立法會CB(2)139/04-05(05)號文件

(譯文)

來函檔號:

本函檔號: LS/B/3/04-05 電話: 2869 9457 圖文傳真: 2877 5029

香港灣仔 皇后大道東213號 胡忠大廈23樓 教育統籌局 助理秘書長(人力策劃培訓)1 區鑑雄先生 傳真(2801 6314)及郵遞函件

區先生:

《2004年職業訓練局(修訂)條例草案》

2004年10月30日的來函及擬議的經修訂條例草案已經收到, 謹此 致謝。現請進一步澄清隨附文件所載的事宜。

謹請閣下於2004年11月3日或該日前以中英文作覆。

助理法律顧問

(鄭潔儀)

連附件

副本致:法律顧問 總議會秘書(2)1

2004年11月1日

《2004年職業訓練局(修訂)條例草案》

法定法團的宗旨及權力 ——《職業訓練局條例》(第1130章)

法定法團的宗旨述明其成立的目的,並通常在設立該法團的法例之內訂明。就《職業訓練局條例》(第1130章)(下稱"《職訓局條例》")而言,第5條訂明職業訓練局(下稱"職訓局")的宗旨如下 ——

"5. 職訓局的宗旨

- (a) 就為確保有一個切合香港發展需要的全面工業教育及工 業訓練制度而需採取的措施向行政長官提供意見;
- (b) 訂立、發展和營辦計劃,以訓練維持和改善工業所需的 操作工、技工、技術員及技師;
- (c) 促進學徒的訓練;
- (d) 向15歲及以上的殘疾人士提供技能訓練並就提供該等訓練加以統籌,以改善他們的就業機會和訓練他們應付公開就業;及
- (e) 設立、營辦和維持科技學院、工業學院、工業訓練中心 及技能訓練中心。"
- 2. 《職訓局條例》第6條訂明職訓局的職能。該條包含兩個部分:第6(1)條訂明職訓局的責任或職責,第6(2)條則訂明職訓局的權力。條例草案旨在藉着修訂第6條,給予職訓局額外的權力。
- 3. 按照法律的一般原則,任何交易若超出法團章程(當中訂明法 團的宗旨)的範圍,即屬超越該法團應有的法律權限範圍,並且從一開 始便屬無效。
- 4. 藉法規成立的法團的權力是受到限制的,極其量僅延伸至為 貫徹該法團成立的目的而必需及適當需要的權力。
- 5. 法律上關於法定法團的權力的限制,在Halsbury's Law of England(第4版)一書中清楚闡述如下 ——

"法團章程(不論是否法定成立)賦予董事或大多數成員的特別權力,不管以如何絕對的字眼寫成,通常都被解釋為受到至高程度的固有限制,在行使時必須受到原有的組織約據的特別目的所規限。" (第9(2)冊第1141段)

"藉法規成立的法團的權力受到規管該法團的各項法規所規限和規範,並極其量僅延伸至有關法規內明文述明的權力,或為貫徹法團成立的目的而必需及適當需要的權力,又或可以適當地視為是獲有關法例授權的事情所附帶引起或相應引致的權力。凡有關法規沒有明文或隱含地授予的權力,皆視為受到禁制。" (第9(2)冊第1137段)

- **6.** 條例草案旨在賦權職訓局在香港以外地方為包括非香港人在 內的人士提供技能訓練及技能證書課程。
- 7. 《職訓局條例》第5條的原意是否要訂明設立職訓局的其中一個目的,是為非香港人的利益提供技能訓練?換句話說,將權力延伸至香港以外地方為非香港人提供技能訓練及技能證書課程,就貫徹職訓局成立的目的而言,是否必需及有適當需要?抑或可以適當地將此項權力的延伸視為是獲《職訓局條例》授權的事情所附帶引起或相應引致?
- 8. 為免出現含糊之處,政府當局會否考慮覆檢及/或修訂《職訓局條例》的宗旨條款(第5條)?

