

**Bills Committee on the Education (Amendment) Bill 2002  
Administration's Response to Enquiry Raised at the Meeting on 6 July 2004**

**Purpose**

In response to the request of Members at the meeting on 6 July 2004, this paper provides information on the concept of "previous system" in the context of the maintenance of the pre-97 public service system (BL 103) as explained by the Court of First Instance (CFI) in *Lau v SJ* HCAL 177/2002.

**Court Case on *Lau v SJ***

The concept of "system" was discussed in the context of maintenance of the pre-97 public service system (BL 103) by CFI in *Lau v SJ* HCAL 177/2002 (para 70):

"For the purposes of determining this matter, I believe that the critical word in art. 103 is the word 'system' -

'Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service, including special bodies for their appointment, pay and conditions of service, shall be maintained ...'

A system is defined by the fact that it consists of parts, those separate parts co-ordinating to make the whole. Some of those separate parts may change, they may be modified or replaced, but the system, seen as such, may continue as before. Whether it does continue or is **materially changed so that it becomes another system** is, of course, determined by the degree of internal change."(emphasis added)"