

Accreditation of Academic and Vocational Qualifications Bill

Proposed Committee Stage Amendments

This paper sets out the Committee Stage Amendments (CSAs) proposed by the Administration in relation to the review mechanism as well as other provisions under the Bill.

A. Proposed Changes to the Review Mechanism (Part 3 of the Bill)

Proposed changes to the review mechanism on QF-related decisions/determinations under clauses 9-12 of the Bill

2. Having carefully considered Members' comments expressed at previous meetings of the Bills Committee, we propose to introduce CSAs to replace the review mechanism under clauses 9-12 by a new **appeal mechanism**. The salient features of the proposed appeal mechanism are listed below-

(i) Establishment of the Appeal Board

3. An independent Appeal Board, instead of review committees, shall be established under the Bill to consider appeals against QF-related decisions/determinations (i.e. decisions/determinations made by the Accreditation Authority or the QR Authority). The Chairman, Deputy Chairmen and members of the Appeal Board shall be appointed by the Secretary for Education and Manpower (SEM), rather than by the Accreditation Authority or the QR Authority as originally proposed in the Bill. Secretariat support for the Appeal Board will be provided by the Education and Manpower Bureau.

4. The Appeal Board shall comprise members who have expertise in quality assurance or accreditation tests, or good standing in law, commerce, finance, education or training or in any industry. They shall not be members of either of the Authorities concerned.

(ii) Powers of the Appeal Board

5. It is proposed that the Appeal Board may, after considering an appeal, make one of the following types of decisions -

- (a) it may confirm the determination/decision under appeal; or
- (b) it may vary or reverse the determination/decision under appeal; or substitute any other determination/decision for the determination/decision under appeal; or
- (c) it may direct the Accreditation Authority or the QR Authority to review the decision/determination under appeal.

In the case of para.5(a) and (b) above, the decision of the Appeal Board will not be subject to further appeal under the Bill. The Appeal Board shall notify the appellant and the Authority concerned in writing of its decision and the reason. In the case of para.5(c) above, the Authority concerned shall, as directed by the Appeal Board, review the decision/determination under appeal and notify the appellant and the Appeal Board of its decision and the reasons. Decisions made by the Authority concerned under such circumstances will be subject to further appeal to the Appeal Board.

6. We believe that the above changes have addressed Members' comments that the final decision on an appeal should be made by the Appeal Board rather than by the Accreditation Authority or the QR Authority. It is noteworthy that if a party is aggrieved by a decision made by the Authority concerned under the case of para. 5(c) above, the party may appeal to the Appeal Board against that decision.

(iii) Hearing of appeal cases

7. The Appeal Board shall allow parties concerned to make oral representations at a hearing but may, with the consent of the parties to an appeal, consider and decide the appeal on the basis of written submissions only. Any hearing held in connection with an appeal to receive oral representations shall be conducted in public, though the Appeal Board in

each case may, after consulting the parties to the appeal and being satisfied that it is desirable to do so, direct that the whole or part of the hearing in question shall take place in private. The above arrangements ensure that the parties to an appeal have a right to be heard while allowing the Appeal Board to consider an appeal in such a way that suits its circumstances.

8. A flow chart illustrating the key steps under the appeal mechanism in relation to an accreditation report is at **Annex A**.

Review Mechanism for Non-QF-related Accreditation Decisions/Determinations under Clause 35 of the Bill

9. The new Part IVA of the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150) added by clause 35 of the Bill provides for the review of the non-QF-related accreditation decisions/determinations made by the Hong Kong Council for Academic Accreditation (HKCAA). Non-QF related accreditation decisions/determinations mainly refer to HKCAA's assessment of individuals' qualifications on which HKCAA gives a non-binding professional opinion on the comparability of such academic qualifications (e.g. for recruitment or further education purposes). They also cover the accreditation services provided by HKCAA for certain statutory and professional bodies regarding their professional development programmes.

