

Chapter:	1150	HONG KONG COUNCIL FOR ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 90 of 2007	01/10/2007
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An Ordinance to provide for the establishment of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications as a body corporate and its functions, and for incidental and related matters.
(Enacted 1990. Amended 6 of 2007 s. 24)

[8 June 1990] *L.N. 161 of 1990*

(Originally 15 of 1990)

Section:	1	Short title	L.N. 90 of 2007	01/10/2007
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PART I

PRELIMINARY

This Ordinance may be cited as the Hong Kong Council for Accreditation of Academic and Vocational Qualifications Ordinance.

(Enacted 1990. Amended 6 of 2007 s. 25)

Section:	2	Interpretation	L.N. 90 of 2007	01/10/2007
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(1) In this Ordinance, unless the context otherwise requires-
"accreditation report" (評審報告) means a report produced by the Council under section 5A(1); (Added 6 of 2007 s. 26)

"accreditation test" (評審考核) means any assessment, evaluation or other activity to determine—

- (a) in relation to an operator, whether the operator is competent to achieve the objectives as claimed by the operator;
- (b) in relation to an assessment agency, whether the agency is competent to assess the skills, knowledge or experience acquired by individuals in relation to an industry or a branch of an industry;
- (c) in relation to a learning programme, whether the programme meets a standard to achieve the objectives of the programme as claimed by its operator;
- (d) in relation to a qualification, whether the skills, knowledge or experience recognized by the qualification meet a particular standard; and
- (e) in relation to an individual, whether the totality of the educational qualifications of the individual meet the standard of a particular qualification obtained in Hong Kong; (Added 6 of 2007 s. 26)

"assessment agency" (評估機構) means a person, school, institution, organization or other body—

- (a) the whole or part of the business of which includes the assessment of the skills, knowledge or experience acquired by individuals; and
- (b) which grants qualifications recognizing the skills, knowledge or experience acquired by an individual, after an assessment of those skills, knowledge or experience; (Added 6 of 2007 s. 26)

"appointed member" (委任成員) means a member appointed under section 3(2)(a);

"Chairman" (主席) means the Chairman of the Council appointed by the Chief Executive under section 3(4) or any person appointed to act in his place under Schedule 2; (Amended 55 of 2000 s. 3)

"committee" (委員會) means a committee established by the Council under Schedule 2; (Amended 6 of 2007 s. 26)

"Council" (評審局) means the Hong Kong Council for Accreditation of Academic and Vocational Qualifications established under section 3(1); (Amended 6 of 2007 s. 26)

"Executive Director" (總幹事) means the person appointed as Executive Director under section 6;

"financial year" (財政年度) means a period fixed by the Council under section 13(1); (Added 6 of 2007 s. 26)

"granting body" (頒授者), in relation to a qualification, means the person, school, institution, organization or other body which grants the qualification; (Added 6 of 2007 s. 26)

"industry" (行業) includes a trade, profession or occupation; (Added 6 of 2007 s. 26)

"learning programme" (進修計劃) means a programme of studies or training defined by a curriculum (which may consist of one or more modules, units, subjects or courses or any combination of those elements) and includes, where the context permits, any proposed programme of such studies or training; (Added 6 of 2007 s. 26)

"member" (成員) means an appointed or ex officio member of the Council;

"operator" (營辦者) means a person, school, institution, organization or other body, the whole or part of the business of which includes the operation of any learning programme or any part of a learning programme; (Added 6 of 2007 s. 26)

"qualification" (資歷) includes a recognition of the skills, knowledge or experience acquired by an individual; (Added 6 of 2007 s. 26)

"resident of Hong Kong" (香港居民) means a person who is ordinarily resident in Hong Kong and who holds a Hong Kong identity card;

"review committee" (覆檢委員會) means a committee established by the Council under section 17B(1); (Added 6 of 2007 s. 26)

"Secretary" (局長) means the Secretary for Education or such other person as the Chief Executive may designate by notice in the Gazette; (Amended 55 of 2000 s. 3; L.N. 130 of 2007)

"Vice-chairman" (副主席) means the Vice-chairman of the Council appointed under section 3(4).
(2) (Repealed 6 of 2007 s. 26)

(Enacted 1990. Amended 6 of 2007 s. 26)

Section:	3	Establishment of the Council	L.N. 90 of 2007	01/10/2007
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PART II

HONG KONG COUNCIL FOR ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS

(Amended 6 of 2007 s. 27)

