

# 立法會 *Legislative Council*

LC Paper No. CB(3)995/2025

Ref: CB3/BC/4/25

## **Report of the Bills Committee on Post Secondary Colleges (Amendment) Bill 2025**

### **Purpose**

This paper reports on the deliberations of the Bills Committee on Post Secondary Colleges (Amendment) Bill 2025 (“the Bills Committee”).

### **Background**

2. The Post Secondary Colleges Ordinance (Cap. 320) was first enacted in 1960 to govern the registration and regulation of post secondary colleges (“Colleges”). At present, 11 degree-awarding institutions, including three private universities, are registered under Cap. 320,<sup>1</sup> while some institutions offering local self-financing post secondary education programmes are not registered under Cap. 320. They include registered schools under the Education Ordinance (Cap. 279) operating sub-degree programmes (but not degree programmes)<sup>2</sup> and self-financing arms of publicly-funded institutions<sup>3</sup> established under their respective enabling ordinances.

---

<sup>1</sup> The 11 institutions registered under Cap. 320 include Hong Kong Shue Yan University, The Hang Seng University of Hong Kong, Saint Francis University, Centennial College, Gratia Christian College, HKCT Institute of Higher Education, Hong Kong Chu Hai College, Hong Kong Nang Yan College of Higher Education, Tung Wah College, UOW College Hong Kong, and Yew Chung College of Early Childhood Education.

<sup>2</sup> There are currently seven registered schools under Cap. 279 operating sub-degree programmes, namely Caritas Bianchi College of Careers, Caritas Institute of Community Education, Hong Kong Adventist College, Hong Kong College of Technology, Hong Kong Institute of Technology, HKU SPACE Po Leung Kuk Stanley Ho Community College, and YMCA College of Careers.

<sup>3</sup> The self-financing arms of five University Grants Committee-funded universities and the Vocational Training Council currently offer local self-financing sub-degree and/or degree programmes.

3. According to paragraphs 4 and 5 of the Legislative Council (“LegCo”) Brief, Cap. 320, enacted in 1960 without any major review since then, is inadequate to support the healthy and vibrant development of the self-financing post secondary education sector. The Post Secondary Colleges (Amendment) Bill 2025 (“the Bill”) is therefore introduced into LegCo to reform the regulatory regime of Colleges and provide for a unified regulatory framework for all institutions operating local self-financing post secondary education programmes at the degree and sub-degree levels.

### **Post Secondary Colleges (Amendment) Bill 2025**

4. The Bill was published in the Gazette on 7 March 2025 and received its First Reading in LegCo on 19 March 2025. The Bill seeks to:

- (a) amend Cap. 320 and its subsidiary legislation mainly to:
  - (i) provide for the registration, refusal, cancellation and suspension of registration of the Colleges, members of the Boards of Governors (“BoG(s)”), Presidents, Vice-Presidents, and teachers of Colleges;
  - (ii) adjust various requirements including the requirements for the governance structure of and approving names of registered Colleges;
  - (iii) provide for the award of degrees, etc. by registered Colleges;
  - (iv) provide for the submission of strategic plans and annual reports, and the publication of key financial information, of registered Colleges;
  - (v) remove obsolete requirements; and
  - (vi) provide for transitional matters; and
- (b) make related and consequential amendments.

5. The Bill, if passed, would come into operation on a day to be appointed by the Secretary for Education (“the Secretary”) by notice published in the Gazette.<sup>4</sup>

### **The Bills Committee**

6. At the House Committee meeting on 21 March 2025, Members

---

<sup>4</sup> The Administration will propose to amend the commencement date of the Bill, with details set out in paragraphs 65 to 67.

agreed to form a Bills Committee to scrutinize the Bill. Hon Jeffrey LAM Kin-fung is the Chairman of the Bills Committee. The membership list of the Bills Committee is in the **Appendix**.

7. The Bills Committee has held four meetings with the Administration and invited the public to provide written submissions on the Bill. As at the submission deadline, the Bills Committee has received four submissions in total. The Administration has provided [consolidated responses](#) to the submissions.

### **Declaration of interest**

8. The Chairman has declared that he is a honorary member of the Court at The Hong Kong Polytechnic University. Dr Hon Johnny NG Kit-chong has declared that he is a Council member of the Hong Kong Baptist University. Prof Hon CHOW Man-kong has declared that he is a teaching staff member of a University Grants Committee (“UGC”)-funded university and voluntary member of BoG of a self-financing institution. Hon Rock CHEN Chung-nin has declared that he is the Chairman of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (“HKCAAVQ”) and a Council member of The University of Hong Kong (“HKU”). Revd Canon Hon Peter Douglas KOON Ho-ming has declared that he is a member of BoG of Gratia Christian College. Hon TANG Fei has declared that he is a Court member of HKU and a part-time lecturer of The Chinese University of Hong Kong (“CUHK”). Prof Hon LAU Chi-pang has declared that he is an employee of a UGC-funded university and Council member of two self-financing institutions. Prof Hon William WONG Kam-fai has declared that he is an employee of CUHK.

### **Deliberations of the Bills Committee**

9. Members generally support the Bill, which is conducive to building Hong Kong as an international post secondary education hub and enhancing the high-quality development of education in Hong Kong. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

#### **Interpretation**

10. Clauses 5(4) and 33 of the Bill propose to add the definition of sub-degree (i.e. an associate degree or a higher diploma) to the “Interpretation” of Cap. 320 and Cap. 279 respectively. Members have suggested that the Administration should directly use the terms “associate degree” or “higher diploma” (instead of “sub-degree”) in the relevant

provisions for avoidance of doubt.

