

LEGISLATIVE COUNCIL BRIEF

Vocational Training Council Ordinance
(Chapter 1130)

VOCATIONAL TRAINING COUNCIL (AMENDMENT) BILL 2003

INTRODUCTION

A At the meeting of the Executive Council on 16 December 2003, the Council ADVISED and the Chief Executive ORDERED that the Vocational Training Council (Amendment) Bill 2003, at Annex A, should be introduced to the Legislative Council to amend the Vocational Training Council Ordinance (VTCO) to -

- (a) empower the Vocational Training Council (VTC) to engage in extra-territorial activities the nature of which must be consistent with its objects and functions;
- (b) replace the existing terminology of “disabled person” used in the VTCO by “person with a disability”; and
- (c) provide for any one of the Council Deputy Chairmen to be signatory of accounts when the Chairman is absent from Hong Kong or is unable to act as Chairman.

JUSTIFICATIONS

(A) *Principal Amendment*

2. Under the existing VTCO, there is no explicit provision for the

VTC to engage in extra-territorial activities.

3. In recent years, an increasing number of Hong Kong firms are engaged in cross-border operations and activities and they employ a large workforce from Hong Kong. With the rapid economic growth in the Pearl River Delta region, the trend is for more of these Hong Kong firms or even Mainland entities to recruit workers from Hong Kong. The ability of the VTC to equip our workforce to cater for the demand of these firms will be crucial to maintaining the competitiveness and employment prospects of our workers. It will also be beneficial to young people for the VTC to arrange for industrial attachment across the border for its students to acquire valuable working experience and to enhance their employment opportunities upon graduation.

4. The VTC wishes to operate a number of activities outside Hong Kong which include: job attachments in the Mainland for youths, provision of skills certification programmes and provision of award bearing/professionally recognised programmes. Except for the job attachments for youth, the proposed activities will be run on a self-financing basis. The operation of these activities requires the VTC to be empowered to extend the territorial coverage of its objects and functions, both on its own and in partnership with its counterparts across the border.

5. These proposed activities would help meet the trained and qualified manpower requirement of Hong Kong business establishments with operations in the Mainland. At the same time, they will provide useful exposure to the trainees and better equip workers for employment in the Mainland.

6. The proposed activities will also facilitate bilateral exchange of experience and expertise in vocational education and training between Hong Kong and the Mainland, thereby contributing to the development of both sides in this area. The above activities may also help provide the VTC with additional income for the furtherance of its objects.

7. Having considered the benefits to the business and community at large, we propose to introduce amendments to the VTCO to empower the VTC

to engage in extra-territorial activities the nature of which are consistent with its objects and functions. Most of the extra-territorial activities will be run on a self-financing basis, in which case we will continue to ensure that there is no cross-subsidisation of these self-financed activities by government subvention for the VTC. We will also ensure that the operation of any extra-territorial activities on a subvented basis will be for the training and education of Hong Kong persons.

(B) *Other Minor Amendments*

8. Minor amendments to the VTCO are also proposed to:
- (a) replace the existing terminology of “disabled person” used in the Ordinance which does not conform with international practice in the description of physically disabled people. The term is to be replaced by “person with a disability”; and
 - (b) provide for any one of the Council Deputy Chairmen to be signatory of accounts when the Chairman is absent from Hong Kong or when the Chairman is unable to act to facilitate the VTC’s internal administration.

THE BILL

9. The main provisions are -
- (a) **clause 4** amends section 6 to empower the VTC to perform its functions outside Hong Kong;
 - (b) **clauses 2 and 3** amend sections 2 and 5(d) to replace the term “disabled persons” by “persons with a disability”; and
 - (c) **clause 5** amends section 17 to provide for any one of the Deputy Chairmen to sign accounts when the Chairman is absent from Hong Kong or when the Chairman is unable to act.

B. The existing provisions being amended are at Annex B.

LEGISLATIVE TIMETABLE

10. The legislative timetable will be –

Publication in the Gazette	24 December 2003
First Reading and commencement of Second Reading debate	14 January 2004
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

C 11. The proposal has economic and financial implications as set out at Annex C. The proposal has no civil service implications for the Government. It is in conformity with the Basic Law, including the provisions concerning human rights, and does not affect the current binding effect of the VTCO. The proposal does not have productivity or major sustainability implications.