參與聯營企業及公司交易的明訂權力

- 9. 條例草案旨在賦權職訓局,"以擴大其宗旨和職能所涵蓋的地域範圍,這樣才可以自行舉辦或與內地有關機構合辦活動"(立法會參考資料摘要第4段)。請指出《職訓局條例》或條例草案中哪條(些)條文准許職訓局參與合夥經營、公司股權、聯營企業或其他法律安排,以及透過這些工具自行舉辦或與外界機構合辦活動。
- 10. 閣下諒會記得,政府當局在1994年提交了3條條例草案(1994年第92、93及94號條例),為香港城市大學、香港浸會大學及香港理工大學提供明訂權力,使這些教育機構可以舉辦涉及公司持股交易及聯營計劃的活動。現複印及附上該等法例的相關條文(附錄),以方便閣下參閱。
- 11. 香港的教育機構往往獨自或連同其他實體從事與其宗旨有連帶關係的業務。這些業務有時是透過另一些法律實體或附屬機構營運,例如香港大學專業進修學院(一間根據《公司條例》(第32章)成立的擔保有限公司)、由香港中文大學營運的香港生物科技研究院,以及由香港城市大學營運的城大企業有限公司。
- 12. 請說明職訓局在進行擬議的域外活動時會否作出類似的法律 安排。

外界及職訓局的法律責任

- 13. 據政府當局表示,大部分域外活動會以自資的方式營辦,政府當局亦會繼續確保政府提供予職訓局的資助不會用於津貼這些自資的活動(立法會參考資料摘要第7段)。
- 14. 根據條例草案的擬議安排,倘若職訓局招致法律責任(例如財務、合約或侵權的法律責任),外界涉案的一方能否對職訓局強制執行申索?

"政府"及"政府提供的津貼"的涵義

- 15. 條例草案第6(4)條(經修訂後)的內容如下:
 - "(4) 如職訓局為並非香港人的人的訓練或教育而在香港以外 地方執行其任何職能,則政府不得為該等職能的執行提供津 貼,而政府向職訓局提供的津貼亦不得用作資助該等職能。"
- 16. 請解釋"政府"及"政府向職訓局提供的津貼"的涵義,並指出該等政府津貼的來源。

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位的人。

"副監督" (Pro-Chancellor) 指根據第 4(4) 條委任的大學副監督,並包括署理副監督職

香港城市大學條例

- "常務副控長"(Deputy President) 指根據第14條委任的大學常務副校長,兼包積署理 **常格副校長職位的人: (由 2002 年第 23 號第 68 條修訂)**
- "教務會" (Senate) 指根據第 12 條設立的大學教務會;
- "爆程"(statutes) 指校董會根據第 21A 條訂立的大學規程;
- "評議會" (Convocation) 指根據第 178 條設立的大學評議會;
- "監督" (Chancellor) 指根據第 4 條設立的大學監督,並包括署理監督戰位的人;
- "學院" (faculty) 指根據第 17A 條設立的大學學院;並包括根據該條設立的同等機
- "顧問委員會" (Court) 指根據第 8A 條設立的大學顧問委員會。 (市 1994 年第92 號第4 條化曆。由 2002 年第23 號第68 條修訂)

第Ⅱ部

城市大學

(由 1994 年第92 號第5 條修訂)

3. 大器的設立、成立為法器及宗旨

- (1) 現設立…個名為香港城市大學 (City University of Hong Kong) 的法團,該法 刚是一個以該名稱成立的永久延續的法人團體,可起訴與被起訴。
- (2) 在符合本條例的规定下,大學的宗旨是提供科技、工程、理科、商科、文科 及其他學科的研修、訓練、研究及發展。

(由 1994 年第 92 號第 6 條修訂)

- (1) 大學設有監督,監督為大學的首長。
- (2) 監督由行政長官出任。 (由 2000 年第.53 號第3條條訂)

- "Deputy President" (常務副校長) means the Deputy President of the University appointed under section 14 and includes a person acting as the Deputy President: (Added 23 of 2002 s. 68)
- "faculty" (學院) means a faculty of the University established under section 17A and includes an equivalent body established under that section;
- "President" (校長) means the President of the University appointed under section 14 and includes a person acting as the President; (Added 23 of 2002 s. 681
- "Pro-Chancellor" (副監督) means the Pro-Chancellor of the University appointed under section 4(4) and includes a person acting as the Pro-Chancellor:
- "Senate" (教務會) means the Senate of the University established by section 17; "statutes" (現代) means the statutes of the University made by the Council under section 21A:
- "University" (大學) means the City University of Hong Kong established by section 3;
- "Vice-President" (副校長) means the Vice-President of the University appointed under section 14(1)(c) and includes a person acting as a Vice-President. (Added 23 of 2002 s. 68)