11. The Administration has explained that in Hong Kong, sub-degree is a collective term of post-secondary qualifications including Associate Degree and Higher Diploma. The proposed inclusion of the definition of sub-degree in the Bill is intended to reflect the current situation.

12. Some members have suggested that the Administration should enhance the public's understanding of associate degrees and higher diplomas as the general public may not have a clear idea about the difference between the two qualifications.

#### Registration of post secondary colleges

13. Clause 8 of the Bill seeks to amend section 4 of Cap. 320 to revise certain eligibility requirements, and add new eligibility requirements, for registration of a College and for a registered College to remain on the register of registered Colleges under Cap. 320. The proposed new eligibility requirements include attaining and maintaining an Institutional Review ("IR") status granted by HKCAAVQ which demonstrates that the College has the abilities to comply with the requirements under Cap. 320 and has an overall competence to operate self-financing programmes at the degree or sub-degree level (clause 8(20) of the Bill).

14. The proposed revised section 4(1)(f) of Cap. 320 (clause 8(10) of the Bill) provides that the premises of Colleges registered under Cap. 320 shall be adequate for the purpose of a College and be in all ways suitable and safe for such purpose. Members have asked the Administration to consider providing basic and objective guidelines drawn up by HKCAAVQ to enable Colleges to have a clear understanding of the requirements for determining whether the premises concerned is adequate for the purpose of a College.

15. The Administration has responded that the existing section 4(f) of Cap. 320 has provided for "the premises being adequate for the purposes of a Post Secondary College and being in all ways suitable and safe for such purposes" as one of the requirements for registration. The proposed revised section 4(1)(f) of Cap. 320 only proposes technical textual amendments to that provision. In addition, when conducting IR under clause 8(20) of the Bill, HKCAAVQ will holistically examine whether the relevant College has the abilities to comply with various specified requirements for registration under section 4, including the requirements concerning the premises of Colleges under the proposed revised section 4(1)(f) of Cap. 320. To provide Colleges with a clearer understanding of the specifics of each requirement for registration, the Education Bureau ("EDB") collaborates closely with HKCAAVQ to conduct a comprehensive review of the relevant

IR Manual and will promulgate the updated Manual when appropriate to reflect the latest requirements for registration under the proposed revised section 4 of Cap. 320, clearly prescribing the specific requirements, standards, and necessary evidence, etc., for reference by relevant Colleges. HKCAAVQ will also conduct consultation on the Manual in a timely manner and maintain liaison with relevant Colleges on registration matters to provide assistance as appropriate.

16. The proposed revised section 4(1)(g) of Cap. 320 (clause 8(11) of the Bill) provides that the policy and procedures of the Colleges registered under Cap. 320 for admitting students shall be open, fair and transparent to ensure that the students to be admitted are qualified to pursue the relevant programmes.

17. Some members have pointed out that subject to the passage of the Bill, all institutions operating local self-financing sub-degree and degree programmes will be brought under a unified regulatory framework and be required to attain IR status granted by HKCAAVQ. All Colleges' academic and governance standards should therefore be the same. As such, their admission quotas for Mainland, Macao and Taiwan ("MMT") students should be aligned, with a view to achieving the open, fair and transparent student admission policy as stipulated in the proposed revised section 4(1)(g) of Cap. 320.

18. According to the Administration, there is currently an admission quota of 10% to 20% for MMT students enrolling in full-time locally-accredited self-financing local sub-degree and undergraduate (including top-up degree) programmes, but not for postgraduate programmes. To date, a total of six local self-financing post secondary institutions have obtained approval from the Ministry of Education ("MoE") to admit Mainland students to their degree programmes (including undergraduate and postgraduate programmes).<sup>5</sup> EDB has obtained approval from MoE to increase in phases the quota for MMT students of full-time locally-accredited self-financing local sub-degree and undergraduate (including top-up degree) programmes of the abovementioned six institutions to 40% with effect from the 2025-2026 academic year. EDB will continue to keep in view the operation of these institutions and liaise with MoE to explore feasible further enhancements as and when appropriate.

---

<sup>5</sup> Namely, Hong Kong Metropolitan University, Hong Kong Shue Yan University, The Hang Seng University of Hong Kong, Hong Kong Chu Hai College, Tung Wah College, and Technological and Higher Education Institute of Hong Kong under the Vocational Training Council.

19. The proposed revised section 4(1)(h) of Cap. 320 (clause 8(12) of the Bill) provides that Colleges registered under Cap. 320 are required to, having regard to the maintenance of status and standards, facilities available and community needs, ensure that the number of students admitted is sufficient to provide a meaningful learning environment and experience for achieving the learning objectives and outcomes of the programmes offered and implementing their strategic plans.

20. Members are concerned as to whether requirements on the minimum number of students admitted will be specified for Colleges registered under Cap. 320 as one of the conditions for registration. Moreover, members have enquired whether a College with a small number of students admitted will be allowed to maintain its registration status if it can demonstrate its capabilities to achieve the relevant learning objectives and outcomes, and implement its strategic plans.

21. The Administration has responded that it has no plan to set requirements on the number of students admitted for Colleges registered under Cap. 320. As for whether Colleges are considered to have provided a meaningful learning environment and experience, EDB will assess the operation of the Colleges with reference to their strategic plans. The reason for not specifying the number of students admitted in the Bill as an indicator for determining whether a meaningful learning environment and experience can be provided is to allow sufficient flexibility for EDB to review in accordance with the development mode and actual situation of the Colleges.

22. There are views that the drafting of the proposed revised section 4(1)(h) of Cap. 320 may cause misunderstanding that the number of students is the sole determinant of the learning environment and experience of a College. Members have suggested that consideration be given to adding the punctuation mark “ , ” immediately after “所取錄的學生人數” in the Chinese text of the relevant provision to enhance clarity.

