

**President's ruling on
City University of Hong Kong (Amendment) Bill 2006
proposed by Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP**

Ir Dr Hon Raymond HO Chung-tai submitted to me on 23 March 2006 the City University of Hong Kong (Amendment) Bill 2006 ("the Bill") which he intends to introduce into this Council. I am required to rule whether it relates to the restrictions prescribed in Rule 51(3) and (4) of the Council's Rules of Procedure. Before making a ruling on the Bill, I have invited the Secretary for Education and Manpower ("Secretary") to offer his comments on the Bill and Dr HO to offer his response to the Secretary's comments. I have also sought the advice of Counsel to the Legislature in this regard.

Rule 51(3) and (4) of the Rules of Procedure

2. Rule 51(3) and (4) reads as follows:

"51(3) Members may not either individually or jointly introduce a bill which, in the opinion of the President, relates to public expenditure or political structure or the operation of the Government."

"51(4) In the case of a bill which, in the opinion of the President, relates to Government policies, the notice shall be accompanied by the written consent of the Chief Executive in respect of the bill."

Purpose of the Bill

3. According to the Explanatory Memorandum of the Bill, its purpose is to amend the City University of Hong Kong Ordinance (Cap. 1132) to change the structure of the Council of the City University of Hong Kong ("CityU"), reduce the total number of Council members, make consequential amendments and provide for transitional matters.

The Administration's views

4. The Secretary states that the Bill does not relate to public expenditure, political structure, or the operation of the Government, but relates to Government's policies for the following reasons:

- (a) Arising from the Higher Education Review conducted by the University Grants Committee ("UGC") in 2002, Government decided that UGC-funded institutions should review their own governance and management structures to see if they were suitable for modern day needs. The Bill relates to the policy to order the review.
- (b) The Bill will affect the Chief Executive's power to appoint members to the CityU Council, in that it seeks to reduce the number of members to be appointed by the Chief Executive.

Response from Ir Dr Hon Raymond HO Chung-tai

5. Dr HO has advised that he has no comments on the Secretary's view.

Advice of Counsel to the Legislature

6. Counsel to the Legislature advises that it is the Administration's position that the Bill relates to the Government policy that UGC-funded institutions should review their governance and management structures to ensure that they are 'fit for purpose', drawing on the international best practices. According to Dr HO's letter dated 23 March 2006, the modifications to the CityU Council as reflected in the Bill were recommended by the Review Committee on University Governance and Management established by the CityU Council, pursuant to the Government's decisions to order UGC-funded tertiary institutions to conduct their own review to see if these structures are suitable for modern day needs. Counsel is of the view that the Government's policy on the governance and management structures of the UGC-funded institutions does not go beyond making the order that these institutions should conduct their own review in this regard.

7. Counsel advises that, to the extent that the Chief Executive is given the power to appoint members to the CityU Council, and to appoint the Chairman, Deputy Chairman and Treasurer of the Council under section 10(1)(e), (1)(f)(ii) and (iii), (2)(a), (3) and (3A) of the City University of Hong Kong Ordinance (Cap. 1132), these provisions reflect Government's policy in the appointments concerned. In the Bill, the repeal of section 10(1)(e) would remove the Chief Executive's power to appoint public officers to the Council, and the amendment to section 10(1)(f) would reduce the number of appointments that he could make on recommendation of the CityU Council from not more than 9 to not more than 8, and the number he could appoint by himself from 9 to 7. In Counsel's view, these provisions would have a substantive effect on Government policy.

My opinion

8. In my previous rulings¹ on bills proposed to be introduced by Members of the Council, I stated, in regard to "Government policies" referred to in Rule 51(4), that they are, among others, those that have been decided by the Chief Executive or Chief Executive in Council, and those that are reflected in legislation. In regard to "relate to", I also stated that if the implementation of a bill will have substantive effect on one or more of the areas prescribed in Rules 51(3) and Rule 51(4), the bill "relates to" such areas.

9. In the Legislative Council Brief on Higher Education Review and Rolling Over the 2001/02 to 2003/04 Triennium to the 2004/05 Academic Year, issued in November 2002, it was stated that the Executive Council advised and the Chief Executive ordered that, inter alia, the (UGC-funded) universities should carry out a review of the fitness for purpose of their own governance and management structure. I accept the Secretary's view that there is a government policy in this regard.

10. However, I cannot agree with the Secretary that the Bill "relates to" the Government's policy to order UGC-funded institutions to review their governance and management structure. Although the Bill is the product of the review conducted by the Review Committee on University Governance and Management established by the CityU Council pursuant to the Government

¹ See, for example, ruling dated 19 July 1999 on the Labour Relations (Right to Representation, Consultation and Collective Bargaining) Bill proposed by Hon LEE Cheuk-yan.

order, it cannot be said that it has a substantive effect on the Government's policy to order the institutions to conduct reviews, and hence relates to that policy.

11. On the other hand, I accept Counsel's advice that the Bill relates to the Government's policy concerning the appointments of the CityU Council members.

Ruling

12. I rule that the City University of Hong Kong (Amendment) Bill 2006 relates to Government policies within the meaning of Rule 51(4) of the Rules of Procedure and requires the written consent of the Chief Executive for its introduction.

(Mrs Rita FAN)
President
Legislative Council

2 May 2006