- (1) There is established a body corporate to be known as the Hong Kong Council for Accreditation of Academic and Vocational Qualifications which may sue and be sued. (Replaced 6 of 2007 s. 28)
- (2) The Council shall consist of-
- (a) not less than 15 and not more than 21 members appointed by the Chief Executive in accordance with subsections (2A) and (3); (Amended 6 of 2007 s. 28)
 - (aa) the Permanent Secretary for Education or his representative; and (Added 6 of 2007 s. 28. Amended L.N. 130 of 2007 para.(6)(ag))
 - (b) the Executive Director.
- (2A) The appointed members shall be appointed from among persons who, in the opinion of the Chief Executive, are suitable by reason of their—
- (a) expertise or experience in quality assurance or the conduct of accreditation tests; or
 - (b) good standing in the field of education or training or in any industry. (Added 6 of 2007 s. 28)
- (3) Of the appointed members, not less than 4 and not more than 7 shall be persons who are not residents of Hong Kong. (Replaced 6 of 2007 s. 28)
- (4) The Chief Executive shall appoint a Chairman and a Vice-chairman of the Council from among the appointed members.
- (5) The appointment of an appointed member shall be for a period specified by the Chief Executive at the time of such appointment.
- (6) Schedule 2 shall have effect as respects the Council and the members thereof.
- (7) The Chief Executive shall cause notice to be given in the Gazette of every appointment made under this section.

- (8) The Council may act notwithstanding a vacancy in its membership.
 (9) (Repealed 6 of 2007 s. 28)

(Enacted 1990. Amended 55 of 2000 s. 3)

Section:	4	Functions of the Council	L.N. 90 of 2007	01/10/2007
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- (1) The Council may perform any or all of the following functions—
- (a) conducting accreditation tests in relation to operators, assessment agencies, learning programmes and qualifications, either—
 - (i) generally; or
 - (ii) as authorized under any other enactment;
 - (b) conducting accreditation tests in relation to individuals;
 - (c) disseminating information on standards of learning programmes and promoting the methods and practices of conducting accreditation tests;
 - (d) establishing relationships with accreditation or quality assurance bodies and education and training authorities outside Hong Kong and keeping under review the systems of academic or vocational accreditation in places outside Hong Kong;
 - (e) conducting, holding or assisting in seminars, conferences or any other forms of instructional or promotional activity;
 - (f) conducting or commissioning research into the maintenance or monitoring of the standards of education and of training;
 - (g) such other functions related to academic or vocational accreditation, education or training as may be permitted or assigned to the Council by the Secretary, or as authorized under any other enactment.
- (2) The Council may, subject to the prior approval of the Secretary—
- (a) conduct accreditation tests under subsection (1)(a)(i) and (b) in relation to an operator, assessment agency or individual outside Hong Kong, a learning programme operated outside Hong Kong or a qualification obtainable outside Hong Kong; and
 - (b) perform outside Hong Kong any function permitted or assigned by the Secretary under subsection (1)(g).

(Replaced 6 of 2007 s. 29)

Section:	5	Powers of the Council	L.N. 90 of 2007	01/10/2007
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- (1) Subject to section 19, the Council may—
- (a) do all things that are necessary for, or incidental or conducive to, the better performance of the functions of the Council;
 - (b) perform any function under section 4(1) (except section 4(1)(a)(ii)) on its own or jointly with or as agent for other persons or organizations; and
 - (c) exercise such powers as may be conferred upon it under any other enactment. (Added 6 of 2007 s. 30)
- (2) Without limiting the generality of subsection (1), the Council may in performing its functions- (Amended 6 of 2007 s. 30)
- (a) appoint any person in relation to the performance of any function specified in section 4(1) (except section 4(1)(a)(ii)); (Amended 6 of 2007 s. 30)
 - (b) publish and distribute such material (including accreditation reports, except those prepared in relation to individuals in performing the function under section 4(1)(b)) as the Council thinks fit; (Replaced 6 of 2007 s. 30)
 - (ba) determine the fees to be charged for any material published under paragraph (b) and charge such fees; (Added 6 of 2007 s. 30)
 - (c) enable any person to use any facility of or provided for or by the Council or service provided by the Council (other than accreditation tests) and specify conditions, and determine fees (if any), subject to which it can be used and charge such fees; (Amended 6 of 2007 s. 30)
 - (d) determine the fees to be charged in respect of the performance of any function referred to in section 4(1)(e) and charge such fees; (Replaced 6 of 2007 s. 30)
 - (e) subject to the prior approval of the Secretary, determine the fees to be charged for the conduct of

