

立法會

Legislative Council

LC Paper No. LS10/10-11

Paper for the House Committee Meeting on 26 November 2010

Legal Service Division Report on University of Hong Kong (Amendment) Bill 2010 (Member's Bill)

I. SUMMARY

- 1. Objects of the Bill** To amend the University of Hong Kong Ordinance (Cap. 1053) to rectify the role descriptions of the Court and the Council so as to be consistent with their actual powers as set out in the Statutes of the University of Hong Kong (HKU), and to give effect to the adoption of new academic titles.
- 2. Comments** The main provisions of the Bill seek to –
 - (a) re-designate the Court and the Council which are at present described respectively as the "supreme governing body" and "executive body" to the "supreme advisory body" and "supreme governing body";
 - (b) replace the old academic titles of "Readers", "Senior Lecturers" and "Lecturers" with "Chairs", "Professors", "Associate Professors" and "Assistant Professors"; and
 - (c) make transitional provisions to protect the employment of teachers retaining old academic titles.
- 3. Public Consultation** HKU has consulted the Court, the Council, staff members, the Education Bureau and the University Grants Committee.
- 4. Consultation with LegCo Panel** The Panel on Education was consulted on 12 June 2008 and 8 June 2009.
- 5. Conclusion** Subject to any view or comment of Members and a minor amendment on drafting agreed to be moved by HKU, the Bill is ready for resumption of the Second Reading debate.

II. REPORT

Objects of the Bill

To amend the University of Hong Kong Ordinance (Cap. 1053) (the Ordinance) to –

- (a) rectify the role descriptions of the Court and the Council so as to be consistent with their actual powers as set out in the Statutes of the University of Hong Kong (HKU); and
- (b) give effect to the adoption of new academic titles.

LegCo Brief

2. Issued by the Registrar of HKU on 15 November 2010 (without reference number).

Date of First Reading

3. 24 November 2010.

Comments

Member's Bill

4. This is a Member's Bill sponsored by Dr. Hon David Li. The Administration has confirmed that the Bill does not relate to public expenditure, political structure, the operation of the Government or Government policies. The Law Draftsman has also confirmed that the Bill conforms to the requirement of Rule 50 of the Rules of Procedure and the general form of Hong Kong legislation.

The roles of the Court and the Council

5. In response to the recommendations made in the University Grants Committee (UGC) Report on Higher Education in Hong Kong of March 2002, HKU conducted a review of its governance and management structure in 2003, which identified inconsistencies in the roles of the Court and the Council as described in section 7 of the Ordinance and HKU Statutes. This was noted by

the Audit Commission's review of the governance and management structure of government-funded tertiary institutions in 2003 and the Public Accounts Committee¹. HKU has obtained advice from Senior Counsel who advised that it was desirable to amend the Ordinance to rectify the inconsistencies.

6. Clause 2 of the Bill amends section 7 of the Ordinance to re-designate –

- (a) the Court, at present described as the "supreme governing body", as the "supreme advisory body"; and
- (b) the Council, at present described as the "executive body", as the "supreme governing body".

7. These changes are to reflect the actual roles of the Court and the Council in accordance with the powers of the Court and the Council as provided in Statutes XVII and XIX contained in the Schedule to the Ordinance respectively.

Replacing the old academic titles

8. Another major amendment introduced by the Bill is in clause 3(1), which amends the academic titles by substituting "[t]he teachers shall be the Professors, Readers, Lecturers..." with "[t]he teachers are the Chairs, Professors, Associate Professors and Assistant Professors...". According to the LegCo Brief, the amendments are to implement the Human Resource Reform proposals which were introduced after consultation with staff members.

9. Clause 5 of the Bill is the transitional provision concerning the changes in academic titles. It provides that teachers may retain the old academic titles as long as the teachers remain in the same grade of employment. Such teachers are entitled to the existing protection against termination of appointment under section 12(9) of the Ordinance, i.e. they shall not be terminated 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. According to the LegCo Brief, the transitional provision is introduced to respond to comments of Members during the consultation with the Panel on Education². Further, according to the briefing by the representatives of HKU to the Panel on Education on 8 June 2009, a total of 20 staff members had decided to retain the old academic titles.³

¹ See Report no. 40A of the Public Accounts Committee, issued in November 2003.

² See paragraph 13(c) below.

³ See paragraph 18, minutes of meeting of the Panel on 8 June 2009 (LC Paper No. CB(2)2390/08-09).

10. The Legal Service Division has sought clarification as to the use of the expression "protection on termination" in clause 5(1) of the Bill. HKU has agreed that an amendment will be moved to replace it with "protection against termination" at the resumption of the Second Reading debate. HKU considered it not necessary to amend the Chinese rendition as its meaning is clear.

Commencement

11. The Bill, upon enactment, will come into operation upon its gazettal.

Public Consultation

12. According to the LegCo Brief, the Court, the Council and staff members of HKU have been consulted in relation to the proposals in the Bill. Further, no objection to the proposed amendments has been received from the Education Bureau and UGC.

Consultation with LegCo Panel

13. The Panel on Education was briefed on 12 June 2008 and 8 June 2009. Members have raised the following concerns –

- (a) the Chinese names of the Court (校董會) and the Council (校務委員會) of HKU are different from other UGC-funded institutions.⁴ Some Members considered it necessary for HKU to amend the Chinese names of the Court and the Council to avoid confusion about their roles and to bring them in line with other UGC-funded institutions. Representatives of HKU explained that the Chinese names had been in use since the establishment of HKU in 1911 and might have sentimental value to some stakeholders. Any proposal to change these names would require extensive consultation⁵ ;

⁴ For example, the Chinese rendition of "the Council" in The Hong Kong Polytechnic University Ordinance (Cap. 1075), The Chinese University of Hong Kong Ordinance (Cap. 1109), the Hong Kong Baptist University Ordinance (Cap. 1126) and the City University of Hong Kong Ordinance (Cap. 1132) is 校董會 or 大學校董會.

⁵ See paragraph 9 of the minutes of the meeting of the Panel on Education of 12 June 2008 (LC Paper No. CB(2)2759/07-08).

- (b) Members at present only sit in the Court, the advisory body of HKU, but not the Council, the governing body. Some Members considered it necessary to include Members in HKU's Council to enhance public participation of HKU's governance;
- (c) some Members indicated concerns about the impact of the proposed change of the academic titles on the employment terms and conditions of serving staff, in particular those who were employed on contract terms; and
- (d) some Members considered it necessary to set up a bills committee to examine the Bill.

Conclusion

14. Subject to any view or comment of Members and a minor amendment on drafting agreed to be moved by HKU, the Bill is ready for resumption of the Second Reading debate.

Prepared by

Kelvin Ka-yun LEE
Assistant Legal Adviser
Legislative Council Secretariat
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