PUBLIC CONSULTATION

12. The VTC has consulted all its Training Boards (TBs), which comprise stakeholders of relevant industry sectors, and the TBs support the proposal for the VTC to engage in extra-territorial activities. The Legislative Council Panel on Manpower was consulted on the proposals on 20 November 2003. The Panel did not have any specific comment on the proposals.

PUBLICITY

13. A press release will be issued when the Bill is gazetted. A spokesman will be available to answer media and public enquiries.

BACKGROUND

14. The VTC is a statutory body established under the VTCO enacted in 1982. The VTC provides vocational education and training to help meet the developing needs of Hong Kong. Sections 5 and 6 of the VTCO (extracted at Annex D) set out the objects and functions of the VTC.

ENQUIRIES

15. For enquiries relating to this Brief, please contact Mr Byron Lam, Principal Assistant Secretary, Education and Manpower Bureau, at telephone number 2810 3036.

Education and Manpower Bureau
December 2003

A BILL

To

Amend the Vocational Training Council Ordinance to empower the Vocational Training Council to perform its functions outside Hong Kong; to empower the Deputy Chairmen of the Council to sign statements of accounts; and to make other minor amendments.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Vocational Training Council (Amendment) Ordinance 2003.

2. Interpretation

Section 2 of the Vocational Training Council Ordinance (Cap. 1130) is amended –

- (a) in the definition of “disabled person”, by repealing “disabled person” and substituting “person with a disability”;
- (b) in the definition of “skills training”, in paragraphs (a) and (b), by repealing “disabled persons” and substituting “persons with a disability”.

3. Objects of the Council

Section 5(d) is amended by repealing “disabled persons” and substituting “persons with a disability who are”.

4. Functions of the Council

Section 6 is amended by adding –

“(3) Subject to subsection (4), the Council may perform any of its functions under this section in Hong Kong or elsewhere either on its own or jointly with or as agent for other person or organization.

(4) The Council may not perform any of its functions outside Hong Kong using any money appropriated by the Legislative Council under section 12(a) unless the functions so performed are for the training and education of Hong Kong persons.

(5) For the purposes of subsection (4) and this subsection -
 “Hong Kong person” (香港人) means a person who -

- (a) holds an identity card issued under the Registration of Persons Ordinance (Cap. 177); and
- (b) (i) is not subject to any condition of stay imposed in respect of the person under the Immigration Ordinance (Cap. 115), other than a limit of stay; and
- (ii) is not in breach of any limit of stay;

“limit of stay” (逗留期限), in relation to a person, means a condition of stay limiting the period during which the person may remain in Hong Kong.”.

5. Accounts

Section 17 is amended –

- (a) in subsection (3), by repealing everything after “thereof” and substituting a full stop;
- (b) by adding –

“(4) The statement and balance sheet required by subsection (3) shall be signed by the Chairman, or if the Chairman is absent from Hong Kong or is for any other reason unable to exercise the powers or perform the duties of a Chairman, by any one of the Deputy Chairmen.”.

Explanatory Memorandum

This Bill amends the Vocational Training Council Ordinance (Cap. 1130)

to –

- (a) empower the Vocational Training Council to perform its functions outside Hong Kong;
- (b) empower any one of the Deputy Chairmen of the Council to sign statements of accounts when the Chairman is absent from Hong Kong or is unable to act as Chairman; and
- (c) amend “disabled person” to “person with a disability”.