- accreditation tests and charge such fees; (Replaced 6 of 2007 s. 30)
- (ea) subject to the prior approval of the Secretary, determine the fees to be charged for reviews under Part IVA and charge such fees; (Added 6 of 2007 s. 30)
 - (f) refund, reduce or waive any fee referred to in paragraphs (c), (d), (e) and (ea) either generally or in any particular case; (Amended 6 of 2007 s. 30)
 - (g) subject to the prior approval of the Secretary, pay honoraria to appointed members who are not residents of Hong Kong; (Replaced 6 of 2007 s. 30)
 - (ga) pay honoraria to any person appointed under paragraph (a) to whom a function is delegated under section 8(2), in relation to the performance of such function; (Added 6 of 2007 s. 30)
 - (gb) pay honoraria to members of review committees in relation to the performance of their functions under Part IVA; (Added 6 of 2007 s. 30)
 - (h) pay the travelling, accommodation or any other expenses reasonably incurred by any person referred to in paragraphs (ga) and (gb) in relation to the performance by such person of any function referred to in those paragraphs; (Amended 6 of 2007 s. 30)
 - (i) pay the travelling, accommodation or other expenses reasonably incurred by any member in connection with his duties as such member;
 - (j) acquire, hold or dispose of property of any description;
 - (k) accept gifts or donations whether subject to any trust or not;
 - (l) subject to the prior approval of the Secretary, borrow such money on such security or other terms and conditions as it considers expedient. (Amended 6 of 2007 s. 30)
 - (m) (Repealed 6 of 2007 s. 30)

(3) The amount of any fee determined under subsection (2) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the matter to which such fee relates, and different fees may be determined for the same type of matter in order to provide for particular circumstances or particular cases. (Added 6 of 2007 s. 30)

(4) For the purposes of subsection (2)(e) and (ea), the Secretary may approve the amount of the fee proposed to be charged in relation to any matter under that subsection or may approve a maximum fee that may be charged in relation to such matter or any type of matter. (Added 6 of 2007 s. 30)

(Enacted 1990)

Section:	5A	Accreditation report	L.N. 90 of 2007	01/10/2007
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(1) The Council shall, in performing the functions under section 4(1)(a)(i) and (b) in relation to a particular case and after conducting the relevant accreditation tests, produce a report stating its determination and, except in relation to an individual, the validity period of the determination and the conditions or restrictions, if any, subject to which the determination is to have effect.

(2) The Council may vary or withdraw an accreditation report if it is satisfied that—

- (a) in any particular case, the report has been produced in reliance on any misleading or false statement, representation or information, either oral or in writing;
- (b) in the case of a report on an operator, the operator is no longer competent to achieve the objectives as claimed by the operator;
- (c) in the case of a report on an assessment agency, the agency is no longer competent to assess the skills, knowledge or experience acquired by individuals in relation to the relevant industry or branch of industry;
- (d) in the case of a report on a learning programme, the programme no longer meets the standard to achieve the objectives of the programme as claimed by its operator; or
- (e) in the case of a report on a qualification, the skills, knowledge or experience recognized by the qualification no longer meet the particular standard as determined in the report.

(3) The Council shall, on payment of the fees determined under section 5(2)(e), give a copy of the accreditation report to the relevant operator, assessment agency, granting body or individual.

(4) If the Council decides to vary or withdraw an accreditation report under subsection (2), it shall give notice in writing of the decision to the relevant operator, assessment agency, granting body or individual and shall state in the notice the reason for the decision.

(Added 6 of 2007 s. 31)

Section:	6	Executive Director of the Council	L.N. 90 of 2007	01/10/2007
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PART III

STAFF AND DELEGATION

- (1) The Council shall-
- (a) subject to subsection (2), appoint an Executive Director;
 - (b) determine the conditions of service, and, subject to the prior approval of the Secretary under section 9, the terms of remuneration of such appointment. (Amended 6 of 2007 s. 32)
- (2) The Council shall obtain the prior approval of the Chief Executive for any proposed appointment under subsection (1) and for the suspension or dismissal of any person so appointed. (Amended 55 of 2000 s. 3; 6 of 2007 s. 32)
- (3) The Executive Director of the Council shall be the principal executive officer of the Council and shall, under the direction of the Council, do all acts and things necessary for implementing the decisions of the Council or of any committee to which or person to whom the Council may have delegated the exercise or performance of any of its powers or functions or duties under this Ordinance.

