

Accreditation of Academic and Vocational Qualifications Bill

Response to the Concerns of the Bills Committee on the Establishment of a Qualifications Framework and its associated Quality Assurance Mechanism

At the meeting of the Bills Committee on the Accreditation of Academic and Vocational Qualifications Bill (the Bills Committee) held on 21 February 2006, the Education and Manpower Bureau (EMB) was requested to provide details of the operation of the Recognition of Prior Learning (RPL) mechanism. Members of the Bills Committee have subsequently made some enquiries and recommendations regarding the implementation of the Qualifications Framework (QF) and its associated Quality Assurance Mechanism. This paper aims to make a consolidated response to these enquiries and to make clarifications.

Guiding Principles for RPL

2. In the course of developing the RPL mechanism, we have adhered to the following guiding principles:

- (a) The QF is not mandatory and the qualifications so developed are not “licences” for employment. Some hold the view that serving workers should be included in the QF in one go. We however consider that in devising the RPL mechanism, the emphasis should be on “recognition”, rather than on “exemption”. This principle is premised on the assumption that the skills and knowledge which the employee possesses have been acquired through previous learning and/or work experience and that the RPL is there to recognize these attributes rather than to give an exemption as if the employee did not possess such qualifications in the first place. This principle was elucidated in the Secretary for Education and Manpower (SEM)’s speech in response to the Legislative Council Motion Debate on the QF in July 2004.
- (b) To safeguard the integrity and authority of the RPL mechanism, the claimed possession of knowledge and skills by workers should be recognised through an open, transparent and fair process of verification and/or assessment. Hence, the development of the RPL mechanism should follow the natural and logical order of having first established the Specifications for Competency Standards (SCSs), which is the basic and necessary reference for the RPL process. SCSs are drawn up to help the

industry identify its training needs, and to help workers upgrade their skills and update their knowledge.

- (c) RPL recognises workers' skills and knowledge (based on the units of competency under the SCSs) for the purposes of education and training so that they do not need to start from scratch or to repeat training. The recognition gained under the RPL mechanism should constitute a stepping stone to the next level of education and training towards a higher or wider qualification under the QF. This recognition helps to promote lifelong learning and enhance the competitiveness of our workforce.
- (d) Recognising that qualifications at the lower level competencies are more likely to be acquired from work experience rather than from formal learning, we propose, and some of the existing Industry Training Advisory Committees (ITACs) agree, that greater flexibility and allowance be given to the attainment of qualifications at the junior levels (QF Levels 1 and 2) by taking into account workers' experience that is related to the competencies. However, for higher level competencies (at QF Levels 3 and 4), the RPL mechanism should be so devised as to give due regard to the standards applied in comparable technical, professional and/or academic qualifications.

RPL Scheme

3. We propose to introduce a scheme on RPL for the first three (or four) industries that have formulated their respective SCSs and to review the running of the scheme after two years of operation. The first four industries are Watch & Clock, Printing & Publishing, Hairdressing and Chinese Catering industries. However, the implementation of the recognition scheme will be subject to the enactment of the Bill.

4. To undertake RPL exercises, we need to appoint a number of RPL assessment agencies. There are views that each industry should be assured of a sufficient number of assessment agencies so that relevant workers will not have to wait for a long time before undergoing assessment and that a mechanism should be in place to ensure consistency of assessment standards among different assessment agencies. To maintain the integrity of the RPL system and the consistency of standards among the assessment agencies, it is not advisable to establish too many RPL assessment agencies at the initial stage pending accumulation of adequate experience. We propose that, in the first two years of the implementation of the scheme, there should be no more than two RPL assessment agencies for each industry. ITACs, being

advisory committees, should not take on the role and functions of RPL assessment agencies.

5. An assessment agency has to be recommended by the concerned ITAC (subject to endorsement of the Bill), accredited by the Hong Kong Council for Academic Accreditation (HKCAA) and appointed by the EMB for a specified term with suitable conditions imposed for the job.

6. To qualify as an assessment agency for RPL, the agency should be non-profit-making and the RPL activities it undertakes should also be conducted on a non-profit-making basis. The agency should have qualified assessment personnel, suitable assessment facilities and equipment, practical experience in qualification administration and organisation of assessment activities, as well as a good working relationship with the industry.

