

BRIEF FOR THE PANEL ON EDUCATION OF THE LEGISLATIVE COUNCIL

The Hong Kong Polytechnic University Ordinance (Cap. 1075)

The Hong Kong Polytechnic University (Amendment) Bill 2009

INTRODUCTION

The Hong Kong Polytechnic University ("PolyU" or "the University") is one of the eight local universities funded by the University Grants Committee. Its predecessor the "Hong Kong Polytechnic" was established in 1972 through the enactment of the Hong Kong Polytechnic Ordinance, which was subsequently amended in 1994 to provide for the establishment of PolyU.

2. After considering the recommendations of the Report on Higher Education in Hong Kong published in March 2002; the recommendations of the Governance and Management Review conducted in response to the Report on Higher Education with input from various stakeholders, including members of the Council, Senior Management, the Senate, staff consultative groups, officers of the Staff Association and representatives from student bodies; the comments of the Public Accounts Committee with regard to the effect of section 9(3)(c) of the PolyU Ordinance as well as comments of the Education Bureau, the University, with approval from its Council, now proposes to introduce the following changes:

- (i) to allow Council members who are employees and students to participate in the appointment and removal of the President and the Deputy President;
- (ii) to reduce the number of Council members from 29 to 25;
- (iii) to change the composition of the Council, and in particular, to give all full-time academic and non-academic staff members irrespective of rank the opportunity to be represented on the Council; to reduce the total number of lay members of Council from 20 to 17 and to empower the Council to appoint 8 out of the 17 lay members; to increase the number of student members on Council from 1 to 2, specifically one each from the full-time undergraduate and sub-degree students and the full-time postgraduate students;
- (iv) to define more clearly that Council's role is to set the policy governing the terms and conditions of service of staff members; and
- (v) to make modifications to the Ordinance in line with the University's development and changes in the social environment.

3. To give effect to the proposed changes, The Hong Kong Polytechnic University (Amendment) Bill 2009 ("the Bill") will be introduced into the Legislative Council ("LegCo") by Dr the Hon. Lam Tai-fai, who is currently a Council member of PolyU, as a Member's Bill.

JUSTIFICATION

Appointment and removal of the President or Deputy President

4. According to the stipulations in the prevailing PolyU Ordinance, Council members who are employees or students of the University, other than the President, are excluded from participation in deciding the appointment and removal of the President and Deputy President, and that such decisions should be passed by 14 votes cast by 21 eligible Council members (comprising 20 lay members appointed by the Chief Executive and 1 member from the alumni) for the appointment and removal of the President and by 22 eligible Council members (20 lay members appointed by the Chief Executive, 1 member from the alumni and the President) for the appointment and removal of the Deputy President. PolyU submits that students and employees, as stakeholders of the University, should be allowed to participate in making the very important decisions of appointment and removal of the President and Deputy President through staff members and students serving on the Council, and therefore proposes to remove the restriction stipulated in the Ordinance that prevents such participation. As a consequence of this change, the University further proposes that the appointment and removal of the President and Deputy President should require the votes of not less than two-thirds of all members for the time being. The University also proposes to add for clarity purpose the stipulation that the Deputy President should not be a member for the purpose of appointing and removing himself, which in fact had all along been practised by the PolyU Council.

Size and composition of Council

5. According to the prevailing Ordinance, the PolyU Council comprises 29 members, which include the President and Deputy President of the University, 2 Deans of Faculty nominated by the President, 2 staff members elected by and from full-time academic and academic equivalent staff, 1 representative elected by and from Senate, 20 members appointed by the Chief Executive, 1 representative from the alumni, and 1 member elected by and from the full-time students.

6. PolyU now proposes to reduce the number of Council members from 29 to 25 and to change the composition of Council by adding representation from lower rank full-time non-academic staff, increasing the number of student members from 1 to 2, and to achieve the overall reduction in size by reducing the number of lay members from 20 to 17 and deleting the category of "2 Deans of the faculties or equivalent bodies of the University nominated by the President". The University also proposes that the Council be empowered to appoint 8 out of the 17 lay Council members. A summary of the proposed changes to the composition of the PolyU Council versus that provided in the prevailing Ordinance is in [Annex A](#).

7. The above changes are proposed in the light of the following factors:

- (i) the Report on Higher Education Review published in 2002, which recommended, among other things, that university councils should be small in size for more effective governance;
- (ii) the desirability of including the voice of non-academic staff who are of a lower rank in the governing body;

- (iii) the desirability of enhancing the representation from student bodies, with one member elected by and from full-time undergraduate and sub-degree students and one member elected by and from full-time postgraduate students;
- (iv) the desirability for university councils to assume some degree of autonomy in appointing lay members from the business, industrial, professional and other relevant sectors in accordance with the needs of the University for expert advice;
- (v) the University's senior management is already well represented on Council with the President and Deputy President serving as members and all Vice Presidents, Deans and Heads of major administrative units attending Council meetings as observers. The University therefore proposes to delete the category of "faculty deans" to achieve the proposed reduction in Council's size. The resultant representation of the University's management on Council is in line with those of other UGC-funded institutions.