(Enacted 1990)

Section:	7	Employees, etc. of the Council	L.N. 90 of 2007	01/10/2007
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The Council may-

- (a) appoint or engage such employees as it may determine; and
- (b) engage the services of advisers on any matters arising out of or connected with any function of the Council,

on such terms of remuneration and conditions of service as the Council thinks fit. (Amended 6 of 2007 s. 33)

(Enacted 1990)

Section:	8	Delegation	L.N. 90 of 2007	01/10/2007
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- (1) The Council may, subject to such restrictions or other conditions, if any, as it thinks fit, delegate in writing any of its functions, powers or duties to any committee, except-
- (a) the appointment of the Executive Director;
 - (b) the determination of the remuneration or any other term or condition of employment of the Executive Director or any other employee of the Council;
 - (c) any duty or function under section 14 in relation to the preparation of accounts and statements;
 - (d) any duty or function under section 17;
 - (e) the making of rules under section 22;
 - (f) the power to establish committees or the appointment of members to a committee;
 - (g) any function or power which may be delegated under subsection (2);
 - (h) the power to delegate.

(2) Without limiting section 5(1)(c), the Council may delegate the performance, in relation to a particular case, of any function specified in section 4(1)(a)(i) or (b) or permitted or assigned by the Secretary under section 4(1)(g) and any powers necessary for such performance to any person appointed under section 5(2)(a) or to a group of 2 or more persons which may consist of members or persons appointed under section 5(2)(a). (Amended 6 of 2007 s. 34)

(3) In the absence of evidence to the contrary, a committee or a person or group of persons to whom a delegation is made under this section shall be presumed to be acting in accordance with the delegation.

(4) A delegation under this section shall not preclude the performance or the exercise by the Council of any function or power to which the delegation relates.

(Enacted 1990)

Section:	9	Prior approval of the Secretary for remuneration, etc.	L.N. 90 of 2007	01/10/2007
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- (1) The Council shall before-

- (a) determining the remuneration of the Executive Director; or
- (b) determining the amount of any honorarium referred to in section 5(2)(g); or
- (c) varying any such remuneration or amount of honorarium,

obtain the prior approval of the Secretary. (Amended 6 of 2007 s. 35)

(2) (Repealed 6 of 2007 s. 35)

(3) The Council shall not pay as remuneration of the Executive Director or honoraria of appointed members who are not residents of Hong Kong any amount other than an amount approved in advance by the Secretary under this section. (Amended 6 of 2007 s. 35)

(Enacted 1990)

Section:	10	(Repealed 6 of 2007 s. 36)	L.N. 90 of 2007	01/10/2007
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Section:	11	Resources of the Council	L.N. 90 of 2007	01/10/2007
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PART IV

FINANCIAL

The resources of the Council shall consist of-

- (a) all money received by the Council for or in connection with the exercise of its powers and performance of its functions and duties; (Amended 6 of 2007 s. 37)
- (b) all money received by the Council as gifts or donations;
- (c) all property and assets acquired by the Council;
- (d) all money appropriated by the Legislative Council for the functions of the Council.

(Enacted 1990)

Section:	12	Use of surplus funds	L.N. 90 of 2007	01/10/2007
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All money of the Council which is not immediately required shall—

- (a) be deposited in any bank as defined in section 2(1) of the Banking Ordinance (Cap 155); or
- (b) be invested in such other forms of investments as may be approved in advance by the Secretary.

(Enacted 1990. Amended 6 of 2007 s. 38)

Section:	13	Financial year, programme of proposed activities, estimates of income and expenditure, statement of fee charging policy and schedule of fees	L.N. 90 of 2007	01/10/2007
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- (1) The Council may, with the prior approval of the Secretary—
 - (a) from time to time fix a period of 12 months to be the financial year of the Council; and
 - (b) on fixing a new period to be its financial year under paragraph (a), fix a period of more than or less than 12 months as its first financial year after the modification of the period.
- (2) The Council shall, not later than 5 months before the close of each financial year or such other date as the Secretary may approve, submit to the Secretary for his prior approval—
 - (a) a programme of its proposed activities for the next financial year;
 - (b) estimates of its income and expenditure for the next financial year;
 - (c) a statement of its fee charging policy in relation to the exercise of its power and performance of its functions or duties for the next financial year;
 - (d) a schedule of the fees proposed to be charged in relation to the exercise of its powers under section 5(2)(e) and (ea) for the next financial year; and
 - (e) a schedule of the fees, which require approval of the Secretary under any other enactment, proposed to be charged by it for the next financial year.
- (3) The Council may, subject to the prior approval of the Secretary, revise any programme, estimate, statement or schedule submitted under subsection (2).

