

立法會
Legislative Council

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Tel : 2869 9205

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 12 March 2008

**Proposed resolution under section 34(2) of the
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Education will move at the Council meeting of 12 March 2008 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Accreditation of Academic and Vocational Qualifications (Appeal) Rules. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both English and Chinese versions, which the Secretary for Education will deliver when moving the proposed resolution, is also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance
(Cap. 1))

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS (APPEAL) RULES

RESOLVED that the Accreditation of Academic and Vocational Qualifications (Appeal) Rules, published in the Gazette as Legal Notice No. 25 of 2008 and laid on the table of the Legislative Council on 20 February 2008, be amended –

- (a) in section 2, by adding –
 - ““appeal” (上訴) means an appeal under section 11 of the Ordinance;
 - “appellant” (上訴人) means an operator, assessment agency or granting body lodging a notice of appeal under section 11 of the Ordinance;”.
- (b) in section 3(3)(b), in the Chinese text, by repealing “充分而不偏不倚” and substituting “全面而中肯”;
- (c) in section 4(1), by repealing “may specify” and substituting “may on application allow”;

- (d) in section 11, by repealing “notice or thing required to be served or lodged under these Rules” and substituting “statement, notice or article required to be served or lodged for the purposes of an appeal”.

**Speech for the Motion to be Moved by the Secretary for Education
to amend the Accreditation of Academic and Vocational
Qualifications (Appeal) Rules at the meeting of the Legislative
Council on 12 March 2008**

President,

I rise to move the motion on the Agenda to amend the Accreditation of Academic and Vocational Qualifications (Appeal) Rules (“the Appeal Rules”).

In May 2007, the Legislative Council (LegCo) passed the Accreditation of Academic and Vocational Qualifications Bill, which provides the necessary legislative framework for the implementation of the Qualifications Framework. Under the Ordinance, an education and training provider or an assessment agency may appeal against a decision on the outcome of an accreditation test or a decision on the entry of a qualification into the Qualifications Register. The Ordinance also provides for the establishment of a Rules Committee which makes rules governing the application and handling procedures of appeals.

The Appeal Rules were tabled at LegCo by the Rules Committee on 20 February 2008. After examining the Appeal Rules, LegCo’s Legal Adviser has suggested amending the drafting of several provisions in order to enhance the consistency of the wording with that of the principal Ordinance and other existing legislations. The Rules

Committee has considered the Legal Adviser's proposals and supported the amendments.

First of all, in order to enable the public to have a better understanding of the scope of the Appeal Rules, we propose to include in section 2 of the Rules the definition of "appellant" and "appeal" provided for in section 9 of the principal Ordinance.

Also, in the Chinese text of section 3(b) of the Rules, we propose to translate the term, "fully and fairly" as "全面而中肯地" to tally with the wording adopted in other existing legislations.

We also suggest amending section 4(1) in terms similar to section 5. The presiding officer may, on application, allow a longer period for the appellant to lodge the required documents.

To tally with the wording used in section 14(1)(b) and (c) of the principal Ordinance, section 11 of the Appeal Rules will be amended to the effect that any document, statement, notice or article required to be served or lodged for the purposes of an appeal may be served or lodged in person or by post.

President, as the above technical amendments aim at enhancing the clarity of the Appeal Rules, I hope that Members would support the motion.