

EMB(MPE)31/2041/77 Pt.3

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23 September 2004

Clerk to the LegCo Panel on Education
3/F, Citibank Tower
3 Garden Road
Hong Kong

(Attn : Ms Doris Chan)

Dear Ms Chan,

Hong Kong Baptist University Faculty and Staff Union

At the special meeting on 5 July 2004, Members discussed, among other things, the dispute between the “Hong Kong Baptist University Faculty and Staff Union” (“the Union”) and the Hong Kong Baptist University (“HKBU”). The Hon Szeto Wah sought clarifications from the Administration as to whether the Union was regarded as a lawful organization under the Trade Unions Ordinance (Cap.332) (“TUO”), and whether the provisions in the Hong Kong Baptist University Ordinance (Cap. 1126) (“HKBUO”) were overriding those of the TUO. The Hon Szeto Wah also expressed concern as to whether the HKBU had contravened the laws of Hong Kong in discriminating against the Union, if the latter was lawfully registered under the TUO. The response of the Administration after seeking legal advice, is set out in the ensuing paragraph.

The TUO provides for the registration and better control of trade unions, and matters ancillary thereto. As a matter of fact, the Union is at

present a registered trade union under the TUO. That the Union is a registered trade union, however, does not exempt it and its members from having to comply with the provisions of the laws of Hong Kong that are applicable to them, including the statutory requirement imposed by section 29(1) of the HKBUO that one has to obtain the written authority of the HKBU for using the title “Hong Kong Baptist University” or 「香港浸會大學」。 In brief, the Union and its members have to comply with the provisions of both TUO and HKBUO, and it is not a question of which ordinance overrides the other. Ultimately it is for the court to determine whether a person has contravened the law.

Yours sincerely,

(Irene Young)
for Secretary for Education and Manpower

c.c. DoJ (Attn : Miss Vivian Fung,
Senior Government Counsel (Civil Advisory II)
PS for ED&L (Labour) and C for Labour
(Attn : Mr Chan Kwok-keung, Kelvin)
SG/UGC