10. With the implementation of QF, the accreditation functions performed by HKCAA (e.g. accreditation of a learning programme/operator/assessment agency) will mostly be QF-related. Non-QF-related accreditation functions as specified in para. 9 above will thus become residual functions of HKCAA. Given the nature of non-QF-related accreditation decisions/determinations (e.g. assessment of individuals' qualifications), it will not be appropriate or practicable to subject them to the elaborate appeal mechanism for QF-related matters as outlined in paras 2-8 above.

11. Nonetheless, we agree that it is important to establish a transparent and consistent internal mechanism for reviewing the

non-QF-related accreditation decisions/determinations. The review mechanism which is detailed in new Part IVA (clause 35 of the Bill) provides that an aggrieved party may apply for a review of the non-QF-related decision/determination relating to an accreditation report. We consider that this provides an appropriate mechanism for reviewing HKCAA's decisions/determinations in respect of non-QF accreditation reports.

B. Other Proposed CSAs

12. At the Bills Committee meeting held on 23 November 2006, the Administration submitted a paper on its proposed CSAs to the Bill. The following paragraphs set out the additional CSAs proposed by the Administration in the light of the discussions at subsequent Bills Committee meetings.

Amendment to the Enacting Formula

13. In the enacting formula of the Chinese text of the Bill, we propose to amend “制訂” to “制定” in order to align with the wording used under rule 50 (Form of Bills) of the Rules of Procedure of the Legislative Council.

Accreditation report under clause 5

(i) Correction of the Chinese text of “assessment agencies” under clause 5(3)

14. In the Chinese text of clause 5(3), “估評機構” should be amended to read as “評估機構”. The same amendment should be made to new section 5A(3) of Cap. 1150 (added by clause 26) where the same typo appears.

(ii) Accreditation Authority to give reasons for varying or withdrawing an accreditation report under clause 5(4)

15. Clause 5(4) of the Bill provides that if the Accreditation

Authority decides to vary or withdraw an accreditation report, it shall give notice in writing of the decision to the relevant operator, assessment agency or granting body. We propose to introduce a CSA to stipulate that the Accreditation Authority shall also state in the notice the reason for varying or withdrawing the report.

16. Similar amendments will also be made to new section 5A(4) of Cap. 1150 (added by clause 26) so that the HKCAA will be required to state in the notice to the relevant operator, assessment agency, granting body or individual the reason for varying or withdrawing the report.

Operation of the Qualifications Register (QR) under clause 7

(i) QR Authority to correct or update an entry of qualification under the new clause 7(3A)

17. At the Bills Committee meeting held on 4 December 2006, Members enquired whether clause 7(1) should be amended so that the QR Authority might correct or amend (in addition to “remove”) a qualification which has been mistakenly entered into the QR.

18. We propose to introduce a new clause 7(3A) to enable the QR Authority to correct or update the particulars of an entry of a qualification (e.g. contact details of the operator which grants the qualification). This new clause 7(3A) is different from clause 7(1)(e); the latter relates to a qualification that has been mistakenly entered into the QR or entered into the QR based on false/misleading information. A qualification entered into the QR by mistake or based on false information should be removed from the QR.

(iii) QR Authority not liable to refund fees under clause 7(5)

19. Clause 7(5) of the Bill specifies that the QR Authority shall not be liable to refund any entry/extension fee or any part of such fee for abridging the validity period of an entry of qualification which ceases to be eligible for entry into the QR (clause 7(1)(c) or (d)). There shall also be no refund for the removal of an entry of a qualification from the QR if such qualification has been entered into the QR by mistake or in reliance

on any misleading or false information (clause 7(1)(e)).

20. Members enquired at the meeting held on 4 December 2006 whether there would be refund of fees if the mistake regarding the entry of a qualification into the QR was made by the QR Authority itself. Having considered Members' comments, we propose to amend clause 7(5) so that it will not cover the removal of a qualification previously entered by mistake.

