

LEGISLATIVE COUNCIL BRIEF

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL 2005

INTRODUCTION

At the meeting of the Executive Council on 21 June 2005, the Council ADVISED and the Acting Chief Executive ORDERED that the Accreditation of Academic and Vocational Qualifications Bill 2005 (the Bill) at Annex A, should be introduced into the Legislative Council to provide for accreditation of academic and vocational qualifications under the Qualifications Framework (QF) by the Hong Kong Council for Academic Accreditation (HKCAA), and for related and consequential matters.

JUSTIFICATIONS

2. To help maintain the overall competitiveness of Hong Kong's manpower in the global economy, the Executive Council approved in 2004 the establishment of a seven-level cross-sectoral QF. The QF is a hierarchy in relation to qualifications in the academic, vocational and continuing education sectors. To ensure the credibility of qualifications awarded by a wide range of education and training operators under the QF, we need to develop a mechanism of academic and vocational accreditation to assure the quality of these qualifications. The Bill sets out the key features of our proposed quality assurance mechanism, and the mode of its operation.

Accreditation Authority

3. The Accreditation Authority under the Bill should develop and

implement the standards and mechanism for academic and vocational accreditation to underpin the QF. As the QF is established by the Government, the Accreditation Authority should perform these functions at the direction of the Secretary for Education and Manpower (SEM). In view of its experience in quality assurance and its independent status as a statutory body, we consider that HKCAA is best placed to take on the role of the Accreditation Authority.

4. A definition of “accreditation test” is introduced which includes any assessment or other activity to determine whether an operator of learning programmes is competent to achieve the objectives as claimed by it or whether a learning programme meets the standard as claimed by its operator. It also includes any assessment or other activity to determine the competence of an assessment agency to assess the skills, knowledge or experience acquired by individuals under our proposed Recognition of Prior Learning (RPL) mechanism.

5. To clarify the power of the Accreditation Authority in carrying out accreditation tests, we make it clear in the Bill that the Authority may specify the conditions or restrictions in respect of its determination after conducting the relevant accreditation tests, and may vary or withdraw its determination in circumstances when the standard of an operator, a learning programme or an assessment agency drops, or that the accreditation result has been produced in reliance on any misleading or false information. The Authority is also empowered to charge fees for conducting the accreditation tests, but its fee charging policy should be subject to SEM’s prior approval.

Qualifications Register (QR) and QR Authority

6. A Qualifications Register (QR) will be established for entering qualifications recognized under the QF. The QR will be web-based and will provide a centralized source of information on the recognized qualifications for reference by the general public including learners, employers, professions, education and training operators, as well as the local and international communities. The QR will become the public face of the QF.

7. While the QR is to be established by the Government, the QR Authority under the Bill should maintain the QR, subject to the direction of SEM. We also consider it appropriate to specify HKCAA as the QR Authority.

8. The QR Authority shall determine the procedures for entering a qualification into the QR and removing a qualification from the QR. The QR Authority may determine fees to be charged for entry of qualifications into the QR, but in order to ensure that the level of such fees will not become prohibitively high or an entry barrier, the fee level should be subject to the prior approval of SEM.

Assessment Agencies

9. RPL is an avenue that we shall put in place to enable serving workers, especially those skilled workers with low educational attainment, to acquire qualifications recognized under the QF and then progress through further learning. The establishment of a RPL mechanism under the QF is an important milestone in the development of the QF for Hong Kong.

10. To implement the RPL mechanism, we shall appoint assessment agencies to assess the skills, knowledge or experience acquired by individuals for the purposes of the QF. To safeguard the integrity and authority of the mechanism, the assessment agency must be accredited by the Accreditation Authority before it is considered for appointment by SEM. SEM may impose conditions or restrictions in appointing or re-appointing an assessment agency for a specified term. SEM may cancel the appointment or re-appointment of an assessment agency under particular circumstances. If an assessment agency is aggrieved by SEM's decision, the assessment agency may appeal to the Administrative Appeals Board.

Reviews

11. As a matter of fairness, any operator or assessment agency who is aggrieved by the decisions of the Accreditation Authority or the QR Authority

in relation to the outcome of an accreditation test, the entry of a qualification into the QR or its subsequent removal, may apply for a review of the relevant decision.

12. To avoid any allegation of bias, the review should be a genuine re-examination of the facts of the case by a committee that was not a party to the original decision. Members of a review committee shall not be members of the relevant 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, education or training, or in any industry.

13. The Accreditation Authority or QR Authority will receive the recommendation of a review committee within a specified timeframe. As the relevant Authority is in the best position to determine the review (which mostly relates to the standard of an education or training operator, an assessment agency, a learning programme or a qualification), the decision of the relevant Authority on the review should be final. The relevant Authority is required to inform the applicant of the final decision and the reasons for the final decision.

Advertisements

14. To safeguard the credibility and integrity of the QF and the QR, it is necessary to introduce provisions regulating advertisements relating to the QF and the QR. We propose to create an offence relating to advertisement which wrongly claims that a qualification is recognized under the QF, or that a person or body is an appointed assessment agency. We also propose to make it an offence for a person to make any statement or representation or furnish any information in connection with the functions of the Accreditation Authority, the QR Authority or a review committee which the person knows is misleading or false.

15. Any person who commits an offence described in paragraph 14 is liable on conviction to a fine at level 5 (\$50,000). The level of fine is the same as that related to the unauthorized use of HKCAA's title under the

Hong Kong Council for Academic Accreditation Ordinance (HKCAAO) as the nature and gravity of the offences are comparable.

Consequential and Related Amendments to the HKCAAO

16. HKCAA was established under the HKCAAO in 1990 as an independent statutory body to perform the academic accreditation of the non-university institutions funded by the then University and Polytechnics Grants Committee. The objective was to ensure that the degrees awarded by the local non-university institutions would be comparable in standard with those recognized internationally. HKCAA's work in the past mainly focused on academic accreditation at degree or above levels, although its scope of activity has recently been extended to include sub-degree qualifications.

17. With the specification of HKCAA as the Accreditation Authority and the QR Authority under the Bill, HKCAA will face a much wider education and training market than before. It is necessary to introduce consequential and related amendments to the HKCAAO as highlighted below.

(A) Name of HKCAA

18. It is proposed to rename HKCAA as the "Hong Kong Council for Academic and Vocational Accreditation" (香港學術及職能評審局) to reflect the expanded scope of activities of HKCAA.

(B) Accreditation Test

19. Under the HKCAAO, "academic accreditation" is defined as any evaluation, assessment or other activity to determine whether or not the academic standards of any institution of higher education are comparable with internationally recognized standards. The definition is restrictive and does not suit the new era when HKCAA is to face education and training providers of different sizes offering programmes of different nature and levels. The definition also does not allow HKCAA to evaluate the competence of assessment agencies.

20. We shall therefore replace the definition of “academic accreditation” by the definition of “accreditation tests” in the Bill, similar to that explained in paragraph 4 above.

21. Given the diversity of the accreditation activities, HKCAA needs to adopt a new accreditation approach which is “fitness for purpose”. It means applying a threshold standard appropriate to the level and scope of the education and training providers. In other words, HKCAA should not apply those standards more fitted to the well resourced institutions of higher education to other education and training providers, and assessment agencies. Accordingly, the various stages of the academic accreditation process prescribed in the HKCAAO, i.e. validation and revalidation of degree courses; as well as institutional review and institutional accreditation of institutions of higher education are no longer applicable and should be deleted from the HKCAAO.

(C) Composition of HKCAA

22. Under the HKCAAO, HKCAA consists of 15 to 21 members appointed by the Chief Executive (power delegated to SEM). There are three categories of members, namely, overseas academics, local academics and local non-academics who have experience in commerce, industry or any profession. Roughly two-thirds of the members come from an academic background, and one-third from a non-academic background. The Executive Director is an ex officio member of HKCAA.

23. The composition is appropriate when HKCAA is practising in a small, homogenous and publicly funded higher education market, but it does not suit the wider education and training market under the implementation of the QF. Hence, the composition should achieve a better balance of academics and non-academics. Apart from the academics from the higher education institutions, HKCAA will also need members from sectors which provide lower level qualifications, private providers and providers offering vocational training.

24. HKCAA should maintain its existing size but with a wider spectrum

of expertise and background in view of its modified functions. We shall remove the restriction 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. To enable HKCAA to continue to benefit from the counsel of overseas experts, the appointment of non-local members should be retained.

25. HKCAA's new role under the QF requires knowledge of the Government policy on education and manpower development. To strengthen the partnership between HKCAA and the Education and Manpower Bureau (EMB) in the implementation of the quality assurance mechanism to underpin the QF, the Permanent Secretary for Education and Manpower (PSEM) or his representative should be an ex officio member of HKCAA. This is supported by HKCAA.

(D) Functions of HKCAA

26. Under the HKCAAO, the functions that may be performed by HKCAA include :

- (a) academic accreditation in relation to the higher education institutions;
- (b) disseminating information on academic standards of degree courses and the promotion of academic accreditation methods and practices;
- (c) establishing relationships with accrediting bodies outside Hong Kong and keeping under review the systems of academic accreditation of such bodies;
- (d) conducting or commissioning research into the maintenance or monitoring of academic standards; and
- (e) such other functions relevant to academic accreditation or higher education as may be permitted or assigned to HKCAA by the Chief

Executive (power delegated to SEM).

27. While HKCAA's functions for items (b) to (e) in the preceding paragraph should continue, with minor adjustments to cover vocational accreditation, we shall modify item (a) so that HKCAA may conduct accreditation tests as defined in the Bill.

28. We also consider that, subject to the approval of SEM, HKCAA should be permitted to perform academic or vocational accreditation, or such other functions relating to academic or vocational accreditation, education or training, for bodies or learning programmes outside Hong Kong should such opportunity arise in future. These activities should enhance the reputation and image of HKCAA, as well as enrich its experience. However, they are expected to be few and far between.

(E) Powers of HKCAA

29. Under the HKCAAO, HKCAA may in performing its functions, among other things :

- (a) publish material and distribute, lend with or without charge, or sell such material;
- (b) subject to the approval of SEM (power delegated to PSEM), determine fees to be charged for academic accreditation and charge any such fees;
- (c) refund, reduce or waive any fee either generally or in any particular case;
- (d) subject to the approval of SEM (power delegated to PSEM), pay honoraria to members who are not residents of Hong Kong;
- (e) pay the travelling, accommodation or other expenses reasonably incurred by any member in connection with his duties as such member;

- (f) acquire, hold or dispose of property of any description; and
- (g) subject to the approval of SEM (power delegated to PSEM), borrow such money on such security or other terms and conditions as it considers expedient.

30. HKCAA's powers in these areas remain largely unchanged. We shall clarify the power of HKCAA to specify the conditions or restrictions in respect of its determination after conducting the relevant accreditation test and to vary or withdraw such determination in specified circumstances.

