section 11(a);
- (e) section 12(2)(a) and (b);
- (f) section 13;
- (g) section 14(1) and (2);
- (h) section 15(1) and (2);
- (i) section 16(1) and (2);
- (j) section 17;
- (k) section 18(1), (2) and (3);
- (l) section 18A(1);
- (m) section 20(1), (5) and (6);
- (n) section 20A(1) and (2);
- (o) section 28;
- (p) section 29(1);
- (q) section 30(1) and (2);
- (r) section 31(1) and (2);
- (s) section 34;
- (t) section 35(1) and (2);

- (u) section 36(c) and (d);
- (v) section 37;
- (w) section 38(1) and (2);
- (x) section 38A(1), (2), (3), (4) and (5);
- (y) section 39(1) and (2);
- (z) section 40;
- (za) section 41(1), (2) and (3);
- (zb) section 43;
- (zc) section 44(a);
- (zd) section 45(1) and (2);
- (ze) section 46;
- (zf) section 47;
- (zg) section 49(1);
- (zh) section 50(1), (2) and (3);
- (zi) section 51(1) and (2);
- (zj) section 52(1) and (3);
- (zk) section 53(1) and (2);
- (zl) section 54(1) and (2);
- (zm) section 55(c) and (d);
- (zn) section 56(1) and (2);
- (zo) section 57(1) and (2);
- (zp) section 58(2);
- (zq) section 58A(2)(b);
- (zr) section 58B(1) and (2);
- (zs) section 60(1) and (2)(a), (b), (c), (d), (e), (f) and (g);
- (zt) section 61(1) and (2)(a);
- (zu) section 62(1)(a) and (c), (2), (3), (6), (7) and (8);
- (zv) section 64(1) and (2);
- (zw) section 65;
- (zx) section 66(1) and (2);

- (zy) section 67;
- (zz) section 71;
- (zza) section 72(1), (2) and (3);
- (zzb) section 72A(1) and (2);
- (zzc) section 74(1), (2), (2A), (2B) and (3)(c)(i) and (iii);
- (zzd) section 80;
- (zze) section 81;
- (zzf) section 81A(1), (1A), (2), (3) and (4);
- (zzg) section 81B;
- (zzh) section 82(1);
- (zzi) section 83(1), (1A), (2), (3), (4), (5) and (6)(b) and (ii);
- (zzj) section 84(1)(sa), (v) and (za), (2)(a), (b) and (c) and (4);
- (zzk) section 86A(2);
- (zzl) section 87(1)(d)(i) and (ha) and (5)(a) and (b).

Education Regulations

12. Maximum height of schools

Regulation 7 of the Education Regulations (Cap. 279 sub. leg.) is amended, in the proviso, by repealing “Director” where it first appears and substituting “Permanent Secretary”.

13. Restriction on furniture to be in any classroom

Regulation 14 is amended by repealing “Director” where it first appears and substituting “Permanent Secretary”.

14. “Permanent Secretary” substituted for “Director”

The Regulations are amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) regulation 3;
- (b) regulation 6(b);
- (c) regulation 10;
- (d) regulation 15(2)(b) and (3);
- (e) regulation 16;
- (f) regulation 20;
- (g) regulation 21(1);
- (h) regulation 22;
- (i) regulation 23;
- (j) regulation 24;
- (k) regulation 28;
- (l) regulation 31;
- (m) regulation 32;
- (n) regulation 36;
- (o) regulation 37;
- (p) regulation 40(3)(b);
- (q) regulation 42;
- (r) regulation 42A;
- (s) regulation 43(1);
- (t) regulation 44;
- (u) regulation 46A(2) and (3);
- (v) regulation 48(2);
- (w) regulation 54(1), (2) and (3);
- (x) regulation 55(5);
- (y) regulation 56(4), (6) and (7);
- (z) regulation 57(3);
- (za) regulation 60;
- (zb) regulation 60A(1);
- (zc) regulation 61(1) and (2);
- (zd) regulation 62(1);

- (ze) regulation 64(b);
- (zf) regulation 65;
- (zg) regulation 66(1) and (2);
- (zh) regulation 75(1), (2), (3) and (4);
- (zi) regulation 79;
- (zj) regulation 80;
- (zk) regulation 81;
- (zl) regulation 82;
- (zm) regulation 83(1)(a), (b) and (c);
- (zn) regulation 85;
- (zo) regulation 87(1);
- (zp) regulation 88;
- (zq) regulation 89(1) and (2);
- (zr) regulation 90;
- (zs) regulation 91(2);
- (zt) regulation 92(2), (3), (4), (8), (10) and (12);
- (zu) regulation 93(2);
- (zv) regulation 94;
- (zw) regulation 95(1) and (2);
- (zx) regulation 96(1);
- (zy) regulation 97(1) and (2);
- (zz) regulation 98(1) and (2);
- (zza) regulation 99A(1), (2)(a) and (3);
- (zzb) regulation 101(10);
- (zzc) paragraphs (8) and (9)(a)(i), (b)(i) and (c) of and the definition of “approved” in Part I of the Second Schedule;
- (zzd) paragraph (2) of Part II of the Second Schedule;
- (zze) paragraph (3) of Part III of the Second Schedule;
- (zzf) paragraph (3) of and the definition of “approved” in Part IV of the Second Schedule;

(zzg) paragraphs 1 and 2 of Part I of the Fourth Schedule.