(iv) QR Authority to state the reasons for its decisions under clause 7(6)

21. Clause 7(6) of the Bill states that the QR Authority shall, after making a decision in relation to the entry of a qualification into the QR, give notice in writing of the decision to the relevant operator, assessment agency or granting body. We propose to amend the provision to the effect that the QR Authority shall also state in the notice the reason for its decision.

Means of making public the names of appointed assessment agencies under clause 8(3)

22. To align the arrangements adopted for clause 8(3) with that for clause 3(1) (the QF) and clause 7(4) (the QR), we propose to add clause 8(3A) so that the list of the names of the appointed assessment agencies "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 SEM may specify", rather than limiting this to through "the internet" only.

Offence Provisions relating to advertisements on the QF and the QR under clause 13

(i) Chinese text of clause 13(1)

23. At the meeting held on 4 December 2006, Members commented on the drafting of the Chinese text of clause 13(1). After considering Members' suggestion, we propose to revise the lead-in of clause 13(1) to read "任何廣告如聲稱、表述或顯示從某頒授 可取得的資歷或在完成某進修計劃後可取得的資歷是在資歷架構下獲認可的，除非該廣告符合以下規定，否則任

何人不得發表或安排發表該廣告。”。

(ii) Defence provision under clause 13(4)(a)(iii)

24. Clause 13(4)(a)(iii) of the Bill specifies that it shall be a defence for a person charged with an offence under clause 13(3) to prove that at the time of the publication of the advertisement, he believed on reasonable grounds that all the information required by clause 13(1)(a) was contained in the advertisement and corresponded to the information contained in the relevant entry of a qualification in the QR, or that the relevant assessment agency was an appointed assessment agency. At the meeting held on 4 December 2006, Members commented that such requirement would put too heavy a burden of proof on those engaging in the publishing or advertising business as they were not familiar with the QF and QR.

25. In view of Members' concerns, we propose to amend clause 13(4)(a)(iii) so that it shall be a defence for the person charged with an offence under clause 13(3) if he proves that "he had no reason to believe that he would be committing an offence by publishing or causing to be published the advertisement". It would be easier for the person to prove that "he had no reason to believe that he would be committing an offence" than to prove that he has reasonable grounds to believe that the information contained in the advertisement corresponds to that in the QR (as per the original clause 13(4)(a)(iii)).

Deletion of references to review committee under clause 18

26. Under clause 18 of the Bill, members or employees of the Accreditation Authority/QR Authority, members of any review committee, or persons delegated by the Accreditation Authority to conduct accreditation tests shall not be personally liable for any act done or default made by the Accreditation Authority/QR Authority, any review committee or any such member, employee or persons in the performance or purported performance of the functions or duties imposed under the Bill.

27. We have already proposed in the preceding paragraphs that the

review mechanism under clauses 9-12 will be replaced by a new appeal mechanism. Among others, there will be a separate provision under the appeal mechanism to protect members of the Appeal Board against personal liability for any act done or default made by them in the exercise or purported exercise of the functions or duties imposed under the Bill. As the review committee will be replaced by an Appeal Board for considering appeals against QF-related decisions/determinations, we propose that the references to “review committee” in clause 18 be deleted and CSAs will be introduced accordingly.

Accreditation fees charged by the HKCAA under new section 5(2)(e) of Cap. 1150 (clause 25(8))

28. In the light of Members’ advice, we have earlier proposed to amend clause 4(4)(a) of the Bill so that accreditation fees charged by the Accreditation Authority will be subject to SEM’s prior approval. We now propose to introduce similar amendments to new section 5(2)(e) of Cap. 1150 added by clause 25(8) of the Bill for the sake of consistency. As a result, the accreditation fees charged by the HKCAA for non-QF-related work will also be subject to SEM’s prior approval, and new section 5(4) of Cap. 1150 added by clause 25(14) of the Bill will be amended consequentially.