31. To enhance the transparency of HKCAA's accreditation work and the sharing of good practices, it is proposed to empower HKCAA to publish any material (including assessment reports on operators, assessment agencies or learning programmes) as HKCAA thinks fit.

(F) Appointment of Staff, etc.

32. Under the HKCAAO, HKCAA has to seek prior approval from SEM (power delegated to PSEM) of the terms of remuneration of its employees and advisers. We shall remove this requirement as HKCAA being a self-financing organization¹ should be given the flexibility to determine the terms of remuneration and conditions of service of its employees and advisers (except the Executive Director). In any event, HKCAA's staffing expenses are included in its annual estimates of income and expenditure, which are subject to the prior approval of SEM (power delegated to PSEM).

(G) SEM to consult with SFST before approving fees, charges, etc

33. The HKCAAO requires SEM to consult the Secretary for Financial Services and the Treasury (SFST) before giving approval to HKCAA for its estimates of income and expenditure, the fees to be charged for academic accreditation, for borrowing money, for determining the terms of remuneration of its employees, and for using surplus funds. In order to streamline the approval process and taking into account the policy

¹ Currently, HKCAA does not receive recurrent subvention from the Government.

responsibility of SEM over HKCAA as a self-financing body, we shall dispense with this requirement. This is supported by SFST.

(H) Reviews

34. As a matter of fairness, we have proposed in paragraphs 11 to 13 above a review mechanism with respect to the decisions of the Accreditation Authority or the QR Authority. A similar review mechanism should be introduced in the HKCAAO for reviewing HKCAA's decisions on its accreditation tests which are not conducted for the purpose of the QF.

THE BILL

35 The main provisions are :

- (a) Clause 2 includes definitions necessary for the interpretation of the Bill.
- (b) Part 2 (clauses 3-8) contains provisions relating to the QF and the QR
- (c) Part 3 (clauses 9-12) provides for the review of the determinations and decisions of the Accreditation Authority and the QR Authority.
- (d) Part 4 (clauses 13-15) contains provisions relating to offences and enforcement.
- (e) Part 5 contains miscellaneous provisions. Clause 17 confers on SEM the power to amend Schedules 1, 2 and 3.
- (f) Part 6 contains consequential and related amendments to the HKCAAO (Cap. 1150) ("the Ordinance"), including the following main amendments –
 - (i) clause 19 amends the long title of the Ordinance to reflect the change of the name of HKCAA;

- (ii) clause 20 amends the short title of the Ordinance to reflect the change of the name of HKCAA;
- (iii) clause 21 amends section 2 of the Ordinance to, inter alia, change the name of HKCAA in the definition of “Council”; repeal definitions that are no longer necessary; and add new definitions necessary for interpretation of the Ordinance as amended by the Bill;
- (iv) clause 23 amends section 3 of the Ordinance to change the name and membership of HKCAA;
- (v) clause 24 repeals and replaces section 4 of the Ordinance to repeal out of date functions of HKCAA and modify other functions, in particular adding the functions regarding the conduct of accreditation tests; and functions authorized under any other enactment;
- (vi) clause 25 amends the powers of HKCAA under section 5 of the Ordinance in relation to fee charging, payment of honoraria, among others;
- (vii) clause 26 adds new section 5A to the Ordinance which provides for the production, variation and withdrawal of assessment reports;
- (viii) clause 28 amends section 7 of the Ordinance by repealing the requirement of the approval of SEM in relation to terms of remuneration of employees and advisers of HKCAA;

- (ix) clause 31 repeals section 10 of the Ordinance which provides for consultation with SFST before SEM approves certain matters;
 - (x) clause 35 adds a new Part IVA (new sections 17A to 17D) to the Ordinance to provide for the review of determinations and decisions of HKCAA; and
 - (xi) clause 39 adds new section 23A to the Ordinance which creates an offence relating to misleading or false statements, representations or information.
- (g) Schedule 1 specifies HKCAA to be the Accreditation Authority and the QR Authority.
 - (h) Schedule 2 contains a list of self-accrediting operators.
 - (i) Schedule 3 describes qualifications that may be entered into the QR.

The major provisions of the HKCAAO being amended are at Annex B.

LEGISLATIVE TIMETABLE

36. The legislative timetable will be -

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| Publication in the Gazette | 24 June 2005 |
| First Reading and commencement of Second Reading debate | 6 July 2005 |
| Resumption of Second Reading debate, committee stage and Third Reading | to be notified |

IMPLICATIONS OF THE BILL

37. The financial, civil service and economic implications of the Bill are set out at Annex C.

38. The Bill is in conformity with the Basic Law, including the provisions concerning human rights. The Bill does not contain any express binding effect provision and the consequential and related amendments to the HKCAAO as introduced by the Bill do not affect the current binding effect of the HKCAAO. It has no environmental or sustainability implications.

PUBLIC CONSULTATION

39. HKCAA has been briefing its clients in the education and training sector on its reforms and the proposed operation of the quality assurance system to underpin the QF. They are mainly concerned about the level of fees to be charged by HKCAA in future. Together with HKCAA, we have briefed the education and training operators on the QR. Separately, we have briefed the Industry Training Advisory Committees (ITACs) and trade unions on the proposal of appointing assessment agencies, and obtained their support.

40. The Manpower Development Committee was consulted and endorsed the proposed quality assurance mechanism and the legislative amendments to the HKCAAO. The Panel on Manpower of the Legislative Council was consulted in March 2005 and generally supported the proposals.

PUBLICITY

41. A Legislative Council brief and a press release will be issued before the Bill is gazetted. A spokesman will be available to answer media and public enquiries.

BACKGROUND

The Qualifications Framework

42. The Executive Council at its meeting held on 10 February 2004 approved the establishment of a seven-level cross-sectoral QF and its associated quality assurance mechanism.

43. At its simplest, the QF is a seven-level hierarchy that orders and supports qualifications of academic, vocational and continuing education. Each level is characterised by a set of standards known as generic level descriptors. All qualifications to be linked to the QF will have to be quality assured. The QF is not a mandatory system. It is essentially an infrastructure to foster the development of flexible and diverse progression pathways with multiple entry and exit points.

44. The QF provides objective benchmarks for quality assurance of different levels of qualifications, giving clear information on the standard of courses, qualifications and providers. It enables progression pathways to be mapped out, giving learners a sense of direction in lifelong learning. With the introduction of the QF, the training market should become more vibrant and responsive. The training should be more relevant to the needs of the industries and the learners. In the long run, the establishment of the QF should enhance the capability and competitiveness of our manpower.

45. To ensure the relevance of qualifications and related training in the vocational sector, we are setting up ITACs to specify the competency standards required at different levels of qualifications for the industries. So far, ITACs have been formed in six industries, namely, Printing & Publishing, Watch & Clock, Chinese Catering, Hairdressing, Property Management, and Electrical & Mechanical Services. We shall continue to reach out to employers, employees, professional bodies and other stakeholders to promote the QF and encourage them to form ITACs for their industries.

46. The ITACs are also required to formulate an appropriate RPL mechanism for their respective industries. The RPL mechanism is developed on the basis of the competency standards to recognize the skills,

knowledge or relevant experience of workers, so that when they pursue further training to acquire higher qualifications, they do not need to start from scratch.

Quality Assurance Mechanism

47. To ensure the credibility of qualifications awarded by a wide range of education and training providers under the QF, we consider that HKCAA should take up the responsibility of assuring the quality of qualifications recognized under the QF, other than those granted by self-accrediting institutions.

48. The functions of HKCAA have to be modified so as to meet the needs of a much wider clientele and a more diverse range of courses. To this end, HKCAA conducted a self-review in conjunction with an external consultant in 2003 to assess HKCAA's readiness for the expanded role under the QF. Based on the recommendations arising from the self-review, HKCAA is taking steps to reform its operating and financing models, as well as its accreditation approach and procedures.

ENQUIRIES

49. For enquiries relating to this Brief, please contact Ms Rebecca Pun, Principal Assistant Secretary for Education and Manpower (Manpower Infrastructure) at 3540 7471.

21 June 2005

**ACCREDITATION OF ACADEMIC AND VOCATIONAL
QUALIFICATIONS BILL**

CONTENTS

| Clause | | Page |
|--------|--|------|
|--------|--|------|

PART 1

PRELIMINARY

| | | |
|----|------------------------------|---|
| 1. | Short title and commencement | 1 |
| 2. | Interpretation | 1 |

PART 2

**QUALIFICATIONS FRAMEWORK AND
QUALIFICATIONS REGISTER**

| | | |
|----|---|---|
| 3. | Establishment of Qualifications Framework and Qualifications Register | 3 |
| 4. | Accreditation Authority | 4 |
| 5. | Accreditation report | 5 |
| 6. | QR Authority | 6 |
| 7. | Qualifications Register | 6 |
| 8. | Appointed assessment agency | 9 |

PART 3

**REVIEWS IN RELATION TO QUALIFICATIONS
FRAMEWORK AND QUALIFICATIONS REGISTER**

| | | |
|-----|------------------------------------|----|
| 9. | Application for reviews | 11 |
| 10. | Establishment of review committees | 12 |
| 11. | Functions of review committees | 14 |

| | | |
|-----|---|----|
| 12. | Final decision of Accreditation Authority or QR Authority | 15 |
|-----|---|----|

PART 4

OFFENCES AND ENFORCEMENT

| | | |
|-----|---|----|
| 13. | Advertisements relating to the Qualifications Framework and the Qualifications Register | 15 |
| 14. | Misleading or false statement, representation or information | 17 |
| 15. | Power of entry, search, seize, etc. | 18 |

PART 5

MISCELLANEOUS

| | | |
|-----|---|----|
| 16. | Determination and approval of fees | 19 |
| 17. | Secretary may amend Schedules 1, 2 and 3 | 20 |
| 18. | Protection of members, employees, etc. of Accreditation Authority, QR Authority or review committee, etc. | 20 |

PART 6

CONSEQUENTIAL AND RELATED AMENDMENTS TO THE HONG KONG COUNCIL FOR ACADEMIC ACCREDITATION ORDINANCE

| | | |
|-----|--------------------------------|----|
| 19. | Long title substituted | 21 |
| 20. | Short title amended | 21 |
| 21. | Interpretation | 21 |
| 22. | Part heading amended (Part II) | 24 |
| 23. | Establishment of the Council | 24 |
| 24. | Section substituted | |
| | 4. Functions of the Council | 25 |
| 25. | Powers of the Council | 26 |
| 26. | Section added | |
| | 5A. Accreditation report | 29 |

| | | |
|-----|--|----|
| 27. | Executive Director of the Council | 30 |
| 28. | Employees, etc. of the Council | 30 |
| 29. | Delegation | 30 |
| 30. | Prior approval of the Secretary for remuneration, etc. | 31 |
| 31. | Secretary to consult with Secretary for Financial Services and the Treasury before approving fees, charges, etc. | 31 |
| 32. | Resources of the Council | 31 |
| 33. | Use of surplus funds | 31 |
| 34. | Section substituted | |
| | 13. Financial year, programme of proposed activities, estimates of income and expenditure, statement of fee charging policy and schedule of fees | 32 |
| 35. | Part IVA added | |