(Replaced 6 of 2007 s. 39)

Section:	14	Accounts and statements	L.N. 90 of 2007	01/10/2007
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The Council shall maintain proper accounts and proper records in relation to its accounts and transactions and shall, as soon as practicable and in any case not later than 5 months after the close of a financial year, cause to be prepared in respect of that financial year, a statement of accounts of the Council, which shall-

- (a) include an income and expenditure account and a balance sheet; and
- (b) be signed by the Chairman and the Executive Director.

(Enacted 1990)

Section:	15	Auditors	L.N. 90 of 2007	01/10/2007
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- (1) The Council shall appoint auditors, who shall be entitled at any reasonable time-
 - (a) to have access to all books of accounts, vouchers and other records of the Council; and
 - (b) to require such information and explanations as they consider necessary to discharge their functions.
- (2) The auditors shall, as soon as practicable and in any case not later than 7 months after the close of each financial year, audit the accounts required to be maintained under section 14 and shall submit a report on the accounts to the Council.

(Enacted 1990)

Section:	16	Examinations by Director of Audit	L.N. 90 of 2007	01/10/2007
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- (1) The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which the Council has used its resources in discharging its functions.
- (2) The Director of Audit shall be entitled at any reasonable time-
 - (a) to have access to any document in the custody or under the control of the Council as he may reasonably require for carrying out any examination under this section; or
 - (b) to require from any person holding or accountable for such document any information or explanation as is reasonably necessary for the purpose of such examination.
- (3) The Director of Audit may report to the President of the Legislative Council the results of any examination carried out under this section.

(Enacted 1990)

Section:	17	Annual report	L.N. 90 of 2007	01/10/2007
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The Council shall, not later than 9 months or such longer time as the Secretary may determine, after the close of each financial year submit-

- (a) a report on the activities and affairs of the Council for that year;
- (b) a copy of its statement of the accounts therefor; and
- (c) the auditors' report on the accounts,

to the Chief Executive who shall cause such statement and reports to be laid on the table of the Legislative Council.

(Enacted 1990. Amended 55 of 2000 s. 3)

Section:	17A	Application for reviews	L.N. 90 of 2007	01/10/2007
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PART IVA

REVIEW

- (1) An operator, assessment agency, granting body or individual who is aggrieved by—
 - (a) a determination of the Council, as stated in an accreditation report;
 - (b) a decision of the Council on the length of the validity period of a determination of the Council, as stated in an accreditation report;

- (c) a decision of the Council as to the conditions or restrictions subject to which a determination of the Council is to have effect, as stated in an accreditation report; or
 - (d) a decision of the Council referred to in section 5A(4),
- may apply to the Council for a review of the relevant determination or decision.

(2) An application for a review under subsection (1) shall—

- (a) be made in such form as the Council may specify;
- (b) be made—
 - (i) within 30 days of the receipt by the operator, assessment agency, granting body or individual of a copy of the accreditation report under section 5A(3) or the notice of the decision under section 5A(4), as the case may be; or
 - (ii) within such further period as the Council may allow; and
- (c) be accompanied by the fees determined under section 5(2)(ea).

(Part IVA added 6 of 2007 s. 40)

Section:	17B	Establishment of review committees	L.N. 90 of 2007	01/10/2007
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(1) On receipt of an application for a review under section 17A(1) and the fees determined under section 5(2)(ea), the Council shall—

- (a) establish a committee to conduct the review and to make general recommendations to the Council on any matter arising from the review; and
- (b) determine the terms of reference of the committee.

(2) The members of a review committee shall consist of—

- (a) a chairman; and
- (b) not less than 2 and not more than 6 other persons,

appointed by the Council in accordance with subsection (3).

(3) The members of a review committee shall be appointed from among persons, not being members of the Council, who, in the opinion of the Council, are suitable by reason of their—

- (a) expertise or experience in quality assurance or the conduct of accreditation tests; or
- (b) good standing in the field of education or training or in any industry.

