



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
本函檔號 OUR REF : LS/B/25/10-11
電 話 TELEPHONE : 3919 3507

傳真 FAX : 2877 5029
電郵 E-MAIL : cwong@legco.gov.hk

By Fax (2364 7084)

27 January 2012

Miss Connie CHAN
Acting Secretary to Council of
The Hong Kong Polytechnic University
Room M1701c, 17/F, Li Ka Shing Tower
The Hong Kong Polytechnic University
Hung Hom
Kowloon

Dear Miss CHAN,

The Hong Kong Polytechnic University (Amendment) Bill 2011

Following the Bills Committee meeting on 19 January 2012, I have reviewed the relevant provisions, particularly the proposed amendments to sections 3(3) and 6 and would like to seek further clarification on the following matters.

In view of members' concerns over the lack of any specific condition over the use of the Council's powers conferred under section 6(a) and 6(m), please clarify whether there is any difference in the nature of the powers enumerated in paragraphs (a) to (o) of section 6 which necessitates the specific condition(s) under which the powers in paragraphs (g) and (h) may be exercised but not in respect of the other powers.

At the Bills Committee meeting, reference was made to the enquiries on the issue of "full-time" students as members of the Council raised in my letter to you of 30 September 2011. According to your reply of 14 October 2011, "full-time students" means students with a study load of 9 credits or more in a semester, and the definition of "full-time students" may be subject to change if deemed necessary by the University. As to the duration of the term of office, proposed section 10(3B)(a) stipulates that a full-time student

elected and appointed as a Council member may be appointed for "a period of 3 years or such lesser period as the Council may in any particular case appoint". It may not be possible for a student Council member with less than 3 years left in his undergraduate or postgraduate programme who is elected to the Council to serve the maximum 3 year term. Does it mean that if elected, his term will be determined on a case by case basis? If such a full-time student member is appointed to the Council with a 2 year term, is there any possibility that in the second year of his term, his full-time status will change to a part-time status owing to a change in the study load of 9 credits that now confers a full-time status or to the failure to gain the 9 credits required within a semester. If so possible, would his membership in the Council be affected and would it be necessary to provide for that scenario in section 10? In the same vein, please state the term of office of the serving full-time student Council member (who, we are informed, is an undergraduate), and advise whether the above query could in reality apply to that serving undergraduate student member.

Other drafting issues are noted in the course of the review of the relevant provisions. The proposed amendments to section 8(3) seek to replace "The remuneration and the terms and conditions of service" by "The policy governing the remuneration and the terms and conditions of service". However, the similar proposed amendments to section 8(3) is different from the proposed amendments to sections 9(3)(c) and 11(c) in that "remuneration" is not included in the latter amendments. It is also noted that while proposed section 8(3) empowers the Council to "determine" the said policy, sections 9(3)(c) and 11(c) describe the Council's powers as "to approve" that policy. Please explain the discrepancies in drafting.

I would be grateful if you could let me have your reply in both languages **before the next meeting on 2 February 2012.**

Yours sincerely,



(Miss Carrie WONG)
Assistant Legal Adviser

c.c. Clerk to Bills Committee