

Accreditation of Academic and Vocational Qualifications Bill

Proposed Committee Stage Amendments

This paper sets out the Committee Stage Amendments (CSAs) proposed by the Administration to the Bill. Members may wish to note that the proposed CSAs in relation to the review/appeal mechanism under the Bill will be submitted at a subsequent meeting.

I. Deletion of the definition of “business” under clauses 2 and 21(6)

2. At the last meeting of the Bills Committee held on 14 November 2006, the Administration proposed to delete the definition of “business” under clause 2 of the Bill. The Law Draftsman is of the view that the ordinary meaning of the term covers any business, whether with or without a view to profit. The Bills Committee accepted this proposed amendment. We also propose to delete a similar definition added to section 2(1) of the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150) by clause 21(6).

II. Establishment of Qualifications Framework (QF) under clause 3(1)

3. In considering clause 3(1) of the Bill at the last meeting, Members considered that the Administration should strive to make the QF available to the public through various means rather than confining such to the internet. We agree with Members’ suggestion and propose to follow the approach adopted for the Qualifications Register in clause 7(4).

III. Accreditation fees charged by the Accreditation Authority under clause 4 (4)(a)

4. Members commented at the last meeting that the fees to be charged for the conduct of accreditation tests by the Accreditation Authority should be subject to the prior approval of the Secretary for Education and Manpower. In view of Members’ concern, we propose to

add “subject to the prior approval of the Secretary” to clause 4(4)(a).

IV. Change in the Name of Hong Kong Council for Academic Accreditation

5. Under the Bill, the name of the Hong Kong Council for Academic Accreditation (HKCAA) (香港學術評審局) will be changed to “*Hong Kong Council for Academic and Vocational Accreditation* (香港學術及職能評審局)” to reflect its expanded responsibilities under the Qualifications Framework (QF).

6. When the Legislative Council (LegCo) Panel on Manpower was briefed on the proposed amendments to the HKCAA Ordinance in March 2005, Members expressed concern that the Chinese term “職能評審” might not be able to fully reflect the intended meaning of “vocational accreditation”. We agree with Members’ views and propose to amend the name of the HKCAA as follows –

Original Proposal under the Bill

Hong Kong Council for Academic
and Vocational Accreditation
(香港學術及職能評審局)

New Name proposed under the CSAs

**Hong Kong Council for Accreditation of
Academic and Vocational Qualifications**
(香港學術及職業資歷評審局)

Suitable amendments to the relevant provisions of the Bill will be proposed, where the new name of the HKCAA appears.

V. Misleading or false statement, representation or information under clauses 14 and 39

7. Clause 14 of the Bill specifies that 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 the Bill 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 (currently \$50,000).

8. In response to the enquiry of the Assistant Legal Adviser (ALA) of LegCo, we propose to introduce CSAs to ensure that misleading or false statements, representations or information made to the following parties will also be covered by clause 14 –

- (a) a person or an organization with whom the Accreditation Authority or the QR Authority jointly performs a function in accordance with clause 4(2) or clause 6(2) respectively; and
- (b) a person or group of persons to whom the performance of a function is delegated by the Accreditation Authority under clause 4(3).

9. We propose to make similar amendments to the proposed new section 23A for Cap. 1150 (added by clause 39 of the Bill) to the effect that misleading or false statements, representations or information made to the following parties will also be covered by the section –

- (a) a person or an organization with whom the HKCAA jointly performs a function in accordance with new section 5(1)(b); and
- (b) a committee, person or group of persons to whom the performance of a function is delegated by the HKCAA under section 8.

VI. Inclusion of a “purpose statement” for the Qualifications Register under clause 7

10. We have consulted the Office of the Privacy Commissioner for Personal Data (OPCPD), which advises that the Qualifications Register (QR) may include personal data since it may contain information such as “*the name of the relevant granting body*” and “*the name of the relevant operator*”. Since a granting body or an operator may be an individual person, the OPCPD considers that the purpose(s) of the QR should be stated as specifically as practicable in the Bill to guard against unrelated use of the QR.

11. We therefore propose to add a provision to clause 7 stipulating that the purpose of making the QR available to the public is to enable any member of the public to ascertain what qualifications are recognized under the QF and to ascertain the particulars of such qualifications.

Next Steps

12. Members are invited to comment on the Administration's proposed CSAs as set out in Annex. The Administration will submit the CSAs in relation to the review/appeal mechanism at a subsequent meeting, taking into account the views expressed by Members at the meeting held on 14 November.

Education and Manpower Bureau
November 2006

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL

COMMITTEE STAGEAmendments to be moved by the Secretary for Education
and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting the definition of "business".
3(1)	By deleting everything after ", and" and substituting "the framework 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."
4(4) (a)	By adding "subject to the prior approval of the Secretary," before "determine".
7	By adding - <p style="margin-left: 40px;">"(4A) The purpose of making the Qualifications Register available to the public is to enable any member of the public -</p> <p style="margin-left: 100px;">(a) to ascertain what</p>

qualifications are
recognized under the
Qualifications Framework;
and

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

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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) a review committee.”.

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".

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".".

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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."

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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".

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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".".

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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".".

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- (a) In the English text, by deleting "Academic".
- (b) By deleting "and Vocational Accreditation" and substituting "Accreditation of Academic and Vocational Qualifications".

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".