(4) If the chairman or any other member of any review committee, due to absence from Hong Kong or for any other reason, is unable to act as a chairman or member for any period, the Council may appoint another person to act in the place of the chairman or such member for that period.

(5) For the avoidance of doubt, it is declared that Schedule 2 does not apply to a review committee.

(Part IVA added 6 of 2007 s. 40)

Section:	17C	Functions of review committees	L.N. 90 of 2007	01/10/2007
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(1) A review committee—

- (a) may determine any matter of practice or procedure relating to the relevant review where no provision governing such matter is made in this Ordinance or in any rules made under section 22(2)(aa);
- (b) may receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law;
- (c) may, by notice in writing, request any person—
 - (i) to produce to it any document or article that is relevant to the review and is in his custody or under his control; or
 - (ii) to appear before it and to give evidence relevant to the review; and
- (d) shall, within a period specified by the Council, submit a report to the Council which contains—
 - (i) recommendations in respect of the relevant case or general recommendations or both; and
 - (ii) reasons for the recommendations.

(2) A counsel or solicitor is not entitled to be heard before a review committee unless—

- (a) he is acting on his own behalf as a party to a review; or
- (b) he is an officer or employee of a party to a review and is acting as the authorized representative of the party.

- (3) After a report has been submitted by a review committee under subsection (1)(d), the Council may—
- (a) provide further information to the review committee and request the review committee to answer any further question that the Council thinks fit; and
 - (b) request the review committee to reconsider its recommendations.
- (4) If a request is made under subsection (3), the review committee shall within a period specified by the Council—
- (a) in the case of subsection (3)(a), answer the question; or
 - (b) in the case of subsection (3)(b), notify the Council whether the review committee confirms, varies or reverses the recommendations referred to in subsection (1)(d) or substitutes any other recommendations for those recommendations.

(Part IVA added 6 of 2007 s. 40)

Section:	17D	Final decision of the Council	L.N. 90 of 2007	01/10/2007
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As soon as practicable after receiving a report referred to in section 17C(1)(d) or, if section 17C(3) and (4) is applicable, the relevant answer or notification, the Council shall—

- (a) having regard to the recommendations and any other relevant circumstances, make a final decision to confirm, vary or reverse the determination or decision under review or substitute any other determination or decision for the determination or decision under review; and
- (b) notify the applicant in writing of the final decision and the reasons for the final decision.

(Part IVA added 6 of 2007 s. 40)

Section:	18	Secretary for Financial Services and the Treasury may charge fees	L.N. 90 of 2007	01/10/2007
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PART V

MISCELLANEOUS

The Secretary for Financial Services and the Treasury may charge fees in such amount as he may determine for any service provided to the Council by the Government.

(Enacted 1990. Amended L.N. 106 of 2002)

Section:	19	Directions by the Chief Executive	L.N. 90 of 2007	01/10/2007
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(1) The Chief Executive may give to the Council directions not inconsistent with this Ordinance with respect to the exercise of its powers or the performance of its functions or duties, either generally or in any particular case.

(2) In the exercise of its powers and the performance of its functions or duties the Council shall comply with any directions given by the Chief Executive under subsection (1).

(Enacted 1990. Amended 55 of 2000 s. 3)

Section:	20	Due execution of documents	L.N. 90 of 2007	01/10/2007
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Any document purporting to be a document duly executed under the common seal of the Council shall, unless there is evidence to the contrary, be deemed to be a document so executed and shall be received in evidence without further proof.

(Enacted 1990)

Section:	21	Protection of members, employees, etc.	L.N. 90 of 2007	01/10/2007
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(1) A member or employee of the Council, a member of any committee or review committee or any person appointed by the Council under section 5(2)(a), acting in good faith, shall not be personally liable for any act done or default made by—

- (a) the Council;

- (b) any committee;
- (c) any review committee; or
- (d) any such member, employee or person,

in the exercise or purported exercise of the powers conferred by this Ordinance or in the performance or purported performance of the functions or duties imposed under this Ordinance.

(2) The protection conferred under subsection (1) on any member, employee or other person in respect of any act or default shall not affect any liability of the Council for that act or default.

(Replaced 6 of 2007 s. 41)

Section:	22	Rule making powers of the Council	L.N. 90 of 2007	01/10/2007
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(1) The Council may make rules for the better carrying out of the functions of the Council and the provisions of this Ordinance.