8. The current Ordinance stipulates that 14 members, which is less than half of the current membership of 29, shall form a quorum. The University proposes that the quorum at Council meetings should be more than half of the total Council membership for the time being.

Clarification on Council's role in determining the policy governing the terms and conditions of service of staff

9. In response to the recommendation of the Public Accounts Committee in its report no. 40A, the University has reviewed the effect and proper application of section 9(3)(c) of the PolyU Ordinance, which states that "the Council shall not delegate to any committee or any person the power to approve terms and conditions of service of persons in the employment of the University, other than persons in the part time or temporary employment thereof". The University considers this stipulation to be vague and, if misinterpreted, impractical because it implies that Council must approve the remuneration and the terms and conditions of service of every person employed by the University. PolyU believes that the Council should be the body to approve the policy governing the terms and conditions of service of staff members while the University's management, under the authority of its President, should determine and approve the terms and conditions of service of individual employees, and thus proposes that section 9(3)(c) and other relevant sections of the PolyU Ordinance be revised to this effect. The University also believes that this in fact is the intent of the original stipulation.

Revisions to reflect the development of the University

10. The University proposes to make suitable revisions to the Ordinance's stipulation on the objects of the University to more accurately reflect its role and mission in line with the latest mission statement which was agreed upon by the University Grants Committee and the University.

11. The University considers that while the Council should continue to hold authority for approving fees for government-funded programmes, fees for self-financed programmes, which are subject to change based on market and specific conditions, and other miscellaneous charges, many of which are petty in nature, should not require the action of the governing body. PolyU therefore proposes revisions to relevant stipulations in the Ordinance to this effect.

Miscellaneous amendments

12. The University further proposes:
- (i) amendments to section 6 of the Ordinance to clarify that Council is "the governing body" instead of "the governing and executive body" of the University;
 - (ii) to amend "an Senate" in section 8A(1) as "a Senate" to correct a grammatical error;
 - (iii) amendments to sections 9(3)(b) and 11(2)(b) to define more clearly that the preparation of financial statements is the responsibility of Management while Council's role is to approve and issue the financial statements; and
 - (iv) to remove the restriction that delegation of power by the Council to the President must be done in writing by amending section 11(1) since delegation of authority by Council in practice is done via a resolution at a Council meeting at which the President is present and such resolutions are always clearly recorded in the minutes of meetings.

THE BILL

13. The key provisions of the Bill in Annex B are as follows:
- (i) Clause 2 adds in the Interpretation Section (section 2) of the PolyU Ordinance the definition for "Chief Executive", "Chief Executive Officer", "full-time staff" and "full-time students", and repeals the term "eligible staff" and its definition as a result of the inclusion of representation from lower rank non-academic staff on the Council.
 - (ii) Clause 3 amends section 3(3) to provide a more accurate description of the objects and mission of the University.
 - (iii) Clause 4 amends section 6 of the Ordinance to provide a more accurate description of the role and powers of the Council.
 - (iv) Clause 5 amends section 8 of the Ordinance to allow Council members who are employees and students of the University to participate in deciding on the appointment and removal of the President and Deputy President and to make the consequential amendment regarding the number of votes required for such decisions. Amendments are also proposed to indicate more clearly that Council's role is in deciding the policy governing the terms and conditions of service instead of approving the terms and conditions of service of individual staff members.
 - (v) Clause 6 amends section 8A(1) to correct a grammatical error.
 - (vi) Clause 7 amends section 9(3)(c) by indicating more clearly that Council's role is to decide the policy governing the terms and conditions of service instead of determining and approving the terms and conditions of service of individual staff members.
 - (vii) Clause 8 amends section 10 of the Ordinance to revise the composition of the PolyU Council and to redefine the quorum of a Council meeting.

- (viii) Clause 9 amends section 11 by defining more clearly Council's role in determining the policy governing the terms and conditions of service; and to amend the stipulations on delegation of authority.
 - (ix) Clause 10 amends section 12 to redefine the role of Council and the President in setting fees and charges, giving power to the President to fix the fees of self-financed courses based on market trends and miscellaneous charges which are often petty in nature, and to approve concession and refund of fees and charges.
 - (x) Clause 11 amends section 18(g) as a consequential amendment arising from revisions to the composition of Council.
 - (xi) Clause 12 provides for transitional arrangements for certain existing Council members.
14. A comparison table showing the current version of the Ordinance and the proposed changes is in Annex C.