Grant Schools Provident Fund Rules

15. Board of control

Rule 4(1) of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) is amended by repealing “Director” where it first appears and substituting “Permanent Secretary”.

16. “Permanent Secretary” substituted for “Director”

The Rules are amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) rule 2(1) (the definition of “continuous contributory service”);
- (b) rule 2(1) (the definition of “DSS school”);
- (c) rule 7(1)(f) and (3);
- (d) rule 8(1), (1A) and (2A);
- (e) rule 9(2) and (6);
- (f) rule 13(3) and (7)(a);
- (g) rule 13B(1), (2) and (3);
- (h) rule 18(1) and (2A).

Subsidized Schools Provident Fund Rules

17. “Permanent Secretary” substituted for “Director”

The Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg.) are amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) rule 2(1) (the definition of “continuous contributory service”);
- (b) rule 2(1) (the definition of “Hong Kong Special Schools Council”);
- (c) rule 2(1) (the definition of “Subsidized Primary Schools Council”);
- (d) rule 2(1) (the definition of “Subsidized Secondary Schools Council”);
- (e) rule 5(1)(c) and (3);
- (f) rule 7(1)(f) and (3);
- (g) rule 8(1), (1A) and (2A);
- (h) rule 9(2) and (6);
- (i) rule 13(3) and (7)(a);
- (j) rule 13B(3)(a), (b) and (c);
- (k) rule 15(1) and (2A).

Education (Amendment) Regulations 1982

18. Citation and commencement

Regulation 1(2) of the Education (Amendment) Regulations 1982 (L.N. 237 of 1982) is amended by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

19. Addition of new regulation 40A

Regulation 5 is amended, in the new regulation 40A(2)(b), by repealing “Director” and substituting “Permanent Secretary”.

PART 2
CONSEQUENTIAL AND RELATED AMENDMENTS

**Transfer of Businesses (Protection of Creditors)
Ordinance**

20. Saving

Section 10(d) of the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49) is amended by repealing “Director of Education Incorporated” and substituting “Permanent Secretary for Education and Manpower Incorporated”.

Stamp Duty Ordinance

21. Interpretation of Part V

Section 38 of the Stamp Duty Ordinance (Cap. 117) is amended, in paragraph (b) of the definition of “incorporated public officer”, by repealing “Director of Education Incorporated” and substituting “Permanent Secretary for Education and Manpower Incorporated”.

Places of Public Entertainment Regulations

22. Power of licensing authority to reduce or waive fees

(1) Regulation 178(1)(b) of the Places of Public Entertainment Regulations (Cap. 172 sub. leg.) is amended by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

(2) Regulation 178(1)(b) is amended by repealing “that Director” and substituting “the Permanent Secretary for Education and Manpower”.

Hong Kong Examinations and Assessment Authority Ordinance

23. Members of the Authority

(1) Schedule 2 to the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261) is amended, in paragraph (a)(vii), by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

(2) Schedule 2 is amended by repealing paragraph (b)(i).

Post Secondary Colleges Ordinance

24. Interpretation

(1) Section 2 of the Post Secondary Colleges Ordinance (Cap. 320) is amended by repealing the definition of “Director”.

(2) Section 2 is amended by adding –

““Permanent Secretary” (常任秘書長) means the Permanent Secretary for Education and Manpower.”.

25. “Permanent Secretary” substituted for “Director”

The Ordinance is amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) section 3;
- (b) section 4;
- (c) section 6(1), (2), (3), (4) and (6)(a);
- (d) section 7;
- (e) section 8(1);
- (f) section 9(1);
- (g) section 11;
- (h) section 12(2).

Post Secondary Colleges Regulations

26. Schedule amended

(1) The Schedule to the Post Secondary Colleges Regulations (Cap. 320 sub. leg.) is amended, in Forms 1, 2 and 3, by repealing “Director of Education” wherever it appears and substituting “Permanent Secretary for Education and Manpower”.

(2) The Schedule is amended, in Forms 1, 2 and 3, by repealing “Education Department” wherever it appears and substituting “Education and Manpower Bureau”.

27. “Permanent Secretary” substituted for “Director”

The Regulations are amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

- (a) regulation 2(e)(i) and (h)(i) and (ii);
- (b) regulation 3(1);
- (c) regulation 4(1) and (2);
- (d) regulation 6(2);
- (e) regulation 8(2);
- (f) regulation 9(2).

The Ombudsman Ordinance

28. Organizations to which this Ordinance applies

Schedule 1 to The Ombudsman Ordinance (Cap. 397) is amended, in Part I, by repealing “Education Department.”.

29. Saving and transitional provisions

Despite the amendment to The Ombudsman Ordinance (Cap. 397) effected by section 28, the provisions of The Ombudsman Ordinance (Cap. 397) in force

immediately before the date of commencement of this Ordinance that apply to any action taken by or on behalf of the Education Department before that date in the exercise of its administrative functions shall apply to the Education and Manpower Bureau as if the action had been taken by or on behalf of the Education and Manpower Bureau.