23. The Administration has explained that the policy focus of the proposed revised section 4(1)(h) of Cap. 320 is “the number of students being admitted”; “being sufficient to provide a meaningful learning environment and experience for” refers to the standard for determining whether the number of students being admitted is satisfactory; and “(i) achieving the learning objectives and outcomes of the programmes offered by the Post Secondary College; and (ii) implementing the strategic plan of the Post Secondary College” further elaborate the specific requirements for “a meaningful learning environment and experience”; and “having regard to the maintenance of status and standards, facilities available and community needs” refers to the factors under consideration for whether the relevant College complies with this requirement. Hence, clause 8(12) of the Bill can

clearly reflect the abovementioned policy intent and no amendment is necessary.

24. The Administration has further stressed that the number of students is not the sole determinant of the learning environment and experience of a College. Under the existing section 4(h) of Cap. 320, the number of students has all along only been one of the many specified requirements for registration and maintenance of registration. When determining whether a College is eligible for registration, the Secretary will holistically consider the various requirements specified under the proposed amended section 4(1) of Cap. 320, including other factors that affect the learning environment and experience of the College, such as premises, facilities, and teachers. The proposed revised section 4(1)(h) of Cap. 320 aims to further provide that the relevant number must be able to provide a meaningful learning environment and experience, with a view to clarifying the relevant requirement and ensuring the overall quality of teaching.

25. Some members have relayed the concern of individual Colleges that the proposed registration requirements for Colleges under the Bill will pose challenges to their operation. Members have asked the Administration to facilitate Colleges in understanding and complying with the latest registration requirements. The Administration undertook to liaise with the Colleges concerned on the registration matters and provide assistance as appropriate.

#### Registration of a person

26. Clauses 9 and 11 of the Bill seek to add the proposed new sections 4A and 5A of Cap. 320 to provide for the procedures for the registration of a College and the registration of a member of BoG, a President, a Vice-President, and a teacher of a registered College respectively. Under the proposed new section 5A(4) of Cap. 320, a person is eligible to be registered as a member of BoG, a President, a Vice-President or a teacher of a registered College if the person is a fit and proper person to act as such a member, President, Vice-President or teacher.

27. Members consider that the term “a fit and proper person” is unable to provide a full elaboration on the eligibility requirements for registration as a member of BoG, a President, a Vice-President, and a teacher of a College. Members and the Legal Adviser to the Bills Committee (“the Legal Adviser”) have asked the Administration to improve the drafting of the proposed new sections 4(1)(da), 5A(4) and 6B(1) of Cap. 320 (clauses 8(9), 11 and 13 of the Bill) by making reference to the relevant guidelines and provisions applicable to other professions in respect of the requirements on “fitness and properness” (e.g. section 129 of the Securities and Futures

Ordinance (Cap. 571), section 20Q(1) of the Accounting and Financial Reporting Council Ordinance (Cap. 588) and section 8(5) of the Buildings Energy Efficiency (Registered Energy Assessors) Regulation (Cap. 610B)), so as to set out clearly the criteria based on which the Permanent Secretary for Education (“Permanent Secretary”) determines whether a person is “fit and proper” for clarity and certainty.

28. The Administration has explained that under the existing section 6(1)(b) of Cap. 320, the “fit and proper” criterion has all along been adopted as the eligibility requirement for registration of relevant persons under the existing Cap. 320. This provision also provides that, if it appears to the Permanent Secretary that a person is not “fit and proper”, the Permanent Secretary may refuse or cancel the relevant registration. The Bill maintains this eligibility requirement in principle, but improves the organization of Cap. 320 by separately setting out the requirement under the proposed new sections 5A(4) and 6B(1) of Cap. 320 and enhances the relevant deregistration mechanism. Under the prevailing approach, the Permanent Secretary determines the eligibility of a person for registration as a relevant person by taking into account all relevant factors, and it is not necessary to provide for a prescriptive list of criteria in the legislation. On the other hand, setting out the relevant considerations in the Bill will inadvertently restrict the flexibility to cater to evolving circumstances. Instead, it is considered that the proposed new sections 5A(4) and 6B(1) of Cap. 320 can strike an appropriate balance between maintaining a robust registration system and providing sufficient flexibility. It is therefore not necessary to further set out the relevant criteria in the Bill.

29. Members noted that if the Bill is passed, administrative guidelines on the “fit and proper” criterion will be promulgated by EDB. They have suggested that reference should be made to section 16(10) of the Banking Ordinance (Cap. 155) to set out the procedures for EDB to promulgate administrative guidelines in the Bill.

30. According to the Administration, EDB has all along exercised oversight over matters relating to the education sector in accordance with relevant ordinances, including Cap. 320 and Cap. 279. From time to time, EDB implements relevant policies under the respective legal frameworks through administrative guidelines, such as the guidelines on the submission of applications for awarding degrees under Cap. 320 and the Guidelines on Teachers’ Professional Conduct for the registration of teachers under Cap. 279. Under this established practice, even though the relevant ordinances do not prescribe that EDB promulgate statutory guidelines, EDB may, through administrative measures, formulate and promulgate appropriate administrative guidelines, having regard to the actual circumstances, with a view to assisting the education sector in understanding



the implementation arrangements of the relevant policies and measures. With reference to the existing practices under Cap. 320 and Cap. 279, EDB do not consider it necessary to separately prescribe the procedures in the Bill for EDB to promulgate guidelines. However, EDB will maintain liaison with the Colleges on matters relating to the promulgation of the administrative guidelines on the “fit and proper” criterion.