CONSULTATION WITH GOVERNMENT BUREAU AND DEPARTMENT

15. The University has consulted the Education Bureau and has taken into account the comments of the Bureau in proposing the above amendments to the PolyU Ordinance. In accordance with Rule 51(2) of the LegCo Rules of Procedure, the University has obtained the Law Draftsman's Certificate, which is in Annex D of this document. In addition, arrangements will be made in due course to obtain the written consent of the Chief Executive as appropriate under Rule 51(4) of the LegCo Rules of Procedure should the President of LegCo rule that the Bill relates to government policy concerning the appointment of PolyU Council members.

ENQUIRIES

16. Any enquiries about this brief can be directed to the office of Dr the Hon. Lam Tai-fai, Member of the Legislative Council, at 22/F No. 10 Knutsford Terrace, Tsimshatsui, Kowloon, telephone number 2737 2822, fax number 2375 4338, and Mr Alexander Tzang, Secretary to Council of The Hong Kong Polytechnic University, at Room M1710, 17/F Li Ka Shing Tower, The Hong Kong Polytechnic University, Hunghom, Kowloon, telephone number 2766 5206, fax number 2364 7084.

Council Secretariat
The Hong Kong Polytechnic University
October 2009

**Current and proposed composition of the
Council of The Hong Kong Polytechnic University**

Current composition	Proposed composition
President of the University	President of the University <i>(no change)</i>
Deputy President of the University	Deputy President of the University <i>(no change)</i>
2 Deans of Faculty nominated by the President	Deletion of the "Faculty Deans" category
3 Elected Staff Members, 2 of whom to be elected by and from eligible staff and 1 of whom to be elected by and from Senate <i>(eligible staff being defined as full-time teaching and instructional staff and administrative staff of equivalent rank or grade)</i>	3 Elected Staff Members, 1 of whom to be elected by and from full-time academic staff, 1 of whom to be elected by and from full-time non-academic staff, and 1 of whom to be elected by and from Senate
20 Members appointed by the Chief Executive of whom not more than 2 shall be public officers	17 Lay Members of whom 9 shall be appointed by the Chief Executive and 8 shall be appointed by Council
1 Student Representative elected from all full-time students	2 Student Representatives, of whom 1 shall be elected by and from the full-time undergraduate and sub-degree students and 1 of whom shall be elected by and from the full-time postgraduate students
1 member from the alumni who is not an employee of the University and appointed by Council	1 member from the alumni who is not an employee of the University and appointed by Council <i>(no change)</i>
Total: 29 members	Total: 25 members

A BILL

To

Amend The Hong Kong Polytechnic University Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as The Hong Kong Polytechnic University (Amendment) Ordinance 2009.

2. Interpretation

(1) Section 2 of The Hong Kong Polytechnic University Ordinance (Cap. 1075) is amended by repealing the definition of “eligible staff”.

(2) Section 2 is amended by adding –

““Chief Executive” (行政長官) means the Chief Executive of the Hong Kong Special Administrative Region;

“Chief Executive Officer” (首席執行官) means the officer of the University who is empowered by the Council with full executive authority to manage the affairs of the University;

“full-time staff” (全職員工) means persons who are deemed by the University to be full-time employees of the University;

“full-time students” (全日制學生) means persons who are deemed by the University to be full-time students of the University;”.

3. Establishment and objects of the University

Section 3(3) is repealed and the following substituted –

“(3) The objects of the University are to provide for application-oriented education, training and research in technology, science,

commerce, arts and other subjects of learning, as well as services to business, industry and professional sectors.”.

4. The powers of the Council

(1) Section 6 is amended by repealing everything before paragraph (a) and substituting –

“The Council is the governing body of the University with power to make policies and monitor their proper execution, to raise funds and develop resources and to do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects and policies of the University and may in particular, but without prejudice to the generality of the foregoing –”.

(2) Section 6(b) is repealed and the following substituted –

“(b) enter into any contract, partnership or other form of joint venture with other persons;”.

(3) Section 6(m) is repealed.

5. Appointment of President and other staff

(1) Section 8(1)(a) is amended by repealing “appoint a President” and substituting “appoint a President as the Chief Executive Officer of the University”.

(2) Section 8(1)(a) is amended by adding “with full executive authority for” after “vested”.

(3) Section 8(2) is amended by repealing “14 members” and substituting “two-thirds of all members for the time being”.

(4) Section 8(3) is amended by repealing “The remuneration and the terms and conditions of service” and substituting “The policy governing the remuneration and the terms and conditions of service”.

(5) Section 8(4) is amended by repealing “14 members” and substituting “two-thirds of all members for the time being”.