Functions of review committees under new section 17C of Cap. 1150 (clause 35)

29. We propose to amend the new section 17C(1)(a) of Cap. 1150 added by clause 35 of the Bill to make it clear that a review committee may determine any matter of practice or procedure where no provision governing such matter is made in Cap. 1150 or in any rules made under section 22(2)(aa) of Cap. 1150.

30. We also propose to amend “and” to “**or**” at the end of the new section 17C(1)(c)(i) of Cap. 1150 added by clause 35 of the Bill. This is to reflect that the review committee may request any person to produce to it any document or article that is relevant to the review and is in his custody or under his control; **or** to appear before it and to give evidence relevant to the review.

Refinement of wording in Schedule 3

31. To avoid possible confusion, we propose to add “of the Ordinance” after “section 5(1)” in para. 3 (b) of Schedule 3. A similar amendment will be made to para. 4 of the Schedule where “section 8(1)(c)” appears. This is consistent with current drafting practice.

C. Other Issues and Considerations

Establishment of QF in individual industries

32. At the Bills Committee meeting held on 23 November 2006, there were enquiries as to whether the Bill should include provisions whereby SEM would be required to consult an industry and reach a consensus before QF was implemented in that industry.

33. It is important to note that except for the associated quality assurance mechanism which requires legal protection, the QF is not a mandatory measure. It is essentially an educational initiative which aims to promote lifelong learning.

34. It is the Government’s established policy that the QF will not be implemented in a particular industry unless a consensus is reached within that industry. Indeed, EMB has been conducting extensive consultation with different parties on the implementation of the QF. The establishment of the key components of the framework, such as the Industry Training Advisory Committees and the development of Specification of Competency Standards, for the 12 industries that have joined the QF so far has been conducted administratively and based on consensus among the stakeholders in the industries including the employees’ and employers’ representatives. As participation in the QF by individual industries is voluntary, we are of the view that industry consultation on the QF should continue to be conducted administratively. It is therefore unnecessary and inappropriate to stipulate industry consultation and consensus in the Bill as pre-conditions for implementing the QF.

Accreditation Authority to vary or withdraw an accreditation report under clause 5(2)

35. Clause 5(2) provides that the Accreditation Authority may vary or withdraw an accreditation report if it is satisfied that any of the circumstances specified under clause 5(2)(a)-(e) of the Bill exists. At the Bills Committee meeting on 4 December 2006, Members enquired if the term “satisfied” under clause 5(2) should be changed to “reasonably satisfied” to make sure that the Accreditation Authority would exercise such powers carefully and reasonably.

36. We are of the view that as the Accreditation Authority needs to act reasonably in exercising its powers under the Bill at all times, there is no need to amend this provision by adding the word “reasonably”. To do so may have the effect of qualifying the level of “satisfaction” that needs to be reached when the Accreditation Authority considers the circumstances specified in clause 5(2) and decides whether or not to vary or withdraw an accreditation report.

Appeal against SEM’s decision under clause 8(7)(b)(iii)

37. Clause 8(7)(b)(iii) provides that if an assessment agency is aggrieved by SEM’s decision to cancel its appointment or re-appointment, the agency may appeal to the Administrative Appeals Board (AAB) but the appeal shall not affect the operation of the decision. It should be noted that SEM will exercise his powers to cancel the appointment or re-appointment of an assessment agency sparingly and only in exceptional circumstances as follows -

- a) 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) SEM is satisfied that the agency is not able to comply or has not complied with any conditions or restrictions imposed when he appointed or re-appointed the agency; or that the agency has, by

its acts or omissions, misconducted itself; or

- c) SEM is satisfied that the appointment or re-appointment should be cancelled for any other reasonable cause.