(2) Without affecting the generality of subsection (1) rules made under that subsection may provide for the regulation of-

- (a) the procedures governing meetings of the Council and any committee;
- (aa) the procedures governing meetings of any review committee; (Added 6 of 2007 s. 42)
- (b) the conditions and terms of employment and the welfare of persons employed or engaged by the Council;
- (c) financial procedures; or
- (d) the methods and procedures for accreditation tests. (Amended 6 of 2007 s. 42)

(Enacted 1990)

Section:	23	Unauthorized use of the title of the Council	L.N. 90 of 2007	01/10/2007
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(1) No person shall incorporate, form, be a director, office bearer or organizer of, or work in connection with, or be a member of, any body of persons, corporate or unincorporate that, without the written consent of the Council-

- (a) holds itself out to be-
 - (i) the Council or any part thereof; or
 - (ii) in any way connected or associated with the Council; or
- (b) uses the title "Hong Kong Council for Accreditation of Academic and Vocational Qualifications" or a title in any language which so closely resembles the title "Hong Kong Council for Accreditation of Academic and Vocational Qualifications" so as to be capable of misleading any person into believing the body of persons is- (Amended 6 of 2007 s. 43)
 - (i) the Council or any part thereof; or
 - (ii) in any way connected or associated with the Council.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5. (Amended 6 of 2007 s. 43)

(Enacted 1990)

Section:	23A	Misleading or false statement, representation or information	L.N. 90 of 2007	01/10/2007
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(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.

(Added 6 of 2007 s. 44)

Section:	24	Council not to be regarded as servant or agent of the Government	L.N. 90 of 2007	01/10/2007
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The Council shall not be regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government.

(Enacted 1990. Amended 23 of 2002 s. 43)

Section:	25	Secretary may amend Schedule 2	L.N. 90 of 2007	01/10/2007
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(1) The Secretary may by order published in the Gazette amend Schedule 2.

(2) An order under this section may contain such incidental, consequential, supplemental, transitional or savings provisions as may be necessary or expedient in consequence of the order.

(Replaced 6 of 2007 s. 45)

Section:	26	(Omitted as spent)	L.N. 90 of 2007	01/10/2007
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(Omitted as spent)

Section:	27	Savings and transitional provisions relating to the Accreditation of Academic and Vocational Qualifications Ordinance	L.N. 90 of 2007	01/10/2007
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(1) In this section—

“Amending Ordinance” (《修訂條例》) means the Accreditation of Academic and Vocational Qualifications Ordinance (Cap 592);

* “date of commencement” (生效日期) means the date on which the Amending Ordinance comes into operation.

(2) The Council is a continuation of and the same legal entity as the Hong Kong Council for Academic Accreditation established by section 3(1) of this Ordinance as in force before the date of commencement.

(3) The enactment of the Amending Ordinance does not affect the legality or validity of anything done by the Hong Kong Council for Academic Accreditation before the date of commencement.

(4) The enactment of the Amending Ordinance does not affect the legality or validity of anything done by the Executive Committee of the Hong Kong Council for Academic Accreditation before the date of commencement, and with effect from the date of commencement—

(a) the Executive Committee shall continue to exist as a committee established under paragraph 7(1) of Schedule 2; and

(b) a person holding office as a member of the Executive Committee immediately before the date of commencement continues to hold office as a member of the committee referred to in paragraph (a) for the remainder of his term of office, unless he ceases to hold office for any other reason before his term of office expires.

(5) Notwithstanding section 28(2), (4) and (5) of the Amending Ordinance, a member holding office as an appointed member of the Hong Kong Council for Academic Accreditation immediately before the date of commencement continues to hold office as a member of the Council for the remainder of his term of office, unless he ceases to hold office for any other reason before his term of office expires.

(Added 6 of 2007 s. 46)

Note:

* **date of commencement: 1 October 2007.**

Schedule:	1	(Repealed 6 of 2007 s. 47)	L.N. 90 of 2007	01/10/2007
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Schedule:	2	PROVISIONS WITH RESPECT TO THE COUNCIL AND MEMBERS THEREOF	L.N. 90 of 2007	01/10/2007
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[sections 2, 3, 17B, 25 & 27]
(Amended 6 of 2007 s. 48)

1. (1) The Council shall have a common seal.