#### Arrangements for applicants for registration

31. Under the proposed new section 4A(1) of Cap. 320 (clause 9 of the Bill), a person who is proposed to be the Chairperson of BoG of a College may apply to the Permanent Secretary for registration of the College as a registered College. Under the proposed new section 5A(1) of Cap. 320 (clause 11 of the Bill), if there is no Chairperson of BoG of a College, the person proposed to be the Chairperson may apply to the Permanent Secretary for registration of a person as a member of BoG, a President or a Vice President of the registered College.

32. Members have raised concern about the definition and role of “the person proposed to be the Chairperson of BoG”, such as whether it is necessary to ascertain that a person has been successfully registered as the Chairperson of BoG before such person can apply for registration of Colleges. The Administration has responded that according to the proposed new sections 4A and 5A of Cap. 320, the associated College must first be successfully registered as a registered College in order to fulfil the prerequisite for processing the applications for registration of relevant persons. As regards the new section 4A(1), the relevant College is still at the stage of application for registration, and hence it is impossible to have a registered Chairperson of BoG. Thus, there is a genuine need to authorize “the person proposed to be the Chairperson of BoG” to represent the College to submit the application. The new section 5A(1) relates to the registration arrangements for members of BoG and so on. If a new College has completed registration but the approval for the individual registration of “the person proposed to be the Chairperson of BoG” is still pending, there is also a genuine need to authorize “the person proposed to be the Chairperson of BoG” to represent the College to submit the relevant application.

33. Members have expressed concern about the scenario where the Chairperson of BoG of a College becomes vacant, which will affect the governance and operation of the College and result in de-registration of the College. Members have therefore asked the Administration to reconsider making reference to Cap. 279 to empower the Permanent Secretary to appoint persons to be members of BoG of the Colleges.

34. The Administration has responded that in accordance with the mechanism under the existing Cap. 320, Colleges normally deliberate on the arrangements for the new Chairperson prior to the vacancy of the post and seek the Permanent Secretary's approval of the relevant application for registration in accordance with the established procedures, with a view to maintaining the recurrent operation of Colleges. If necessary, acting arrangements may be made. If the Chairperson of BoG of a College is vacant for a prolonged period such that the governance and operation of the College is affected, it is possible that the College may not be able to fulfil the requirement that the organizational structure of the BoG of the College should be able to ensure efficient and effective governance of the College under the proposed amended section 4(1)(a) of Cap. 320. If the Secretary is no longer satisfied as to any requirements for registration specified in the proposed amended section 4(1) or proposed new section 4(2) of Cap. 320 (such as the abovementioned proposed amended section 4(1)(a) of Cap. 320), the Secretary may take relevant follow-up actions in accordance with the deregistration mechanism under the new section 6A, including requesting the College to provide explanations for and take actions to rectify the circumstance. The Administration is of the view that the abovementioned arrangements are sufficient to ensure Colleges' governance standards and empower EDB to follow up on unsatisfactory circumstances as appropriate. Taking into account the privately-run and self-financing mode of operation of Colleges, EDB consider inappropriate to empower EDB to appoint individuals to serve as members of BoG of certain Colleges.

#### Cancellation or suspension of registration of Colleges and related persons

35. Under the existing section 6 of Cap. 320, the Permanent Secretary is vested with the power to refuse to register, or cancel the registration of, any College or person (as a BoG/College Council member or as a teacher). Clause 12 of the Bill seeks to repeal the existing section 6 of Cap. 320, and clause 13 of the Bill seeks to add the proposed new sections 6A, 6B and 6C to Cap. 320 to provide for respectively (a) the power of the Secretary to cancel the registration of a registered College; (b) the power of the Permanent Secretary to suspend or cancel the registration of a member of BoG, a President, a Vice-President or a teacher of a registered College; and (c) the power of the Chief Executive in Council ("CE in C") to order the Secretary or the Permanent Secretary to refuse to approve an application for, or to cancel, the relevant registration.

36. Members are of the view that cancellation of registration of a College is a very serious penalty which will greatly impact on students and teachers. The Administration should work out post-cancellation arrangements for Colleges, such as by allowing a transitional period so that such Colleges can make proper arrangements to protect the interests of teachers and students.

37. The Administration has explained that having regard to the significant impact of the cancellation of registration of a College on students and relevant stakeholders, the proposed new section 6A(7) of Cap. 320 (clause 13 of the Bill) provides that when a College is deregistered, the Permanent Secretary may, by written notice to all members of the BoG of the College, impose requirements on the BoG to ensure a smooth teach-out to protect the public interest and the interests of the affected students.

38. Members are of the view that it is not specific and explicit enough to state a registered person is considered not a fit and proper person due to “any circumstances” in the proposed new section 6B(1) of Cap. 320. They have suggested that consideration be given to setting out clearly the circumstances under which the Permanent Secretary will consider that a registered person is not, or is no longer, a fit and proper person to act as a member of BoG, a President, a Vice President or a teacher of a registered College.

39. The Administration has stressed that the Permanent Secretary must only suspend or cancel a person’s registration under the proposed new section 6B of Cap. 320 if the Permanent Secretary considers the person “is not, or is no longer, a fit and proper person to act as a relevant person”. The expression of “any circumstance” aims to confirm that the Permanent Secretary may exercise the relevant power based on the “fit and proper” criterion under different circumstances, and to correspond with the relevant procedures under the proposed new section 6B. The expression does not mean that the Permanent Secretary can arbitrarily suspend or cancel a person’s registration without considering the “fit and proper” criterion. Besides, the proposed new section 6B of Cap. 320 prescribes a clear and transparent mechanism, including requesting the person concerned to provide explanations for and take actions to rectify the circumstance or impose conditions and/or restrictions on the person’s registration, so that the Permanent Secretary will be able to handle matters relating to the suspension or cancellation of registration of relevant persons in a prudent and reasonable manner, in accordance with the mechanism and the “fit and proper” criterion.