PART IVA

REVIEW

| | | |
|-----|---|----|
| | 17A. Application for reviews | 33 |
| | 17B. Establishment of review committees | 34 |
| | 17C. Functions of review committees | 35 |
| | 17D. Final decision of the Council | 36 |
| 36. | Section substituted | |
| | 21. Protection of members, employees, etc. | 37 |
| 37. | Rule making powers of the Council | 37 |
| 38. | Unauthorized use of the title of the Council | 37 |
| 39. | Section added | |
| | 23A. Misleading or false statement, representation or information | 38 |
| 40. | Section substituted | |
| | 25. Secretary may amend Schedule 2 | 38 |
| 41. | Section added | |
| | 27. Savings and transitional provisions relating to the Accreditation of Academic and Vocational Qualifications Ordinance | 38 |
| 42. | Institutions | 39 |

| | | |
|-----|--|----|
| 43. | Provisions with respect to the Council and members thereof | 39 |
|-----|--|----|

PART 7

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ENACTMENTS

Inland Revenue Ordinance

| | | |
|-----|--|----|
| 44. | Institutions that may accredit or recognize training or development courses for the purpose of section 12(6)(c)(iii) | 40 |
|-----|--|----|

Prevention of Bribery Ordinance

| | | |
|-----|---------------|----|
| 45. | Public bodies | 41 |
|-----|---------------|----|

Administrative Appeals Board Ordinance

| | | |
|-----|------------------|----|
| 46. | Schedule amended | 41 |
|-----|------------------|----|

Non-local Higher and Professional Education (Regulation) Ordinance

| | | |
|-----|----------------|----|
| 47. | Interpretation | 42 |
|-----|----------------|----|

Specification of Public Offices

| | | |
|------------|---|----|
| 48. | Specification of Public Office | 42 |
| Schedule 1 | Accreditation Authority and QR Authority | 42 |
| Schedule 2 | Self-accrediting operators | 43 |
| Schedule 3 | Descriptions of Qualifications that may be entered into the Qualifications Register | 43 |

A BILL

To

Provide for matters relating to accreditation of academic and vocational qualifications; and to make consequential and related amendments to certain enactments.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title and commencement

(1) This Ordinance may be cited as the Accreditation of Academic and Vocational Qualifications Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette.

2. Interpretation

In this Ordinance, unless the context otherwise requires –

“Accreditation Authority” (評審當局) means the organization or body specified in Part 1 of Schedule 1;

“accreditation report” (評審報告) means a report produced by the Accreditation Authority under section 5(1);

“accreditation test” (評審考核) means any assessment, evaluation or other activity to determine –

- (a) in relation to an operator, whether the operator is competent to achieve the objectives as claimed by the operator;
- (b) in relation to an assessment agency, whether the agency is competent to assess the skills, knowledge or experience

acquired by individuals in relation to an industry or a branch of an industry;

- (c) in relation to a learning programme, whether the programme meets a standard to achieve the objectives of the programme as claimed by its operator; and
- (d) in relation to a qualification, whether the skills, knowledge or experience recognized by the qualification meet a particular standard;

“appointed assessment agency” (受委評估機構) means an assessment agency appointed or re-appointed by the Secretary under section 8(1)(a) or (b);

“assessment agency” (評估機構) means a person, school, institution, organization or other body –

- (a) the whole or part of the business of which includes the assessment of the skills, knowledge or experience acquired by individuals; and
- (b) which grants qualifications recognizing the skills, knowledge or experience acquired by an individual, after an assessment of those skills, knowledge or experience;

“business” (業務) means business with or without a view to profit;

“granting body” (頒授者), in relation to a qualification, means the person, school, institution, organization or other body which grants the qualification;

“industry” (行業) includes a trade, profession or occupation;

“learning programme” (進修計劃) means a programme of studies or training defined by a curriculum (which may consist of one or more modules, units, subjects or courses or any combination of those elements) and includes, where the context permits, any proposed programme of such studies or training;

- “operator” (營辦者) means a person, school, institution, organization or other body, the whole or part of the business of which includes the operation of any learning programme or any part of a learning programme;
- “QR Authority” (資歷名冊當局) means the organization or body specified in Part 2 of Schedule 1;
- “qualification” (資歷) includes a recognition of the skills, knowledge or experience acquired by an individual;
- “Qualifications Framework” (資歷架構) means the framework established and maintained by the Secretary under section 3(1);
- “Qualifications Register” (資歷名冊) means the register established by the Secretary under section 3(2);
- “review committee” (覆檢委員會) means a committee established by the Accreditation Authority or the QR Authority under section 10(1);
- “Secretary” (局長) means the Secretary for Education and Manpower;
- “self-accrediting operator” (自行評審營辦者) means an operator listed in Schedule 2.

PART 2

QUALIFICATIONS FRAMEWORK AND QUALIFICATIONS REGISTER

3. Establishment of Qualifications Framework and Qualifications Register

- (1) The Secretary shall establish and maintain a framework, called the Qualifications Framework, which contains a structure of levels of qualifications, and shall make the framework available to the public on the internet.
- (2) The Secretary shall establish a register for entering qualifications recognized under the Qualifications Framework.

4. Accreditation Authority

- (1) The functions of the Accreditation Authority are –
 - (a) subject to the direction of the Secretary, to develop and implement the standards and mechanism for academic or vocational qualifications accreditation to underpin the Qualifications Framework; and
 - (b) to conduct accreditation tests to determine the matters required to be determined by the Accreditation Authority under section 8 and Schedule 3.
- (2) The Accreditation Authority may perform the functions under subsection (1) on its own or, subject to the prior approval of the Secretary, jointly with other persons or organizations.
- (3) The Accreditation Authority may, in relation to a particular case, delegate the performance of the function under subsection (1)(b) and any powers necessary for such performance to any person or to any group of persons, which may include members of the Accreditation Authority.
- (4) The Accreditation Authority may –
 - (a) determine the fees to be charged for the conduct of accreditation tests and charge such fees;
 - (b) pay honoraria to a person to whom a function is delegated under subsection (3);
 - (c) pay the travelling, accommodation or any other expenses reasonably incurred by a person to whom a function is delegated under subsection (3);
 - (d) publish and distribute such material (including accreditation reports) as the Accreditation Authority thinks fit;
 - (e) determine the fees to be charged for any material published under paragraph (d) and charge such fees; and

- (f) do all things that are necessary for, or incidental or conducive to, the better performance of its functions under this Ordinance.

5. Accreditation report

(1) The Accreditation Authority shall, in performing the function under section 4(1)(b) in relation to a particular case and after conducting the relevant accreditation tests, produce a report stating its determination, the validity period of the determination and the conditions or restrictions, if any, subject to which the determination is to have effect.

(2) The Accreditation Authority may vary or withdraw an accreditation report if it is satisfied that –

- (a) in any particular case, the report has been produced in reliance on any misleading or false statement, representation or information, either oral or in writing;
- (b) in the case of a report on an operator, the operator is no longer competent to achieve the objectives as claimed by the operator;
- (c) in the case of a report on an assessment agency, the agency is no longer competent to assess the skills, knowledge or experience acquired by individuals in relation to the relevant industry or branch of industry;
- (d) in the case of a report on a learning programme, the programme no longer meets the standard to achieve the objectives of the programme as claimed by its operator; or
- (e) in the case of a report on a qualification, the skills, knowledge or experience recognized by the qualification no longer meet the particular standard as determined in the report.

(3) The Accreditation Authority shall, on payment of the fees determined under section 4(4)(a), give a copy of the accreditation report to the relevant operator, assessment agency or granting body.

(4) If the Accreditation Authority decides to vary or withdraw an accreditation report under subsection (2), it shall give notice in writing of the decision to the relevant operator, assessment agency or granting body.

6. QR Authority

(1) The function of the QR Authority is, subject to the direction of the Secretary, to maintain the Qualifications Register as provided for in section 7.

(2) The QR Authority may perform the function under subsection (1) on its own or, subject to the prior approval of the Secretary, jointly with other persons or organizations.

(3) The QR Authority may do all things that are necessary for, or incidental or conducive to, the better performance of its function under this Ordinance.

7. Qualifications Register

(1) Subject to the procedure referred to in subsection (2), the QR Authority may –

- (a) on payment of the fees determined under subsection (7)(a), enter a qualification coming within any of the descriptions specified in Schedule 3 into the Qualifications Register and specify the validity period of such an entry;
- (b) on payment of the fees determined under subsection (7)(b) and on or before the date of the expiry of the validity period of an entry of a qualification in the Qualifications Register, extend the validity period for such period as the QR Authority thinks fit if the qualification has not ceased to be a qualification coming within any of the descriptions specified in Schedule 3;

- (c) abridge a validity period specified under paragraph (a) if the relevant qualification ceases to be a qualification coming within any of the descriptions specified in Schedule 3 as in force at the time of the entry of the qualification into the Qualifications Register;
 - (d) abridge a validity period extended under paragraph (b) if the relevant qualification ceases to be a qualification coming within any of the descriptions specified in Schedule 3 as in force at the time of the most recent extension of the validity period; and
 - (e) remove an entry of a qualification from the Qualifications Register if the qualification has been entered into the Qualifications Register –
 - (i) by mistake; or
 - (ii) in reliance on any misleading or false statement, representation or information, either oral or in writing.
- (2) The QR Authority shall determine the procedure for –
 - (a) the entry into or removal from the Qualifications Register of a qualification; and
 - (b) specifying, extending or abridging the validity period of an entry.
- (3) An entry of a qualification in the Qualifications Register shall contain the following information –
 - (a) the name of the qualification;
 - (b) the name of the relevant granting body;
 - (c) the description of the relevant learning programme, and the name of the relevant operator (if different from the granting body), if applicable;

- (d) the relevant level of the Qualifications Framework under which the qualification is recognized;
- (e) the registration number assigned by the QR Authority for the entry;
- (f) the validity period of the entry;
- (g) such other particulars as the QR Authority thinks fit.

(4) The Qualifications Register shall be made available to the public for inspection free of charge at such place and in such form and at such reasonable times as the QR Authority may specify.

(5) The QR Authority shall not be liable to refund any fee or any part of any fee on the abridgement of a validity period under subsection (1)(c) or (d) or the removal of an entry of a qualification from the Qualifications Register under subsection (1)(e).

