

**President's ruling on  
The Hong Kong Polytechnic University (Amendment) Bill 2010  
proposed by Dr Hon LAM Tai-fai, BBS, JP**

**Background**

Dr Hon LAM Tai-fai submitted The Hong Kong Polytechnic University (Amendment) Bill 2009 (“2009 Amendment Bill”) to me on 22 September 2009 for my ruling on whether it might be introduced into the Legislative Council (“LegCo”) under the Rules of Procedure. I ruled<sup>1</sup> that the 2009 Amendment Bill related to Government policies within the meaning of Rule 51(4)<sup>2</sup> of the Rules of Procedure and the written consent of the Chief Executive (“CE”) was required for its introduction.

2. Changes were subsequently made to the 2009 Amendment Bill and Dr LAM submitted the revised Bill as The Hong Kong Polytechnic University (Amendment) Bill 2010 (“2010 Amendment Bill”) to me on 6 July 2010 for my ruling. To assist me in considering whether the 2010 Amendment Bill may be introduced into LegCo under the Rules of Procedure<sup>3</sup>, I have invited the Administration to comment on the Bill and Dr LAM to respond to the Administration’s comments. I have also sought the advice of Counsel to the Legislature.

**2009 Amendment Bill**

3. According to the Brief on the 2009 Amendment Bill<sup>4</sup>, the amendments intended to be made by the 2009 Amendment Bill to The Hong Kong Polytechnic University Ordinance (Cap. 1075) (“HKPUO”) were proposed with the approval of the Council of The Hong Kong Polytechnic University (“PolyU”) after considering the recommendations

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<sup>1</sup> Ruling on the 2009 Amendment Bill proposed by Dr Hon LAM Tai-fai, BBS, JP was issued to Members on 27 November 2009 vide LC Paper No. CB(3) 176/09-10.

<sup>2</sup> Rule 51(4) of the Rules of Procedure provides that in the case of a bill which, in the opinion of the President, relates to Government policies, the written consent of CE is required for its introduction.

<sup>3</sup> In addition to Rule 51(4), Rule 51(3) of the Rules of Procedure provides that 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.

<sup>4</sup> The Brief on the 2009 Amendment Bill was provided to the Panel on Education on 3 November 2009.

of the Report on Higher Education in Hong Kong published in March 2002 and the recommendations of the Governance and Management Review conducted by PolyU in response to the Report, as well as the comments of the Public Accounts Committee of LegCo and the Education Bureau. The amendments proposed in the Bill included, among other things, changing the composition of PolyU's Council, as follows:

- (a) reducing the number of members of PolyU's Council from 29 to 25;
- (b) reducing the number of lay members, i.e. members who are not employees or students of PolyU, from 20 to 17 and empowering PolyU's Council to appoint 8 of them, instead of for CE to appoint all the lay members;
- (c) removing the express provision of CE to appoint not more than 2 public officers to PolyU's Council; and
- (d) changing the method of electing the 2 representatives of full-time staff on PolyU's Council to the effect that 1 is to be elected by and from full-time academic staff and 1 to be elected by and from full-time non-academic staff.

### **2010 Amendment Bill**

4. Dr LAM explains in his covering letter submitted to me on 6 July 2010 that the only difference between the 2009 Amendment Bill and the 2010 Amendment Bill is the proposal in relation to the method of electing the 2 representatives of full-time staff on PolyU's Council (paragraph 3(d) above refers). According to Dr LAM's letter, the PolyU Staff Association conducted an opinion poll among full-time staff to seek their views with regard to staff representation on PolyU's Council. The outcome of the poll indicates that a higher percentage of staff prefer that the 2 full-time staff representatives on PolyU's Council be elected by and from all full-time staff instead of electing 1 representative from full-time academic staff and 1 representative from full-time non-academic staff. Having considered the polling result and in line with the wish of staff, PolyU's Council decided to change the proposal to electing the 2 staff representatives by and from all full-time staff, as now set out in the 2010 Amendment Bill.

## **The Administration's views**

5. The Administration is of the view that the 2010 Amendment Bill relates to Government policies as it will affect CE's power to appoint members to PolyU's Council, in that the number of members to be appointed by CE will be reduced and CE's power in relation to a member who is a public officer will be affected.

## **Dr Hon LAM Tai-fai's response**

6. Dr LAM informed me on 22 November 2010 that he had no comment on the Administration's views.

## **My opinion**

7. In my past rulings, I have stated that in order for a bill not to be caught by Rule 51(4) of the Rules of Procedure, the bill must not have substantive effect on Government policies which include policies reflected in legislation.

8. I ruled that the 2009 Amendment Bill related to Government policies in that certain changes proposed in the Bill would have substantive effect on the current Government policy relating to appointment of members to PolyU's Council, as reflected in the existing section 10(1)(d) of HKPUO. Under that section, all the 20 lay members, which constitute about two-thirds majority of the membership of PolyU's Council (20 out of 29 members), are to be appointed by CE, of whom not more than 2 shall be public officers. The changes proposed in the 2009 Amendment Bill which would have substantive effect on this policy were:

- (a) reducing the number of members of PolyU's Council from 29 to 25, the number of lay members from 20 to 17, and the number of lay members appointed by CE from 20 to 9;
- (b) removing the express provision of CE to appoint not more than 2 public officers to PolyU's Council; and
- (c) empowering PolyU's Council to appoint 8 of the 17 lay members.

9. The 2009 Amendment Bill therefore should require the written consent of CE for its introduction, in accordance with Rule 51(4) of the Rules of Procedure.

10. I have studied the 2010 Amendment Bill very carefully. The new proposal in relation to staff representation of full-time staff on PolyU's Council (paragraph 4 above refers) does not pose any procedural issue which I need to consider under the Rules of Procedure. However, the 2010 Amendment Bill still contains the same proposals as those made in the 2009 Amendment Bill, as set out in paragraph 8 above, which I consider will have substantive effect on the current Government policy on the appointment of members to PolyU's Council. The 2010 Amendment Bill therefore requires the written consent of CE for its introduction.

### **My ruling**

11. Having considered the Administration's views, Dr Hon LAM Tai-fai's response and the advice of Counsel to the Legislature, I rule that the 2010 Amendment Bill proposed by Dr LAM 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.

(Jasper TSANG Yok-sing)  
President  
Legislative Council

15 December 2010