#### Written notice from the Permanent Secretary

40. In relation to the refusal to approve an application for the registration of a College and the refusal to approve an application for the registration of a member of BoG, a President, a Vice-President or a teacher of a registered College, the Bill does not provide for the time limit that the Permanent Secretary must, by written notice, inform the relevant applicant and subject person of the refusal and the reasons for the refusal (the proposed new sections 4A(8) and 5A(7) of Cap. 320). In relation to the cancellation or suspension of the relevant registration, under the proposed new sections

6A(5), 6B(9), 6C(5)(b) and 6C(6)(b) of Cap. 320, as soon as reasonably practicable after refusing to approve the application for, or cancelling or suspending, the relevant registration, the Permanent Secretary must, by written notice, inform the relevant applicant or persons of the decision with the relevant reasons.

41. Members are concerned about the reason(s) for not specifying a time limit in the Bill. In her [letter](#) to the Administration, the Legal Adviser has invited the Administration to consider whether a specified time limit for the Permanent Secretary to issue the aforesaid written notice should be set out for the sake of certainty.

42. The Administration responded that the time limit of “as soon as reasonably practicable” under the proposed new sections 6A(5), 6B(9), 6C(5)(b) and 6C(6)(b) of Cap. 320 is considered to be sufficient to reflect the legislative intent that the relevant applicants or subject persons (as may be appropriate) should be informed, by written notice, as soon as reasonably practicable of any adverse decisions against their registration, such that they may consider any necessary follow-up actions in a timely manner, such as lodging an appeal. In addition, the time limit for lodging an appeal under the proposed new section 6E(4) of Cap. 320 is within 30 days beginning on the date on which the relevant written notice is given. Hence, the relevant appellants’ right to appeal will not be affected by the time limit for the Permanent Secretary to issue the written notice. As the complexity of each case of refusal, cancellation, or suspension of registration varies, it is neither necessary nor appropriate to prescribe a specific time limit for issuing the written notice. Nevertheless, in response to the Legal Adviser’s suggestion, the Administration will amend the proposed new sections 4A(8) and 5A(7) of Cap. 320 to the effect that “as soon as reasonably practicable” after the refusal to approve an application for the registration of a College or a member of BoG, a President, a Vice-President, or a teacher is made, the Permanent Secretary must, by way of written notice, inform the relevant applicant and subject person (as may be appropriate) of the refusal and the reasons for the refusal, so as to align such provisions with the time limit for issuing the written notice under other provisions.

### Offences and defences

43. Clauses 13 and 36 of the Bill propose to introduce new offences for (a) failing to comply with the requirements imposed by the Permanent Secretary (the proposed new sections 6A(8) and 6C(9) of Cap. 320 and the proposed new sections 101(3) and (4) of Cap. 279); (b) providing information that is false or misleading in a material particular when the person knows or reasonably ought to know that the information is false or misleading in a material particular (the proposed new section 6D(1) of Cap.

320); and (c) acting as a member of BoG of a registered College when the person is not registered as such or the registration is suspended or cancelled (the proposed new section 6D(4) of Cap. 320). A person who commits any of the above offences would be liable on conviction to a fine of \$250,000 and imprisonment for two years.

44. Under the proposed new section 6D(7) of Cap. 320, a person who acts as a President or a Vice-President of a registered College when the person is not registered as such or the registration is suspended or cancelled would commit an offence and be liable on conviction to a fine at level 6 (\$100,000) and imprisonment for two years. Under the proposed new section 6D(10) of Cap. 320, a person who acts as a teacher of a registered College when the person is not registered as such or the registration is suspended or cancelled would commit an offence and be liable on conviction to a fine at level 5 (\$50,000) and imprisonment for two years.

45. The Legal Adviser has enquired with the Administration whether each of the proposed new offences under the Bill (except under the proposed new section 6D(1) of Cap. 320) is a strict liability offence. The Administration has clarified that the offences under the proposed new sections 6D(4), (7) and (10) of Cap. 320 are not strict liability offences. As regards the offences under the proposed new sections 6A(8) and 6C(9) of Cap. 320 and the proposed new section 101(3) of Cap. 279, the legislative intent is to displace the *mens rea* requirement of these offences and a defendant can only rely on the relevant statutory defences provided under the proposed new sections 6A(9) and 6C(10) of Cap. 320 and the proposed new section 101(5) of Cap. 279, in which case the defendant would only bear an evidential burden. As regards the proposed new section 101(4) of Cap. 279, it is the legislative intent that the offence is not intended to be an absolute liability offence. Details can be found in the [Administration's reply](#).

46. Some members are of the view that the penalties for some of the proposed new offences are rather heavy, which may deter eligible individuals from accepting appointments to members of BoGs. Members and the Legal Adviser enquired about the criteria for introducing the relevant penalties. There are also views that apart from introducing new offences to regulate members of BoGs, the authorities should also strengthen the oversight of Colleges so as to enhance their quality.

47. The Administration has explained that the existing Cap. 320 does not prescribe offence provisions and the original intent is that the ultimate penalty for any College that fails to comply with the requirements under Cap. 320 will be deregistration, and as a result it will no longer be exempted from the more prescriptive regulation of Cap. 279. Nevertheless, in respect

of the offence provision under the proposed new sections 6A(8) and 6C(9) of Cap. 320, the College concerned has been deregistered at that time. As a result, if offence provisions are not prescribed, EDB will not be able to make sure that the BoG of the College concerned properly implements the requirements imposed by the Permanent Secretary under section 6A(7) or 6C(8) to ensure that the transition towards cessation of the operation of the College is handled in the public interest and in the best interests of the affected students. As such, the Administration considers that there is a genuine need to incorporate the offence provision to ensure the orderly teach-out of the College concerned and safeguard the interests of students.