Annex B

Chapter:	1130	VOCATIONAL TRAINING COUNCIL ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation		30/06/1997
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In this Ordinance, unless the context otherwise requires-

"Chairman" (主席) and "Deputy Chairmen" (副主席) mean respectively the Chairman and Deputy Chairmen of the Vocational Training Council appointed under section 8;

"Council" (職訓局) means the Vocational Training Council established by section 4;

"council committee" (職訓局委員會) means a committee established under section 11;

"disabled person" (殘疾人士) means a person whose prospects of securing and retaining open employment are reduced by reason of physical or mental impairment; (Added 35 of 1991 s. 2)

"Executive Director" (執行幹事), "Deputy Executive Director" (副執行幹事) and "Assistant Executive Director" (助理執行幹事) mean respectively the Executive Director, a Deputy Executive Director and an Assistant Executive Director of the Council appointed under section 9(1); (Replaced 35 of 1991 s. 2)

"financial year" (財政年度) means the period fixed as the financial year of the Council under section 14(2);

"functions" (職能) includes powers and duties;

"general committee" (一般委員會) means a committee established under section 10;

"industrial training" (工業訓練) means training given or received in the course or for the purpose of employment in industry, but does not include skills training; (Amended 35 of 1991 s. 2)

"industrial training centre" (工業訓練中心) means a place where industrial training is provided by or on behalf of the Council;

"industry" (工業、工業界) includes commerce and services;

"skills centre" (技能訓練中心) means any place where skills training is provided by or on behalf of the Council; (Added 35 of 1991 s.2)

"skills training" (技能訓練) means-

- (a) training given to disabled persons in relation to employment skills; or
- (b) training given to disabled persons in relation to daily activities and social skills incidental to training referred to in paragraph (a); (Added 35 of 1991 s. 2)

"technical college" (科技學院) and "technical institute" (工業學院) mean respectively any technical college or technical institute established, operated or managed by the Council; (Replaced 35 of 1991 s. 2)

"technical education" (工業教育) means education provided by a technical college or technical institute; (Amended 35 of 1991 s. 2)

"trade" (行業) means any trade or occupation in industry;

"training board" (訓練委員會) means a board established under section 10.

Section:	5	Objects of the Council	56 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

The objects of the Council shall be-

- (a) to advise the Chief Executive on the measures required to ensure a comprehensive system of technical education and industrial training suited to the developing needs

- of Hong Kong; (Amended 56 of 2000 s. 3)
- (b) to institute, develop and operate schemes for training operatives, craftsmen, technicians and technologists needed to sustain and improve industry;
- (c) to promote the training of apprentices; (Replaced 35 of 1991 s. 4)
- (d) to provide and co-ordinate the provision of skills training to disabled persons aged 15 and over for the purpose of improving their employment prospects and preparing them for open employment; (Added 35 of 1991 s. 4)
- (e) to establish, operate and maintain technical colleges, technical institutes, industrial training centres and skills centres. (Added 35 of 1991 s. 4)

Section:	6	Functions of the Council	L.N. 362 of 1997; 56 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

- (1) The Council shall-
 - (a) consider and report to the Chief Executive on any matter concerning technical education, industrial training or skills training referred to it by the Chief Executive; (Amended 56 of 2000 s. 3)
 - (b) report to the Chief Executive annually or as often as he may direct; (Amended 56 of 2000 s. 3)
 - (c) examine and make recommendations to the Chief Executive on the financial needs of technical colleges, technical institutes, industrial training centres and skills centres; (Amended 56 of 2000 s. 3)
 - (d) operate and maintain any skills centre assigned to it by the Government;
 - (e) keep under review-
 - (i) the needs of industry for trained manpower;
 - (ii) the availability of trained manpower to meet the needs of industry;
 - (iii) the facilities available to train the manpower needed by industry;
 - (iv) the provision by employers of industrial training and apprenticeships; and
 - (v) the adequacy of industrial training provided by employers for trainees and apprentices and the measures to be taken to promote and improve such training;
 - (f) consider and recommend which trades should be specified by the Chief Executive to be designated trades under section 45 of the Apprenticeship Ordinance (Cap 47); (Amended 56 of 2000 s. 3)
 - (g) consider and approve, if thought fit, recommendations from training boards and general committees for training courses; and
 - (h) provide technical aids and vocational assessment in connection with skills training. (Added 35 of 1991 s. 5)
- (2) The Council may do all things that are necessary for, or incidental or conducive to, the better carrying out of the objects of the Council and may in particular, but without prejudice to the generality of the foregoing-
 - (a) consult with the Government and with any interested person on any matter pertaining to technical education, industrial training or skills training;
 - (b) conduct or commission research into any aspect of technical education, industrial training or skills training;
 - (c) receive and consider suggestions or proposals for the development of technical education, industrial training and skills training;
 - (d) specify the skills and operations to be taught to persons undergoing industrial training;
 - (e) devise training programmes, examinations and tests for any trade;
 - (f) recommend the minimum standard of education to be attained by persons as a pre-requisite to their undergoing technical education or industrial training;