(6) Section 8(4A) is repealed and the following substituted –

“(4A) The President is not a member for the purpose of appointing or removing himself.

(4B) The Deputy President is not a member for the purpose of appointing or removing himself.”.

6. Senate of the University

Section 8A(1) is amended in the English text by repealing “an” and substituting “a”.

7. Committees generally

(1) Section 9(3)(b) is amended by repealing “authorize the preparation of” and substituting “approve and issue”.

(2) Section 9(3)(c) is amended by repealing “terms and conditions of service” and substituting “the policy governing the terms and conditions of service”.

8. Membership of the Council

(1) Section 10(1)(b) is repealed.

(2) Section 10(1)(c) is repealed and the following substituted –

“(c) 3 members from the full-time staff elected in accordance with statutes made under section 18(g) and appointed by the Council of whom –

(i) 1 is to be elected by and from the full-time academic staff;

(ii) 1 is to be elected by and from the full-time non-academic staff; and

(iii) 1 is to be elected by and from the Senate;”.

(3) Section 10(1)(d) is repealed and the following substituted –

“(d) 17 members who are not employees or students of the University of whom –

(i) 9 is to be appointed by the Chief Executive; and

- (ii) 8 is to be appointed by the Council;”.
- (4) Section 10(1)(f) is repealed and the following substituted –
 - “(f) 2 members from the full-time students appointed by the Council of whom –
 - (i) 1 is to be elected by and from the full-time undergraduate and sub-degree students; and
 - (ii) 1 is to be elected by and from the full-time postgraduate students.”.
- (5) Section 10(2) is amended by repealing “who is not a public officer”.
- (6) Section 10(3) is repealed.
- (7) Section 10(3A) is amended by repealing “subsection (1)(d) who is not a public officer” and substituting “subsection (1)(d)(i)”.
- (8) Section 10(3B) is amended by repealing “subsection (1)(c), (e) or (f)” and substituting “subsection (1)(c), (d)(ii), (e) or (f)”.
- (9) Section 10(6) is amended by repealing “14 members” and substituting “More than one half of the total membership for the time being”.
- (10) Section 10(9) is amended in the English text by repealing “The member elected by the students is” and substituting “The members elected by the students are”.
- (11) Section 10(9) is amended by repealing “he is” and substituting “they are”.

9. Power of the Council to delegate to the President

- (1) Section 11(1) is amended by repealing “in writing”.
- (2) Section 11(2)(b) is amended by repealing “authorize the preparation of” and substituting “approve and issue”.
- (3) Section 11(2)(c) is amended by repealing “terms and conditions of service” and substituting “the policy governing the terms and conditions of service”.

10. Section substituted

Section 12 is repealed and the following substituted –

“12. Fees and charges

(1) The Council is to fix fees for government-funded courses of study provided by the University.

(2) The authority to approve concession and refund of course fees so fixed is vested with the President.

(3) The authority to fix, approve, modify, waive and refund charges for facilities, self-financed courses of study and services provided by the University is vested with the President.”.

11. Power of the Council to make statutes

Section 18(g) is amended by repealing “eligible staff members” and substituting “full-time staff”.

12. Transitional provisions relating to certain existing members of the Council

(1) A person who was a member of the Council appointed under section 10(1)(c) of the principal Ordinance immediately before the commencement of this Ordinance, other than the member elected by and from the Senate, continues to be a member from the commencement of this Ordinance for a period of 90 days and is deemed to have been appointed under section 10(1)(c)(i) of The Hong Kong Polytechnic University Ordinance (Cap. 1075).

(2) A person who was a member of the Council appointed under section 10(1)(d) of the principal Ordinance immediately before the commencement of this Ordinance continues to be a member from the commencement of this Ordinance for the remaining portion of his term of appointment and is deemed to have been appointed under section 10(1)(d)(i) of The Hong Kong Polytechnic University Ordinance (Cap. 1075).

(3) The student who was a member of the Council appointed under section 10(1)(f) of the principal Ordinance immediately before the

commencement of this Ordinance continues to be a member from the commencement of this Ordinance up to the end of his term, i.e. 31 March 2010, and is deemed to have been appointed under section 10(1)(f)(i) of The Hong Kong Polytechnic University Ordinance (Cap. 1075).

(4) In this section, “principal Ordinance” (《主體條例》) means The Hong Kong Polytechnic University Ordinance (Cap. 1075) as in force immediately before the commencement of this Ordinance.

