

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 5 July 2024**

**Legal Service Division Report on
Hong Kong Institute of Qualified Environmental Professionals Bill
(Member's Bill)**

I. SUMMARY

1. The Bill

The Bill is a Member's Bill with the written consent of the Chief Executive. The Member in charge of the Bill is Ir Dr Hon LO Wai-kwok, GBS, MH, JP.

The Bill seeks to make provision for the incorporation of the Hong Kong Institute of Qualified Environmental Professionals ("HKIQEP") and for related matters.

**2. Public
Consultation**

HKIQEP consulted a wide spectrum of stakeholders on the legislative proposal. Public stakeholder engagement events were arranged on 12 and 14 August 2023. Various stakeholders including recognized professional institutes, local universities, environmental-related institutes, think-tank, non-governmental organizations and the private sectors indicated their support for the legislative proposal.

**3. Consultation with
LegCo Panel**

The Panel on Environmental Affairs was consulted on a draft of the Bill ("Draft Bill") at its meeting on 25 March 2024. Members expressed support for the Draft Bill and discussed various issues.

4. Conclusion

Subject to the amendments to be proposed by the Member in charge of the Bill as set out in paragraphs 17 and 18 of Part II of this report, no difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may consider whether a Bills Committee should be formed to study the policy aspect of the Bill.

II. REPORT

The date of First Reading of the Bill is 3 July 2024. Members may refer to the Legislative Council (“LegCo”) Brief (without file reference) issued by Ir Dr Hon LO Wai-kwok, GBS, MH, JP on 25 June 2024 for further details.

Object of the Bill

2. The Bill seeks to make provision for the incorporation of the Hong Kong Institute of Qualified Environmental Professionals (“HKIQEP”) and for related matters.

Background

3. This is a Member’s Bill introduced by Ir Dr Hon LO Wai-kwok, GBS, MH, JP with the written consent of the Chief Executive. The Law Draftsman has confirmed that the Bill conforms to the requirements of Rule 50 of the Rules of Procedure of LegCo (“RoP”) and the general form of Hong Kong legislation.

4. According to paragraphs 2, 4 and 7 of the LegCo Brief, HKIQEP was established in 2015 to promote, develop and maintain a qualification system focusing on the professional assessment in relation to six environmental areas, namely (a) environmental science, management and policy; (b) air; (c) noise; (d) environmental impact assessment and hazard assessment; (e) waste; and (f) water. The purpose of the Bill is to grant HKIQEP the status of a legally recognized organization with a view to safeguarding HKIQEP’s long-term existence and independence. Key provisions of the Bill are summarized in the ensuing paragraphs.

Provisions of the Bill

Incorporation of the Hong Kong Institute of Qualified Environmental Professionals

5. Clause 3 of the Bill seeks to provide that the existing unincorporated HKIQEP would become a body corporate and known as “Hong Kong Institute of Qualified Environmental Professionals” (“Institute”) so that it would have perpetual succession and be capable of suing and being sued and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. The effect of clause 3 of the Bill is that the Institute, incorporated through legislation, could only be dissolved by another ordinance enacted by LegCo. Clause 3 of the Bill also seeks to provide that the common seal of the Institute could only be affixed pursuant to a resolution of the General Council of the Institute (“General Council”).

6. Clause 4 of the Bill seeks to set out the objects of the Institute which include, among others:

- (a) promoting, developing and maintaining a qualification system for environmental professionals in Hong Kong;

- (b) meeting the current and future environmental expertise needs of, and supporting the development of the environmental industry in, Hong Kong;
- (c) promoting continuous professional development of environmental professionals to meet the changing needs of the society and the environment; and
- (d) promoting the advancement of environmental knowledge across different professional and industry sectors for the betterment of the environment of Hong Kong.

7. Clause 5 of the Bill seeks to set out the powers of the Institute. It is proposed that the General Council may, on behalf of the Institute, do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects of the Institute.

8. Clause 6 of the Bill seeks to provide that the Institute would succeed to all property, rights, privileges, obligations and liabilities of the unincorporated HKIQEP.

Establishment of the General Council

9. Clauses 7(1) and 7(2) of the Bill seek to provide for the establishment and the initial composition of the General Council. It is proposed that the persons holding the offices of President, Senior Vice-president, Junior Vice-president, Honorary Secretary and Honorary Treasurer, and all other persons who were members of the general council of the unincorporated HKIQEP immediately before the commencement of the enacted Ordinance (if the Bill is passed) would be members of the General Council. Clause 7(3) of the Bill seeks to further provide that the persons specified in clause 7(2) of the Bill would hold office until the election of officers and members of the General Council at the first annual general meeting of the Institute or otherwise in accordance with the provisions of the Constitution of the Institute (“Constitution”).

