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7th May, 2008

LC Paper No. CB(2)1891/07-08(01)

The Honourable Jasper Tsang Yok-sing, GBS, JP
Chairman
Panel on Education
Legislative Council Building
8 Jackson Road
Central
Hong Kong

University of Hong Kong (Amendment) Bill 2008

I am writing to seek the agreement of the Panel on Education to enter a Private Member's Bill that I have agreed to sponsor, the "University of Hong Kong (Amendment) Bill 2008" (the "Bill"), onto the Agenda of the Panel meeting of 12th June 2008, in order that Members may meet with representatives of the Administration of the University of Hong Kong, and to comment on the draft Amendment Bill.

I enclose drafts of the English and Chinese versions of the Bill. I also enclose copies of the Law Draftsman's Certificate and a letter from the Secretary of Education to Mr. Henry Wai, the Registrar of the University of Hong Kong, which states that, from a higher education policy angle, the Bureau has no objection to the draft Amendment Bill.

The purpose of the Bill is to amend the University of Hong Kong Ordinance (Cap. 1053) to remove inconsistencies between the Ordinance and the Statutes of the University of Hong Kong with regard to the roles and powers of the Court and the Council of the University of Hong Kong, and to give effect to the adoption of new academic titles as part of the University's human resources reform.

The University believes that it is important to move forward at this time in order to remove such inconsistencies, and seeks the understanding of the Panel.

May I thank you in advance for your kind assistance.

Yours sincerely,

Encl.

c.c. Ms. Odelia Leung, Clerk to the Panel on Education

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JO: Mr. Robin Peard

中華人民共和國香港特別行政區政府總部教育統籌局
 Education and Manpower Bureau
 Government Secretariat, Government of the Hong Kong Special Administrative Region
 The People's Republic of China

本局檔號 Our Ref.: EDB(HE) 48/3231/55

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30 April 2008

Mr H.W.K. Wai
 Registrar
 The University of Hong Kong
 Pokfulam Road
 Hong Kong

Dear Mr Wai,

The University of Hong Kong Ordinance (Cap. 1053)

Thank you for your letter of 28 January 2008 on the above subject.

From higher education policy angle, we have no objection to your draft Amendment Bill to set out clearly the roles and powers of the Court and the Council of the University, as well as to give effect to the adoption of new academic titles. In this connection, we note that the Hon David Li will introduce a Members' Bill to the Legislative Council. Please keep us informed of the development and feel free to let us know if we could be of any assistance.

Yours sincerely,

(Vivian CHEUNG)
 for Secretary for Education

教育統籌局已於二零零七年七月一日重新組織為教育局。為免浪費，我們繼續使用舊文員，直至存員用器為止。
 The Education and Manpower Bureau has been re-organised as Education Bureau since 1 July 2007. To minimize waste, we are using our
 old stationery while stock lasts.
 網址: <http://www.emb.gov.hk> 電子郵件: embinfo@emb.gov.hk
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FORM 14

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30 April 2008

BY HAND

Johnson Stokes & Master
16th - 19th floors
Prince's Building
10 Chater Road
Central
Hong Kong
(Attn: Mr. Robin Peard)

[Handwritten signature]

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Dear Sirs,

University of Hong Kong (Amendment) Bill 2008

Thank you for your letter of 7.4.2008 and email of 29.4.2008 confirming the final version of the Bill (both texts).

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2. Enclosed with this letter are the Law Draftsman's Certificate and the engrossment of the Bill for your appropriate action.

Yours faithfully,

(Peter WOO)
for Law Draftsman

Encls.

2008年4月30日 下午 2:57

c.c. D of J (Attn: Miss Elaine NG –
responsible Counsel for
the Chinese text of the
Bill)

} w/e

#151281 v3

UNIVERSITY OF HONG KONG (AMENDMENT) BILL 2008

**CERTIFICATE UNDER RULE 51(2) OF THE RULES OF PROCEDURE
OF THE LEGISLATIVE COUNCIL OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION**

I am of the opinion that the University of Hong Kong (Amendment) Bill 2008 conforms to the requirements of Rule 50 and the general form of Hong Kong legislation.



Law Draftsman

30 April 2008

《2008年香港大學(修訂)條例草案》

根據《香港特別行政區立法會議事規則》
第 51(2)條簽發的證明書

本人認為《2008年香港大學(修訂)條例草案》符合議事規則第 50 條的規定及香港法例的一般格式。

文偉序

法律草擬專員

2008年4月30日

A BILL

To

Amend the University of Hong Kong Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the University of Hong Kong (Amendment) Ordinance 2008.

