

# **立法會**

## ***Legislative Council***

LC Paper No. LS23/2025

**Paper for the House Committee Meeting  
on 21 March 2025**

### **Legal Service Division Report on Post Secondary Colleges (Amendment) Bill 2025**

#### **I. SUMMARY**

##### **1. The Bill**

The Bill seeks to:

- (a) amend the Post Secondary Colleges Ordinance (Cap. 320) and its subsidiary legislation mainly to:
  - (i) provide for the registration, refusal, cancellation and suspension of registration of post secondary colleges (“Colleges”), members of the Boards of Governors, 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.

##### **2. Public Consultation**

A public consultation was conducted from 21 December 2020 to 20 March 2021, during which 37 written submissions were received. Overall speaking, the respondents agreed with the principles of the proposed amendments and their specific comments have been suitably incorporated into the Bill.

##### **3. Consultation with LegCo Panel**

The Panel on Education was briefed on the legislative proposals at its meetings on 5 March 2021, 5 July 2022 and 1 November 2024. Members generally supported the proposals and expressed concerns over various issues.

##### **4. Conclusion**

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to reform the regulatory regime of Colleges, Members may consider forming a Bills Committee to study the Bill in detail.

## **II. REPORT**

The date of First Reading of the Bill is 19 March 2025. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref.: 1141-2030-8010-9005-00007) issued by the Education Bureau in March 2025 for further details.

### **Object of the Bill**

2. The Bill seeks to:

- (a) amend the Post Secondary Colleges Ordinance (Cap. 320) and its subsidiary legislation mainly to:
  - (i) provide for the registration, refusal, cancellation and suspension of registration of post secondary colleges (“Colleges”), members of the Boards of Governors (“BoG”), 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.

### **Background**

3. Cap. 320 was first enacted in 1960 to govern the registration and regulation of Colleges. According to paragraphs 20 and 32 of the LegCo Brief, at present, 11 degree-awarding institutions, including three private universities, are registered under Cap. 320, while some institutions offering local self-financing post secondary education programmes (e.g. registered schools under the Education Ordinance (Cap. 279) operating sub-degree programmes) are not registered under Cap. 320.

4. According to paragraphs 4 and 5 of the LegCo Brief, the existing Cap. 320 is inadequate to support the healthy and vibrant development of the self-financing post secondary education sector. The Bill is therefore introduced into LegCo to reform the regulatory regime of Colleges and to provide for a unified regulatory framework for all institutions operating local self-financing post secondary education programmes at the degree and sub-degree levels. Key provisions of the Bill are summarized in the ensuing paragraphs.

### **Provisions of the Bill**

#### Governance structure of registered Colleges

5. The Bill seeks to streamline the requirements on the governance structure of Colleges from four-tier to two-tier, comprising a BoG and an Academic Board, with the proposed deletion of the requirements for a College Council and a Faculty Board from the existing regulation 2(b) of the Post Secondary Colleges Regulations (Cap. 320A)

(clause 23(10) of the Bill). It also seeks to amend section 3 of Cap. 320 to provide that the Permanent Secretary for Education (“Permanent Secretary”) must keep a register of registered Colleges, a register of members of BoGs of registered Colleges, a register of Presidents and Vice-Presidents of registered Colleges, and a register of teachers of registered Colleges (clause 7 of the Bill).

#### Registration of Colleges and related persons

6. 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 status granted by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications 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). The Bill also seeks to change the authority who would decide on the eligibility from the Permanent Secretary to the Secretary for Education (“Secretary”) (clause 8(5) of the Bill).

7. The Bill seeks to add the proposed new sections 4A and 5A to Cap. 320 to provide for the procedures for the registration of a College (clause 9 of the Bill) and the registration of a member of BoG, a President, a Vice-President or a teacher of a registered College respectively (clause 11 of the Bill). Under the proposed new section 4A(3) of Cap. 320, the Secretary may approve an application for registration of a College if the Secretary is satisfied that the College is eligible for registration under the requirements for registration specified in the proposed revised section 4(1) of Cap. 320. Under the proposed new section 5A(4) and (5) of Cap. 320, the Permanent Secretary may approve an application for registration of a person as a member of BoG, a President, a Vice-President or a teacher of a registered College if the Permanent Secretary is satisfied that the person is a fit and proper person to act as such a member of BoG, President, Vice-President or teacher (as the case requires).

8. The Secretary and the Permanent Secretary may refuse to approve an application for the relevant registration under the proposed new sections 4A(7) and 5A(6) of Cap. 320 respectively. The Permanent Secretary must, by written notice, inform (a) the applicant (under the proposed new section 4A(8) of Cap. 320); and (b) the applicant and the subject person (under the proposed new section 5A(7) of Cap. 320), of the refusal and the reasons for the refusal.

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

9. 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.

### Appeals

10. Under the existing section 6(4) of Cap. 320, an appeal against the Permanent Secretary’s refusal to register, or cancellation of a registration of, a College or person (as a BoG/College Council member or as a teacher), can be made by the College or person concerned by way of petition to CE in C. 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, e.g. a decision to impose a condition or restriction on, or refuse to approve an application for, the registration of a College or a person (as the case may be) (the proposed new section 6E of Cap. 320), a decision to refuse to grant to a registered College an approval to award degrees (the proposed new section 6F of Cap. 320). It is proposed that a determination of CE in C under the proposed new section 6E of Cap. 320 and a determination of the Chief Secretary for Administration under the proposed new section 6F of Cap. 320 would be final.