7. The HKCAA will be assigned to conduct accreditation evaluations on the assessment agency to ensure its professional competence and to moderate standards among assessment agencies appointed for the same industry. Moreover, we shall consult the Independent Commission Against Corruption on the assessment procedures of the assessment agency to minimise the possibility of conflict of interests.

8. For benchmarking and pilot development purposes, we propose that the Vocational Training Council (VTC) be approached as one of the RPL assessment agencies for each of the four industries in the scheme. VTC, being a major vocational training provider with ample experience in administering trade tests, and as the professional writers of SCSs for the four industries, should be in a good position to assume the role.

9. Whether the RPL mechanism can maintain long-term credibility depends on whether the assessment agencies have an effective internal quality assurance system as well as competent and well-trained assessment personnel. The assessment agencies should invite professionals from the respective industries (including union members) to join the assessment panel. Moreover, the agencies' assessment personnel should have undergone training and possess all relevant capabilities in order to lead the assessment.

10. Having discussed the RPL mechanism, the first four ITACs are receptive to the overall principles suggested above and have expressed their preliminary views on the years of working experience and modes of recognition required for each level. However, the Chinese Catering sector opined that years of working experience should

be the basis of recognition for Levels 1 to 3. In this connection, pending industry consultation on the SCSs of Chinese Catering, the industry needs to further discuss the RPL mechanism so as to reach consensus before implementation.

11. To deal with the recognition of qualifications for Levels 1 and 2 in a more flexible approach, if a worker applying for Level 1 or Level 2 RPL can present valid evidence of years of working experience (such as attestation of job and post issued by employers, business registration certificates, or other supporting information including certificates and diplomas issued by training providers, attestation of members' job and post by labour unions, relevant licence and qualification obtained in the Mainland or overseas) for verification, proving his possession of the relevant competencies, he will be granted recognition of Level 1 or Level 2 competency standards in relation to his experience without undergoing any assessment. ITACs of respective industries will decide on the requirements for years of working experience and specific requirements for proof of such.

12. In giving recognition to higher levels of qualifications (QF Levels 3 and 4), a higher standard of proof is required. Apart from considering the years of working experience of the applicant with respect to relevant competence, an assessment on the applicant has to be conducted, the form of which may include interviews, skill demonstrations, practical examinations, etc.

13. Assessment agencies will be authorised to issue a statement of attainment to successful applicants for the purpose of continuing education. The statement is a qualification recognised under the QF. Assessment agencies may provide advisory service to those applicants who fail to obtain such statement. For those whose RPL applications are successful, recommendations on further progression pathways and training are available from assessment agencies.

14. In short, if workers have no intention to pursue further education, there is simply no urgency to go for RPL. Furthermore, whether to implement RPL or not and the pace of implementation are matters to be solely determined by the industries concerned. If ITACs think that the implementation of RPL will do more harm than good to their respective industries, they may opt otherwise or revert to more in-depth discussions and reach a consensus before proceeding with the implementation.

Generic (Foundation) Competency Standards

15. Some Members from the labour sector considered that the QF should focus on the vocational skills specific to an industry instead of on the rather academic-

oriented generic (foundation) competencies. They hoped that the Administration would shelve the proposal on Generic (Foundation) Competency Standards, which is under consultation.

16. To ensure that qualifications and related training meet the needs of industries, the EMB has been assisting various industries in setting up ITACs to develop SCSs, which set out the skills requirements of the respective industries and the outcome standard. These SCSs are industry-based and, in the main, concerned with specialised skills and knowledge which are specific to an industry.

17. Generic (foundation) competencies refer to knowledge and skills shared across many or all industries, such as languages, numeracy and information technology (IT). The generic (foundation) competencies and the specific SCSs complement each other, making it easier for training providers to develop courses relevant to the industries. Employees will then be able to choose the courses most suitable to their needs and to equip themselves with the necessary skills required in their respective industries. This is beneficial to them when they change their jobs in the future and helps them build a more solid foundation for acquiring higher qualifications.