Education Scholarships Fund Ordinance

30. Interpretation

(1) Section 2 of the Education Scholarships Fund Ordinance (Cap. 1085) is amended by repealing the definition of “Director”.

(2) Section 2 is amended by adding –

““Permanent Secretary” (常任秘書長) means the Permanent Secretary for Education and Manpower;”.

(3) Section 2 is amended, in the definition of “Trustee”, by repealing “Director of Education” and substituting “Permanent Secretary”.

31. Establishment and vesting of fund

(1) Section 3(1) is amended by repealing “Director” and substituting “Permanent Secretary”.

(2) Section 3(3) is amended by repealing “Director” where it first appears and substituting “Permanent Secretary”.

(3) Section 3(3) is amended by repealing “Director of Education” where it twice appears and substituting “Permanent Secretary for Education and Manpower”.

32. “Permanent Secretary” substituted for “Director”

The Ordinance is amended in the following provisions by repealing “Director” wherever it appears and substituting “Permanent Secretary” –

(a) section 5(2)(a);

- (b) section 8(3);
- (c) section 11(2);
- (d) section 13(5);
- (e) section 14(3);
- (f) section 17(1);
- (g) section 18(d);
- (h) section 19(3).

33. Sections added

The following are added –

“23. Saving and transitional provisions relating to the Education Reorganization (Miscellaneous Amendments) Ordinance 2002

- (1) In this section and section 24 –

“Amended Ordinance” (經修訂條例) means this Ordinance as amended by the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002);

“date of commencement” (生效日期) means the date of commencement of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002).

(2) A reference in section 24 to property, rights and liabilities of the corporation sole known as the “Director of Education” is a reference to –

- (a) property and assets of every description (whether tangible or intangible) and rights and liabilities of every description (whether present or future, actual or contingent);
- (b) property wherever situated or rights and liabilities under the law of any place.

(3) The corporation sole known as the “Permanent Secretary for Education and Manpower” constituted by section 3(3) of the Amended Ordinance is deemed to be a continuation of and the same legal entity as the corporation sole known as the “Director of Education” constituted by section 3(3) of this Ordinance before the date of commencement.

(4) The enactment of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002) does not affect the legality and validity of anything done by the corporation sole known as the “Director of Education” before the date of commencement.

24. Provisions incidental and supplemental to section 23

(1) The provisions in this section are for the avoidance of doubt and apply without limiting the generality of section 23 and to the extent that they are appropriate in the circumstances and consistent with this Ordinance.

(2) As from the date of commencement, all property, rights and liabilities to which the corporation sole known as the “Director of Education” was entitled or subject immediately before that date are deemed to be vested, without any actual transfer or conveyance, in the corporation sole known as the “Permanent Secretary for Education and Manpower”.

(3) A reference to the corporation sole known as the “Director of Education” –

- (a) in any agreement, arrangement or contract or in any deed, bond or any other instrument;
- (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body; and
- (c) in any other document whatsoever (other than an enactment) relating to or affecting any property,

right or liability of the corporation sole known as the “Director of Education” which vests in the corporation sole known as the “Permanent Secretary for Education and Manpower” by virtue of subsection (2),

shall be taken as from the date of commencement as referring to the corporation sole known as the “Permanent Secretary for Education and Manpower”.

(4) The record of property of the corporation sole known as the “Director of Education” immediately before the date of commencement that is in the form of any entry in the books of a bank, company or other corporation is to be transferred in those books to the corporation sole known as the “Permanent Secretary for Education and Manpower” on the request of the corporation sole known as the “Permanent Secretary for Education and Manpower” by the bank, company or other corporation.

(5) The corporation sole known as the “Permanent Secretary for Education and Manpower” may sue on, recover or enforce any property or right vested in it under subsection (2) and may be sued for any liabilities to which it is subject under that subsection.

(6) The corporation sole known as the “Permanent Secretary for Education and Manpower” may sue on, recover or enforce a chose in action vested in it under subsection (2) without having to give a notice of transfer to the person bound by the chose in action.

(7) Any claim by or against the corporation sole known as the “Director of Education” in any judicial or administrative proceedings that is subsisting immediately before the date of commencement does not abate by reason of the enactment of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002) and may be continued or enforced by or against the corporation sole known as the “Permanent Secretary for Education and Manpower”.

(8) In any judicial or administrative proceedings that is subsisting immediately before the date of commencement in which the corporation sole known as the “Director of Education” is a party, the corporation sole known as the “Permanent Secretary for Education and Manpower” shall, on and from that date, substitute for the corporation sole known as the “Director of Education” as that party.

(9) This section and section 23 shall not be construed as giving validity, continuing in force or giving effect to any or all of the following –

- (a) anything that could not have validly been done or given effect to under an enactment amended or repealed by the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002); or
- (b) anything done otherwise than in the lawful exercise of a power or performance of a duty.

(10) This section and section 23 are in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).”.

