

《教育局常任秘書長法團條例》 (第 1098 章)

Permanent Secretary for Education Incorporation Ordinance (Cap. 1098)

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Cap. 1098

制定史

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《教育局常任秘書長法團條例》

(第 1098 章)

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Permanent Secretary for Education Incorporation Ordinance

(Cap. 1098)

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本條例旨在就教育局常任秘書長成立為法團，以及就相關事宜，訂定條文。

(由 2003 年第 3 號第 34 條修訂；由 2007 年第 130 號法律公告修訂)

[1960 年 9 月 23 日]

(格式變更——2022 年第 2 號編輯修訂紀錄)

1. 簡稱

本條例可引稱為《教育局常任秘書長法團條例》。

(由 2003 年第 3 號第 35 條修訂；由 2007 年第 130 號法律公告修訂)

2. 教育局常任秘書長構成單一法團

(由 2007 年第 130 號法律公告修訂)

當其時執行教育局常任秘書長職務的人為單一法團（以下稱為**法團**），並須以“教育局常任秘書長法團”的名稱命名，而且以該名稱永久延續。

(由 2003 年第 3 號第 36 條修訂；由 2007 年第 130 號法律公告修訂)

3. 法團的印章及其認證，以及經蓋上法團的印章而簽立的文書

(1) 法團須備有和可以使用法團印章，而蓋上印章須由當其時身居法團一職的人簽署認證。

(2) 看來是經蓋上法團的印章而妥為簽立的文書的任何文書，須獲收取為證據，而除非相反證明成立，否則須當作為如此簽立的文書。

To provide for the incorporation of the Permanent Secretary for Education, and for matters connected therewith.

(Amended 3 of 2003 s. 34; L.N. 130 of 2007)

[23 September 1960]

(Format changes—E.R. 2 of 2022)

1. Short title

This Ordinance may be cited as the Permanent Secretary for Education Incorporation Ordinance.

(Amended 3 of 2003 s. 35; L.N. 130 of 2007)

2. Permanent Secretary for Education constituted a corporation sole

(Amended L.N. 130 of 2007)

The person for the time being performing the duties of the office of Permanent Secretary for Education shall be a corporation sole, hereinafter called **the corporation**, and shall have the name of the “Permanent Secretary for Education Incorporated” and in that name shall have perpetual succession.

(Amended 3 of 2003 s. 36; L.N. 130 of 2007)

3. Seal of corporation and authentication thereof, and instruments executed thereunder

(1) The corporation shall have and may use a common seal and the affixing of the seal shall be authenticated by the signature of the occupant of the corporation for the time being.

(2) Any instrument purporting to be an instrument duly executed under the seal of the corporation shall be received in evidence

4. 法團以受託人身分行事的權力等

法團在獲得政務司司長的事先批准下，可就任何為與教育或與教育局工作相關的目的或宗旨而設立的信託，以受託人身分行事，亦可獲取、租入、購買、持有、租用和享用任何動產或不動產，並可將其處置。

(由 1997 年第 362 號法律公告修訂；由 2003 年第 3 號第 37 條修訂；由 2007 年第 130 號法律公告修訂)

5. 將信託基金投資的權力

- (1) 法團可按照《受託人條例》(第 29 章)的條文，將法團手上的任何信託基金投資，不論該等基金當時是否在投資狀態：

但如當其時身居法團一職的人認為將任何上述信託基金作如此投資，由於任何理由而並非切實可行，則法團可將上述信託基金存入行政長官一般地或在任何個別情況下批准的任何銀行或儲蓄銀行。(由 2000 年第 55 號第 3 條修訂)

- (2) 第 (1) 款授予法團的權力，是附加於任何信託所授予的權力(如有的話)的，但只在任何信託的任何條款中並無表達相反用意的情況下，以及只限於在任何信託的任何條款中並無表達相反用意的範圍內方可運用，而其效力須受任何該等條款所規限。

6. 法團的財產轉移予法團的繼任人

凡有任何財產或其中權益歸屬法團，該財產或其中權益須轉移、轉予並歸屬法團不時的繼任人，除非與直至該等財產或

and shall, unless the contrary is proved, be deemed to be an instrument so executed.

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

The corporation subject to the prior approval of the Chief Secretary for Administration may act as trustee of any trust created for purposes or objects connected with education or with the work of the Education Bureau and may acquire, take on lease, purchase, hold, hire and enjoy any movable or immovable property and may dispose of the same.

(Amended L.N. 362 of 1997; 3 of 2003 s. 37; L.N. 130 of 2007)

5. Power to invest trust funds

- (1) The corporation may invest, in accordance with the provisions of the Trustee Ordinance (Cap. 29), any trust funds in the hands of the corporation whether at the time in a state of investment or not:

Provided that where the occupant of the corporation for the time being considers it impracticable for any reason whatsoever for any such trust funds to be so invested, the corporation may deposit such trust funds in any bank or savings bank approved by the Chief Executive either generally or in any particular case. (Amended 55 of 2000 s. 3)

- (2) The powers conferred on the corporation by subsection (1) are in addition to the powers (if any) conferred by any trust but shall apply only if and so far as a contrary intention is not expressed in any term of any trust, and shall have effect subject to any such term.