18. In September 2005, the EMB engaged a professional writer, i.e. VTC, to develop the competency standards for the four strands of generic skills, namely, English, Chinese (Cantonese and Putonghua), Numeracy and IT. With reference to local and overseas training courses and proficiency standards, the professional writer has developed generic (foundation) competency standards for QF Levels 1 to 4. The units of competency specified are portable, focus on the general skills necessary for performing various duties, and can be shared across many industries or a cluster of related industries. These standards are drawn up partly for the purpose of recognising the generic skills obtained by trainees under the Skills Upgrading Scheme and Employees Retraining Scheme.

19. The EMB commenced preliminary consultation on the first draft of the Specification of Generic Competency Standards in mid-January 2006. There is no concrete plan for the implementation of the specification. In view of the concerns of the labour unions as mentioned above, the EMB is prepared to hold further discussions with the labour unions and the stakeholders to examine the ways to help workers grasp these generic skills for their career development. The EMB will also critically revise the pace of development and to work out a new timetable for the work.

Quality Assurance for Vocational Training

20. Members from the labour sector suggested that quality assurance in respect of vocational training should be undertaken by the Employees Retraining Board (ERB) instead of the HKCAA, on the ground that the ERB is well experienced in skill-based vocational training, whereas the HKCAA gives people an impression that it is too academic for the said role.

21. The ERB was established under the Employees Retraining Ordinance in 1992. Its main function is to provide retraining courses and services to eligible workers through a network formed by training providers. As the mission of the ERB is to provide retraining services to the unemployed as well as to those on the verge of unemployment, and as the Board has no experience in accreditation of qualifications or courses, it is inappropriate for the ERB to perform the quality assurance role under the QF. Furthermore, if the ERB is to perform this role, legislative amendment to the Employees Retraining Ordinance will be required for expanding its function.

22. As the HKCAA has ample experience in quality assurance and is an independent statutory body, it is best positioned to undertake the task of quality assurance under the QF. At present, the HKCAA is undergoing a series of reforms, including streamlining quality assurance procedures, lowering fees, and expanding its number of assessment panelists and industry experts, so as to prepare for its new role under the QF.

23. Given the diversity of the accreditation activities under the QF and the need to provide services for education and training providers of different sizes offering courses of different nature and levels, the HKCAA should have a wider spectrum of expertise and background in order to have a more balanced proportion of academic and non-academic members. We shall remove the requirement on the number of appointed members who are academics. Appointed members shall be persons with expertise or experience in quality assurance or the conduct of accreditation tests, or persons of good standing in the field of commerce, finance, education or training, or in any industry. The EMB assures that new members will include employee representatives so as to reflect their views and needs.

Liaison Mechanism with Major Labour Unions

24. Some Members from the labour sector have requested that the QF should not be implemented in industries where consensus has not been reached with the relevant labour unions.

25. We understand that the successful implementation of the QF in different industries hinges on the participation of labour unions or employee representatives. In order to enhance their knowledge of the QF as well as addressing their concerns, we have communicated, discussed and established working relationships with the major labour unions in Hong Kong and union representatives of the relevant industries since the launch of the QF pilot scheme in 2003.

26. Labour unions have participated in the existing ITACs for the nine industries. The employee representatives involved were nominated by major labour unions and the relevant associated unions. Simply speaking, ITACs cannot fully implement the work under the QF without the participation of labour unions. Therefore, in setting up new ITACs, we will continue to secure the participation and support of both employers and employees, so that our work will be more representative and well-received by the industries. To further strengthen our communication with the labour unions, we propose to hold regular liaison meetings with major labour unions to exchange our views on the implementation of the QF in various industries.

Training Sponsorship for Employees

27. Some hold the view that the Government should provide more incentives, such as tax concession, to attract more employers to provide paid training leave and course fee sponsorship to their employees. They also suggested that the Government should introduce different allowance, grant and loan schemes for persons with different levels of qualifications or in different stages of learning.

28. Under the existing Inland Revenue Ordinance, in computing an employer's profits tax during a year of assessment, deduction is allowed in respect of the expenses in providing sponsorship for his employees to attend job-related courses. A salaries tax payer may claim deduction of self-education expenses, including tuition and the related examination fees paid for a prescribed course of education¹. The maximum amount deductible for an eligible taxpayer in a year of assessment is \$40,000.