2. Court, Council and Senate, their constitutions, powers and duties

(1) Section 7(2) of the University of Hong Kong Ordinance (Cap. 1053) is amended by repealing “governing” and substituting “advisory”.

(2) Section 7(3) is amended –

(a) by repealing “executive body” and substituting “supreme governing body”;

(b) by repealing “it shall administer the property and manage the affairs of the University” and substituting “the Council may exercise all the powers and shall perform all the duties of the University other than those vested by this Ordinance or the statutes in some other authority of the University or in an officer”.

3. Officers and teachers, their appointment, powers, duties and emoluments

(1) Section 12(9) is amended by repealing “The teachers shall be the Professors, Readers, Lecturers, and such other persons as may be designated teachers by the statutes. The teachers shall be appointed by the Council.” and substituting “The teachers shall be the Chairs, Professors, Associate Professors and Assistant Professors of the University, and such other persons as may be

designated as teachers by the statutes. The teachers shall be appointed by the Council on such terms as it thinks fit.”.

(2) Section 12(10)(b) is amended by repealing “or probationary” and substituting “or for a fixed term, as stated in his contract of service”.

4. Statutes of the University of Hong Kong

(1) Statute XII of the Statutes of the University of Hong Kong in the Schedule is amended, in paragraph 1, by repealing “the senior lecturers, the assistant lecturers,”.

(2) Statute XIX is amended –

(a) in paragraph 1, by repealing “The Council shall administer the affairs of the University” and substituting “The Council may exercise all the powers and shall perform all the duties of the University”;

(b) by repealing paragraph 2(s) and substituting –

“(s) to do all such acts and things and perform all such duties as may be necessary for or incidental to exercising the powers or performing the duties conferred or imposed on the Council by the Ordinance or the statutes.”.

(3) Statute XXVIII is amended by repealing paragraph 1(1)(b) and substituting –

“(b) the Chairs, Professors, Associate Professors, Assistant Professors, Readers, Senior Lecturers, Lecturers, Assistant Lecturers, Tutors and Demonstrators of the University;”.

5. Transitional provision

The Council shall not terminate the appointment of a person who was a teacher and entitled to the protection on termination of appointment described in section 12(9) of the University of Hong Kong Ordinance (Cap. 1053) immediately before the commencement of this Ordinance except where after due

enquiry into the facts and after receiving the advice of the Senate on the findings of such enquiry there exists in the opinion of the Council good cause for such termination.

6. Saving

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.

Explanatory Memorandum

The purpose of this Bill is to amend the University of Hong Kong Ordinance (Cap. 1053) (“the Ordinance”) to remove inconsistencies between the Ordinance and the Statutes of the University of Hong Kong (“the Statutes”) with regard to the roles and powers of the Court and the Council of the University of Hong Kong (“the University”), and to give effect to the adoption of new academic titles as part of the University’s human resources reform.

2. Clause 2 amends section 7(2) and (3) of the Ordinance to remove inconsistencies between the Ordinance and the Statutes with regard to the roles and powers of the Court and the Council of the University to the effect that the Court is to be described as the “supreme advisory body” of the University and the Council as the “supreme governing body” of the University.

3. Clause 3(1) repeals the previous academic titles of “Professors”, “Readers” and “Lecturers” and substitutes them with the new titles of “Chairs”, “Professors”, “Associate Professors” and “Assistant Professors”. These teachers are entitled to protection against dismissal without good cause, unless they are beyond a retiring age as determined by the Council (see section 12(10)(a) of the Ordinance) or their employment is for a fixed term or is temporary or part-time as stated in the contract of service (see section 12(10)(b) of the Ordinance as

amended by clause 3(2)). However, no person who has been entitled to the protection immediately before the commencement of the Bill when enacted is to be affected (see clause 5).

4. Clause 4 removes references to the old academic titles of “senior lecturers” and “assistant lecturers” appearing in Statute XII of the Statutes in the Schedule to the Ordinance and expands Statute XXVIII of the Statutes to include the new academic titles. The clause also introduces consequential amendments to paragraphs 1 and 2(s) of Statute XIX of the Statutes.