(6) The QR Authority shall, after making a decision to –

- (a) enter or refuse to enter a qualification into the Qualifications Register under subsection (1)(a);
- (b) specify a period as the validity period of an entry of a qualification in the Qualifications Register under subsection (1)(a);
- (c) extend or refuse to extend the validity period of an entry of a qualification in the Qualifications Register under subsection (1)(b);
- (d) abridge the validity period of an entry of a qualification in the Qualifications Register under subsection (1)(c) or (d);
or
- (e) remove an entry of a qualification from the Qualifications Register under subsection (1)(e),

give notice in writing of the decision to the relevant operator, assessment agency or granting body.

(7) The QR Authority may, subject to the prior approval of the Secretary, determine fees to be charged for –

- (a) the entry of a qualification into the Qualifications Register and the specification of a validity period of the entry; and
- (b) the extension of the validity period of an entry of a qualification in the Qualifications Register,

and charge such fees.

8. Appointed assessment agency

(1) The Secretary may –

- (a) appoint one or more assessment agencies for such term as the Secretary may specify to grant qualifications, in relation to an industry or a branch of an industry, for the purposes of the Qualifications Framework;
- (b) re-appoint an appointed assessment agency, on or before the date of the expiry of its term, for such term as the Secretary may specify; and
- (c) impose conditions or restrictions in appointing or re-appointing an assessment agency.

(2) The Secretary shall not appoint or re-appoint an assessment agency under subsection (1) unless the Accreditation Authority determines that the agency is competent to assess the skills, knowledge or experience acquired by individuals in relation to the relevant industry or branch of an industry, and in deciding whether to appoint or re-appoint an assessment agency, the Secretary shall have regard to –

- (a) the views of organizations that he considers represent the interests of the relevant industry or branch of an industry;
- (b) the characteristics of the relevant industry or branch of an industry;
- (c) the fee charging policy of the agency; and

- (d) any other matters that the Secretary considers appropriate in the circumstances.

(3) The Secretary shall keep a list of the names of appointed assessment agencies and shall make it available to the public on the internet.

(4) The Secretary may cancel the appointment or re-appointment of an assessment agency –

- (a) if the Accreditation Authority determines that the agency is no longer competent to assess the skills, knowledge or experience acquired by individuals in relation to the relevant industry or branch of an industry;
- (b) if the Secretary is satisfied that the agency –
 - (i) is not able to comply or has not complied with any conditions or restrictions imposed under subsection (1)(c); or
 - (ii) has, by its acts or omissions, misconducted itself; or
- (c) if the Secretary is satisfied that the appointment or the re-appointment should be cancelled for any other reasonable cause.

(5) If the Secretary decides not to re-appoint an assessment agency under subsection (1)(b), he shall send a notice of his decision to the agency and shall state in the notice the reason for the decision.

(6) If the Secretary cancels the appointment or re-appointment of an assessment agency under subsection (4), he shall send a notice of cancellation to the agency and shall state in the notice –

- (a) the reason for the cancellation; and
- (b) the date on which the appointment or re-appointment is to cease to have effect.

(7) If an assessment agency is aggrieved by –

- (a) a decision of the Secretary not to re-appoint it under subsection (1)(b); or
- (b) a decision of the Secretary –
 - (i) on the length of its term of re-appointment specified under subsection (1)(b);
 - (ii) to impose any conditions or restrictions under subsection (1)(c) in respect of its re-appointment; or
 - (iii) to cancel its appointment or re-appointment under subsection (4),

the agency may appeal to the Administrative Appeals Board but the appeal shall not affect the operation of the decision.

PART 3

REVIEWS IN RELATION TO QUALIFICATIONS FRAMEWORK AND QUALIFICATIONS REGISTER

9. Application for reviews

- (1) An operator, assessment agency or granting body who is aggrieved by –
 - (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 of the Authority, as stated in an accreditation report;
 - (c) a decision of the Accreditation Authority as to the conditions or restrictions subject to which a determination of the Authority is to have effect, as stated in an accreditation report;

(d) a decision of the Accreditation Authority referred to in section 5(4); or

(e) a decision of the QR Authority referred to in section 7(6),

may apply to the Accreditation Authority or the QR Authority, as the case may be, for a review of the relevant determination or decision.

(2) An application for a review under subsection (1) shall –

(a) be made in such form as the Accreditation Authority or the QR Authority, as the case may be, may specify;

(b) be made –

(i) within 30 days of the receipt by the operator, assessment agency or granting body of a copy of the accreditation report under section 5(3) or the notice of the decision under section 5(4) or 7(6), as the case may be; or

(ii) within such further period as the Accreditation Authority or the QR Authority, as the case may be, may allow; and

(c) be accompanied by the fees determined under subsection (3).

(3) Each of the Accreditation Authority and the QR Authority may, subject to the prior approval of the Secretary, determine the fees to be charged for reviews by review committees established by it under this Part and charge such fees.

10. Establishment of review committees

(1) On receipt of an application for a review under section 9(1) and the fees determined under section 9(3), the Accreditation Authority or the QR Authority, as the case may be, shall –

- (a) establish a committee to conduct the review and to make general recommendations on any matter arising from the review; and
 - (b) determine the terms of reference of the committee.
- (2) The members of a review committee shall consist of –
 - (a) a chairman; and
 - (b) not less than 2 and not more than 6 other persons,appointed by the Accreditation Authority or the QR Authority, as the case may be, in accordance with subsection (3).
- (3) The members of a review committee shall be appointed from among persons, not being members of the Accreditation Authority or the QR Authority, as the case may be, who, in the opinion of the Authority concerned, are suitable by reason of their –
 - (a) expertise or experience in quality assurance or the conduct of accreditation tests; or
 - (b) good standing in the field of commerce, finance, education or training or in any industry.
- (4) If the chairman or any other member of any review committee, due to absence from Hong Kong or for any other reason, is unable to act as a chairman or member for any period, the Accreditation Authority or the QR Authority, as the case may be, may appoint another person to act in the place of the chairman or such member for that period.
- (5) Each of the Accreditation Authority and the QR Authority may –
 - (a) pay honoraria to any member of a review committee established by it;
 - (b) pay the travelling, accommodation or any other expenses reasonably incurred by any member of such review committee in connection with his duties as such member; and

- (c) make rules to provide for the regulation of the procedures governing meetings of such review committee.

11. Functions of review committees

(1) A review committee –

- (a) shall, subject to this Ordinance, regulate its own procedure;
- (b) may receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law;
- (c) may, by notice in writing, request any person –
 - (i) to produce to it any document or article that is relevant to the review and is in his custody or under his control; and
 - (ii) to appear before it and to give evidence relevant to the review; and
- (d) shall, within a period specified by the Accreditation Authority or the QR Authority, as the case may be, submit a report to the Authority concerned which contains –
 - (i) recommendations in respect of the relevant case or general recommendations or both; and
 - (ii) reasons for the recommendations.

(2) After a report has been submitted by a review committee under subsection (1)(d), the Accreditation Authority or the QR Authority, as the case may be, may –

- (a) provide further information to the review committee and request the review committee to answer any further question that the Authority concerned thinks fit; and
- (b) request the review committee to reconsider its recommendations.

(3) If a request is made under subsection (2), the review committee shall within a period specified by the Accreditation Authority or the QR Authority, as the case may be –

- (a) in the case of subsection (2)(a), answer the question; or
- (b) in the case of subsection (2)(b), notify the Authority concerned whether the review committee confirms, varies or reverses the recommendations referred to in subsection (1)(d) or substitutes any other recommendations for those recommendations.

12. Final decision of Accreditation Authority or QR Authority

As soon as practicable after receiving a report referred to in section 11(1)(d) or, if section 11(2) and (3) is applicable, the relevant answer or notification, the Accreditation Authority or the QR Authority, as the case may be, shall –

- (a) having regard to the recommendations and any other relevant circumstances, make a final decision to confirm, vary or reverse the determination or decision under review or substitute any other determination or decision for the determination or decision under review; and
- (b) notify the applicant in writing of the final decision and the reasons for the final decision.

PART 4

OFFENCES AND ENFORCEMENT

13. Advertisements relating to the Qualifications Framework and the Qualifications Register

(1) No person shall publish or cause to be published an advertisement which claims, represents or holds out that a qualification obtainable from a

granting body or from the completion of a learning programme is recognized under the Qualifications Framework unless –

- (a) all of the following information is contained in the advertisement –
 - (i) the name of the qualification;
 - (ii) the name of the relevant granting body;
 - (iii) the description of the relevant learning programme, and the name of the relevant operator (if different from the granting body), if applicable;
 - (iv) the relevant level of the Qualifications Framework under which the qualification is recognized;
 - (v) the registration number assigned by the QR Authority for the entry of the qualification in the Qualifications Register;
 - (vi) the validity period of the entry; and
- (b) at the time of the publication of the advertisement, the information referred to in paragraph (a) and contained in the advertisement corresponds to the information contained in the entry referred to in paragraph (a)(v).

(2) No person shall publish or cause to be published an advertisement which claims, represents or holds out that a person, school, institution, organization or other body is an appointed assessment agency unless the person, school, institution, organization or body is an appointed assessment agency at the time of the publication of the advertisement.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 5.

(4) Where a person is charged with an offence under subsection (3), it shall be a defence for the person charged to prove –

- (a) that –

- (i) he carries on the business of publishing or arranging for the publication of advertisements;
 - (ii) he received the advertisement for publication in the ordinary course of his business; and
 - (iii) at the time of the publication of the advertisement, he believed on reasonable grounds that all the information referred to in subsection (1)(a) was contained in the advertisement and corresponded to the information contained in the relevant entry of a qualification in the Qualifications Register, or that the relevant assessment agency was an appointed assessment agency, as the case may be;
- or

- (b) that he took all reasonable steps and exercised all due diligence to prevent the commission of the offence.

(5) For the purposes of this section, an advertisement may be constituted by any words, whether written or spoken, or any picture, drawing, visual image, figure or article –

- (a) appearing in any publication; or
- (b) brought to the notice of the general public or any section of the general public in any other way.

(6) For the purposes of this section, “publish” (發表) includes broadcast or otherwise disseminate.

14. Misleading or false statement, representation or information

Any person who, either orally or in writing, makes any statement or representation or furnishes any information to the Accreditation Authority, the QR Authority or a review committee in connection with the performance of its functions under this Ordinance which the person knows is misleading or false in

a material respect commits an offence and is liable on conviction to a fine at level 5.

15. Power of entry, search, seize, etc.

(1) Where a warrant has been issued under subsection (2) in respect of any premises, an inspection officer or a police officer may –

- (a) at any time, using such force as may be necessary, enter and search such premises;
- (b) detain any person found in such premises, during such period as is reasonably required to permit any such search to be carried out, where that person might prejudice the purpose of such search if he were not so detained; and
- (c) inspect, seize and detain anything which is or appears to him to be or to contain, or to be likely to be or to contain, evidence of the commission of an offence under this Ordinance.

