

Accreditation of Academic and Vocational Qualifications Bill

Proposed Changes to the Review Mechanism

This note briefs Members on the proposed modifications to the mechanism for reviewing the decisions/determinations made by the Accreditation Authority or the Qualifications Register (QR) Authority, as provided for in the Accreditation of Academic and Vocational Qualifications Bill (AAVQB).

Background

2. Under the AAVQB, an operator, assessment agency or granting body aggrieved by a decision/determination made by the Accreditation Authority or the QR Authority may apply for a review. Such decisions/determinations include-

- (a) a determination of the Accreditation Authority, as stated in an accreditation report;
- (b) a decision of the Accreditation Authority on the length of the validity period of a determination, as stated in an accreditation report;
- (c) a decision of the Accreditation Authority on the conditions or restrictions imposed on a determination, as stated in an accreditation report;
- (d) a decision of the Accreditation Authority to vary or withdraw an accreditation report in circumstances specified under the Bill; and
- (e) a decision of the QR Authority on the entry of a qualification into the Qualifications Register.

Upon receipt of an application for a review, the relevant Authority shall establish a review committee to conduct the review. Upon completion of the review, the committee will submit a report to the Authority concerned setting out its recommendations. The Authority will then make a final decision on the review.

3. There have been concerns that since members of the review committee are appointed by the Accreditation Authority/QR Authority and that the final decision on reviews are to be made by the same body, the review mechanism may become ineffectual and lack credibility.

4. It is noteworthy that the Bill has already provided that members of the Accreditation Authority and the QR Authority shall not be members of the review committee. The objective of introducing a review mechanism is to establish a separate committee to review the assessment panel's original decision. Given that the core issue of the review is closely related to accreditation standards and that members of Accreditation Authority have not been involved in the panel or the review committee, the Authority should be capable of taking a final decision on the review report in a professional, objective and impartial manner. The Department of Justice also considered this arrangement appropriate.

Proposed Modifications to the Review Mechanism

5. However, in view of the concerns mentioned in paragraph 3 above, we propose to make the following modifications to the review mechanism to enhance its independence and credibility -

Establishment of an Appeal Board

6. It is proposed that an independent Appeal Board, instead of a review committee, shall be established under the AAVQB to review the decisions/determinations of the Authorities concerned. The Appeal Board shall be appointed by the Secretary for Education and Manpower (SEM), rather than by the Accreditation Authority or the QR Authority as originally proposed in the AAVQB. Secretariat support for the Appeal Board shall be provided by the Education and Manpower Bureau.

7. To ensure a good mix of expertise and experience, the Appeal Board shall comprise members who have expertise in quality assurance or accreditation matters, or good standing in law, commerce, finance, education or training or in any industry. We believe that the appointment of the Appeal Board by SEM will enhance the independence, credibility and public perception of the review mechanism.

Powers of the Appeal Board

8. After hearing an appeal, the Appeal Board may either reject the appeal, or instruct the Accreditation Authority or the QR Authority to review the decision/determination under appeal. Upon the instruction of the Appeal Board, the Accreditation Authority or the QR Authority must consider the decision/determination under appeal afresh. The Authorities concerned shall make a final decision on the appeal, which will not be subject to further appeal under the Ordinance. However, such final decision may be subject to judicial review in the Court of First Instance.

Conclusion

9. We believe that the proposed modifications outlined above will enhance the independence, credibility and public perception of the review mechanism, whilst respecting the professional judgment of the Accreditation Authority/QR Authority on accreditation standards and other matters.

Next Steps

10. Members of the Bills Committee are invited to comment on the proposed changes to the review mechanism. Subject to Members' comments, the Administration will propose Committee Stage Amendments to the AAVQB to effect the modifications.

Education and Manpower Bureau
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