Explanatory Memorandum

The purpose of this Bill is to amend The Hong Kong Polytechnic University Ordinance (Cap. 1075) –

- (a) to allow the members of the Council of The Hong Kong Polytechnic University (“the Council”) who are employees or students of The Hong Kong Polytechnic University (“the University”) to vote on the appointment and removal of the President and the Deputy President of the University;
- (b) to reduce the number of members of the Council from 29 to 25;
- (c) to change the composition of the Council, and in particular –
 - (i) to remove the membership category of “Deans of the faculties or equivalent bodies of the University nominated by the President”;
 - (ii) to give all full-time staff members irrespective of rank the opportunity to be represented on the Council by specifying that 1 member elected by and from the full-time academic staff and 1 member elected by and from the full-time non-academic staff must be appointed;

- (iii) to reduce the total number of lay members of the Council from 20 to 17, and to empower the Council to appoint 8 out of the 17 lay members;
- (iv) to increase the number of student members of the Council from 1 to 2, specifically 1 from the full-time undergraduate and sub-degree students and 1 from the full-time postgraduate students;
- (d) to define more clearly that the Council's role is to set the policy on the terms and conditions of service of staff while the Management's role is to determine and approve the terms and conditions of service of individual staff members;
- (e) to make modifications to the objects of the University in line with the University's development and changes in the social environment; and
- (f) to make consequential amendments and to provide for transitional matters.

CHAPTER 1075

THE HONG KONG POLYTECHNIC UNIVERSITY

To provide for the establishment of The Hong Kong Polytechnic University and for matters connected therewith.

1. Short title

This Ordinance may be cited as The Hong Kong Polytechnic University Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires –

"Chairman" (主席) and "Deputy Chairman" (副主席) mean respectively the

Chairman of the Council and the Deputy Chairman of the Council;

"Council" (校董會) means the Council of the University established under section 5;

~~"eligible staff" (有資格的教職員) means the full-time teaching and instructional staff of the University, and includes members of the administrative staff of the University of equivalent rank or grade;~~

"financial year" (財政年度) means the period fixed by the Council under section 13(2);

"member" (成員) means a member of the Council;

"President" (校長) and "Deputy President" (常務副校長) mean respectively the President of the University and Deputy President of the University;

"Senate" (教務委員會) means the Senate of the University established under section 8A;

"University" (大學) means The Hong Kong Polytechnic University established under section 3.

3. Establishment and objects of the University

(1) There is established The Hong Kong Polytechnic University (香港理工大學) as a body corporate with perpetual succession and capable of suing and being sued in its name.

(2) The University is capable of doing and permitting the acts and things that a body corporate may lawfully do or permit.

Proposed amendments

REPEAL definition of "eligible staff"

ADD definition of "Chief Executive", "Chief Executive Officer", "full-time staff" and "full-time students" –

"Chief Executive" (行政長官) means the Chief Executive of the Hong Kong Special Administrative Region;

"Chief Executive Officer" (首席執行官) means the officer of the University who is empowered by the Council with full executive authority to manage the affairs of the University;

"full-time staff" (全職員工) means persons who are deemed by the University to be full-time employees of the University;

"full-time students" (全日制學生) means persons who are deemed by the University to be full-time students of the University.

(3) The objects of the University are to provide for studies, training and research in technology, science, commerce, arts and other subjects of learning.

3A. Officers of the University

(1) The officers of the University shall be the persons for the time being holding any of the following offices hereby constituted as offices of the University -

- (a) the Chancellor of the University;
- (b) the Chairman of the Council;
- (c) the Deputy Chairman of the Council;
- (d) the Treasurer of the University;
- (e) the President of the University; and
- (f) the Deputy President of the University.

(2) The Chief Executive is the Chancellor of the University and in his absence, the person for the time being assuming the duties of the Chief Executive according to the provisions of Article 53 of the Basic Law is the Acting Chancellor and has the powers and the duties of the Chancellor while acting.

(2A) The Chancellor may confer degrees and academic awards including honorary degrees and honorary awards in the name of the University and in the absence of the Chancellor, the Chairman may confer degrees and academic awards including honorary degrees and honorary awards in the name of the University.

(3) The Treasurer of the University shall be appointed by the Chief Executive from among the members of the Council appointed under section 10(1)(d).

(4) The appointment of the President and of the Deputy President (if any) shall be in accordance with section 8.

4. Unauthorized use of name

- (1) A person shall not form, or work in connection with or be a member of –
- (a) an organization, institution or body which, without the authority of the Council, claims or purports to be The Hong Kong Polytechnic University or a branch of or connected with the University; or
 - (b) an organization, other than the University, which uses the title of "The Hong Kong Polytechnic University" or "香港理工大學" or any title in any language which so closely resembles the expression "The Hong Kong Polytechnic University" as to be calculated to mislead or deceive.