Director of Education Incorporation Ordinance

34. Long title amended

The long title of the Director of Education Incorporation Ordinance (Cap. 1098) is amended by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

35. Short title

Section 1 is amended by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

36. Permanent Secretary for Education and Manpower constituted a corporation sole

Section 2 is amended by repealing “Director of Education” where it twice appears and substituting “Permanent Secretary for Education and Manpower”.

37. Power of corporation to act as trustee, etc.

Section 4 is amended by repealing “Education Department” and substituting “Education and Manpower Bureau”.

38. Accounts, audit and annual report

Section 8(4) is amended by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower”.

39. Sections added

The following are added –

“9. Saving and transitional provisions relating to the Education Reorganization (Miscellaneous Amendments) Ordinance 2002

(1) In this section and section 10 –

“Amended Ordinance” (經修訂條例) means this Ordinance as amended by the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002);

“date of commencement” (生效日期) means the date of commencement of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002).

(2) A reference in section 10 to property, rights and liabilities of the corporation sole known as the “Director of Education Incorporated” is a reference to –

(a) property and assets of every description (whether tangible or intangible) and rights and liabilities of

every description (whether present or future, actual or contingent);

(b) property wherever situated or rights and liabilities under the law of any place.

(3) The corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” constituted by section 2 of the Amended Ordinance is deemed to be a continuation of and the same legal entity as the corporation sole known as the “Director of Education Incorporated” constituted by section 2 of this Ordinance before the date of commencement.

(4) The enactment of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002) does not affect the legality and validity of anything done by the corporation sole known as the “Director of Education Incorporated” before the date of commencement.

10. Provisions incidental and supplemental to section 9

(1) The provisions in this section are for the avoidance of doubt and apply without limiting the generality of section 9 and to the extent that they are appropriate in the circumstances and consistent with this Ordinance.

(2) As from the date of commencement, all property, rights and liabilities to which the corporation sole known as the “Director of Education Incorporated” was entitled or subject immediately before that date are deemed to be vested, without any actual transfer or conveyance, in the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated”.

(3) A reference to the corporation sole known as the “Director of Education Incorporated” –

- (a) in any agreement, arrangement or contract or in any deed, bond or any other instrument;
- (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body; and
- (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the corporation sole known as the “Director of Education Incorporated” which vests in the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” by virtue of subsection (2),

shall be taken as from the date of commencement as referring to the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated”.

(4) The record of property of the corporation sole known as the “Director of Education Incorporated” immediately before the date of commencement that is in the form of any entry in the books of a bank, company or other corporation is to be transferred in those books to the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” on the request of the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” by the bank, company or other corporation.

(5) Where the corporation sole known as the “Director of Education Incorporated” is the trustee of any trust, the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” shall effective on the date of commencement continue as trustee of that trust in substitution of the corporation sole known as the “Director of Education Incorporated”.

(6) The corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” may sue on, recover or enforce any property or right vested in it under subsection (2) and may be sued for any liabilities to which it is subject under that subsection.

(7) The corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” may sue on, recover or enforce a chose in action vested in it under subsection (2) without having to give a notice of transfer to the person bound by the chose in action.

(8) Any claim by or against the corporation sole known as the “Director of Education Incorporated” in any judicial or administrative proceedings that is subsisting immediately before the date of commencement does not abate by reason of the enactment of the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002) and may be continued or enforced by or against the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated”.

(9) In any judicial or administrative proceedings that is subsisting immediately before the date of commencement in which the corporation sole known as the “Director of Education Incorporated” is a party, the corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated” shall, on and from that date, substitute for the corporation sole known as the “Director of Education Incorporated” as that party.

(10) This section and section 9 shall not be construed as giving validity, continuing in force or giving effect to any or all of the following –

- (a) anything that could not have validly been done or given effect to under an enactment amended or repealed by the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 (of 2002); or

(b) anything done otherwise than in the lawful exercise of a power or performance of a duty.

(11) This section and section 9 are in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).”.

St. Paul’s College Council Incorporation Ordinance

40. Power of corporation

Section 4(1)(h) of the St. Paul’s College Council Incorporation Ordinance (Cap. 1102) is amended by repealing “Education Department” and substituting “Education and Manpower Bureau”.

Miscellaneous references to “Director of Education”

41. Amendment of references to “Director of Education”

The provisions specified in column 3 of the Schedule are amended by repealing “Director of Education” wherever it appears and substituting “Permanent Secretary for Education and Manpower”.

PART 3

SAVING AND TRANSITIONAL PROVISIONS RELATING TO THE BOARD OF EDUCATION, THE DIRECTOR OF EDUCATION AND THE EDUCATION DEPARTMENT

42. Saving and transitional provisions relating to the Board of Education, the Director of Education and the Education Department

(1) In this section and section 43 –

“date of commencement” (生效日期) means the date of commencement of this Ordinance;

“functions” (職能) includes powers and duties.

(2) A reference in this section and section 43 to property, rights and liabilities of the Director of Education or the Education Department is a reference to –

- (a) property and assets of every description (whether tangible or intangible) and rights and liabilities of every description (whether present or future, actual or contingent);
- (b) property wherever situated or rights and liabilities under the law of any place.