38. At the meeting held on 4 December 2006, Members enquired if a decision to cancel an appointment or re-appointment under clause 8(4) should take effect when the decision is under appeal. It is noteworthy that the circumstances set out in para. 37(a)-(b) above are related to the competency of an assessment agency or arises from its misconducts; whereas “other reasonable causes” in para 37(c) above may include bankruptcy or voluntary closure of an assessment agency. Given the importance of upholding the quality and credibility of the services provided by appointed assessment agencies under the Recognition of Prior Learning Mechanism of the QF, we consider it necessary that a decision to cancel an appointment or re-appointment under clause 8(4) should take effect and remain in force until and unless it is reversed or varied by the AAB.

Next Step

39. Members are invited to comment on the complete set of CSAs proposed by the Administration at **Annex B**.

Education and Manpower Bureau
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Appeal Mechanism for QA-related Decisions

Accreditation Stage

In an accreditation exercise, the Accreditation Authority (AA) forms an accreditation panel which evaluates the standard of the relevant programme/operator/assessment agency. Based on the panel's recommendations, the AA will make a decision on that particular accreditation exercise.

Appeal Stage

Step 1: An operator/assessment agency/granting body aggrieved by a decision made by the AA may lodge an appeal to the Appeal Board. The Chairman, Deputy Chairman and panel members of the Appeal Board are appointed by SEM. They shall not be members of the AA, and 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 law, commerce, finance, education or training, or in any industry.

Step 2: Each appeal case will be handled by two to six panel members. The Chairman or a Deputy Chairman of the Board will act as the presiding officer for each case. The Appeal Board shall allow the parties concerned to make representations at a hearing or may, with the consent of the parties, consider and decide the appeal on the basis of written submissions only.

Step 3: The Appeal Board shall make one of the following decisions with regard to the appeal:

(a) Confirm the determination/decision under appeal*; or
 (b) Vary or reverse the determination/decision under appeal*; or
substitute any other determination/decision for the determination/decision under appeal*; or

or

(c) Direct the AA to review the decision/determination under appeal. The AA will inform the appellant and the Appeal Board of its decision and the reasons. The AA's decision will be subject to appeal to the Appeal Board.

* The Appeal Board shall notify the appellant and the AA in writing of its decision and its reasons. Decisions made by the Appeal Board will not be subject to further appeal under the Ordinance.

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Education
and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
enacting formula	In the Chinese text, by deleting “訂” and substituting “定”.
2	<p>(a) By deleting the definitions of “business” and “review committee”.</p> <p>(b) In the Chinese text, in the definition of “營辦者”, by deleting “團體;” and substituting “團體。”.</p>
3	<p>(a) In subclause (1), by deleting everything after “qualifications” and substituting a full stop.</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">“(1A) The Qualifications Framework shall be made available to the public for inspection free of charge at such place and</p>

in such form and at such reasonable times as the Secretary may specify.”.

4(4)(a) By adding “subject to the prior approval of the Secretary,” before “determine”.

5 (a) In subclause (3), in the Chinese text, by deleting “估評” and substituting “評估”.

(b) In subclause (4), by adding “and shall state in the notice the reason for the decision” after “body”.

7 (a) By adding -

“(3A) The QR Authority may -

(a) correct any error in the Qualifications Register, including any omission from the Qualifications Register; and

(b) make such amendments to the Qualifications Register as it considers necessary to record a change in the information contained in the

Qualifications

Register.”.

(b) By adding -

“(4A) The purpose of making the Qualifications Register available to the public is to enable any member of the public -

(a) to ascertain what qualifications are recognized under the Qualifications Framework; and

(b) to ascertain the particulars of such qualifications.”.

(c) In subclause (5), by deleting “(1)(e)” and substituting “(1)(e)(ii)”.

(d) In subclause (6), by adding “and shall state in the notice the reason for the decision” after “body”.

8

(a) In subclause (3), by deleting everything after “agencies” and substituting a full stop.

(b) By adding -

"(3A) The list of the names of appointed assessment agencies 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 Secretary may specify."