(2) Where a magistrate is satisfied by information on oath that there are reasonable grounds for believing that –

- (a) an offence under this Ordinance is being or has been committed in any premises; or
- (b) there is or may be in any premises anything which is or contains, or is likely to be or to contain, evidence of the commission of an offence under this Ordinance,

he may issue a warrant authorizing any inspection officer or police officer to enter such premises.

(3) If an inspection officer or a police officer is requested to produce proof of his authority, he shall not exercise any power conferred by subsection (1) unless he has produced the proof of his authority as requested.

(4) An inspection officer or a police officer may, in the exercise of the powers conferred by subsection (1) –

- (a) break open any door of any premises which he is empowered to enter under that subsection; and
- (b) remove by force any person or thing obstructing him in the exercise of such powers.

(5) Any person who obstructs an inspection officer or a police officer in the exercise of any power conferred by subsection (1) or (4) commits an offence and is liable on conviction to a fine at level 3.

(6) In this section, “inspection officer” (視察人員) means any public officer authorized by the Secretary in writing either generally or in any particular case to be an inspection officer for the purposes of this section.

PART 5

MISCELLANEOUS

16. Determination and approval of fees

(1) The amount of any fee determined under this Ordinance shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the matter to which such fee relates, and different fees may be determined for the same type of matter in order to provide for particular circumstances or particular cases.

(2) Each of the Accreditation Authority and the QR Authority shall in each year submit to the Secretary for his prior approval –

- (a) a statement of its fee charging policy in relation to the exercise of its power and performance of its functions or duties under this Ordinance; and
- (b) a schedule of its fees which require approval of the Secretary under this Ordinance.

(3) In approving any fee under this Ordinance, the Secretary may approve the amount of the fee proposed to be charged in relation to the relevant

matter or may approve a maximum fee that may be charged in relation to such matter or any type of matter.

(4) Each of the Accreditation Authority and the QR Authority may refund, reduce or waive any fees charged by it under this Ordinance, either generally or in any particular case.

17. Secretary may amend Schedules 1, 2 and 3

(1) The Secretary may by order published in the Gazette amend Schedules 1, 2 and 3.

(2) An order under this section may contain such incidental, consequential, supplemental, transitional or savings provisions as may be necessary or expedient in consequence of the order.

18. Protection of members, employees, etc. of Accreditation Authority, QR Authority or review committee, etc.

(1) A member or employee of the Accreditation Authority or the QR Authority, a member of any review committee or a person delegated under section 4(3), acting in good faith, shall not be personally liable for any act done or default made by –

- (a) the Accreditation Authority or the QR Authority, as the case may be;
- (b) any review committee; or
- (c) any such member, employee or person,

in the exercise or purported exercise of the powers conferred by this Ordinance or in the performance or purported performance of the functions or duties imposed under this Ordinance.

(2) The protection conferred under subsection (1) on any member, employee or other person in respect of any act or default shall not affect any liability of the Accreditation Authority or the QR Authority, as the case may be, for that act or default.

PART 6

CONSEQUENTIAL AND RELATED AMENDMENTS TO THE HONG KONG COUNCIL FOR ACADEMIC ACCREDITATION ORDINANCE

19. Long title substituted

The long title to the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150) is repealed and the following substituted –

“An Ordinance to provide for the establishment of the Hong Kong Council for Academic and Vocational Accreditation as a body corporate and its functions, and for incidental and related matters.”.

20. Short title amended

Section 1 is amended by adding “and Vocational” after “Academic”.

21. Interpretation

(1) Section 2(1) is amended by repealing the definition of “academic accreditation”.

(2) Section 2(1) is amended, in the definition of “committee”, by repealing “the Executive Committee or any other committee” and substituting “a committee”.

(3) Section 2(1) is amended, in the definition of “Council”, by adding “and Vocational” after “Academic”.

(4) Section 2(1) is amended by repealing the definitions of “degree course” and “Executive Committee”.

(5) Section 2(1) is amended, in the definition of “總幹事”, by repealing “的人。” and substituting “的人；”.

(6) Section 2(1) is amended by adding –

““accreditation report” (評審報告) means a report produced by the Council under section 5A(1);

“accreditation test” (評審考核) means any assessment, evaluation or other activity to determine –

- (a) in relation to an operator, whether the operator is competent to achieve the objectives as claimed by the operator;
- (b) in relation to an assessment agency, whether the agency is competent to assess the skills, knowledge or experience acquired by individuals in relation to an industry or a branch of an industry;
- (c) in relation to a learning programme, whether the programme meets a standard to achieve the objectives of the programme as claimed by its operator;
- (d) in relation to a qualification, whether the skills, knowledge or experience recognized by the qualification meet a particular standard; and
- (e) in relation to an individual, whether the totality of the educational qualifications of the individual meet the standard of a particular qualification obtained in Hong Kong;

“assessment agency” (評估機構) means a person, school, institution, organization or other body –

- (a) the whole or part of the business of which includes the assessment of the skills, knowledge or experience acquired by individuals; and

(b) which grants qualifications recognizing the skills, knowledge or experience acquired by an individual, after an assessment of those skills, knowledge or experience;

“business” (業務) means business with or without a view to profit;

“financial year” (財政年度) means a period fixed by the Council under section 13(1);

“granting body” (頒授者), in relation to a qualification, means the person, school, institution, organization or other body which grants the qualification;

“industry” (行業) includes a trade, profession or occupation;

“learning programme” (進修計劃) means a programme of studies or training defined by a curriculum (which may consist of one or more modules, units, subjects or courses or any combination of those elements) and includes, where the context permits, any proposed programme of such studies or training;

“operator” (營辦者) means a person, school, institution, organization or other body, the whole or part of the business of which includes the operation of any learning programme or any part of a learning programme;

“qualification” (資歷) includes a recognition of the skills, knowledge or experience acquired by an individual;

“review committee” (覆檢委員會) means a committee established by the Council under section 17B(1);”.

(7) Section 2(2) is repealed.

**22. Part heading amended
(Part II)**

The heading of Part II is amended by adding “AND VOCATIONAL” after “ACADEMIC”.

23. Establishment of the Council

- (1) Section 3(1) is repealed and the following substituted –

“(1) There is established a body corporate to be known as the Hong Kong Council for Academic and Vocational Accreditation which may sue and be sued.”.

- (2) Section 3(2)(a) is amended by repealing “subsection (3); and” and substituting “subsections (2A) and (3);”.

- (3) Section 3(2) is amended by adding –

“(aa) the Permanent Secretary for Education and Manpower or his representative; and”.

- (4) Section 3 is amended by adding –

“(2A) The appointed members shall be appointed from among persons who, in the opinion of the Chief Executive, are suitable by reason of their –

(a) expertise or experience in quality assurance or the conduct of accreditation tests; or

(b) good standing in the field of commerce, finance, education or training or in any industry.”.

- (5) Section 3(3) is repealed and the following substituted –

“(3) Of the appointed members, not less than 4 and not more than 7 shall be persons who are not residents of Hong Kong.”.

- (6) Section 3(9) is repealed.

24. Section substituted

Section 4 is repealed and the following substituted –

“4. Functions of the Council

(1) The Council may perform any or all of the following functions –

- (a) conducting accreditation tests in relation to operators, assessment agencies, learning programmes and qualifications, either –
 - (i) generally; or
 - (ii) as authorized under any other enactment;
- (b) conducting accreditation tests in relation to individuals;
- (c) disseminating information on standards of learning programmes and promoting the methods and practices of conducting accreditation tests;
- (d) establishing relationships with accreditation or quality assurance bodies and education and training authorities outside Hong Kong and keeping under review the systems of academic or vocational accreditation in places outside Hong Kong;
- (e) conducting, holding or assisting in seminars, conferences or any other forms of instructional or promotional activity;
- (f) conducting or commissioning research into the maintenance or monitoring of the standards of education and of training;
- (g) such other functions related to academic or vocational accreditation, education or training as

may be permitted or assigned to the Council by the Secretary, or as authorized under any other enactment.

(2) The Council may, subject to the prior approval of the Secretary –

- (a) conduct accreditation tests under subsection (1)(a)(i) and (b) in relation to an operator, assessment agency or individual outside Hong Kong, a learning programme operated outside Hong Kong or a qualification obtainable outside Hong Kong; and
- (b) perform outside Hong Kong any function permitted or assigned by the Secretary under subsection (1)(g).”.

25. Powers of the Council

(1) Section 5 is amended by renumbering it as section 5(2).

(2) Section 5 is amended by adding –

“(1) Subject to section 19, the Council may –

- (a) do all things that are necessary for, or incidental or conducive to, the better performance of the functions of the Council;
- (b) perform any function under section 4(1) (except section 4(1)(a)(ii)) on its own or jointly with or as agent for other persons or organizations; and
- (c) exercise such powers as may be conferred upon it under any other enactment.”.

(3) Section 5(2) is amended by repealing “The Council” and substituting “Without limiting the generality of subsection (1), the Council”.

(4) Section 5(2)(a) is amended by repealing “section 4” and substituting “section 4(1) (except section 4(1)(a)(ii))”.

(5) Section 5(2)(b) is repealed and the following substituted –

“(b) publish and distribute such material (including accreditation reports, except those prepared in relation to individuals in performing the function under section 4(1)(b)) as the Council thinks fit;

(ba) determine the fees to be charged for any material published under paragraph (b) and charge such fees;”.

(6) Section 5(2)(c) is amended by repealing “academic accreditation) and specify conditions and fees (if any) subject to which it can be used and charge any such fee” and substituting “accreditation tests) and specify conditions, and determine fees (if any), subject to which it can be used and charge such fees”.

(7) Section 5(2)(d) is repealed and the following substituted –

“(d) determine the fees to be charged in respect of the performance of any function referred to in section 4(1)(e) and charge such fees;”.

(8) Section 5(2)(e) is repealed and the following substituted –

“(e) determine the fees to be charged for the conduct of accreditation tests and charge such fees;”.

(9) Section 5(2) is amended by adding –

“(ea) subject to the prior approval of the Secretary, determine the fees to be charged for reviews under Part IVA and charge such fees;”.

(10) Section 5(2)(f) is amended by repealing “and (e)” and substituting “, (e) and (ea)”.

(11) Section 5(2)(g) is repealed and the following substituted –

- “(g) subject to the prior approval of the Secretary, pay honoraria to appointed members who are not residents of Hong Kong;
- (ga) pay honoraria to any person appointed under paragraph (a) to whom a function is delegated under section 8(2), in relation to the performance of such function;
- (gb) pay honoraria to members of review committees in relation to the performance of their functions under Part IVA;”.

(12) Section 5(2)(h) is amended by repealing “paragraph (g)(ii) in relation to the performance by such person of any function referred to in that paragraph” and substituting “paragraphs (ga) and (gb) in relation to the performance by such person of any function referred to in those paragraphs”.

(13) Section 5(2) is amended –

- (a) in paragraph (l) –
 - (i) by adding “prior” before “approval”;
 - (ii) by repealing the semicolon at the end and substituting a full stop;
- (b) by repealing paragraph (m).