(Replaced 92 of 1994 s. 4. Amended 23 of 2002 s. 68)

PART II

THE CITY UNIVERSITY

(Amended 92 of 1994 s. 5)



- Establishment, incorporation and objects of the University
- (1) There is hereby established a corporation to be known as the City University of Hong Kong (香港城市大學), which shall, in that name, be a body corporate with perpetual succession and be capable of suing and being sued.
- (2) The objects of the University shall, subject to this Ordinance, be to provide for studies, training and research and development in technology, engineering, science, commerce, arts and other subjects of learning.

(Amended 92 of 1994 s. 6)

4. Chancellor

- (1) There is a Chancellor of the University who is the head of the University.
 - (2) The Chief Executive is the Chancellor. (Amended 53 of 2000 s. 3)

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FROM

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- (3) 監督可以大學的名義頒授學位及其他學術名銜,包括榮譽學位及榮譽名銜。 (由 2002 年第 23 號第 69 條條訂)
 - (4) 監督可根據校董會的准薦而委任一人為剧監督,任期由監督決定。
 - (5) 剧監督經監督授權,可行使監督的權力和執行監督的職責。

(由 1994 年第92 號第7條代替)

5. 大學印章

大學須備有一個法團印章,加蓋印章須—— (由1994年第92號第8條修訂)

- (a) 山校黄會藉決議授權或追認;及
- (b) 由任何 2 名獲校董會一股授權或特別授權作簽署認證的校董會成員簽署 認識。

6. 大學的文件

- (1) 大學可在執行其職能或行使其權力時或就執行其職能或行使其權力所合理附 **带或相應引起的任何事宜,訂立與簽立任何文件。**
- (2) 任何看來是經蓋上大學印章而妥為簽立的文件,須獲接納為避嫌,而且除非 相反續明成立,否則須當作已妥為簽立。

(由 1994 年第 92 魏第 9 條修訂)

7. 大學的種力

在符合第8條的規定下,大學有權為貫徹執行其職能而作出一切所需或所附帶的 事情,或作出一切有助於實徹執行其職能或與該目的相關的事情,並在不損害前越條 文的一般性的原则下。尤可—— (由 1994 年第 92 號第 10 錄修訂)

- (a) 取得、承租、購買、持有和享有任何種類的財產,以及出售、出租或以 - 其他方式處置或處理該等財產, 其方式及範圍為假使該等財產是由一名 自然入按與大學相同的權益持有時法律所容許者;
- (aa) 頭授學位及學術名衡,包括榮譽學位及榮譽名衡: (由 1994 年第 92 鼓第10條增補)

(3) The Chancellor may confer degrees and other academic awards in the name of the University including honorary degrees and honorary awards. (Amended 23 of 2002 s. 69)

(4) The Chancellor may, on the recommendation of the Council, appoint a person to be the Pro-Chancellor for a term to be determined by the

Chancellor.

(5) The Pro-Chancellor may with the authority of the Chancellor exercise the powers and perform the duties of the Chancellor.

(Replaced 92 of 1994 s. 7)

5. Seal of the University

The University shall have a common seal, and the affixing of the seal shall— (Amended 92 of 1994 s. 8)

(a) be authorized or ratified by resolution of the Council; and

(b) be authenticated by the signature of any 2 members of the Council, authorized by the Council either generally or specially to act for that purpose.

6. Documents of the University

(1) The University may make and execute any document in the performance or exercise of its functions or powers or in connexion with any matter reasonably incidental to or consequential upon the performance or exercise of its functions or powers.

(2) Any document purporting to be duly executed under the seal of the University shall be admitted in evidence and shall, unless the contrary is

proved, be deemed to have been duly executed.