48. The Administration has further pointed out that as BoG is the supreme governing body of a registered College, it considers that the level of penalty is appropriate for the relevant offence. In formulating the penalties under the Bill, reference has been made to the relevant offence provisions and levels of penalties of equivalent categories of persons under the existing Cap. 279. For instance, under the existing section 87(1)(i) of Cap. 279, any person who, being the supervisor or manager of a school without an incorporated management committee, fails to comply with a direction from the Permanent Secretary to take remedial measures served on him/her under section 82 commits an offence, and is liable on conviction to the same level of penalty, i.e. a fine of HK\$250,000 and imprisonment for two years.

49. Some members have pointed out that a member of BoG may commit the relevant offence under the proposed new sections 6A(8) and 6C(9) of Cap. 320 due to negligence. They have suggested that consideration should be given to adding provision(s) in clause 13 of the Bill (i.e. the proposed new sections 6A and 6C of Cap. 320) to the effect that if a member of BoG of a registered College fails to comply with any requirement imposed on the BoG by the Permanent Secretary under the proposed new section 6C(8) of Cap. 320, he/she can establish a defence if the failure has taken place due to his/her negligence.

50. The Administration has advised that as a member of the supreme governing body of a College, members of BoG play an important role in the governance and management of the College. In fact, the relevant offence provision only concerns rare and exceptional circumstances where a College has been deregistered. In such circumstances, the Permanent Secretary may impose requirements relating to the teach-out of the College by written notice to all members of BoG under the proposed new sections 6A(7) or 6C(8) of Cap. 320. Hence, in such scenarios, members of BoG should be clearly aware of the situation and properly exercise their responsibilities to ensure that the College complies with the relevant requirements and safeguard students' interests. Nevertheless, defence provisions are also prescribed

under the Bill. Under the proposed new sections 6A(9), 6C(10) of Cap. 320 and the proposed new section 101(5) of Cap. 279, it will be a defence for a person charged with the offences under the proposed new sections 6A(8) and 6C(9) of Cap. 320 and the proposed new section 101(3) of Cap. 279 to establish that (a) the failure to comply with the requirements imposed by the Permanent Secretary takes place without the person's knowledge or consent; or (b) the person has taken all reasonable steps to prevent the failure. The defendant will only bear an evidential burden. Overall speaking, the Administration considers that the relevant offence provision has struck an appropriate balance.

### Appeals

51. Under the existing section 6(4) of Cap. 320, in case of refusal or cancellation of registration of a College or person, an appeal can be made to CE in C by way of petition, and the decision of CE in C shall be "final". Clauses 12 and 13 of the Bill respectively seek to repeal section 6 of Cap. 320 and add a new Part 3 (proposed new sections 6E and 6F) to Cap. 320 to provide for appeals against certain decisions.

52. Members have noted that the Bill proposes the relevant Colleges or persons to make appeal to a higher level (i.e. CE in C) in the event that their registration has been refused or cancelled. The Administration has advised that the Bill in principle retains the existing appeal mechanism for registration-related matters under section 6(4) to (6) of the existing Cap. 320, namely the aggrieved party may appeal by petition to CE in C. The Bill only separately sets out the relevant appeal mechanism and the relevant procedures under the proposed new section 6E of Cap. 320, and makes technical textual amendments. As with the mechanism under the existing Cap. 320, for considering a petition and determining an appeal, CE in C may appoint a tribunal to inquire into the matters raised in the petition; and empower the tribunal to hear evidence and do all other things that are necessary for a proper inquiry by the tribunal. The tribunal is required to submit a written report to CE in C to assist CE in C in making a final determination for the appeal. In fact, under the existing laws of Hong Kong, there are mechanisms for the aggrieved party to appeal by petition to CE in C.

53. Members have suggested that consideration be given to specifying the definition of "all other things that are necessary" for a proper inquiry by the tribunal and the person who can determine which are necessary. The Administration has responded that the proposed new section 6E(5) aims to facilitate a proper inquiry by the tribunal in handling different appeal cases. As the nature of each appeal case differs, the tribunal may have to undertake corresponding actions, having regard to the different circumstances of the

actual cases when conducting its inquiry, with a view to considering holistically the issues under dispute involved in the cases. For instance, apart from hearing evidence, the tribunal may need to summon witnesses and inspect the premises or documents of the College, among others. Therefore, it is necessary for the Administration to confer sufficient power on the tribunal to flexibly decide to do all things that are necessary for a proper inquiry, so as to cater to different appeal cases.

54. Members have suggested that the Administration should make reference to the Buildings Ordinance (Cap. 123) and set out in the Bill the composition, terms of reference, *modus operandi*, etc. of the tribunal. Moreover, some members have asked whether the Administration will make recommendations on the tribunal membership.

55. The Administration has advised that different ordinances may have provided for their own statutory appeal mechanisms, and the relevant provisions of the Bill are merely the proposed additions to the mechanism under the existing Cap. 320. CE in C will handle appeal cases lodged by way of petition under Cap. 320 in a fair and impartial manner in accordance with its established mechanism and criteria. In addition, CE in C will give directions and decide how the hearings should be conducted, having regard to the circumstances of individual cases.

Publication of extracts of strategic plans and annual reports, etc.

56. The proposed new regulations 8A, 8B, and 9(3) of the Post Secondary Colleges Regulations (Cap. 320A) aim to improve the operational transparency and accountability of registered Colleges by requiring the publication of extracts of their strategic plans and annual reports as well as certain key financial information. EDB will, by administrative measures, specify requirements for the way in which such information is to be made available to the public, such as publication of the information on relevant websites.