Part 3

By deleting the Part and substituting -

"PART 3

APPEAL BOARD

9. Interpretation of Part 3

In this Part -

"appeal" (上訴) means an appeal under section 11;

"Appeal Board" (上訴委員會) means the appeal board established under section 10(1);

"appellant" (上訴人) means an operator, assessment agency or granting body lodging a notice of appeal under section 11;

"Chairman" (主席) means the chairman of the Appeal Board appointed under section 10(2)(a);

"Deputy Chairman" (副主席) means a deputy

chairman of the Appeal Board appointed under section 10(2)(b);

"panel member" (備選委員) means a member of the panel of persons appointed under section 10(2)(c);

"presiding officer" (審裁官), in relation to an appeal, means the presiding officer referred to in section 12(1)(a).

10. Establishment of Appeal Board, etc.

(1) For the purposes of considering and deciding appeals, there is established an appeal board.

(2) The Secretary shall appoint -

- (a) a person to be the chairman of the Appeal Board;
- (b) one or more persons to be the deputy chairman or deputy chairmen of the Appeal Board; and
- (c) a panel of persons whom the Secretary considers suitable for selection under section 12(1)(b) as members of the Appeal Board.

(3) A person may be appointed under subsection (2) only if -

(a) he is a person whom the Secretary considers suitable for appointment by reason of his -

(i) expertise or experience in quality assurance or the conduct of

accreditation tests; or

(ii) good standing in the field of law, commerce, finance, education or training or in any industry; and

(b) he is not a member of the Accreditation Authority or of the QR Authority.

(4) A person appointed under subsection (2) may at any time resign by notice in writing to the Secretary.

(5) An appointment under subsection (2) shall be notified in the Gazette.

(6) The remuneration, if any, of the Chairman, a Deputy Chairman and a panel

member shall be paid at a rate that the Secretary determines.

- (7) The Chairman may make rules -
 - (a) to provide for the lodging of appeals; and
 - (b) generally for regulating the practice and procedure of the Appeal Board.

11. Appeal to Appeal Board

- (1) An operator, assessment agency or granting body 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);
- (e) a decision of the QR Authority referred to in section 7(6); or
- (f) a decision made by the Accreditation Authority or the QR Authority under section 12C(b),

made in respect of him or it may appeal to the Appeal Board.

(2) An operator, assessment agency or granting body wishing to appeal under subsection (1) shall lodge a notice of appeal with the Appeal Board in such form as the Chairman may specify -

- (a) 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), 7(6) or 12C(c), as the case may be; or

- (b) within such further period as the Chairman may allow.

12. Members of Appeal Board

(1) For the purposes of an appeal, the Appeal Board shall consist of -

- (a) the Chairman or a Deputy Chairman, as determined by the Chairman, who shall preside at meetings and hearings held for the appeal ("presiding officer"); and
- (b) not less than 2 and not more than 6 panel members selected by the presiding officer.

(2) If the Chairman, due to absence from Hong Kong or for any other reason, is unable to act as Chairman for any period, a Deputy Chairman designated by the Chairman for the purposes of this subsection shall act in the place of the Chairman for that period.

(3) If the presiding officer who is a Deputy Chairman or a panel member selected under subsection (1)(b), due to absence from Hong Kong or for any other reason, is unable to act as presiding officer or a member of the Appeal Board for the purposes of the relevant appeal for any period, the Chairman may, as the case may be -

- (a) act in the place of the presiding officer for that period or select another Deputy Chairman to act in the place of the presiding officer for that period; or
- (b) select another panel member to act in the place of such member of the Appeal Board for that period.

(4) If the term of appointment of the presiding officer or of a panel member selected under subsection (1)(b) expires before the Appeal Board makes a decision under section 12B(2)(a) for the relevant appeal, the presiding officer or panel member may continue to act as presiding officer or a

member of the Appeal Board for the purposes of that appeal until such a decision is made.