29. Starting from the year of assessment 2004/05, a prescribed course of education also covers a training or development course not necessarily provided but recognised or accredited by the VTC, the Construction Industry Training Authority and the major trade associations for the regulated professions as specified in Schedule

¹ A "prescribed course of education" is a course of education undertaken at a specified institution to gain or maintain qualifications for use in the current employment or a planned new employment.

13 of the Inland Revenue Ordinance. We will amend Schedule 13 by way of a consequential amendment in the Bill, so that “prescribed course of education” includes a course recognised or accredited by the future Hong Kong Council for Accreditation of Academic and Vocational Qualifications. Such tax concessions can effectively complement our efforts in the implementation of the QF.

30. Over the years, the EMB has put a lot of resources in manpower training. The recurrent funding for the ERB amounts to nearly \$400 million each year, creating over 100 000 retraining opportunities for displaced workers with low educational attainments and low skills. The EMB has also introduced the Skills Upgrading Scheme with a total fund of \$400 million to provide specialised training for workers with low educational attainments in 23 industries. Over 140 000 in service workers have benefited from the Scheme since its inception in 2001. In addition, in 2002, the government set up the 5-billion Continuing Education Fund (CEF) which aims at encouraging eligible persons aged 18 to 60 to pursue continuing education so as to enhance their competitiveness. As at end of February this year, over 240 000 applications have been approved and funded by the CEF.

31. To further optimise the use of these resources, training subsidies available under the above schemes will be used to support training courses recognised under the QF. In other words, all courses provided under these schemes will be quality assured and trainees who have completed these subsidised training courses will obtain qualifications recognised under the QF. The EMB will consider the feasibility of providing subsidies in other areas, subject to the development of the QF and its quality assurance mechanism, as well as the resources available.

Course Accreditation Fees

32. Members have enquired whether there is any mechanism to monitor the level of accreditation fees charged so that the tuition fees and examination fees of the courses concerned will be set at a reasonable level. Under the Bill, fees charged by the HKCAA will be monitored by the EMB. It is also proposed in the Bill that the HKCAA shall, not later than 5 months before the close of each financial year, submit, among other things, an estimate of its income and expenditure and a statement of its fee charging policy in relation to the accreditation exercises for the following financial year to the SEM for his prior approval.

Membership of the ITACs

33. It has been suggested that there should be an increased proportion of employees in the ITACs. We must point out that, before appointing members to an ITAC, the EMB will consult major trade associations, labour unions and professional bodies and secure the participation of representatives from various parties, so that the Committees will be broadly representative in performing their functions.

34. Members of the ITACs are appointed on an ad personam basis. Instead of solving problems by casting votes, members of each ITAC take into account the overall interests of the industry and seek to reach consensus upon thorough discussion and examination, following the spirit of mutual support and understanding. We do not think, nor do we want to see, that employers and employees are necessarily in opposite positions and that their bargaining power depends on the number of their representatives appointed to the committees. During the past two years, the ITACs have never operated in favour of the interests of a particular side. Representatives of employers and employees have expressed their views actively and have cooperated with each other. As a result, they have reached consensus on a number of issues, contributing to the development and progress of their respective industries.

Review Mechanism

35. There are views that, should the final decision on the review be made by the Accreditation Authority, the review mechanism would become futile in practice.

36. The objective of introducing a review mechanism is to establish another committee to review the original decision of the panel. Given that the core issue of the review is closely related to accreditation standards, members of the Accreditation Authority or the QR Authority, who have not been involved in the original decisions of the panel and the subsequent decisions of the review committee, should be able to make a final decision on the review of the report submitted by the review committee in a professional, objective and impartial manner. The Department of Justice also considered this arrangement appropriate.

37. According to the Bill, members of the review committee shall not be members of the Accreditation Authority, and they should be persons with expertise or experience in quality assurance or the conduct of accreditation tests, or persons of good standing in the field of commerce, finance, or education or training, or in any industry. We believe that such an arrangement would engage experts of different industries to provide fair and impartial reviews on the cases concerned.