SUBSTITUTE –

(3) The objects of the University are to provide for application-oriented education, training and research in technology, science, commerce, arts and other subjects of learning, as well as services to business, industry and professional sectors.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

5. Establishment of Council

There is established a Council to be known as the Council of The Hong Kong Polytechnic University which may exercise the powers conferred and shall perform the duties imposed on the University.

5A. Common seal of University

The common seal of the University shall be affixed pursuant to a resolution of the Council and the affixing of the seal authenticated by the signature of 2 members of the Council authorized by the Council to act for that purpose and one of whom shall not be an employee of the University.

6. The powers of the Council

The Council shall be the governing and executive body of the University with power to do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects of the University and may in particular, but without prejudice to the generality of the foregoing –

- (a) acquire, take on lease, purchase, hold and enjoy any property and sell, let or otherwise dispose of the same;
- (b) enter into any contract;
- (c) erect, provide, equip, maintain, keep in repair and regulate the buildings, premises, furniture and equipment and all other means necessary for carrying on the work of the University;
- (d) provide appropriate amenities for members, persons in the employment of the University and students;
- (e) provide residential accommodation and social and athletic facilities for persons in the employment of the University and students;
- (f) approve the expenditure of the funds of the University in the furtherance of its objects;
- (g) invest the funds of the University in such manner and to such extent as it thinks necessary or expedient;
- (h) borrow money in such manner and on such securities or terms, including mortgaging the property of the University, as it thinks expedient;
- (i) apply for any grant in aid for its functions on such conditions as it thinks fit;

SUBSTITUTE—

The Council is the governing body of the University with power to make policies and monitor their proper execution, to raise funds and develop resources and to do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects and policies of the University and may in particular, but without prejudice to the generality of the foregoing—

SUBSTITUTE—

- (b) enter into any contract, partnership or other form of joint venture with other persons;

- (j) employ any professional or expert person to advise it on any matter arising out of or in connexion with any of its functions under this Ordinance;
- (k) receive and solicit gifts and act as trustee of moneys and other property vested in the University on trust;
- (l) confer degrees and other academic awards including honorary degrees and honorary awards;
- ~~(m) enter into a contract, partnership or other form of joint venture with other persons;~~
- (n) acquire, hold and dispose of interests in other corporate bodies and take part in forming corporate bodies;
- (o) provide for profit or otherwise advisory, consultancy, research and other related services.

7. (Repealed 94 of 1994 s.9)

8. Appointment of President and other staff

- (1) The Council –
 - (a) shall, in accordance with subsection (2), appoint a President in whom, subject to the control of the Council, shall be vested the management, conduct and administration of the University and the discipline of students therein;
 - (aa) may, subject to subsection (2), appoint a person to hold the office of Deputy President if it appears to the Council that such appointment is necessary or desirable, and the person so appointed shall undertake such duties as the President may direct;
 - (b) may appoint such other persons to be employees of the University as the Council may consider expedient.

(2) The President and, if any person is proposed for appointment as Deputy President, the Deputy President shall be appointed by resolution passed by the votes of not less than 14 members.

(3) The remuneration and the terms and conditions of service of persons in the employment of the University shall be determined by the Council.

(4) The President and the Deputy President may be removed from office by resolution passed by the votes of not less than 14 members on the ground of his misconduct, inefficiency or other good cause.

REPEAL subsection (m)

SUBSTITUTE —

- (a) shall, in accordance with subsection (2), appoint a President as the Chief Executive Officer of the University in whom, subject to the control of the Council, shall be vested with full executive authority for the management, conduct and administration of the University and the discipline of students therein;

CHANGE TO "two-thirds of all members for the time being"

CHANGE TO "The policy governing the remuneration and the terms and conditions of service"

CHANGE TO "two-thirds of all members for the time being"

- (4A) In this section –
- (a) "members" (成員) means members of the Council who are not employees or students of the University other than the President;
 - (b) the President shall not be a member for the purpose of appointing or removing himself.

(5) The Council may appoint any person to act as President during the absence or incapacity of the President or if that office is or becomes vacant for any reasons.

8A. Senate of the University

(1) There shall be **an** Senate of the University appointed by the Council for the following purposes –

- (a) reviewing and developing academic programmes;
- (b) directing and regulating the teaching and research conducted in the University;
- (c) regulating the admission of persons to approved courses of study and their attendance at such courses;
- (d) conducting the examinations leading to the conferring of degrees and academic awards of the University;
- (e) determining the eligibility of persons to receive degrees, diplomas, certificates and other academic awards other than honorary degrees or honorary awards.

(2) The membership and procedure of the Senate shall be in accordance with rules made by the Council under section 18.

(3) The Senate may appoint such committees for any general or special purposes as it thinks fit.