(14) Section 5 is amended by adding –

“(3) The amount of any fee determined under subsection (2) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the matter to which such fee relates, and different fees may be determined for the same type of matter in order to provide for particular circumstances or particular cases.

(4) For the purposes of subsection (2)(ea), the Secretary may approve the amount of the fee proposed to be charged in relation to any matter under that subsection or may

approve a maximum fee that may be charged in relation to such matter or any type of matter.”.

26. Section added

The following is added immediately after section 5 –

“5A. Accreditation report

(1) The Council shall, in performing the functions under section 4(1)(a)(i) and (b) in relation to a particular case and after conducting the relevant accreditation tests, produce a report stating its determination and, except in relation to an individual, the validity period of the determination and the conditions or restrictions, if any, subject to which the determination is to have effect.

(2) The Council may vary or withdraw an accreditation report if it is satisfied that –

- (a) in any particular case, the report has been produced in reliance on any misleading or false statement, representation or information, either oral or in writing;
- (b) in the case of a report on an operator, the operator is no longer competent to achieve the objectives as claimed by the operator;
- (c) in the case of a report on an assessment agency, the agency is no longer competent to assess the skills, knowledge or experience acquired by individuals in relation to the relevant industry or branch of industry;
- (d) in the case of a report on a learning programme, the programme no longer meets the standard to achieve the objectives of the programme as claimed by its operator; or

- (e) in the case of a report on a qualification, the skills, knowledge or experience recognized by the qualification no longer meet the particular standard as determined in the report.

(3) The Council shall, on payment of the fees determined under section 5(2)(e), give a copy of the accreditation report to the relevant operator, assessment agency, granting body or individual.

(4) If the Council decides to vary or withdraw an accreditation report under subsection (2), it shall give notice in writing of the decision to the relevant operator, assessment agency, granting body or individual.”.

27. Executive Director of the Council

- (1) Section 6(1)(b) is amended by adding “prior” before “approval”.
- (2) Section 6(2) is amended by adding “prior” before “approval”.

28. Employees, etc. of the Council

Section 7 is amended by repealing “on terms of remuneration approved by the Secretary under section 9 and on such” and substituting “on such terms of remuneration and”.

29. Delegation

(1) Section 8(2) is amended by repealing “The Council may delegate the performance, in relation to a particular case, of any function specified in section 4(a)” and substituting “Without limiting section 5(1)(c), the Council may delegate the performance, in relation to a particular case, of any function specified in section 4(1)(a)(i) or (b) or permitted or assigned by the Secretary under section 4(1)(g)”.

(2) Section 8(2) is amended by repealing “section 5(a)” where it twice appears and substituting “section 5(2)(a)”.

30. Prior approval of the Secretary for remuneration, etc.

(1) Section 9(1)(a) is amended by repealing “or of any employee or class of employees or of any advisers appointed or engaged under section 7”.

(2) Section 9(1)(b) is amended by repealing “section 5” and substituting “section 5(2)(g)”.

(3) Section 9(1) is amended by adding “prior” before “approval”.

(4) Section 9(2) is repealed.

(5) Section 9(3) is amended by repealing “remuneration or honoraria any amount other than an amount approved” and substituting “remuneration of the Executive Director or honoraria of appointed members who are not residents of Hong Kong any amount other than an amount approved in advance”.

31. Secretary to consult with Secretary for Financial Services and the Treasury before approving fees, charges, etc.

Section 10 is repealed.

32. Resources of the Council

Section 11(a) is amended by repealing “the carrying out of its functions” and substituting “the exercise of its powers and performance of its functions and duties”.

33. Use of surplus funds

Section 12 is amended by repealing “shall be deposited with any bank approved by the Secretary or invested in such investments as may be approved by the Secretary.” and substituting –

“shall –

- (a) be deposited in any bank as defined in section 2(1) of the Banking Ordinance (Cap. 155); or
- (b) be invested in such other forms of investments as may be approved in advance by the Secretary.”.

34. Section substituted

Section 13 is repealed and the following substituted –

“13. Financial year, programme of proposed activities, estimates of income and expenditure, statement of fee charging policy and schedule of fees

(1) The Council may, with the prior approval of the Secretary –

- (a) from time to time fix a period of 12 months to be the financial year of the Council; and
- (b) on fixing a new period to be its financial year under paragraph (a), fix a period of more than or less than 12 months as its first financial year after the modification of the period.

(2) The Council shall, not later than 5 months before the close of each financial year or such other date as the Secretary may approve, submit to the Secretary for his prior approval –

- (a) a programme of its proposed activities for the next financial year;
- (b) estimates of its income and expenditure for the next financial year;
- (c) a statement of its fee charging policy in relation to the exercise of its power and performance of its functions or duties for the next financial year;
- (d) a schedule of the fees proposed to be charged in relation to the exercise of its powers under section 5(2)(ea) for the next financial year; and
- (e) a schedule of the fees, which require approval of the Secretary under any other enactment, proposed to be charged by it for the next financial year.

(3) The Council may, subject to the prior approval of the Secretary, revise any programme, estimate, statement or schedule submitted under subsection (2).”.

35. Part IVA added

The following is added immediately after section 17 –

“PART IVA

REVIEW

17A. Application for reviews

(1) An operator, assessment agency, granting body or individual who is aggrieved by –

- (a) a determination of the Council, as stated in an accreditation report;
- (b) a decision of the Council on the length of the validity period of a determination of the Council, as stated in an accreditation report;
- (c) a decision of the Council as to the conditions or restrictions subject to which a determination of the Council is to have effect, as stated in an accreditation report; or
- (d) a decision of the Council referred to in section 5A(4),

may apply to the Council for a review of the relevant determination or decision.

(2) An application for a review under subsection (1) shall –

- (a) be made in such form as the Council may specify;
- (b) be made –
 - (i) within 30 days of the receipt by the operator, assessment agency, granting

- body or individual of a copy of the accreditation report under section 5A(3) or the notice of the decision under section 5A(4), as the case may be; or
- (ii) within such further period as the Council may allow; and
- (c) be accompanied by the fees determined under section 5(2)(ea).

17B. Establishment of review committees

(1) On receipt of an application for a review under section 17A(1) and the fees determined under section 5(2)(ea), the Council shall –

- (a) establish a committee to conduct the review and to make general recommendations to the Council on any matter arising from the review; and
- (b) determine the terms of reference of the committee.

(2) The members of a review committee shall consist of –

- (a) a chairman; and
- (b) not less than 2 and not more than 6 other persons,

appointed by the Council in accordance with subsection (3).

(3) The members of a review committee shall be appointed from among persons, not being members of the Council, who, in the opinion of the Council, are suitable by reason of their –

- (a) expertise or experience in quality assurance or the conduct of accreditation tests; or
- (b) good standing in the field of commerce, finance, education or training or in any industry.

(4) If the chairman or any other member of any review committee, due to absence from Hong Kong or for any other reason, is unable to act as a chairman or member for any period, the Council may

appoint another person to act in the place of the chairman or such member for that period.

(5) For the avoidance of doubt, it is declared that Schedule 2 does not apply to a review committee.

17C. Functions of review committees

(1) A review committee –

- (a) shall, subject to this Ordinance, regulate its own procedure;
- (b) may receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law;
- (c) may, by notice in writing, request any person –
 - (i) to produce to it any document or article that is relevant to the review and is in his custody or under his control; and
 - (ii) to appear before it and to give evidence relevant to the review; and
- (d) shall, within a period specified by the Council, submit a report to the Council which contains –
 - (i) recommendations in respect of the relevant case or general recommendations or both; and
 - (ii) reasons for the recommendations.

(2) After a report has been submitted by a review committee under subsection (1)(d), the Council may –

- (a) provide further information to the review committee and request the review committee to

answer any further question that the Council thinks fit; and

- (b) request the review committee to reconsider its recommendations.

(3) If a request is made under subsection (2), the review committee shall within a period specified by the Council –

- (a) in the case of subsection (2)(a), answer the question; or
- (b) in the case of subsection (2)(b), notify the Council whether the review committee confirms, varies or reverses the recommendations referred to in subsection (1)(d) or substitutes any other recommendations for those recommendations.

17D. Final decision of the Council

As soon as practicable after receiving a report referred to in section 17C(1)(d) or, if section 17C(2) and (3) is applicable, the relevant answer or notification, as the case may be, the Council shall –

- (a) having regard to the recommendations and any other relevant circumstances, make a final decision to confirm, vary or reverse the determination or decision under review or substitute any other determination or decision for the determination or decision under review; and
- (b) notify the applicant in writing of the final decision and the reasons for the final decision.”.

36. Section substituted

Section 21 is repealed and the following substituted –

“21. Protection of members, employees, etc.

(1) A member or employee of the Council, a member of any committee or review committee or any person appointed by the Council under section 5(2)(a), acting in good faith, shall not be personally liable for any act done or default made by –

- (a) the Council;
- (b) any committee;
- (c) any review committee; or
- (d) any such member, employee or person,

in the exercise or purported exercise of the powers conferred by this Ordinance or in the performance or purported performance of the functions or duties imposed under this Ordinance.

(2) The protection conferred under subsection (1) on any member, employee or other person in respect of any act or default shall not affect any liability of the Council for that act or default.”.

37. Rule making powers of the Council

(1) Section 22(2) is amended by adding –

“(aa) the procedures governing meetings of any review committee;”.

(2) Section 22(2)(d) is amended by repealing “academic accreditation” and substituting “accreditation tests”.

38. Unauthorized use of the title of the Council

(1) Section 23(1)(b) is amended by adding “and Vocational” after “Academic” where it twice appears.

(2) Section 23(2) is amended by repealing “of \$50,000” and substituting “at level 5”.

39. Section added

The following is added –

“23A. Misleading or false statement, representation or information

Any person who, either orally or in writing, makes any statement or representation or furnishes any information to the Council or a review committee in connection with the performance of its functions under this Ordinance which the person knows is misleading or false in a material respect commits an offence and is liable on conviction to a fine at level 5.”.

40. Section substituted

Section 25 is repealed and the following substituted –

“25. Secretary may amend Schedule 2

(1) The Secretary may by order published in the Gazette amend Schedule 2.

(2) An order under this section may contain such incidental, consequential, supplemental, transitional or savings provisions as may be necessary or expedient in consequence of the order.”.

41. Section added

The following is added –

“27. Savings and transitional provisions relating to the Accreditation of Academic and Vocational Qualifications Ordinance

(1) In this section –

“Amending Ordinance” (《修訂條例》) means the Accreditation of Academic and Vocational Qualifications Ordinance (of 2005);

“date of commencement” (生效日期) means the date on which the Amending Ordinance comes into operation.

(2) The Council is a continuation of and the same legal entity as the Hong Kong Council for Academic Accreditation established by section 3(1) of this Ordinance as in force before the date of commencement.