(2) The affixing of the seal of the Council shall be authenticated by the signature of any 2 members of the Council authorized by a resolution of the Council in that behalf.

2. (1) Subject to subparagraphs (2), (3) and (4), a member of the Council shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for reappointment.

(2) Any appointed member may at any time resign his office by notice in writing to the Chief Executive, and the resignation shall take effect from the date specified in the notice and where no date is specified on receipt of the notice by the Chief Executive. (Amended 55 of 2000 s. 3)

(3) If any member of the Council-

(a) becomes bankrupt or enters into a voluntary arrangement with his creditors, within the meaning of the Bankruptcy Ordinance (Cap 6); (Amended 76 of 1996 s. 98)

(b) becomes incapacitated by physical or mental illness; or

(c) is in the opinion of the Chief Executive otherwise unable or unfit to discharge the functions of a member of the Council,

the Chief Executive may by notice in writing declare his office as a member of the Council to be vacant. (Amended 55 of 2000 s. 3)

(4) A person whose office is declared vacant under subparagraph (3) is not eligible for reappointment.

3. If-

(a) the Chairman, due to absence from Hong Kong or for any other reason, is unable to act as Chairman for any period; or

(b) a member, due to absence from Hong Kong or for any other reason, is unable to act as a member for any period, (Amended 6 of 2007 s. 48)

the Chief Executive may appoint another person to act in the place of the Chairman or such member as the case may be for that period.

(Amended 55 of 2000 s. 3)

4. (1) Meetings of the Council shall be held at such times and places as the Chairman may determine.

(2) The Executive Director shall, unless it is not reasonably practicable, attend all the meetings of the Council. (Amended 6 of 2007 s. 48)

(3) At any meeting of the Council, the Chairman shall preside and if the Chairman is absent from any meeting of the Council for any reason or if the office of Chairman is vacant, the Vice-chairman will act as Chairman in his place.

(4) In the absence from any meeting or in the case of the vacancy of the office of the Chairman and the Vice-chairman, the members present shall before any other business is transacted elect a chairman from amongst themselves for the duration of that meeting.

5. (1) The quorum for any meeting of the Council shall be one half of its members for the time being and while a member is disqualified from taking part in a decision or a deliberation of the Council in respect of any matter, he shall be disregarded for the purpose of constituting a quorum for deciding or deliberating on that matter.

(2) The Chairman, the Vice-chairman acting in his place or a Chairman elected under paragraph 4(4) shall have a casting vote in addition to his original vote at any meeting of the Council.

(3) All matters considered by a meeting of the Council shall be decided by a simple majority of the members present and voting thereon.

(4) The Council may transact any of its business by the circulation of papers amongst members whether such members are in or outside Hong Kong, and a resolution in writing which is approved by a majority of the members shall be as valid and effectual as if it had been passed at a meeting of the Council.

6. Subject to this Ordinance, the Council may regulate its own procedure.

7. (1) The Council may establish any committee as it thinks fit for the better carrying out of the functions of the Council. (Amended 6 of 2007 s. 48)

(2) (Repealed 6 of 2007 s. 48)

(3) Subject to subparagraph (4), the Council may-

(a) appoint to any committee such members of the Council or persons who are not members of the Council as it may determine; and

(b) appoint as the chairman of any committee any member or person appointed under sub-subparagraph (a).

(4) Not less than 2/3 of the membership of any committee shall be members of the Council.

(5) A person appointed under subparagraph (3) who is not a member of the Council shall not vote at any meeting of the committee.

(6) (Repealed 6 of 2007 s. 48)

(7) The chairman of a committee shall appoint the times and places of meetings of the committee.

(8) Subject to this Ordinance, a committee may regulate its own procedure.

8. (1) Any member of the Council or a committee who has a direct or indirect interest in relation to any academic or vocational accreditation of which is to be considered at any meeting of the Council or a committee, and who is present at such meeting shall, as soon as practicable after the commencement of the meeting, disclose to the Council or the committee, as the case may be, the fact and nature of his interest and shall, if required by the chairman of the meeting, withdraw from the meeting at any time and for so long as the matter is being considered, and in any case shall not vote thereon. (Amended 6 of 2007 s. 48)

(2) Any member of the Council or a committee who has an interest of the nature referred to in subparagraph (1) and who is consulted by circulation of papers on a matter relating to the subject of his interest shall disclose to the Chairman of the Council the fact and nature of his interest.

(Enacted 1990)