12A. Procedure

(1) The Appeal Board may, with the consent of the parties to an appeal, consider and decide the appeal on the basis of written submissions only without holding a hearing to receive oral representations.

(2) In considering an appeal, every question before the Appeal Board shall be determined by the opinion of the majority of the members of the Appeal Board voting on the question, and in the case of an equality of votes the presiding officer shall have a second or casting vote.

(3) Subject to subsection (4), a party to an appeal is entitled to be heard in person or through its authorized representative.

(4) A counsel or solicitor is not entitled to be heard before the Appeal Board unless -

- (a) he is acting on his own behalf as a party to an appeal; or

- (b) he is an officer or employee of a party to an appeal and is acting as the authorized representative of the party.

(5) Any hearing held in connection with an appeal to receive oral representations shall take place in public, but if the Appeal Board after consulting the parties to the appeal is satisfied that it is desirable to do so, it may direct that the whole or part of the hearing shall take place in private and give directions as to the persons who may be present.

12B. Functions of Appeal Board

(1) For the purposes of an appeal, the Appeal Board may -

- (a) determine any matter of practice or procedure relating to the appeal where no provision governing such matter is made in this Ordinance or in any rules made under section 10(7);
- (b) 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; and

(c) by notice in writing, request any person -

(i) to produce to the Appeal Board any document or article that is relevant to the appeal and is in his custody or under his control; or

(ii) to appear before the Appeal Board and to give evidence relevant to the appeal.

(2) After considering an appeal, the Appeal Board shall -

(a) make a decision to -

(i) confirm, vary or reverse the determination or decision under appeal

or substitute any other determination or decision for the determination or decision under appeal; or

(ii) subject to subsection (3), direct the Accreditation Authority or the QR Authority, as the case may be, to review the determination or decision under appeal within such period as the Appeal Board may specify; and

(b) notify the Accreditation Authority or the QR Authority, as the case may be, and the appellant in writing of its decision and the reasons for the decision.

(3) Subsection (2)(a)(ii) does not apply in relation to an appeal against a

decision made under section 12C(b).

**12C. Review of determination
or decision under appeal**

After receiving a notice from the Appeal Board of a decision under section 12B(2)(a)(ii), the Accreditation Authority or the QR Authority, as the case may be, shall, within such period as the Appeal Board may specify -

- (a) review the determination or decision under appeal;
- (b) make a decision to confirm, vary or reverse the determination or decision under appeal or substitute any other determination or decision for the determination or decision under appeal; and
- (c) notify the Appeal Board and the appellant in writing of its decision and the reasons for the decision.

**12D. Protection of Chairman,
Deputy Chairman or panel
member**

The Chairman, a Deputy Chairman or a

panel member, acting in good faith, shall not be personally liable for any act done or default made by him, in the exercise or purported exercise of the powers conferred by this Part or in the performance or purported performance of the functions or duties imposed under this Part."

- 13 (a) In subclause (1), in the Chinese text, by deleting everything from "任何" to "此限" and substituting "任何廣告如聲稱、表述或顯示從某頒授可取得的資歷或在完成某進修計劃後可取得的資歷是在資歷架構下獲認可的，除非該廣告符合以下規定，否則任何人不得發表或安排發表該廣告".
- (b) By deleting subclause (4)(a)(iii) and substituting -
- "(iii) he had no reason to believe that he would be committing an offence by publishing or causing to be published the advertisement; or".

14 By deleting the clause and substituting -

"14. Misleading or false statement, representation or information

(1) A person who, either orally or in writing, makes any statement or representation or furnishes any information to a specified authority in connection with the performance of its functions under this Ordinance which the person knows or reasonably ought to know is misleading or false in a material respect commits an offence and is liable on conviction to a fine at level 5.