6. Property of corporation to pass to its successors

Where any property or interest therein is vested in the corporation, the same shall, unless and until otherwise disposed of by the

其中權益已由法團另行處置。

7. 關於身居法團一職的人的證明書

如對於何人現時是或在任何時間曾是當其時身居法團一職的人出現任何問題，則政務司司長所簽署的證明書，對於何人現時是或曾是身居該職的人，就所有目的而言，即屬不可推翻的證據。

(由 1997 年第 362 號法律公告修訂)

8. 帳目、審計及年報

- (1) 法團須就其管理的任何信託基金的所有交易，備存帳目及紀錄。
- (2) 庫務署署長可就第 (1) 款所提述的帳目及紀錄的備存，向法團發出他認為適合的書面指示，而法團須遵從任何該等指示。
- (3) 法團須就其管理的信託基金，按庫務署署長以書面規定的形式，擬備截至任何一年的 8 月 31 日止的每段 12 個月的期間的基金帳目報表。
- (4) 第 (3) 款所規定的帳目報表須由當其時執行教育局常任秘書長職務的人簽署，而除非法團所管理的信託基金的帳目已根據《受託人條例》(第 29 章) 第 24(4) 條由獨立會計師審計，否則須在該帳目報表所涵蓋的期間終結後的 2 月 28 日或之前，或在行政長官所容許的較後日期或之前，由法團呈交審計署署長。(由 1997 年第 362 號法律公告修訂；由 2000 年第 55 號第 3 條修訂；由 2003 年第 3 號第 38 條修訂；由 2007 年第 130 號法律公告修訂)
- (5) 凡帳目報表根據第 (4) 款呈交審計署署長，審計署署長須審計該帳目報表和第 (1) 款所提述的基金帳目，並須核證該帳目報表連同其認為適合的報告(如有的話)，並將經審計的帳目報表及就該報表作出的報告(如有的話)呈交法團。(由 1997 年第 362 號法律公告修訂)

corporation, pass and devolve to and vest in the successors from time to time of the corporation.

7. Certificate as to occupant of corporation

If any question arises as to who is or was at any time the occupant of the corporation for the time being, a certificate under the hand of the Chief Secretary for Administration shall be conclusive evidence for all purposes as to the person who is or was such occupant.

(Amended L.N. 126 of 1995; L.N. 362 of 1997)

8. Accounts, audit and annual report

- (1) The corporation shall keep accounts and records of all transactions in respect of any trust funds it administers.
- (2) The Director of Accounting Services may give such directions in writing to the corporation as he thinks fit with respect to the keeping of accounts and records referred to in subsection (1) and the corporation shall comply with any such direction.
- (3) The corporation shall prepare in relation to the trust funds it administers a statement of accounts of the funds for each period of 12 months ending on 31 August in any year, in such form as the Director of Accounting Services may require in writing.
- (4) A statement of accounts required by subsection (3) shall be signed by the person for the time being performing the duties of the office of the Permanent Secretary for Education and shall, unless the accounts of the trust funds the corporation administers have been audited by an independent accountant under section 24(4) of the Trustee Ordinance (Cap. 29), be submitted by the corporation to the Director of Audit not later than 28 February following the end of the period to which it relates, or such later date as the Chief Executive may allow. (Amended 55 of 2000 s. 3; 3 of 2003 s. 38; L.N. 130 of 2007)

- (6) 法團經審計的帳目報表一份，連同審計署署長的報告（如有的話），以及法團就經審計帳目報表所涵蓋的期間的基金管理所作的報告（如有的話），須不遲於法團從審計署署長接獲經審計的帳目報表及就該報表作出的報告（如有的話）後的 3 個月，呈交立法會會議席上省覽。（由 1997 年第 362 號法律公告修訂；由 2000 年第 55 號第 3 條修訂）

（由 1989 年第 21 號第 2 條增補）

9. 關於《2003 年教育重組（雜項修訂）條例》的保留及過渡性條文

- (1) 在本條及第 10 條中——

* **生效日期** (date of commencement) 指《2003 年教育重組（雜項修訂）條例》(2003 年第 3 號) 開始實施的日期；

經修訂條例 (Amended Ordinance) 指經《2003 年教育重組（雜項修訂）條例》(2003 年第 3 號) 修訂的本條例。

- (2) 在第 10 條中，凡提述名為“Director of Education Incorporated”的單一法團的財產、權利及法律責任，即為提述——
- 每一類別的財產及資產（不論是實體的或是無形的），以及每一類別的權利及法律責任（不論是現存的或是將來的，實有的或是或有的）；
 - 不論位於何處的財產或受任何地方的法律管限的權利及法律責任。

- (5) Where the statement of accounts is submitted to the Director of Audit under subsection (4), such statement of accounts and the accounts of the funds referred to in subsection (1) shall be audited by the Director of Audit, who shall certify the statement of accounts together with such report, if any, as he may think fit and submit the audited statement of accounts and the report thereon, if any, to the corporation.
- (6) A copy of the corporation's audited statement of accounts, together with the Director of Audit's report, if any, and a report, if any, by the corporation on the administration of the fund during the period covered by the audited statement of accounts shall be laid upon the table of the Legislative Council not later than 3 months after the audited statement of account and the report thereon, if any, are received by the corporation from the Director of Audit.