(3) A person who holds office as a member of the Board of Education or its subcommittees immediately before the date of commencement ceases to hold that office on that date.

(4) All minutes, books, records, documents or other articles of the Board of Education and its subcommittees are to be handed over to the Permanent Secretary for Education and Manpower on the date of commencement.

(5) From the date of commencement, all property, rights and liabilities of the Director of Education or the Education Department are vested in the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(6) The enactment of this Ordinance does not affect the validity of anything lawfully done by, in relation to or on behalf of the Director of Education or the Education Department before the date of commencement.

(7) Anything lawfully done before the date of commencement by, in relation to or on behalf of the Director of Education or the Education Department pursuant to or in connection with his or its functions shall, on and from that date, be regarded and have effect as done by, in relation to or on behalf

of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(8) Anything that, immediately before the date of commencement, may be done by, in relation to or on behalf of the Director of Education or the Education Department pursuant to or in connection with his or its functions may, on and from that date, be done by, in relation to or on behalf of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(9) Anything that, immediately before the date of commencement, may be done or is required to be done and is in the process of being done by, in relation to or on behalf of the Director of Education or the Education Department pursuant to or in connection with his or its functions shall, on and from that date, be continued by, in relation to or on behalf of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

43. Provisions incidental and supplemental to section 42

(1) The provisions in this section apply without limiting the generality of section 42 and to the extent that they are appropriate in the circumstances and consistent with this Ordinance.

(2) Any agreement, arrangement or contract made or entered into or transaction effected or other thing done by, in relation to or on behalf of the Director of Education or the Education Department which is in force or effective immediately before the date of commencement or which is to take effect on or after that date has effect as from that date as if made, entered into, effected or done by, in relation to or on behalf of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(3) A reference to the Director of Education or the Education Department –

- (a) in any agreement, arrangement or contract or in any deed, bond or any other instrument;
- (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court, tribunal or similar body; and
- (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the Director of Education or the Education Department which vests in the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau by virtue of section 42(5),

shall be taken as from the date of commencement as referring to the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(4) The record of property of the Director of Education or the Education Department immediately before the date of commencement that is in the form of any entry in the books of a bank, company or other corporation is to be transferred in those books to the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate, on the request of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate, by the bank, company or other corporation.

(5) The Permanent Secretary for Education and Manpower or the Education and Manpower Bureau may sue on, recover or enforce any property or right vested in him or it under section 42(5) and may be sued for any liability to which he or it is subject under section 42(5).

(6) The Permanent Secretary for Education and Manpower or the Education and Manpower Bureau may sue on, recover or enforce a chose in action vested in him or it under section 42(5) without having to give a notice of transfer to the person bound by the chose in action.

(7) Any claim by or against the Director of Education or the Education Department in any judicial or administrative proceedings that is subsisting immediately before the date of commencement does not abate by reason of the enactment of this Ordinance and may be continued or enforced by or against the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(8) In any judicial or administrative proceedings that is subsisting immediately before the date of commencement in which the Director of Education or the Education Department is a party, the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau shall, on and from that date, substitute for the Director of Education or the Education Department, as appropriate, as that party.

(9) Any right of appeal against a decision of the Director of Education or the Education Department or any right to have such decision reviewed that is subsisting immediately before the date of commencement may, on and from that date, be exercised as if the decision were a decision of the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(10) Any right of appeal to the Director of Education or the Education Department or any right to have anything reviewed by the Director of Education or the Education Department that is subsisting immediately before the date of commencement is to be treated, on and from that date, as being a right of appeal to the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate, or a right to have that thing reviewed by the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(11) Any form that is specified or prescribed before the date of commencement for use in connection with any function of the Director of Education or the Education Department may, on and from that date, be used despite the fact that it contains references to the Director of Education or the

Education Department; and such references shall be construed as references to the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(12) If immediately before the date of commencement, there is in existence an application for a permit, registration, permission, approval, authorization or exemption or an application of a similar nature made to the Director of Education or the Education Department which has not been disposed of, it is to be taken to be an application made to the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(13) Any circular, circular memorandum, order, certificate, notice, approval, letter, guideline, report, statement or other document issued by the Director of Education or the Education Department which is in force immediately before the date of commencement, or which is to take effect on or after that date, has effect as if issued by the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate, in so far as that is required for continuing its effect after that date.

(14) Any terms and conditions imposed on any grant in aid or subsidy granted by the Director of Education or the Education Department before the date of commencement shall continue to take effect and be binding on the grantee as if imposed by the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau, as appropriate.

(15) This section and section 42 shall not be construed as giving validity, continuing in force or giving effect to any or all of the following –

- (a) anything that could not have validly been done or given effect to under an enactment amended or repealed by this Ordinance; or
- (b) anything done otherwise than in the lawful exercise of a power or performance of a duty.