(4) Subject to subsection (5), the Senate may, with or without restrictions or conditions as it thinks fit, delegate any of its powers and duties to any committee appointed under subsection (3) or to any member of the Senate.

(5) The Senate shall not delegate a power that the Council may determine shall not be delegated.

SUBSTITUTE—

(4A) The President is not a member for the purpose of appointing or removing himself.

(4B) The Deputy President is not a member for the purpose of appointing or removing himself.

CHANGE TO "a"

9. Committees generally

(1) The Council may appoint such committees for any general or special purposes as it thinks fit and any such committee may consist partly of persons who are not members of the Council.

(2) Subject to subsection (3), the Council may, with or without restrictions or conditions as it thinks fit, delegate any of its powers and duties to any committee appointed under subsection (1) or any member of the Council.

(3) The Council shall not delegate to any committee appointed under subsection (1) or to any person the power –

- (a) to approve the annual programme and estimates required to be submitted under section 13;
- (b) to authorize the preparation of the statements required under section 14(2);
- (c) to approve terms and conditions of service of persons in the employment of the University, other than persons in the part time or temporary employment thereof; or
- (d) to make statutes under section 18.

10. Membership of the Council

(1) The Council consists of the following members –

- (a) the President and the Deputy President;
- ~~(b) 2 Deans of the faculties or equivalent bodies of the University nominated by the President;~~
- (c) 3 elected staff members appointed by the Council, 2 of whom shall be elected by the eligible staff from among their number in accordance with statutes made under section 18(g), and 1 of whom shall be elected by and from the Senate;
- (d) 20 members appointed by the Chief Executive of whom not more than 2 shall be public officers;
- (e) 1 member from the alumni who is not an employee of the University and who shall be appointed by the Council;
- (f) 1 member elected by and from the full-time students and who shall be appointed by the Council.

CHANGE TO "approve and issue"

CHANGE TO "the policy governing the terms and conditions of service"

REPEAL subsection (1)(b)

SUBSTITUTE –

- (c) 3 members from the full-time staff elected in accordance with statutes made under section 18(g) and appointed by the Council of whom -
 - (i) 1 is to be elected by and from the full-time academic staff;
 - (ii) 1 is to be elected by and from the full-time non-academic staff;
 - and
 - (iii) 1 is to be elected by and from the Senate;
- (d) 17 members who are not employees or students of the University of whom -
 - (i) 9 is to be appointed by the Chief Executive; and
 - (ii) 8 is to be appointed by the Council;
- (f) 2 members from the full-time students appointed by the Council of whom –
 - (i) 1 is to be elected by and from the full-time undergraduate and sub-degree students; and
 - (ii) 1 is to be elected by and from the full-time postgraduate students.

(2) The Chief Executive shall appoint one of the members appointed under subsection (1)(d) ~~who is not a public officer~~ as Chairman.

~~(3) A member of the Council appointed under subsection (1)(d) who is a public officer shall hold office at the discretion of the Chief Executive.~~

- (3A) A member appointed under **subsection (1)(d) who is not a public officer** –
- (a) shall be appointed for a period of 3 years or such lesser period as the Chief Executive may in any particular case appoint, but may from time to time be reappointed;
 - (b) may at any time by notice in writing to the Chief Executive resign from the Council.

- (3B) A member appointed by the Council under **subsection (1)(c),(e) or (f)** –
- (a) shall be appointed for a period of 3 years or such lesser period as the Council may in any particular case appoint, but may from time to time be reappointed;
 - (b) may at any time by notice in writing to the Chairman of the Council resign from the Council.

(3C) A member who became a member of the Council under subsection (1)(c) or (f) shall cease to be a member of the Council when he ceases to be a member of the body that elected him.

(4) The provisions of this section are without prejudice to section 42 of the Interpretation and General Clauses Ordinance (Cap. 1).

(5) The Chief Executive shall appoint one of the members appointed under subsection (1)(d) as Deputy Chairman, who shall act as Chairman during the absence or incapacity of the Chairman or if that office becomes vacant for any reason.

(5A) If for any period both the Chairman and the Deputy Chairman are unable by reason of absence from Hong Kong or incapacity to perform the functions of their respective offices, or if for any period both of those offices are vacant, the other members of the Council may appoint one of their number to act as Chairman during that period.

(6) **14 members** shall form a quorum at a meeting of the Council.

REPEAL "who is not a public officer"

REPEAL subsection (3)

CHANGE TO "subsection (1)(d)(i)"

CHANGE TO "subsection (1)(c),(d)(ii), (e) or (f)"

CHANGE TO

"More than one half of the total membership for the time being"

(7) Except as otherwise provided in section 8, any question before the Council at any meeting shall be decided by a majority of votes of the members present.

(8) A meeting of the Council may be adjourned by the Chairman or, where the Council so resolves, by the Council.