10. Under clause 8 of the Bill, the management of the Institute would be vested in the General Council and all the powers of the Institute would be vested in and exercisable by the General Council.

Membership and Constitution

11. It is proposed under clause 9 of the Bill that the members of the Institute would be those persons whose names are included in the Register of members of the Institute, being: (a) all the members of the unincorporated HKIQEP at the commencement of the enacted Ordinance (if the Bill is passed), and (b) other persons elected to membership in accordance with the Constitution.

12. Clause 10 of the Bill seeks to provide, among others, that the constitution and by-laws of the unincorporated HKIQEP at the commencement of the enacted

Ordinance (if the Bill is passed) would be adopted as the Constitution, which could be amended by the Institute at any time in accordance with the provisions of the Constitution.

13. Clause 10(4) of the Bill seeks to further provide that it would not be necessary to publish the Constitution or any amendment of it in the Gazette. The effect is that the Constitution or any amendment of it would not be subsidiary legislation and therefore would not be subject to the negative vetting procedure of LegCo.

Other related matters

14. Clause 11 of the Bill seeks to provide for, among others, the requirements on information the President of the Institute must submit to the Registrar of Companies, and the relevant deadlines and methods of submission.

15. Clause 12 of the Bill seeks to provide for the saving of the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in the Bill and those claiming by, from or under them. The saving provision is required, under RoP 50(8), to be included in the Bill, which is a “private bill” as defined in the Private Bills Ordinance (Cap. 69).¹

Amendments to be proposed by the Member in charge of the Bill

16. The Legal Service Division (“LSD”) has sought clarifications from the Member in charge of the Bill on certain legal and drafting issues relating to clauses 4, 9, 10 and 11 of the Bill as stated below.

17. Clause 4(d) of the Bill seeks to provide that it is the object of the Institute to maintain a register of suitably qualified environmental professionals in Hong Kong. In response to LSD’s enquiry, the Office of the Member in charge of the Bill (“Member’s Office”) has confirmed that the register in clause 4(d) of the Bill and the Register of members of the Institute in clause 9 of the Bill refer to the same register. We understand from the Member’s Office that an amendment would be proposed to the Bill to clarify the meaning of “suitably qualified”.

18. It is noted that the Chinese text of clause 4(f) of the Bill does not include the words corresponding to “expectations” in the English text. In relation to the Chinese text of clause 4(h) of the Bill, it appears that the word “其” may be missing before “代表”. Further, it is noted that the Chinese text of clause 4(i) of the Bill does not include the words corresponding to “and relevant to both industry and the community” in the English text. It is also noted that the word “is” in the English text of clauses 10(1) and 11(4) of the Bill should be replaced by “are”. We understand from the Member’s Office that amendments would be proposed to the Bill to address the above issues.

¹ Under section 2 of Cap. 69, “private bill” means a bill which (a) provides primarily for the particular interest or benefit of any individual, association or body corporate rather than the interest or benefit of the public; and (b) is not a Government measure.

Commencement

19. The Bill, if passed, would come into operation on the day on which the enacted Ordinance is published in the Gazette.

Public Consultation

20. According to paragraph 14 of the LegCo Brief, HKIQEP consulted a wide spectrum of stakeholders who would be affected by the Bill. Public stakeholder engagement events were arranged on 12 and 14 August 2023. Various stakeholders including recognized professional institutes (e.g. The Hong Kong Institution of Engineers), local universities, environmental-related institutes, think-tank, non-governmental organizations and the private sectors indicated their support for the legislative proposal.

Consultation with LegCo Panel

21. As advised by the Clerk to the Panel on Environmental Affairs (“Panel”), the Panel was consulted on a draft of the Bill (“Draft Bill”) at its meeting on 25 March 2024. Panel members expressed support for the Draft Bill. Issues discussed at the meeting included the development of qualification systems for environmental professional assessment and mutual recognition of qualifications with relevant professional bodies in other jurisdictions.

Conclusion

22. Subject to the amendments to be proposed by the Member in charge of the Bill as set out in paragraphs 17 and 18 above, no difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may consider whether a Bills Committee should be formed to study the policy aspect of the Bill.

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