(16) This section and section 42 are in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

SCHEDULE

[s. 41]

AMENDMENT OF “DIRECTOR OF EDUCATION” TO “PERMANENT SECRETARY FOR EDUCATION AND MANPOWER”

Item	Ordinance	Provision
1.	Specification of Public Offices (Cap. 1 sub. leg.)	The entries relating to “Director of Education”.
2.	Employment Ordinance (Cap. 57)	Section 50(3)(h)(ii).
3.	Employment of Children Regulations (Cap. 57 sub. leg.)	Regulation 2 (the definition of “school attendance certificate”).
4.	Employment of Young Persons and Children at Sea Ordinance (Cap. 58)	Section 2.
5.	Pensions Ordinance (Cap. 89)	Section 18(1B)(b).
6.	Pension Benefits Ordinance (Cap. 99)	Section 19(6)(a).
7.	Auxiliary Forces Pay and Allowances Ordinance (Cap. 254)	Section 16(2)(c).

- | | | |
|-----|--|----------------------|
| 8. | Auxiliary Forces Pay and Allowances (Pensions) Regulation (Cap. 254 sub. leg.) | Section 6(6)(a). |
| 9. | Queen Elizabeth Foundation for the Mentally Handicapped Ordinance (Cap. 399) | Section 5(ba). |
| 10. | Pension Benefits (Judicial Officers) Ordinance (Cap. 401) | Section 20(6)(a). |
| 11. | Electricity Ordinance (Cap. 406) | Section 32(2). |
| 12. | Environment and Conservation Fund Ordinance (Cap. 450) | Section 7(2)(c). |
| 13. | Hong Kong Arts Development Council Ordinance (Cap. 472) | Section 3(3)(e). |
| 14. | Sex Discrimination Ordinance (Cap. 480) | Schedule 1, item 15. |
| 15. | Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) | Section 5(1). |
| 16. | Family Status Discrimination Ordinance (Cap. 527) | Schedule 1, item 15. |
| 17. | Grantham Scholarships Fund Ordinance (Cap. 1076) | Section 4(1)(b). |
| 18. | Munsang College Incorporation Ordinance (Cap. 1094) | Section 4(2). |

19.	Social Work Training Fund Ordinance (Cap. 1100)	Section 5(1)(c).
20.	Sir Robert Black Trust Fund Ordinance (Cap. 1101)	Section 5(2)(b).
21.	Li Po Chun Charitable Trust Fund Ordinance (Cap. 1110)	Schedule, paragraphs 2(2) and (3) and 3(7).
22.	The English Schools Foundation Ordinance (Cap. 1117)	Section 6(1). Section 9(8).
23.	Police Children's Education Trust Ordinance (Cap. 1119)	Section 6(2)(c).
24.	Police Education and Welfare Trust Ordinance (Cap. 1120)	Section 6(2)(c).
25.	Correctional Services Children's Education Trust Ordinance (Cap. 1131)	Section 6(2)(c).

Explanatory Memorandum

The main objects of this Bill are to amend the Education Ordinance (Cap. 279) ("the Ordinance") and other related Ordinances to –

- (a) transfer the functions of the Director of Education to the Permanent Secretary for Education and Manpower;
- (b) transfer the functions of the Education Department to the Education and Manpower Bureau; and
- (c) abolish the Board of Education.

2. Part 1 (clauses 2 to 19) amends the Ordinance and its subsidiary legislation.

3. Clause 2(1) and (2) repeals the definition of "Director" in section 3 of the Ordinance and adds a definition of "Permanent Secretary". Clause 2(3)

amends those definitions in section 3 of the Ordinance listed under clause 2(3) by repealing “Director” wherever it appears and substituting “Permanent Secretary”.

4. Clause 3(1) repeals section 5(1) of the Ordinance so as to repeal the power of the Deputy Director of Education to exercise any function originally exercised by the Director of Education under the Ordinance.

5. Clause 3(2) and (3) amends section 5(2) of the Ordinance by repealing “Director” and substituting “Permanent Secretary” and by repealing “Education Department” and substituting “Education and Manpower Bureau”, where appropriate.

6. Clause 4 repeals section 7 of the Ordinance to abolish the Board of Education; the functions of the Board of Education will be assumed by the Education Commission to streamline the advisory mechanism.

7. Clause 5 repeals section 7A of the Ordinance which governs the resignation of a member of the Board of Education.

8. Clauses 6, 7, 8 and 9 amend various sections of the Ordinance by repealing “Director” and substituting “Permanent Secretary” and by repealing “Education Department” and substituting “Education and Manpower Bureau”, where appropriate.

9. Clause 10(1) amends section 100(2) of the Ordinance to make it clear that the word “Director” where it first appears in that section means “Director of Education”. This is a historical reference, therefore the word “Director” in section 100(2) is not amended to “Permanent Secretary”. However, as the definition of “Director” in section 2 of the Ordinance has been repealed, it is necessary to clarify the word “Director” in section 100(2).

10. Clause 10(2) amends section 100(2) of the Ordinance by repealing “Director” where it secondly appears in that section and substituting “Permanent Secretary”.

11. Clause 11 amends various sections of the Ordinance listed under that clause by repealing “Director” wherever it appears and substituting “Permanent Secretary”.

12. Clauses 12 and 13 amend various provisions of the Education Regulations (Cap. 279 sub. leg.) by repealing “Director” and substituting “Permanent Secretary”, where appropriate.

