



中華人民共和國香港特別行政區政府總部教育統籌局  
Education and Manpower Bureau  
Government Secretariat, Government of the Hong Kong Special Administrative Region  
The People's Republic of China

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來函檔號 Your Ref. : LS/B/36/04-05

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11 April 2006

Mr Stephen Lam  
Assistant Legal Adviser  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central

Dear Mr Lam,

**Accreditation of Academic and Vocational Qualifications Bill**

I attach our reply (in English and Chinese) to your second batch of enquiries about the Bill for your reference, please.

Yours sincerely,

(Thomas Wu)

for Secretary for Education and Manpower

c.c.: DoJ—Miss Leonora Ip  
Miss Cindy Yau  
HKCAA— Miss Connie Lok

## **Accreditation of Academic and Vocational Qualifications Bill**

### Clause 2

We are of the view that if any part of a business is carried out for profit, we will, in ordinary language, consider it a business with a view to profit. Hence, the definition of “business” is capable of being interpreted to include a business part of which is for profit.

### Clause 5(2)

As the proposed retrospective variation or withdrawal of the accreditation report is effected because the operator/assessment agency concerned has provided misleading or false statement, representation or information, such operator/assessment agency, rather than the Accreditation Authority, should be responsible for the rights/liabilities of any person being affected by such variation of withdrawal of the report.

### Clause 11(1)(c)(i)

- (a) The provision only empowers the review committee to make a request, but not imposing a duty on the person receiving the request to comply with it. Since the person is not obliged to comply with such request, we believe that there is no conflict between the power of the committee to make a request and the person's duty of confidentiality. An express provision in this regard is not needed.
- (b) The purpose of Clause 11(1)(c)(i) is to make the functions of the review committee more transparent by setting out what the review committee may do to facilitate its investigation. However, it is not our policy intent to impose a penalty for failure to comply with Clause 11(1)(c)(i) as we see no grounds to force a third party to provide information to facilitate the investigation of the review committee.

Clause 11(1)(c)(ii)

- (a) The provision only empowers the committee to make a request, but not imposing a duty on the person receiving the request to comply with it. Since the person is not obliged to comply with such request, we believe that there is no conflict between the power of the committee to make a request and the person's legal duty, if any, to seek his employer's consent to appear before a review committee and to give evidence. An express provision in this regard is not needed.
- (b) The purpose of Clause 11(1)(c)(ii) is to make the functions of the review committee more transparent by setting out what the review committee may do to facilitate its investigation. However, it is not our policy intent to impose a penalty for failure to comply with Clause 11(1)(c)(ii) as we see no grounds to force a third party to appear before a review committee to facilitate its investigation.

Clause 26

Please see the reply under Clause 5(2) above.

Clause 41

- (a) It will be up to the HKCAA, as the appointing authority, to decide the term of office of a new appointee.
- (b) According to S.3(5) of the HKCAA Ordinance (Cap. 1150), it will be up to the Chief Executive (power delegated to the Secretary for Education and Manpower), as the appointing authority, to decide the term of office of a new appointee.