### Offences and defences

11. 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 section 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). It would 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 took place without the person’s knowledge or consent; or (b) the person had taken all reasonable steps to prevent the failure. The person who commits any of the above offences would be liable on conviction to a fine of \$250,000 and imprisonment for two years.

12. 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.

### Approval of names of registered Colleges

13. Under the existing section 8 of Cap. 320, every College shall be registered under such name in both English and Chinese as may be approved by the Permanent

Secretary, who shall not without the prior sanction of CE in C approve any name containing the word “University”, or the Chinese words “Tai Hok” (大學) or “Hok Yuen” (學院). Clause 15 of the Bill seeks to amend section 8 of Cap. 320 to change the authority for approving the names of registered Colleges from the Permanent Secretary to the Secretary, and to the effect that the prior sanction of CE in C would only be required for approval of names containing the English word “University” or the Chinese characters “大學”.

#### Award of degrees, etc. by registered Colleges

14. The existing section 10 of Cap. 320 provides that a College registered under Cap. 320 may (with the prior approval of CE in C) award degrees, and award diplomas and certificates. The Bill seeks to repeal the existing section 10 of Cap. 320 and add a new section 5(2) to Cap. 320 to the effect that the approving authority for a registered College to award degrees would change from CE in C to the Secretary, and that a registered College could also award sub-degrees in addition to diplomas and certificates (clauses 10(4) and 17 of the Bill).

#### Requirements of registered Colleges to submit strategic plans and annual reports, etc.

15. Under the proposed new regulations 8A and 8B of Cap. 320A, a registered College must submit respectively a strategic plan for, and an annual report in, every academic year to the Permanent Secretary, and make available to the public abstracts of the strategic plan and annual report (clause 28 of the Bill). In addition, under the proposed new regulation 9(3) of Cap. 320A, a registered College must make available certain financial information (e.g. the aggregate income and expenditure) to the public (clause 29 of the Bill).

#### Removal of obsolete requirements

16. Clauses 17, 25 and 27 of the Bill seek to repeal sections 9 and 11 of Cap. 320 and regulations 4, 5, 6 and 8 of Cap. 320A which relate to certain requirements that are now obsolete. For example, the requirement for evening Colleges to be registered separately under section 9 of Cap. 320, and the age limit and the minimum academic requirement for entry into a College under regulation 6 of Cap. 320A are proposed to be repealed.

#### Transitional arrangements

17. Clause 20 of the Bill seeks to add a new Part 5 and a new Schedule to Cap. 320 to provide for the savings and transitional arrangements. It is proposed that during the transitional period of two years beginning on the commencement date on which section 9 (relating to the new registration requirements of Colleges) of the enacted Ordinance comes into operation, the institutions that were not registered under Cap. 320 immediately before the commencement date may continue to provide the self-financing degree or sub-degree programme under any other Ordinance. The effect is that such institutions would have to apply for registration under the proposed new regulatory regime under Cap. 320 within the transitional period in order to be eligible to provide self-financing degree or sub-degree programmes after the transitional period.

### Related and consequential amendments

18. Parts 4 and 5 of the Bill propose to make related amendments to Cap. 279 and consequential amendments to various enactments. For instance, clause 34 of the Bill seeks to add a new section 18A(1A) to Cap. 279 to provide that an approval under the existing section 18A(1) of Cap. 279 in relation to the provision of sub-degree programmes would expire after two years beginning on the date on which clause 34 of the Bill (if passed) comes into operation. The effect is that schools registered under Cap. 279 would not be able to continue providing sub-degree programmes without a registration under the enacted Ordinance.

### Commencement

19. The Bill, if passed, would come into operation on a day to be appointed by the Secretary by notice published in the Gazette. According to paragraph 24 of the LegCo Brief, it is the Administration's plan to allow the currently registered Colleges sufficient time to adapt to the new requirements by setting the commencement date to be around one year after the passage of the Bill, which will also be aligned with the commencement of an academic year.

### **Public Consultation**

20. According to paragraph 29 of the LegCo Brief, the Administration conducted a public consultation from 21 December 2020 to 20 March 2021, during which 37 written submissions were received. According to the Administration, overall speaking, the respondents agreed with the principles of the proposed amendments and their specific comments have been suitably incorporated into the Bill.

### **Consultation with LegCo Panel**

21. As advised by the Clerk to the Panel on Education, the Panel was briefed on the legislative proposals at its meetings on 5 March 2021, 5 July 2022 and 1 November 2024. While generally supporting the proposals, members expressed concerns over various issues, including the registration of the Technological and Higher Education Institute of Hong Kong under Cap. 320 (if revamped), deregistration of Colleges with low student enrolment, quality of the programmes offered by the registered Colleges and support for the self-financing post secondary education sector.

### **Conclusion**

22. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to reform the regulatory regime of Colleges, Members may consider forming a Bills Committee to study the Bill in detail.

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19 March 2025