13. Clause 14 amends various provisions of the Education Regulations (Cap. 279 sub. leg.) listed under that clause by repealing “Director” wherever it appears and substituting “Permanent Secretary”.

14. Clause 15 amends rule 4(1) of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) by repealing “Director” and substituting “Permanent Secretary”, where appropriate.

15. Clause 16 amends various provisions of the Grant Schools Provident Fund Rules (Cap. 279 sub. leg.) listed under that clause by repealing “Director” wherever it appears and substituting “Permanent Secretary”.

16. Clause 17 amends various provisions of the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg.) listed under that clause by repealing “Director” wherever it appears and substituting “Permanent Secretary”.

17. Clauses 18 and 19 amend regulations 1(2) and 5 of the Education (Amendment) Regulations 1982 (L.N. 237 of 1982) by repealing “Director of Education” and substituting “Permanent Secretary for Education and Manpower” and by repealing “Director” and substituting “Permanent Secretary”, where appropriate.

18. Part 2 (clauses 20 to 41) and the Schedule contain consequential and related amendments to other Ordinances. In particular –

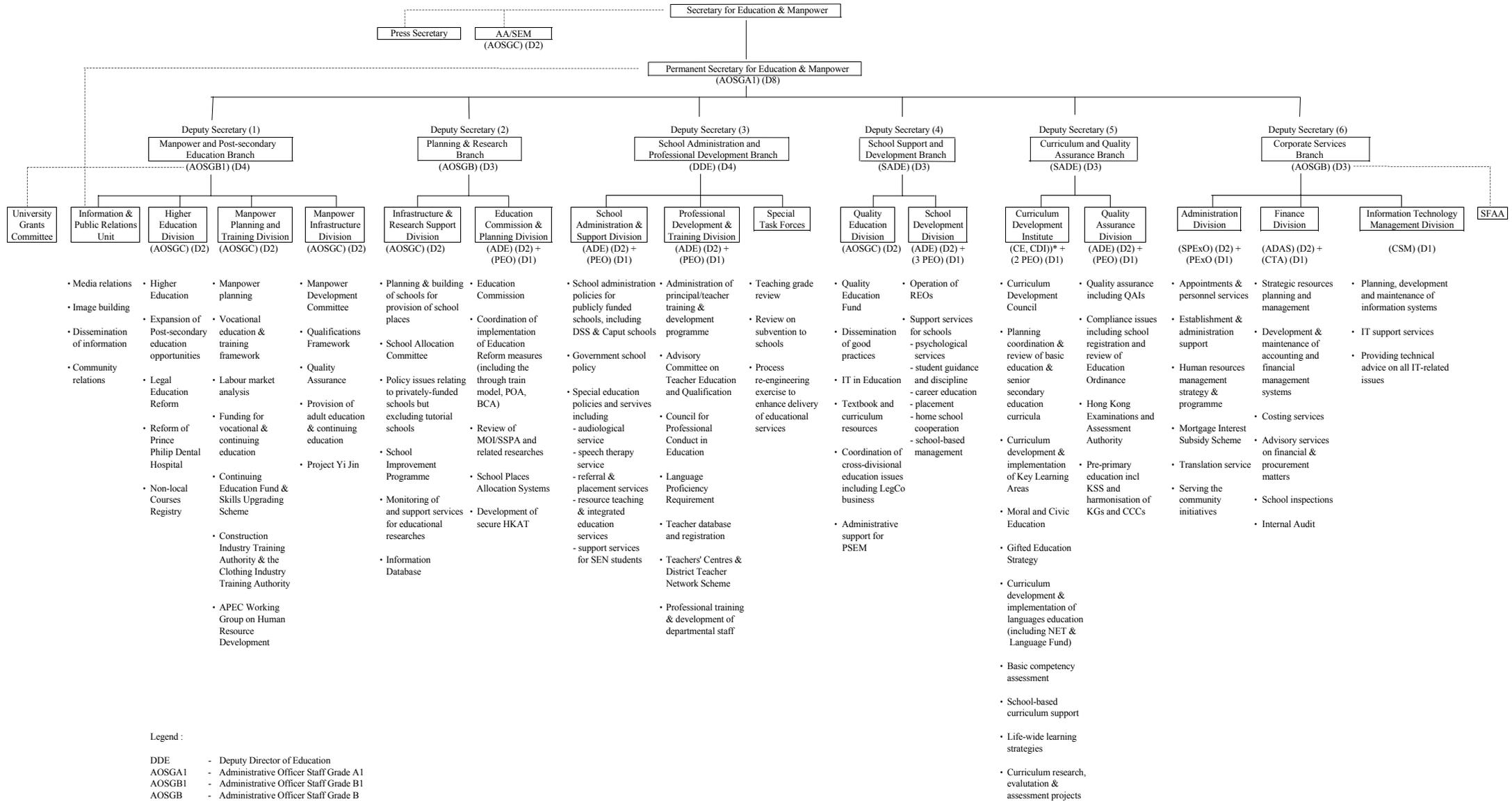
- (a) clause 23(2) amends paragraph (b)(i) of Schedule 2 to the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261) by repealing the power of the Chief Executive to appoint 1 public officer to serve as a member of the Hong Kong Examinations and Assessment