57. Members are of the view that provisions under the proposed new regulations 8A and 8B of Cap. 320A relating to the submission of strategic plans and annual reports by registered Colleges are burdensome and not user-friendly. It is suggested that those provisions should be improved to make them more easily comprehensible.

58. The Administration is of the view that the proposed new regulations 8A and 8B of Cap. 320A set out clearly the statutory requirements on strategic plans and annual reports, and has explained that regarding strategic plans, Colleges must ensure that each academic year is covered by a strategic plan. Colleges must prepare and submit to the Permanent Secretary a



strategic plan at least once every five academic years. Each strategic plan must contain the academic development plan, expected goals, and performance targets for at least three academic years in the future. Colleges must also arrange for its BoG to review the strategic plan applicable to that academic year in every academic year, and make available to the public an abstract of the strategic plan applicable to that academic year in the form specified by the Permanent Secretary. The abovementioned arrangement provides sufficient flexibility for Colleges to adopt a strategic planning cycle ranging from three to five years, having regard to their actual circumstances and needs. Colleges may also amend and submit an updated strategic plan from time to time. As a facilitating arrangement, the strategic plans submitted by Colleges before the proposed new regulation 8A comes into operation or when applying for registration are also accepted as the first strategic plan submitted in accordance with the amended Cap. 320. As regards annual reports, in each academic year, Colleges must prepare an annual report for the immediately preceding academic year (“the relevant year”), reviewing the activities undertaken by the College in the relevant year and the performance of the College with reference to the strategic plan applicable to the relevant year. Colleges must submit the report to the Permanent Secretary in a timely manner, and make available to the public, in the form specified by the Permanent Secretary, an abstract of the five latest annual reports (if applicable).

59. Members have enquired whether mechanism (including provision of a grace period) has been formulated to deal with registered Colleges which fail to submit strategic plans and annual reports before the specified deadlines under the proposed new regulations 8A and 8B of Cap. 320A.

60. The Administration has responded that if a College fails to comply with the requirements on the submission of strategic plans and annual reports under the proposed new regulations 8A and 8B of Cap. 320A, it is possible that the College may in turn be unable to fulfil the requirement for registration under the proposed new section 4(2) of Cap. 320 that a College should comply in all respects with the requirements under Cap. 320 (including Cap. 320A) to the satisfaction of the Secretary. If the Secretary is no longer satisfied as to any requirements for registration specified in the proposed amended section 4(1) or proposed new section 4(2) of Cap. 320 (such as compliance with the requirements under the proposed new regulations 8A and 8B of Cap. 320A), the Secretary may take relevant follow-up actions in accordance with the deregistration mechanism under the proposed new section 6A of Cap. 320, including requesting the College to provide explanations for and take actions to rectify the circumstance. The Administration is of the view that the relevant mechanism can provide sufficient room for Colleges that fail to submit strategic plans or annual reports within the relevant timeframes to provide reasonable explanations for

such circumstances and make rectifications. If additional provisions are to be introduced to the proposed new regulations 8A and 8B of Cap. 320A in order to provide for a grace period, it may instead over-complicate the relevant provisions. Therefore, the Administration does not consider further amendments to the relevant provisions necessary.

61. Members have raised concern as to whether guidelines on submission of strategic plans and annual reports by registered Colleges (including procedures for the Colleges to rectify errors or omission in their submissions) will be drawn up to avoid possible confusion.

62. According to the Administration, subject to the passage of the Bill, EDB will, through administrative measures, provide Colleges with practical guidelines on the submission of strategic plans and annual reports and the publication of relevant abstracts, such that Colleges can clearly understand the relevant statutory requirements under the amended Cap. 320. EDB will also maintain liaison with Colleges to provide assistance as and when necessary.

#### Statutory powers

63. At present, the approving authority for the registration of Colleges, and the majority of the statutory powers under Cap. 320 and Cap. 279, are exercised by the Permanent Secretary. It is proposed in the Bill that the more important powers under Cap. 320 relating to the registration and deregistration of Colleges be vested with the Secretary, with a view to strengthening EDB's regulatory oversight. The Permanent Secretary will continue to exercise other statutory powers of an operational nature.

64. Members have suggested that the Administration should make reference to the other legislation, such as section 69 of the Protection of Critical Infrastructures (Computer Systems) Ordinance (Ord. No. 4 of 2025), and add provisions to the Bill to empower the Secretary to give directions when the Permanent Secretary or an authorized person exercise the relevant powers, so as to clearly spell out the powers and responsibilities of the Secretary. In response to Members' suggestion, the Administration will propose amendment to add a proposed new section 13A to Cap. 320 to empower the Secretary to give directions to the Permanent Secretary or an authorized person with respect to the performance of functions under Cap. 320, and a person to whom a direction is given must, in performance of the function, comply with that direction.

### Commencement and transitional arrangements

65. Clause 1(2) of the Bill provides that this Ordinance comes into operation on a day to be appointed by the Secretary by notice published in the Gazette. It is the plan of the Administration that the amended Cap. 320 will come into operation around one year after the passage of the Bill, which will also be aligned with the commencement of an academic year, with a view to allowing the Colleges currently registered under Cap. 320 sufficient time to adapt to the new requirements and minimize disruptions to their operation within an academic year.

66. In addition, the Bill provides for an additional transitional period of two years beginning on the commencement date (i.e. a total of around three years after the passage of the Bill) for institutions not currently registered under Cap. 320 to complete registration. During the transitional period, institutions may continue operating self-financing post secondary programmes under their prevailing legal framework.

