

**President's ruling on
The Hong Kong University of
Science and Technology (Amendment) Bill 2008
proposed by Hon Abraham SHEK Lai-him, SBS, JP**

Hon Abraham SHEK Lai-him submitted to me on 8 May 2008 The Hong Kong University of Science and Technology (Amendment) Bill 2008 which he intends to introduce into the Legislative Council. I am required to rule whether it relates to the restrictions prescribed in Rule 51(3) and (4) of the Rules of Procedure. Before making a ruling on the Bill, I had invited the Secretary for Education (SED) to offer his comments on the Bill. I had also invited Hon Abraham SHEK Lai-him to offer his response to SED's comments. In addition, I had 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 Brief for the Panel on Education of the Legislative Council on The Hong Kong University of Science and Technology (Amendment) Bill 2008, the Bill aims to revise the composition of the University Council of The Hong Kong University of Science and Technology. The Bill will reduce the composition of the Council of the University from a maximum of 34 seats to a maximum of 27 seats.

The Administration's views

4. SED considers that the Bill does not relate to public expenditure, political structure, or the operation of the Government. The Bill, however, relates to government policies as it will affect the Chief Executive (CE)'s power to appoint members to The Hong Kong University of Science and Technology Council, in that CE's power to appoint public officers to the Council will be removed and the number of members to be appointed by CE will be reduced.

Hon Abraham SHEK Lai-him's view

5. Hon Abraham SHEK Lai-him has responded that he has no comment on SED's views.

Advice of Counsel to the Legislature

6. Counsel to the Legislature advises that the issue raised by the Administration in respect of the Bill is substantially identical to that considered by me when making a ruling under Rule 51(4) of the Rules of Procedure on the City University of Hong Kong (Amendment) Bill 2006 on 2 May 2006. In relation to that amendment bill, I accepted Counsel's advice that it related to the Government's policy concerning the appointment of the City University Council members.

7. Counsel further advises that clause 4(1)(d) of the Bill repeals paragraph (e) of section 9(1) of The Hong Kong University of Science and Technology Ordinance (Cap. 1141) which provides that the Council of the University shall consist of, among others, not more than three members, who shall be public officers, appointed by CE. The effect of the repeal is that the power of CE to appoint public officers into the Council of the University will be removed, and as a result there will be no public officer in the revised composition of the Council.

8. Counsel considers that in view of my ruling referred to above, and the effect of clause 4(1)(d) of the Bill, the Bill relates to Government policies under Rule 51(4) of the Rules of Procedure.

My opinion

9. In my previous rulings 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 CE or CE 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.

10. As the Bill, if enacted, will remove CE's power to appoint public officers to the Council of the University, I am of the view that the Bill will have substantive effect on the Government's policy concerning the appointment of Council members of the University.

Ruling

11. I rule that the proposed The Hong Kong University of Science and Technology (Amendment) Bill 2008 relates to Government policies within the meaning of Rule 51(4) of the Rules of Procedure and requires the written consent of CE for its introduction.

(Mrs Rita FAN)
President
Legislative Council

29 May 2008