(Added 21 of 1989 s. 2)

9. Saving and transitional provisions relating to the Education Reorganization (Miscellaneous Amendments) Ordinance 2003

- (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 2003 (3 of 2003);

* **date of commencement** (生效日期) means the date of commencement of the Education Reorganization (Miscellaneous Amendments) Ordinance 2003 (3 of 2003).

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

- (3) 根據經修訂條例第 2 條構成的名為“教育統籌局常任秘書長法團”的單一法團，須被當作是根據在生效日期前的本條例第 2 條構成的名為“Director of Education Incorporated”的單一法團的延續及同一法律實體。
- (4) 《2003 年教育重組 (雜項修訂) 條例》(2003 年第 3 號) 的制定並不影響名為“Director of Education Incorporated”的單一法團在生效日期前作出的任何事情的法律性及效力。
- (由 2003 年第 3 號第 39 條增補)

編輯附註：

* 生效日期：2003 年 2 月 28 日。

10. 關於第 9 條的附帶及補充條文

- (1) 本條的條文為免生疑問而訂，在不局限第 9 條的一般性的情況下適用，並在於有關情況下屬適當及不抵觸本條例的範圍內適用。
- (2) 名為“Director of Education Incorporated”的單一法團在緊接生效日期前享有或承擔的所有財產、權利及法律責任，自該日起即無須再作實際轉讓或轉易而當作歸屬名為“教育統籌局常任秘書長法團”的單一法團。
- (3) 凡 ——
- (a) 在任何協議、安排、合約、契據、擔保書或其他文書中；

- 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 2003 (3 of 2003) 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.

(Added 3 of 2003 s. 39)

Editorial Note:

* Commencement date: 28 February 2003.

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”.

- (b) 在為於法院、審裁處或相類機關席前進行的法律程序而發出、擬備或使用的法律程序文件或其他文件中；及
- (c) 在關於或影響名為“Director of Education Incorporated”的單一法團根據第(2)款歸屬名為“教育統籌局常任秘書長法團”的單一法團的任何財產、權利或法律責任的任何其他文件(成文法則除外)中，有提述名為“Director of Education Incorporated”的單一法團之處，該等提述自生效日期起，須視為對名為“教育統籌局常任秘書長法團”的單一法團的提述。
- (4) 名為“Director of Education Incorporated”的單一法團在緊接生效日期前的財產紀錄如是以記項形式載於任何銀行、公司或其他法團的簿冊內的，則有關銀行、公司或其他法團須應名為“教育統籌局常任秘書長法團”的單一法團的要求將該等財產紀錄在該等簿冊內轉到名為“教育統籌局常任秘書長法團”的單一法團的名下。
- (5) 凡名為“Director of Education Incorporated”的單一法團是任何信託的信託人，自生效日期起，名為“教育統籌局常任秘書長法團”的單一法團取代名為“Director of Education Incorporated”的單一法團繼續擔任該信託的信託人。
- (6) 名為“教育統籌局常任秘書長法團”的單一法團可就根據第(2)款歸屬法團的任何財產或權利提起訴訟、進行追討或採取法律行動，亦可就法團根據該款承擔的任何法律責任被起訴。
- (7) 名為“教育統籌局常任秘書長法團”的單一法團可就任何根據第(2)款歸屬法團的據法權產提起訴訟、進行追討或採取法律行動，而無須將該等據法權產已移交一事通知受該等據法權產約束的人。
- (8) 在緊接生效日期前既有的在任何司法或行政程序中由名為“Director of Education Incorporated”的單一法團提出或是針對該法團提出的申索，並不因《2003 年教育重組 (雜

- (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

項修訂) 條例》(2003 年第 3 號) 的制定而中止。該等申索可由名為“教育統籌局常任秘書長法團”的單一法團繼續進行或強制執行，亦可針對名為“教育統籌局常任秘書長法團”的單一法團而繼續進行或強制執行。

- (9) 在緊接生效日期前存續的而名為“Director of Education Incorporated”的單一法團是其中一方的任何司法或行政程序中，名為“教育統籌局常任秘書長法團”的單一法團在該日並自該日起，須取代名為“Director of Education Incorporated”的單一法團作為該方。

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 2003 (3 of 2003) 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) 本條及第 9 條不得解釋為對以下任何或所有事情賦予效力或令其繼續有效或將其施行——
- (a) 根據被《2003 年教育重組 (雜項修訂) 條例》(2003 年第 3 號) 修訂或廢除的成文法則本來就不能有效作出或本來就不能施行的事情；或
 - (b) 並非在合法行使權力或執行職責的情況下作出的事情。
- (11) 本條及第 9 條乃增補而非減損《釋義及通則條例》(第 1 章) 第 23 條的效力。

(由 2003 年第 3 號第 39 條增補)

- (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 2003 (3 of 2003); 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).

(Added 3 of 2003 s. 39)