

## **Vocational Training Council (Amendment) Bill**

### **Introduction**

This paper aims to set out the Administration's responses to the concerns raised by Members of the Bills Committee at the meeting of 4 November 2004. It also proposes further Committee Stage Amendments (CSAs) taking into account Members' and the Assistant Legal Advisor's (ALA) views on some of the technical points of the Bill.

### **Objects of the Vocational Training Council (VTC)**

2. In our letter of 30 October and 3 November 2004 to ALA, we have explained from both the policy as well as the legal perspective that the VTC's objects are kept intact in the current amendment exercise and that, together with the proposed section 6(3) in clause 4 of the Bill, the proposed extra-territorial activities are consistent with the current objects of the VTC. Under section 5(a), VTC is to advise the Chief Executive (CE) on the technical training suited to the developing needs of HK. This will remain central to the work of VTC in spite of the proposed amendments. As we have elaborated in both the submissions and our discussion at the Bill Committee meeting, the VTC has a vital role to play in vocational training to cater for the developing needs of Hong Kong. For Hong Kong to remain as a regional hub of commerce and industry and an international city, VTC's work would also need to be expanded to cover the training needs and opportunities arising from our economic activities beyond our territory, particularly onto our hinterland in the Mainland of China. The objects as set out in section 5 of the Vocational Training Council Ordinance (VTCO) empower the VTC to help strengthen our manpower through the provision of training and development programmes that benefit Hong Kong as a whole and this will remain the benchmark in assessing whether any activity conducted by the VTC is consistent with its missions set out in its governing ordinance.

3. We have already explained in the Legislative Council Brief provided to Members in October 2004 the benefits to be brought about by enabling the VTC to conduct extra-territorial activities. To recap, these include meeting the trained and qualified manpower requirements of Hong Kong business establishments with operations in the Mainland, providing useful exposure to the trainees and better equip workers for employment in the Mainland, as well as facilitating the bilateral exchange of experience and expertise in vocational education and training between Hong Kong and the Mainland, thereby contributing to the work of the VTC in this area. These are exactly in tune with the spirit behind the objects of the VTC and accordingly, are considered well within the meaning of

“technical education and industrial training suited to the development needs of Hong Kong” of section 5(a) and in line with the object under section 5(b) – to institute, develop and operate schemes for training objectives, craftsmans, technicians and technologists needed to sustain and improve industry.

### **Extra-territorial Activities to be Conducted by VTC**

4. Specifically, extra-territorial activities which the VTC plans to operate include—
  - a) job attachments in the Mainland for youths;
  - b) provision of training and skills certification programmes; and
  - c) award bearing/professionally recognised programmes.
  
5. Some programmes, e.g. training and job attachments for non-engaged youth, will be provided to Hong Kong young people only whereas the other types of programmes may be opened to non-Hong Kong people who may or may not be employed by Hong Kong-based business operations in the Mainland.
  
6. Most of the programmes undertaken in the Mainland will be run on a self-financing basis, without Government subsidy, (except e.g. those programmes for the non-engaged Hong Kong youths). These self-financing activities may also help generate additional income which will be ploughed back to fund the VTC’s other activities.

### **Containment of Risk**

7. The VTC will conduct its extra-territorial activities through the vehicle of limited companies, thus limiting the liabilities involved to these companies as separate legal entities. Separate accounts will be maintained for the extra-territorial activities. To minimize financial risks, the VTC will not undertake any programme unless the “break-even point” test is met, i.e., reaching the level of admission or participation that will enable the programmes to be financially self-sufficient. In the unlikely event that a loss is incurred, the VTC could offset the loss by the accumulated surpluses from the account on the self-financed activities in Hong Kong.

### **VTC Staff Reaction and Involvement in Extra-territorial Activities**

8. The proposed expansion of the VTC’s activities outside Hong Kong, and particularly in the Mainland, is one of the key initiatives under the VTC’s 8-year Strategic

Plan, on which staff have been extensively consulted. Staff members, including their unions, are generally supportive of the proposals.

9. These proposals will not adversely affect the job security and conditions of service of the existing VTC staff. Those who are willing to work outside Hong Kong and who possess relevant skills and expertise will be considered for undertaking these extra-territorial activities. Staff selected will also be given training where necessary and appropriate.

10. Where it is not practicable to mobilize existing VTC staff on these expanded activities, new staff members, including non-Hong Kong staff will be engaged.

### **Other CSAs**

11. In her letter of 1 November 2004, the ALA asked if legal arrangements to participate in partnership, corporate holdings and joint venture similar to other tertiary institutions in Hong Kong will be made by the VTC. We have again considered this point further to our letter of 3 November 2004, and we agree that the relevant provisions in the VTCO can be modernized to fall in line with other tertiary institutions. We will therefore propose CSAs to expressly empower the VTC to participate in partnership, corporate holdings and joint venture. A copy of the CSAs relevant will be provided to Members when available.

Education and Manpower Bureau  
November 2004