67. Taking into account the abovementioned principles, the Administration will propose amendment to specify the commencement date of the amended Cap. 320 to be 1 August 2026, save for clauses relating to the delegation of authority to approve the award of degrees, which will come into operation on 1 August 2025. Also, provisions relating to the prohibition of issue of sub-degrees or documents resembling sub-degrees by schools registered under Cap. 279 will come into operation on 1 August 2028, with a view to implementing the two-year transitional period and enabling various institutions to make related arrangements in accordance with specific targets.

68. Members have raised concern about the arrangements for dealing with the naming of self-financing arms of publicly-funded institutions involving the words “大學” or “University” after the passage of the Bill. According to the Administration, as regards the linkage between the self-financing arms of publicly-funded institutions and their respective universities proper after migration, the detailed arrangements should be deliberated and determined by the universities proper and the self-financing arms, subject to the relevant requirements under UGC and Cap. 320. These requirements include, if the naming of a self-financing arm involves the words “大學” or “University”, an application must be submitted to CE in C for approval in accordance with Cap. 320 and the Roadmap for Becoming a Private University as in the past. On the premise that the words “大學” or “University” are not involved, it is indeed an established and reasonable practice for self-financing institutions to suitably reflect their connection with their sponsoring bodies in their naming. In processing the applications

for registration of self-financing institutions, EDB will give due consideration to their names for registration to ensure that there are no misleading elements.

69. In addition, there is concern that some self-financing arms of publicly-funded institutions have made use of their self-accrediting status to launch a large number of programmes recently. The Administration has responded that as with all institutions registered under Cap. 320, the self-financing arms registered under Cap. 320 must meet all registration and accreditation requirements, including attaining an IR status granted by HKCAAVQ, and their post secondary programmes are subject to HKCAAVQ's stringent external quality assurance mechanism. According to the relevant information, the number of sub-degree and undergraduate programmes operated by the three self-financing arms with the intention to migrate have in fact recorded a slight decrease in the past three academic years (i.e. 2022-2023 to 2024-2025 academic years). EDB and HKCAAVQ will closely monitor the situation and liaise with relevant institutions as and when necessary, and stringently process the relevant accreditation and registration in accordance with the mechanism.

70. Members have asked the Administration to introduce specific measures to support and facilitate smooth migration to Cap. 320 of schools registered under Cap. 279 operating sub-degree programmes and self-financing arms of publicly-funded institutions, including streamlining the accreditation procedures, assisting community colleges registered under Cap. 279 in liaising tenancy terms for school premises with the relevant government departments, if necessary.

71. The Administration has advised that although the Bill will not mandate the migration of the self-financing arms to Cap. 320 through amending the enabling ordinances of the relevant publicly-funded institutions, EDB will adopt administrative measures to support the self-financing arms of publicly-funded institutions to register under the amended Cap. 320, including reviewing the scope and eligibility of the package of support measures and implementing appropriate facilitation arrangements. The Bill also provides for a transitional period of about three years for the institutions concerned to complete registration. In addition, EDB implements a host of measures to support self-financing institutions in a targeted manner, including launching a new round of the Land Grant Scheme and Start-up Loan Scheme in December 2024 to support eligible self-financing institutions to develop and improve campuses in support of more teaching activities. EDB will continue to identify suitable land sites and premises (including but not limited to those in the Northern Metropolis) to be launched for application by eligible institutions registered under the amended Cap. 320 under LGS in a timely manner, having regard to relevant

factors including the availability of relevant land sites or premises, demand from and affordability of self-financing institutions and so on.

72. Regarding support for the development of the self-financing post secondary education sector, members have further suggested that the Administration should, as early as practicable, give guidance to Colleges on the directions of programmes to be offered (including programmes relating to character building, STEAM and the “eight centres”), how to enhance flexibility in offering programmes and monitor the quality of programmes, so as to enable the self-financing institutions and the UGC-funded universities to perform their respective roles in support of the development needs of the country and the community; encourage communication between Colleges and employers so that the programmes offered can meet market needs; provide assistance to self-financing institutions interested in offering programmes in Hong Kong for better development; allow “white knights” to assist under-enrolled Colleges in transforming into education institutions meeting market needs; and ensure open, fair and transparent procedures for employment, appointment and dismissal of teaching staff of Colleges.

### **Proposed amendments to the Bill**

73. The Bills Committee has examined and raised no objection to the Administration’s proposed amendments to the Bill, as set out in paragraphs 42, 64 and 67 above. The Bills Committee will not move any amendment to the Bill.

### **Resumption of Second Reading debate**

74. The Bills Committee supports the Administration to resume the Second Reading debate on the Bill at the Council meeting of 25 June 2025.

### **Consultation with the House Committee**

75. The Bills Committee reported its deliberations to the House Committee on 6 June 2025.

Council Business Divisions  
Legislative Council Secretariat  
20 June 2025

**Bills Committee on Post Secondary Colleges (Amendment) Bill 2025**

**Membership list**

**Chairman** Hon Jeffrey LAM Kin-fung, GBM, GBS, JP

**Members** Dr Hon Starry LEE Wai-king, GBS, JP  
Prof Hon Priscilla LEUNG Mei-fun, GBS, JP  
Dr Hon Johnny NG Kit-chong, MH, JP  
Prof Hon CHOW Man-kong, JP  
Hon Dennis LEUNG Tsz-wing, MH  
Hon Rock CHEN Chung-nin, SBS, JP  
Hon Lillian KWOK Ling-lai  
Revd Canon Hon Peter Douglas KOON Ho-ming, BBS, JP  
Hon TANG Fei, MH  
Prof Hon LAU Chi-pang, BBS, JP  
Hon Carmen KAN Wai-mun, JP  
Dr Hon SO Cheung-wing, SBS, JP  
Hon SHANG Hailong  
Prof Hon William WONG Kam-fai, MH

(Total : 15 members)

**Clerk** Ms Angel WONG

**Legal Adviser** Miss Quincy NG