Unreasonable Dismissal and Age Discrimination

38. Members enquired if the Government would set up a monitoring committee similar to ITACs, as well as a complaint mechanism to prevent experienced and high-salaried employees whose qualifications are not yet recognised from being unreasonably dismissed by employers. As Hong Kong has not enacted legislation against age discrimination, Members queried how the Government could ensure that workers who had obtained recognition of qualifications would not be rejected for employment because of their age, and whether the Government would consider introducing administrative measures to address this issue shortly.

39. The existing Employment Ordinance (EO) (Cap. 57) offers employment protection against unreasonable dismissal pursuant to the relevant provisions. An employee may claim for remedies for unreasonable dismissal if he has been employed under a continuous contract² for a period of not less than 24 months and is dismissed other than for a valid reason as specified in the EO. Remedies for unreasonable dismissal are to be awarded by the Labour Tribunal.

40. The Government is committed to eliminating all forms of discrimination. In respect of age discrimination in employment, as there was no consensus on the necessity and effectiveness of legislation, we consider it more appropriate to tackle age discrimination by public education and publicity. The Administration will continue to promote equal employment opportunities through education and publicity.

41. Given that Hong Kong is now facing structural unemployment brought about by the restructuring of our economy, employees of all ages are experiencing challenges in keeping their jobs or securing new ones. The most effective means to rise to such challenges would be for workers to upgrade the skills of our workforce, thereby enhancing its competitiveness in the employment market amid the trend of globalisation. This is the motivation for implementing the QF.

Concern for the Socially Disadvantaged

42. There are worries that some groups of the socially disadvantaged (e.g. single parents, graduates of special schools) that are relatively single-skilled may be adversely affected under the assessment standards of the QF.

² An employee who has been employed continuously by the same employer for four weeks or more, with at least 18 hours worked in each week is regarded as being employed under a continuous contract.

43. The SCSs formulated by the ITACs are practically-oriented and competency-based. Units of competency for various levels are compiled according to the depth, width and degree of complexity of the competencies required in performing various job functions of the industries concerned. A competency standard derived from the competencies required of an industry will undoubtedly extricate itself from the existing obstacles created by certain qualifications standards solely based on academic qualifications or common examinations. Under the QF, units of competency at junior levels are mainly subject to practical assessment and we believe that this will not adversely affect those people who are relatively single-skilled.

Conclusion

The QF is a voluntary system

44. We understand that workers in some industries may be concerned about the impact of the implementation of the QF on their employment. We must stress that the QF is not a mandatory system and that the implementation of the QF in a certain industry depends on the participation, commitment and support of the industry. The Government has no intention or wish to turn QF-recognised qualifications into “work licences”. Since Hong Kong is a free and open economy and labour market, it is indeed undesirable and infeasible to implement “licensing for employment” in every industry.

45. We appreciate that there are certain industries which stipulate entry and practice requirements due to occupational or individual safety considerations. However, such requirements have nothing to do with the establishment of the QF. The legislation on the QF is totally different from that on professions regulated by registration. There is no legislative intent or mechanism laid down in the Bill which specifies entry requirements for any industry. In other words, the qualification requirements for entry to a certain industry will continue to be determined at the sole discretion of that particular industry in response to the changing needs of the industry and of society.

QF Encourages Industries to Value Training

46. We understand that in order to foster a workforce which values training, both employers and employees should share the same vision, and that employees are encouraged to pursue learning. This will help upgrade the industries and the workforce. We hope that by implementing the QF in different industries, the views of employers and employees on manpower development can be drawn closer, facilitating more in-

depth discussion on labour policy issues of their common concern such as working hours and paid training leave.

47. Besides approaching and discussing with labour unions, we will also deliberate with major trade associations and employers' associations, encouraging them to formulate complementary measures (such as paid training leave) to better enable employees to pursue continuing education and enhance employees' competencies, thus achieving a win-win situation. We believe that the establishment of the QF will enable employers to recognise the benefit of training to the quality of manpower and service standards of the industries. The ITACs will also promote the importance of manpower training, and encourage both employers and employees to value manpower development and training. In fact, during our consultation exercise conducted over the past two years, we have received support from many employers' associations. They are willing to further examine ways to create a win-win situation acceptable to both employers and employees in respect of the above issues. The EMB will maintain a dialogue with them on these issues.

Education and Manpower Bureau

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