- (g) disseminate training materials and information on matters kept under review under subsection (1);
 - (h) establish, operate and maintain technical colleges, technical institutes, industrial training centres and skills centres;
 - (i) provide or approve training courses and other facilities for technical education, industrial training and skills training;
 - (j) help candidates for industrial training and skills training to find suitable training facilities;
 - (k) establish standards of skill to be achieved in any particular trade, conduct examinations and tests in respect of any trade and award certificates of attendance and competence;
 - (l) with the approval of the Chief Secretary for Administration make use of personnel, facilities and services of any department of the Government; (Amended L.N. 362 of 1997)
 - (m) allocate funds of the Council to any person for the purpose of providing any training course approved by the Council other than a training course which that person is responsible for providing under any other Ordinance or is providing in order to meet his own requirements for trained personnel;
 - (n) employ staff and remunerate them;
 - (na) pay to the Government amounts representing the cost of pension benefits payable by the Government pursuant to section 4 of the Pensions (Special Provisions) (Vocational Training Council) Ordinance (Cap 387) in respect of persons transferred from service under the Government to service under the Council; (Added 55 of 1991 s. 5)
 - (o) engage technical and professional advisers to advise on any matter arising out of or connected with any of the functions of the Council, and remunerate them;
 - (p) pay allowances to persons attending courses provided or approved by the Council;
 - (q) pay allowances to persons partaking in the provision of training courses provided or approved by the Council;
 - (r) pay such expenses as it thinks fit to any member, other than a public officer, of the Council, of a council committee or of a training board or general committee;
 - (s) acquire, hold and lease any property required for the discharge of its functions under this Ordinance and, subject to the terms and condition upon which such property is held, dispose of it;
 - (t) receive funds and donations lawfully given and consistent with its objects under this Ordinance;
 - (u) with the approval of the Financial Secretary borrow or otherwise raise money on such security as may be necessary, and, for that purpose, charge all or any part of the property of the Council;
 - (v) charge fees for any services or the use of any facility provided by the Council; and
 - (w) enter into any contract in furtherance of its objects or the exercise of its functions.
- (Amended 35 of 1991 s. 5)

Section:	17	Accounts	30/06/1997
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- (1) The Council shall keep proper accounts and records of all financial transactions.
- (2) (Repealed 35 of 1991 s. 9)
- (3) After the end of each financial year the Council shall cause to be prepared a statement of income and expenditure of the Council during that financial year and a balance sheet of the Council on the last day thereof, which statement and balance sheet shall be signed by the Chairman.

(Amended 35 of 1991 s. 9)

Economic Implications

The proposed extra-territorial activities to be provided by the VTC will help meet the training needs of Hong Kong businesses operating across the boundary and help foster the competitiveness of Hong Kong staff in the Mainland market. This will contribute positively to the productivity capacity of our economy.

Financial Implications

2. The running of extra-territorial activities by the VTC on a self-financing basis will not require additional funding from the Government. It is possible that some of the self-financed activities may generate surplus income for supporting programmes run by the VTC with government subvention, thus reducing the VTC's reliance on government's funding. In respect of any extra-territorial activities to be run on a subvented basis, Secretary for Education and Manpower will absorb the operating costs from within his operating expenditure envelope whereas government funding for any capital works will be subject to annual resource allocation exercise.

Sections 5 and 6 of the Vocational Training Council Ordinance

Section 5 – Objects of the Council

The objects of the Council shall be-

- (a) to advise the Chief Executive on the measures required to ensure a comprehensive system of technical education and industrial training suited to the developing needs of Hong Kong;
- (b) to institute, develop and operate schemes for training operatives, craftsmen, technicians and technologists needed to sustain and improve industry;
- (c) to promote the training of apprentices;
- (d) to provide and co-ordinate the provision of skills training to disabled persons aged 15 and over for the purpose of improving their employment prospects and preparing them for open employment;
- (e) to establish, operate and maintain technical colleges, technical institutes, industrial training centres and skills centres.