(2) In subsection (1), "specified authority" (指明當局) means -

- (a) the Accreditation Authority;
- (b) the QR Authority;
- (c) a person or an organization with whom the Accreditation Authority jointly performs a function in accordance with section 4(2);
- (d) a person or group of persons to whom the performance of a function is delegated under section 4(3);
- (e) a person or an organization with whom the QR Authority

jointly performs a function in accordance with section 6(2);
or

(f) the Appeal Board within the meaning of Part 3."

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(a) In the heading, by deleting ", **QR Authority or review committee**" and substituting "**or QR Authority**".

(b) In subclause (1) -

(i) by deleting ", a member of any review committee";

(ii) in paragraph (a), by adding "or" after the semicolon;

(iii) by deleting paragraph (b);

(iv) in paragraph (c), in the Chinese text, by deleting "、委員".

(c) In subclause (2), in the Chinese text, by deleting "、委員".

19

By deleting "establishment of the Hong Kong Council for Academic and Vocational Accreditation" and substituting "establishment of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications".

20 By deleting everything after "amended" and substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

21 (a) In subclause (3), by deleting everything after ""Council",," and substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

(b) In subclause (6), by deleting the proposed definition of "business".

22 By deleting everything after "amended" and substituting "by repealing "HONG KONG COUNCIL FOR ACADEMIC ACCREDITATION" and substituting "HONG KONG COUNCIL FOR ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS".".

23(1) In the proposed section 3(1), by deleting "Hong Kong Council for Academic and Vocational Accreditation" and substituting "Hong Kong Council

for Accreditation of Academic and Vocational Qualifications".

- 25 (a) In subclause (8), in the proposed section 5(2)(e), by adding "subject to the prior approval of the Secretary," before "determine".
- (b) In subclause (14), in the proposed section 5(4), by deleting "(2)(ea)" and substituting "(2)(e) and (ea)".
- 26 (a) In the proposed section 5A(3), in the Chinese text, by deleting "估評" and substituting "評估".
- (b) In the proposed section 5A(4), by adding "and shall state in the notice the reason for the decision" after "individual".
- 35 (a) By deleting the proposed section 17C(1)(a) and substituting -
- "(a) may determine any matter of practice or procedure relating to the relevant review where no provision governing such matter is made in this Ordinance or in any rules made under section

22(2)(aa);".

(b) In the proposed section 17C(1)(c)(i), by deleting "and" at the end and substituting "or".

38(1) By deleting everything after "amended" and substituting "by repealing "Hong Kong Council for Academic Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

39 By deleting the proposed section 23A and substituting -

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

(1) A person who, either orally or in writing, makes any statement or representation or furnishes any information to a specified authority in connection with the performance of its functions under this Ordinance which the person knows or reasonably ought to know is misleading or false in a material respect commits an offence and is liable on conviction to a fine at level 5.

(2) In subsection (1), "specified authority" (指明當局) means -

- (a) the Council;
- (b) a person or an organization with whom the Council jointly performs a function in accordance with section 5(1)(b);
- (c) a committee to which the performance of a function is delegated under section 8(1);
- (d) a person or group of persons to whom the performance of a function is delegated under section 8(2); or
- (e) a review committee."

44 In the proposed item 38 of Schedule 13, by deleting "Hong Kong Council for Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".

45 By deleting everything after "item 57" and

substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

47 By deleting everything after "definition of "Accreditation Council", " and substituting "by repealing "Hong Kong Council for Academic Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

48 (a) In the English text, by deleting "Academic".
(b) By deleting "and Vocational Accreditation" and substituting "Accreditation of Academic and Vocational Qualifications".
(c) By deleting "5(2)(ea)" and substituting "5(2)(e),(ea)".

Schedule 1 (a) In Part 1, by deleting "Hong Kong Council for Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".
(b) In Part 2, by deleting "Hong Kong Council for

Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".

Schedule 3

- (a) In paragraph 3(b), by adding "of the Ordinance" after "section 5(1)".
- (b) In paragraph 4, by adding "of the Ordinance" after "section 8(1)(c)".