(3) The enactment of the Amending Ordinance does not affect the legality or validity of anything done by the Hong Kong Council for Academic Accreditation before the date of commencement.

(4) The enactment of the Amending Ordinance does not affect the legality or validity of anything done by the Executive Committee of the Hong Kong Council for Academic Accreditation before the date of commencement, and with effect from the date of commencement –

- (a) the Executive Committee shall continue to exist as a committee established under paragraph 7(1) of Schedule 2; and
- (b) a person holding office as a member of the Executive Committee immediately before the date of commencement continues to hold office as a member of the committee referred to in paragraph (a) for the remainder of his term of office, unless he ceases to hold office for any other reason before his term of office expires.

(5) Notwithstanding section 23(2), (4) and (5) of the Amending Ordinance, a member holding office as an appointed member of the Hong Kong Council for Academic Accreditation immediately before the date of commencement continues to hold office as a member of the Council for the remainder of his term of office, unless he ceases to hold office for any other reason before his term of office expires.”.

42. Institutions

Schedule 1 is repealed.

43. Provisions with respect to the Council and members thereof

(1) Schedule 2 is amended by repealing “[ss. 2, 3 & 25]” and substituting “[ss. 2, 3, 17B, 25 & 27]”.

(2) Schedule 2 is amended, in paragraph 3(b), by repealing “any member is precluded by temporary incapacity or any other reason from performing his functions” and substituting “a member, due to absence from Hong Kong or for any other reason, is unable to act”.

(3) Schedule 2 is amended, in paragraph 4(2), by repealing “and of the Executive Committee”.

(4) Schedule 2 is amended, in paragraph 7(1), by repealing “an Executive Committee and any other” and substituting “any”.

(5) Schedule 2 is amended by repealing paragraph 7(2) and (6).

(6) Schedule 2 is amended, in paragraph 8(1), by repealing “in any institution any aspect of the academic accreditation of which” and substituting “in relation to any academic or vocational accreditation of which”.

(7) Schedule 2 is amended, in paragraph 8(2), by repealing “院校的”.

PART 7

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ENACTMENTS

Inland Revenue Ordinance

44. Institutions that may accredit or recognize training or development courses for the purpose of section 12(6)(c)(iii)

Schedule 13 to the Inland Revenue Ordinance (Cap. 112) is amended by adding –

“38. The Hong Kong Council for Academic and Vocational Accreditation established by section 3(1) of the Hong Kong Council for Academic and Vocational Accreditation Ordinance (Cap. 1150)”.

Prevention of Bribery Ordinance

45. Public bodies

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended in item 57 by adding “and Vocational” after “Academic”.

Administrative Appeals Board Ordinance

46. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding –

- | | |
|--|--|
| <p>“66. Accreditation of Academic and Vocational Qualifications Ordinance (of 2005)</p> | <p>A decision of the Secretary for Education and Manpower –</p> <p>(a) not to re-appoint an assessment agency under section 8(1);</p> <p>(b) on the length of a term of re-appointment specified under section 8(1)(b);</p> <p>(c) to impose any conditions or restrictions under section 8(1)(c) in re- appointing an assessment agency; and</p> <p>(d) to cancel an appointment or re- appointment under section 8(4).”.</p> |
|--|--|

Non-local Higher and Professional Education (Regulation) Ordinance

47. Interpretation

Section 2(1) of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) is amended, in the definition of “Accreditation Council”, by adding “and Vocational” after “Academic” where it twice appears.

Specification of Public Offices

48. Specification of Public Office

The Schedule to the Specification of Public Office (L.N. 158 of 2002) is amended by repealing everything after “Hong Kong Council for Academic” and substituting “and Vocational Accreditation Ordinance (Chapter 1150), sections 4(1)(g) and (2), 5(2)(*ea*), (g) and (*l*), 9(1), 12(*b*), 13(1), (2) and (3) and 17.”.

SCHEDULE 1

[ss. 2 & 17]

ACCREDITATION AUTHORITY AND QR AUTHORITY

PART 1

ACCREDITATION AUTHORITY

The Hong Kong Council for Academic and Vocational Accreditation established under section 3(1) of the Hong Kong Council for Academic and Vocational Accreditation Ordinance (Cap. 1150).

PART 2

QR AUTHORITY

The Hong Kong Council for Academic and Vocational Accreditation established under section 3(1) of the Hong Kong Council for Academic and Vocational Accreditation Ordinance (Cap. 1150).

SCHEDULE 2

[ss. 2 & 17 &
Sch. 3]

SELF-ACCREDITING OPERATORS

1. The Chinese University of Hong Kong
2. City University of Hong Kong
3. Hong Kong Baptist University
4. The Hong Kong Institute of Education (excluding learning programmes which are not learning programmes in teacher education)
5. The Hong Kong Polytechnic University
6. The Hong Kong University of Science and Technology
7. Lingnan University
8. The Open University of Hong Kong
9. University of Hong Kong

SCHEDULE 3

[ss. 4, 7 & 17]

DESCRIPTIONS OF QUALIFICATIONS THAT MAY BE ENTERED INTO THE QUALIFICATIONS REGISTER

1. A qualification obtainable from the completion of a learning programme, where the Accreditation Authority determines that –

- (a) the operator of the learning programme is competent to operate learning programmes that meet QF standards; and
 - (b) the learning programme meets a QF standard.
- 2. A qualification obtainable from the completion of a learning programme operated by a self-accrediting operator, where –
 - (a) the programme has not been excluded in the brackets, if any, next to the name of that self-accrediting operator in Schedule 2; and
 - (b) the self-accrediting operator determines that the programme meets a QF standard.
- 3. A qualification obtainable from the completion of a learning programme, where –
 - (a) the Accreditation Authority determines that the operator of the programme is competent –
 - (i) to ensure that the programmes operated by the operator meet QF standards; and
 - (ii) to determine whether the programmes operated by the operator meet QF standards; and
 - (b) the operator determines, within any conditions or restrictions referred to in section 5(1), that the programme meets a QF standard.
- 4. A qualification in relation to an industry or a branch of an industry, obtainable from an appointed assessment agency appointed in relation to that industry or that branch, where the appointed assessment agency determines, within any conditions or restrictions imposed by the Secretary under section 8(1)(c), that the qualification meets a QF standard.

Note: In this Schedule, “meet a QF standard” (達到資歷架構標準) –

- (a) in relation to a learning programme, means the programme meets a standard such that the skills, knowledge or experience acquired on the completion of the programme meet all or part of the requirements under a level of the Qualifications Framework; or
- (b) in relation to a qualification, means the skills, knowledge or experience recognized by the qualification meet all or part of the requirements under a level of the Qualifications Framework.”.

Explanatory Memorandum

The object of this Bill is to provide for matters relating to accreditation of academic and vocational qualifications; and to make consequential and related amendments to certain enactments.

- 2. Clause 2 includes definitions necessary for the interpretation of the Bill.
- 3. Part 2 contains provisions relating to the Qualifications Framework and the Qualifications Register as follows –

- (a) clause 3 provides for the establishment of the Qualifications Framework and the Qualifications Register by the Secretary for Education and Manpower (“the Secretary”);
- (b) clause 4 provides for the functions and powers of the Accreditation Authority;
- (c) clause 5 provides for the production of accreditation reports by the Accreditation Authority;
- (d) clause 6 provides for the functions and powers of the QR Authority;

- (e) clause 7 provides for maintenance of the Qualifications Register; and
- (f) clause 8 provides for the appointment of assessment agencies for the purposes of the Qualifications Framework (including provisions relating to appeals to the Administrative Appeals Board).

4. Part 3 (clauses 9, 10, 11 and 12) provides for the review of the determinations and decisions of the Accreditation Authority and the QR Authority.

5. Part 4 contains provisions relating to offences and enforcement as follows –

- (a) clause 13 creates an offence relating to advertisements which claim, represent or hold out that a qualification is recognized under the Qualifications Framework or that a person, school, institution, organization or other body is an appointed assessment agency;
- (b) clause 14 creates an offence relating to misleading or false statements, representations or information;
- (c) clause 15 provides for the investigation powers in relation to the offences created under clauses 13 and 14.

6. Part 5 contains miscellaneous provisions. Clause 16 provides for determination and approval of fees. Clause 17 confers on the Secretary the power to amend Schedules 1, 2 and 3 of the Bill. Clause 18 confers protection in relation to personal liabilities on members, employees, etc. of the Accreditation Authority, the QR Authority or review committees.

7. Part 6 contains consequential and related amendments to the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150) (“the Ordinance”) –

- (a) clause 19 amends the long title of the Ordinance to reflect the change of the name of the Hong Kong Council for Academic Accreditation (“the Council”);

- (b) clause 20 amends the short title of the Ordinance to reflect the change of the name of the Council;
- (c) clause 21 amends section 2 of the Ordinance to –
 - (i) delete the reference to the Executive Committee from the definition of “committee”;
 - (ii) change the name of the Council in the definition of “Council”;
 - (iii) repeal definitions that are no longer necessary; and
 - (iv) add new definitions necessary for interpretation of the Ordinance as amended by the Bill;
- (d) clause 22 amends the heading of Part II of the Ordinance to reflect the change of the name of the Council;
- (e) clause 23 amends section 3 of the Ordinance to change the name and membership of the Council;
- (f) clause 24 repeals and re-enacts section 4 of the Ordinance to repeal out of date functions of the Council and modify other functions, in particular adding the following functions –
 - (i) the conduct of accreditation tests;
 - (ii) functions authorized under any other enactment;
- (g) clause 25 amends the powers of the Council under section 5 of the Ordinance and includes, among others –
 - (i) providing for general powers to do things for the better performance of the function of the Council and to perform the function on its own or jointly with or as agent for other persons or organizations;
 - (ii) adding the powers conferred under any other enactment;

- (iii) changing the power to determine and charge fees for academic accreditation to a power to determine and charge fees for the conduct of accreditation tests;
- (iv) adding a power to determine and charge fees for the review of determinations or decisions made by the Council, subject to the prior approval of the Secretary;
- (v) repealing the requirement of the approval of the Secretary in the payment of honoraria to any person appointed under section 5(a) of the Ordinance (renumbered as section 5(2)(a) by clause 25) to whom a function is delegated under section 8(2) of the Ordinance; and
- (vi) adding a power to pay honoraria and travelling, accommodation or other expenses to members of review committees established under new section 17B added to the Ordinance by clause 35;
- (h) clause 26 adds a new section 5A to the Ordinance which provides for the production, variation and withdrawal of accreditation reports;
- (i) clause 27 contains technical amendments to section 6 of the Ordinance;
- (j) clause 28 amends section 7 of the Ordinance by repealing the requirement of the approval of the Secretary in relation to terms of remuneration of employees and advisers of the Council;
- (k) clause 29 amends section 8(2) of the Ordinance to enable the Council to delegate the performance of its functions of conducting accreditation tests and other functions

permitted or assigned by the Secretary in accordance with that provision, and contains a consequential amendment to that section;