Section 6 – Functions of the Council

- 1) The Council shall-
 - (a) consider and report to the Chief Executive on any matter concerning technical education, industrial training or skills training referred to it by the Chief Executive;
 - (b) report to the Chief Executive annually or as often as he may direct;
 - (c) examine and make recommendations to the Chief Executive on the financial needs of technical colleges, technical institutes, industrial training centres and skills centres;
 - (d) operate and maintain any skills centre assigned to it by the Government;
 - (e) keep under review-

- (i) the needs of industry for trained manpower;
 - (ii) the availability of trained manpower to meet the needs of industry;
 - (iii) the facilities available to train the manpower needed by industry;
 - (iv) the provision by employers of industrial training and apprenticeships; and
 - (v) the adequacy of industrial training provided by employers for trainees and apprentices and the measures to be taken to promote and improve such training;
 - (f) consider and recommend which trades should be specified by the Chief Executive to be designated trades under section 45 of the Apprenticeship Ordinance (Cap 47);
 - (g) consider and approve, if thought fit, recommendations from training boards and general committees for training courses; and
 - (h) provide technical aids and vocational assessment in connection with skills training.
- 2) The Council may do all things that are necessary for, or incidental or conducive to, the better carrying out of the objects of the Council and may in particular, but without prejudice to the generality of the foregoing-
- (a) consult with the Government and with any interested person on any matter pertaining to technical education, industrial training or skills training;
 - (b) conduct or commission research into any aspect of technical education, industrial training or skills training;
 - (c) receive and consider suggestions or proposals for the development of technical education, industrial training and skills training;
 - (d) specify the skills and operations to be taught to persons undergoing industrial training;
 - (e) devise training programmes, examinations and tests for any trade;
 - (f) recommend the minimum standard of education to be attained

- by persons as a pre-requisite to their undergoing technical education or industrial training;
- (g) disseminate training materials and information on matters kept under review under subsection (1);
 - (h) establish, operate and maintain technical colleges, technical institutes, industrial training centres and skills centres;
 - (i) provide or approve training courses and other facilities for technical education, industrial training and skills training;
 - (j) help candidates for industrial training and skills training to find suitable training facilities;
 - (k) establish standards of skill to be achieved in any particular trade, conduct examinations and tests in respect of any trade and award certificates of attendance and competence;
 - (l) with the approval of the Chief Secretary for Administration make use of personnel, facilities and services of any department of the Government;
 - (m) allocate funds of the Council to any person for the purpose of providing any training course approved by the Council other than a training course which that person is responsible for providing under any other Ordinance or is providing in order to meet his own requirements for trained personnel;
 - (n) employ staff and remunerate them;
 - (na) pay to the Government amounts representing the cost of pension benefits payable by the Government pursuant to section 4 of the Pensions (Special Provisions) (Vocational Training Council) Ordinance (Cap 387) in respect of persons transferred from service under the Government to service under the Council;
 - (o) engage technical and professional advisers to advise on any matter arising out of or connected with any of the functions of the Council, and remunerate them;
 - (p) pay allowances to persons attending courses provided or approved by the Council;
 - (q) pay allowances to persons partaking in the provision of training courses provided or approved by the Council;
 - (r) pay such expenses as it thinks fit to any member, other than a public officer, of the Council, of a council committee or of a

training board or general committee;

- (s) acquire, hold and lease any property required for the discharge of its functions under this Ordinance and, subject to the terms and condition upon which such property is held, dispose of it;
- (t) receive funds and donations lawfully given and consistent with its objects under this Ordinance;
- (u) with the approval of the Financial Secretary borrow or otherwise raise money on such security as may be necessary, and, for that purpose, charge all or any part of the property of the Council;
- (v) charge fees for any services or the use of any facility provided by the Council; and
- (w) enter into any contract in furtherance of its objects or the exercise of its functions.