(9) ~~The member elected by the students is~~ excluded from participating in the business of the Council that the Council determines ~~he is~~ to be excluded.

11. Power of the Council to delegate to the President

(1) Subject to subsection (2), the Council may ~~in writing~~, with or without restrictions or conditions as it thinks fit, delegate to the President any of its powers and duties.

- (2) The Council shall not delegate to the President the power –
- (a) to approve the annual programme and estimates required to be submitted under section 13;
 - (b) to ~~authorize the preparation of~~ the statements required under section 14(2);
 - (c) to approve ~~terms and conditions of service~~ of persons in the employment of the University, other than persons in the part time or temporary employment thereof; or
 - (d) to make statutes under section 18.

11A. Power of the President to delegate

(1) Subject to subsection (2), the President may, with or without restrictions or conditions as he thinks fit, delegate to such person or committee of persons as he thinks fit any of his powers and duties, including any power or duty of the Council delegated to him under section 11.

(2) The power conferred by this section on the President to delegate any power or duty of the Council delegated to him under section 11, and the exercise by any person or committee of persons of any such power or duty delegated by the President under this section, shall be subject to any restriction or condition imposed in respect thereof by the Council under section 11.

CHANGE TO "The members elected by the students are"

CHANGE "he is" to "they are"

REPEAL "in writing"

CHANGE TO "approve and issue"

CHANGE TO "the policy governing the terms and conditions of service"

12. Fees and charges

The Council –

- (a) shall fix fees and charges for courses of study, facilities and other services provided by the University;
- (b) may reduce, waive or refund fees and charges so fixed generally or in any particular case or class of case.

13. Estimates and financial year

(1) In each financial year, before a date to be appointed by the Chief Executive, the Council shall submit to the Chief Executive, through a person nominated by the Chief Executive, a programme of its proposed activities and estimates of the income and expenditure of the University for the next financial year.

(2) The Council may, from time to time, with the prior approval of the Chief Executive, fix a period to be the financial year of the University.

14. Accounts

(1) The Council shall maintain proper accounts and records of all income and expenditure.

(2) After the end of each financial year, the Council shall cause to be prepared statements of income and expenditure during the previous financial year and of the assets and liabilities of the University on the last day thereof.

15. Auditors

(1) The Council shall appoint auditors, who shall be entitled at any time to have access to all books of account, vouchers and other financial records of the University and to require such information and explanations thereof as they may think fit.

(2) The auditors shall audit the statements prepared under section 14(2) and shall report thereon to the Council.

SUBSTITUTE –

12. Fees and charges

(1) The Council is to fix fees for government-funded courses of study provided by the University.

(2) The authority to approve concession and refund of course fees so fixed is vested with the President.

(3) The authority to fix, approve, modify, waive and refund charges for facilities, self-financed courses of study and services provided by the University is vested with the President."

16. Statements and reports to be submitted to the Chancellor

(1) The Council shall, not later than 6 months after the end of each financial year, or before such later date as the Chancellor may allow in any particular year, submit to the Chancellor a report on the activities of the University and copies of the statements prepared under section 14(2) and the report made under section 15(2).

(2) (Repealed 94 of 1994 s.20)

17. (Repealed 94 of 1994 s.21)

18. Power of the Council to make statutes

The Council may make statutes for the better carrying out of the purposes of this Ordinance and in particular, but without prejudice to the generality of the foregoing, may provide for –

- (a) the regulation of its proceedings and the proceedings of the Senate and of any committee appointed under section 9;
- (b) the membership and quorum of the Senate and of any committee appointed under section 9;
- (c) the powers, functions and duties of the Senate and of any committees appointed under section 9;
- (d) the discipline of persons in the employment of the University;
- (e) the regulation of the conduct and discipline of students of the University;
- (f) the conferring of degrees and academic awards including honorary degrees and honorary awards;
- (g) the holding and conduct of elections of persons for membership of the Council by **eligible staff members** under section 10(1)(c) and by the full-time students under section 10(1)(f).

19. Saving

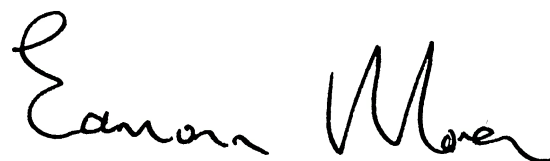
Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other persons except such as are mentioned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

CHANGE TO "full-time staff"

THE HONG KONG POLYTECHNIC UNIVERSITY (AMENDMENT)
BILL 2009

**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 Hong Kong Polytechnic University
(Amendment) Bill 2009 conforms to the requirements of Rule 50 and the general
form of Hong Kong legislation.



Law Draftsman

29 July 2009