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Secretary for Education and Manpower  
(Attn : Mr Thomas Wu, AS(MI)1)  
Education and Manpower Bureau  
11th floor, Wu Chung House  
213 Queen's Road East  
Wan Chai  
Hong Kong

7 October 2005

**BY FAX**

Fax No. : 2899 2967  
Total no(s) of page(s) : 3

Dear Mr Wu,

**Accreditation of Academic and Vocational Qualifications Bill**

Thank you for your letter of 3 October 2005. We have some follow-up questions for your further clarification.

Clause 2

In relation to the definition of “business”, you have clarified that the policy intent is to include any business part of which is for profit and part of which is for charity. If that is the case, we are of the view that the existing definition may require further elaboration to better reflect the policy intent.

Clause 5(2)

You have indicated the intention to introduce a CSA to clause 5(2)(a). In this respect, you may also wish to consider the effect of the retrospective variation or withdrawal of the report on the rights or liabilities of any person affected.

Clause 11(1)(c)(i)

- (a) It is true that the provision does not provide that it overrides a person's common law duty of confidentiality or other statutory duty to keep the documents secret. However, it is equally true that the provision does not provide that it would not affect a person's common law duty of confidentiality or other statutory duty to keep the documents secret. We are of the view that an express provision to clearly reflect your policy intent is desirable.
- (b) To effectively enforce the request, would you consider providing for a penalty for failure to comply with such request?

Clause 11(1)(c)(ii)

- (a) It is true that the provision does not provide that it overrides a person's legal duty, if any to seek his employer's consent to appear before a review committee and to give evidence. However, it is equally true that the provision does not provide that it would not affect a person's legal duty, if any to seek his employer's consent to appear before a review committee and to give evidence. We are of the view that an express provision to clearly reflect your policy intent is desirable.
- (b) To effectively enforce the request, would you consider providing for a penalty for failure to comply with such request?

Clause 26

You have indicated the intention to introduce a CSA to new section 5A(2)(a). In this respect, you may also wish to consider the effect of the retrospective variation or withdrawal of the report on the rights or liabilities of any person affected.

Clause 41

- (a) Would the new appointee under the amended paragraph 7 of Schedule of the Hong Kong Council for Academic and Vocational Accreditation Ordinance serve the remainder of the term of office of the outgoing member of the Executive Committee or a new term of office?

- (b) Would the new appointee under the amended section 3 of the Hong Kong Council for Academic and Vocational Accreditation Ordinance serve the remainder of the term of office of the outgoing appointed member or a new term of office?

You early reply in both languages is appreciated.

Yours sincerely,

(Stephen Lam)  
Assistant Legal Adviser

c.c. DoJ (Attn : Miss Leonora Ip, SGC) (Fax : 2845 2215)  
LA  
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