Authority; the public officer appointed used to be an officer from the Education and Manpower Bureau; as the Permanent Secretary for Education and Manpower or his representative will be a member of the Hong Kong Examinations and Assessment Authority under paragraph (a)(vii) of that Schedule, there is no need to appoint another officer from the Education and Manpower Bureau to the Hong Kong Examinations and Assessment Authority;

- (b) clause 28 amends The Ombudsman Ordinance (Cap. 397) by taking out “Education Department” from Part I of Schedule 1 to that Ordinance because the Education Department will be subsumed under the Education and Manpower Bureau; the Education and Manpower Bureau, as part of the Government Secretariat, is already covered by Part I of that Schedule;
- (c) clause 33 adds saving and transitional provisions to the Education Scholarships Fund Ordinance (Cap. 1085) that are required for the reconstitution of the corporation sole known as the “Director of Education” to a corporation sole known as the “Permanent Secretary for Education and Manpower”; and
- (d) clause 39 adds saving and transitional provisions to the Director of Education Incorporation Ordinance (Cap. 1098) that are required for the reconstitution of the corporation sole known as the “Director of Education Incorporated” to a corporation sole known as the “Permanent Secretary for Education and Manpower Incorporated”.

19. Part 3 (clauses 42 and 43) contains saving and transitional provisions required for the abolition of the Board of Education and transfer of functions of the Director of Education and the Education Department.

PROPOSED ORGANISATION CHART OF EDUCATION AND MANPOWER BUREAU



Existing Terms of Reference of Advisory Bodies

Education Commission

- I. The Education Commission advises the Government on the following :
 - (a) the overall educational objectives and policies, and the priorities for implementation having regard to resources available;
 - (b) the co-ordination and monitoring of the planning and development of education at all levels.

- II. In carrying out these tasks, the Commission will co-ordinate but not seek to direct the work of Board of Education (BoE), University Grants Committee (UGC), Vocational Training Council (VTC) and other education advisory bodies. Specifically, it will -
 - (a) receive and comment on the periodic reports submitted to the Government by BoE, UGC, VTC and other major advisory bodies on education;
 - (b) request the above-mentioned bodies to initiate discussion on issues falling within their respective purview as necessary;
 - (c) receive regular reports from the Government on the introduction and implementation of major education policies and initiatives; and
 - (d) initiate educational research as appropriate.

- III. The Commission oversees the operation of the Quality Education Fund, with advice from the Quality Education Fund Steering Committee.

- IV. The Commission submits its reports and recommendations to the Chief Executive.

Board of Education

Advise the Director of Education on educational matters at school level. Its main tasks are to advise on the implementation of approved policies, to review existing policies and to propose changes.

**Education Commission
Proposed Terms of Reference**

- I. The Education Commission advises the Secretary for Education and Manpower on –
 - (a) the overall educational objectives and policies, and the planning and development of early childhood and school education; and
 - (b) the priorities for implementation of its recommendations having regard to resources available.

- II. In carrying out its tasks, the Commission will co-ordinate but not seek to direct the work of University Grants Committee (UGC), Vocational Training Council (VTC) and other education advisory bodies. Specifically, it will –
 - (a) receive and comment on the periodic reports submitted to the Government by UGC, VTC and other major advisory bodies on education;
 - (b) request the above-mentioned bodies to initiate discussion on issues falling within their respective purview as necessary;
 - (c) entertain requests from the Government for advice on educational issues; and
 - (d) initiate education research as appropriate.

- III. The Commission oversees the operation of the Quality Education Fund, with advice from the Quality Education Fund Steering Committee.

- IV. The Commission submits its reports and recommendations to the Secretary for Education and Manpower.

Economic, Financial and Civil Service Implications

Economic Implications

The proposed merger aims at achieving a streamlined and closely integrated organizational set-up. This will facilitate better planning, implementation and management of policies and practices in the education field, which will complement the broader reforms in the education sector and in turn contribute towards a better educated Hong Kong population and labour force.

Financial and Civil Service Implications

2. The proposed merger would result in net savings in staff costs of about \$14 million due mainly to the deletion of five civil service directorate posts, partially offset by the creation of one directorate post through upgrading. In addition, one non-civil service directorate post will be deleted. Following the merger of EC and BoE, we will be able to re-deploy three non-directorate staff presently serving the BoE Secretariat for other duties. We envisage there is scope for further savings in staff costs at the non-directorate levels and in other operating costs in the new EMB through process re-engineering and refocusing of priorities. In view of the many new initiatives aimed at improving the quality of education in Hong Kong and the need to strengthen our professional support to schools to face the challenges from the education and curriculum reforms, we will re-deploy further savings to achieve such objectives.

3. The proposal will not have impact on the civil service system. We have set out in paragraph 17 of the brief our assessment of the likely staff reaction. We have also consulted the Secretary for the Civil Service and the Secretary for Financial Services and Treasury Bureau on the proposed changes to the directorate structure. Both have expressed no major difficulties with the proposals in general.