- (l) clause 30 makes consequential amendments to section 9 of the Ordinance;
- (m) clause 31 repeals section 10 of the Ordinance which provides for consultation with the Secretary for Financial Services and the Treasury before the Secretary approves certain matters;
- (n) clause 32 contains technical amendments to section 11(a) of the Ordinance;
- (o) clause 33 amends section 12 of the Ordinance by repealing the requirement of the approval of the Secretary in the choice of banks for deposit of surplus funds;
- (p) clause 34 repeals and re-enacts section 13 of the Ordinance and provides for the Council's financial year and the submission by the Council of a programme of proposed activities, estimates of income and expenditure, a statement of fee charging policy and a schedule of fees for the prior approval of the Secretary in each financial year;
- (q) clause 35 adds a new Part IVA (new sections 17A, 17B, 17C and 17D) to the Ordinance to provide for the review of determinations and decisions of the Council;
- (r) clause 36 repeals and re-enacts section 21 of the Ordinance to confer the protection in relation to personal liabilities in that section also on members of review committees established under new section 17B added by clause 35;
- (s) clause 37 amends section 22 of the Ordinance by conferring on the Council the power to make rules for the

regulation of the procedures governing meetings of review committees established under new section 17B added by clause 35;

- (t) clause 38 amends section 23(1)(b) of the Ordinance to reflect the change of the name of the Council and contains a technical amendment to section 23(2) of the Ordinance;
- (u) clause 39 adds a new section 23A to the Ordinance which creates an offence relating to misleading or false statements, representations or information;
- (v) clause 40 repeals and re-enacts section 25 of the Ordinance, and confers on the Secretary the power to amend Schedule 2 to the Ordinance;
- (w) clause 41 adds a new section 27 to the Ordinance containing savings and transitional provisions relating to the Bill;
- (x) clause 42 repeals Schedule 1 to the Ordinance, consequential to the amendments to section 4 of the Ordinance in clause 24;
- (y) clause 43 contains the following amendments to Schedule 2 to the Ordinance –
 - (i) amending paragraph 3(b) of the Schedule in relation to the appointment of acting members of the Council;
 - (ii) repealing paragraph 7(2) and (6) of the Schedule which relates to the Executive Committee and repealing the references to the Executive Committee in paragraphs 4(2) and 7(1) of the Schedule;
 - (iii) consequentially amending paragraph 8 of the Schedule.

8. Part 7 contains consequential and related amendments as follows –
 - (a) clause 44 makes a related amendment to Schedule 13 to the Inland Revenue Ordinance (Cap. 112), so that “prescribed course of education” under section 12 of that Ordinance includes a course undertaken to gain or maintain qualifications for use in any employment and being a training or development course accredited or recognized by the Council;
 - (b) clauses 45, 46, 47 and 48 make consequential amendments to other enactments.
9. Schedule 1 specifies the Council to be the Accreditation Authority and the QR Authority.
10. Schedule 2 contains a list of self-accrediting operators.
11. Schedule 3 contains the descriptions of qualifications that may be entered into the Qualifications Register.

**Major Provisions of the Hong Kong Council for
Academic Accreditation Ordinance to be Amended**

Section: 2 Heading: Interpretation

- (2) Without affecting the generality of the definition of "academic accreditation" (學術評審), academic accreditation includes any or all of the following -
- (a) validation, that is to say, an evaluation of a particular degree course conducted or proposed to be conducted by an institution of higher education, to determine whether or not the academic standard of the course is comparable with internationally recognized standards;
 - (b) revalidation, that is to say, an appraisal of the progress of a degree course which has been evaluated and found to be of a standard comparable with internationally recognized standards, to determine whether it continues to be so comparable;
 - (c) institutional review, that is to say, a review of the academic and general standards of an institution of higher education; and
 - (d) institutional accreditation, that is to say, an assessment to determine whether an institution of higher education is competent to validate or revalidate, within the meaning of this section, degree courses conducted or proposed to be conducted by it.

Section: **3** Heading: **Establishment of the Council**

(1) There is established a body corporate to be known as the Hong Kong Council for Academic Accreditation which may sue and be sued.

(2) The Council shall consist of -

(a) not less than 15 and not more than 21 members appointed by the Chief Executive in accordance with subsection (3); and

(b) the Executive Director.

(3) Of the appointed members -

(a) not less than 5 and not more than 7 shall be -

(i) academics; or

(ii) persons who appear to the Chief Executive to be suitable by reason of being engaged in research or in a teaching or training capacity in any industry or industrial organization,

and ordinarily resident outside Hong Kong;

(b) not less than 5 and not more than 7 shall be -

(i) academics; or

(ii) persons who appear to the Chief Executive to be suitable by reason of being engaged in research or in a teaching or training capacity in any industry or industrial organization,

and who are residents of Hong Kong; and

(c) not less than 5 and not more than 7 shall be persons who appear to the Chief Executive to have experience in commerce, industry or any profession and who are residents of Hong Kong.

(4) The Chief Executive shall appoint a Chairman and a Vice-chairman of the Council from among the appointed members.

(5) The appointment of an appointed member shall be for a period specified by the Chief Executive at the time of such appointment.

(6) Schedule 2 shall have effect as respects the Council and the members thereof.

(7) The Chief Executive shall cause notice to be given in the Gazette of every appointment made under this section.

(8) The Council may act notwithstanding a vacancy in its membership.

(9) In this section -

"academic" (學術界人士) means any person who at the date of appointment is, or immediately or recently before such date was -

(a) engaged in teaching in or research at; or

(b) in a position of management in,

an institution of higher education.

Section: **4** Heading: **Functions of the Council**

The Council may perform any or all of the following functions -

(a) academic accreditation in relation to -

(i) any institution specified in Schedule 1, at the request of the body known as the University Grants Committee;

(ii) any institution specified in Part 2 of Schedule 1, at the direction of the Chief Executive;

(iii) any institution of higher education, not being an institution referred to in subparagraph (i) or (ii), at the request of such institution and with the consent of the Chief Executive;

(b) advising, reporting or making recommendations to, the body known as the University Grants Committee or any other person

in relation to any function referred to in or performed under paragraph (a);

- (c) disseminating information on academic standards of degree courses and the promotion of academic accreditation methods and practices;
- (d) establishing relationships with accrediting bodies outside Hong Kong and keeping under review the systems of academic accreditation of such bodies;
- (e) conducting, holding or assisting in seminars, conferences or any other forms of instructional or promotional activity;
- (f) conducting or commissioning research into the maintenance or monitoring of academic standards;
- (g) such other functions relevant to academic accreditation or higher education as may be permitted or assigned to the Council by the Chief Executive.

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| Section: 5 | Heading: Powers of the Council |
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The Council may in performing its functions -

- (a) appoint any person in relation to the performance of any function specified in section 4;
- (b) publish material and distribute, lend with or without charge or sell such material;
- (c) enable any person to use any facility of or provided for or by the Council or service provided by the Council (other than academic accreditation) and specify conditions and fees (if any) subject to which it can be used and charge any such fee;
- (d) determine and charge any fees in respect of the exercise of any function referred to in section 4(e);
- (e) subject to the approval of the Secretary, determine fees to be charged for academic accreditation and charge any such fees;

- (f) refund, reduce or waive any fee referred to in paragraphs (c), (d) and (e) either generally or in any particular case;
- (g) subject to the approval of the Secretary, pay honoraria -
 - (i) to members ordinarily resident outside Hong Kong; and
 - (ii) to any person appointed under paragraph (a) to whom a function is delegated under section 8(2), in relation to the performance of such function;
- (h) pay the travelling, accommodation or any other expenses reasonably incurred by any person referred to in paragraph (g)(ii) in relation to the performance by such person of any function referred to in that paragraph;
- (i) pay the travelling, accommodation or other expenses reasonably incurred by any member in connection with his duties as such member;
- (j) acquire, hold or dispose of property of any description;
- (k) accept gifts or donations whether subject to any trust or not;
- (l) subject to the approval of the Secretary, borrow such money on such security or other terms and conditions as it considers expedient;
- (m) do or cause to be done such other incidental act or thing as the Council considers expedient or necessary for the performance of its functions under this Ordinance.

Section: 7 Heading: **Employees, etc. of the Council**

The Council may -

- (a) appoint or engage such employees as it may determine; and
- (b) engage the services of advisers on any matters arising out of or connected with any function of the Council,

on terms of remuneration approved by the Secretary under section 9 and on such conditions of service as the Council thinks fit.

Section: **9** Heading: **Prior approval of the
Secretary for
remuneration, etc.**

- (1) The Council shall before -
 - (a) determining the remuneration of the Executive Director or of any employee or class of employees or of any advisers appointed or engaged under section 7; or
 - (b) determining the amount of any honorarium referred to in section 5; or
 - (c) varying any such remuneration or amount of honorarium,

obtain the approval of the Secretary.
- (2) In the case of remuneration of the employees of the Council, the Secretary may approve the amount proposed to be paid in respect of the class of employee or in respect of a particular employee or a particular position.
- (3) The Council shall not pay as remuneration or honoraria any amount other than an amount approved by the Secretary under this section.

Implications of the Proposal

Financial and Civil Service Implications

In January 2005, the Education and Manpower Bureau provided HKCAA with a one-off grant of \$7.3 million to carry out a number of tasks to prepare for the implementation of the QF. They include the development of the QR, a pilot study for registration of qualifications/courses onto the QR, and a demand forecast study to better understand the clients' needs.

2. We do not envisage that the Government has to bear recurrent expenditure arising from the introduction of the Bill. HKCAA, being a self-financing body, will meet its recurrent expenditure in implementing the quality assurance mechanism under the QF from the fees to be charged by the Council.

3. However, in order to encourage providers to seek HKCAA's quality assurance for their courses under the QF at the outset, we are considering providing non-recurrent funding to subsidise the cost of accreditation borne by the providers of training courses on a matching basis. The funding and cashflow requirements will be met from within SEM's Operating Expenditure envelope for the relevant financial years.

4. The introduction of the Bill is not expected to have any direct or immediate impact on the prevailing civil service appointment and pay policies, which are currently built on an academic qualification groupings system. The implementation of the QF is a gradual process. It will take time and effort before various vocational qualifications can be developed and accredited under the QF. However, since the public may expect the Government, being the largest employer in the territory, to take the lead to recognise the accredited qualifications under the QF, the Civil Service Bureau may need to review the academic qualification groupings system in respect of the appointment policy in the long run when the development of the QF is more mature.

Economic Implications

5. The QF cannot succeed without a credible quality assurance mechanism. The implementation of the QF and its associated quality assurance mechanism should enhance the capability and competitiveness of our manpower in the global economy. It should collectively help reduce mismatches between manpower requirement and supply, thereby enhancing the overall productive capacity of the economy.