5. Clause 5 is a transitional provision.

6. Clause 6 is a saving provision.

Johnson, Stokes & Master
Solicitors for the
University of Hong Kong

本條例草案

旨在

修訂《香港大學條例》。

由立法會制定。

1. 簡稱

本條例可引稱為《2008年香港大學(修訂)條例》。

2. 校董會、校務委員會和教務委員會 及其章程、權力及職責

(1) 《香港大學條例》(第1053章)第7(2)條現予修訂，廢除“管治”而代以“諮詢”。

(2) 第7(3)條現予修訂 —

(a) 廢除“行政團體”而代以“最高管治團體”；

(b) 廢除“管理大學的財產與處理大學的事務”而代以“可行使大學的所有權力，並須執行大學的所有職責，但藉本條例或規程置於大學其他權力機關或任何主管人員管理下的事務除外”。

3. 主管人員和教師及其聘任、 權力、職責及薪酬

(1) 第 12(9)條現予修訂，廢除“教師指講座教授、教授、講師及規程指定為教師的其他人。教師由校務委員會聘任。”而代以“教師指大學的講座教授、教授、副教授及助理教授，及規程指定為教師的任何其他人。教師由校務委員會按其認為合適的條款聘任。”。

(2) 第 12(10)(b)條現予修訂，廢除“或試用性質”而代以“或服務合約有訂明固定時期”。

4. 《香港大學規程》

(1) 附表內的《香港大學規程》規程 XII 現予修訂，在第 1 段中，廢除“高級講師、副講師、”。

(2) 規程 XIX 現予修訂 —

(a) 在第 1 段中，廢除“校務委員會須管理大學的事務”而代以“校務委員會可行使大學的所有權力，並須執行大學的所有職責”；

(b) 廢除第 2(s)段而代以 —

“(s) 作出一切必需或附帶的作為及事情和執行一切必需或附帶的職責，以行使本條例或規程授予校務委員會的權力或執行本條例或規程委予校務委員會的職責。”。

(3) 規程 XXVIII 現予修訂，廢除第 1(1)(b)段而代以 —

“(b) 大學的講座教授、教授、副教授、助理教授、高級講師、講師、助理講師、導師及助教；”。

5. 過渡性條文

校務委員會不得終止緊接本條例生效日期當日之前擔任教師並有權獲《香港大學條例》(第 1053 章)第 12(9)條所述的終止聘任保障的人士的聘任，但如該委員會在對有關事實妥為作出調查，及在接獲教務委員會就該項調查結果所提供的意見後，認為有好的因由終止聘任，則不在此限。

6. 保留條文

本條例的條文不影響亦不得當作影響中央或香港特別行政區政府根據《基本法》和其他法律的規定所享有的權利或任何政治體或法人團體或任何其他人的權利，但本條例所述及者和經由、透過或藉著他們提出申索者除外。

摘要說明

本條例草案的目的是對《香港大學條例》(第 1053 章)(“《條例》”)作出修訂，以除去《條例》與《香港大學規程》(“《規程》”)之間有關香港大學(“大學”)的校董會與校務委員會角色及權力的不相符之處，及實施新學術名銜的採用，以便配合大學的人力資源改革。

2. 草案第 2 條對《條例》第 7(2)及(3)條作出修訂，以除去《條例》與《規程》之間有關大學的校董會與校務委員會角色及權力的不相符之處，說明校董會為大學的“最高諮詢團體”，而校務委員會則為大學的“最高管治團體”。

3. 草案第 3(1)條廢除先前的“講座教授”、“教授”及“講師”等學術名銜而代以“講座教授”、“教授”、“副教授”及“助理教授”等新名銜。此等教師享有好的免職因由的保護，除非他們已超過校務委員會所決定的退休年齡(見《條例》第 12(10)(a)條)，或他們的聘任是服務合約有訂明固定時期或屬臨時或兼任性質(見經草案第 3(2)條修訂的《條例》第 12(10)(b)條)。然而，緊接本條例草案的制定生效之前享有好的免職因由保護的人士均不會受到影響(見草案第 5 條)。
4. 草案第 4 條除去於《條例》附表內的《規程》規程 XII 中出現的“高級講師”及“副講師”此等舊有的學術名銜，及擴充《規程》規程 XXVIII 以包括新的學術名銜。該條亦對《規程》規程 XIX 第 1 及 2(s)段作出相應的修訂。
5. 草案第 5 條為一條過渡性條文。
6. 草案第 6 條為一條保留條文。

孖士打律師行
香港大學代表律師