0 0 0 0 2 CAP. 1132 City University of Hong Kong

(Amended 92 of 1994 s. 9)

The powers of the University

Subject to section 8, the University shall have power to do all such things as are necessary for, or incidental or conducive to, or connected with, the furtherance of its functions and may in particular, but without prejudice to the generality of the foregoing— (Amended 92 of 1994 s. 10)

(a) acquire, take on lease, purchase, hold and enjoy property of any description and sell, let or otherwise dispose of or deal with the same in such manner and to such extent as the law would allow if the property were held by a natural person in the same

(aa) confer degrees and academic awards including honorary degrees and honorary awards; (Added 92 of 1994 s. 10)

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香港城市大學條例 第 1132 章

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- (b) (山 1994 年第92 號第10 條廢除)
- (c) 建造、提供、裝備、保養、改動、移去、拆卸、更換、擴大、改善、維 修與規管建築物、處所,家具及設備,以及所有其他財產;
- (d) 訂定教職員的薪酬條款及服務條件;
- (e) (由 1994 年第92 號第10 條廢除)
- (f) 為其學生及大學僱用的人提供合適的適意設備(包括住宿安排、社交及 康體活動所需的設施);
- (g) 收取與動用資金;
- (4) 以其認為需要或合宜的方式及規模、將大學的資金用於投資;
- (7) 以其認為合宜的方式,並以其認為合宜的保證或條款借人款項;
- (7) 為執行其職能而以其認為適當的條件申請與接受任何資助;
- (k) 聘請專業人士或專家就任何事宜向大學提供意見;
- (/) 就大學所提供的科目·設施及其他服務釐定與收取費用,並指明使用該 等設施及服務的條件; (由 2002 年第 23 號第 70 條修訂)
- (m) 在一般情况下或就任何個別情況或類別的情況減收,免收或退還上逐所 魔定的費用:
- (n) 不論是以信託方式或其他方式,以大學名義接受與徵求顧贈,以及擔任 以信託方式歸屬大學的款項或其他財產的受託人;
- (a) (由 1994 年第 92 號第 10 條廢除)
- (p) 僱用全職或非全職的教職員、顧問及專家顧問: (由 1994 年第 92 號 第10條增制
- (由 1994 年第92 號 (a) 以補助或貸款方式提供經濟援助以貢獻其宗旨; 第10條增補)
- (r) 舆他人訂立合約、成立合夥或其他形式的聯營關係; (由 1994 年第 92 號第 10 條增補)
- (s) 取得、持有與處置在其他法人團體內的權益,以及參與成立法人團體; (山1994年第92號第10條增補)
- (t) 提供諮詢·顧問、研究及其他有關服務,不納是否為了牟利。 (由 1994 年前 92 號第 10 條增補)

認可法責義。由香港特別行政與批准即數對局援印刷及發行

- (b) (Repealed 92 of 1994 s. 10)
- (c) erect, provide, equip, maintain, alter, remove, demotish, replace, enlarge, improve, keep in repair and regulate the buildings, premises, furniture and equipment and all other property;
- (d) set terms of remuneration and conditions of service for staff;
- (e) (Repealed 92 of 1994 s. 10)
- (f) provide appropriate amenities (including residential accommodation, facilities for social activities and physical recreation) for its students and persons in its employment;
- (g) receive and expend funds:
- (h) invest its funds in such manner and to such extent as it thinks necessary or expedient;
- (i) borrow money in such manner and on such securities or terms as it thinks expedient:
- (i) apply for and receive any grant in aid for its functions on such conditions as it thinks fit;
- (k) engage any professional or expert person to advise it on any matter:
- fix and collect fees and charges for courses of study, facilities and other services provided by it and specify conditions for the use of such facilities and services:
- (m) reduce, waive or refund fees and charges so fixed generally or in any particular case or class of case:
- (n) receive and solicit gifts, whether on trust or otherwise, on its behalf and act as trustee of moneys or other property vested in it on trust:
- (o) (Repealed 92 of 1994 s. 10)
- (p) employ staff, advisers and consultants, on a full time or part time basis; (Added 92 of 1994 s. 10)
- (a) provide financial assistance by way of grant or loan in pursuance of its objects: (Added 92 of 1994 s. 10)
- (r) enter into a contract, partnership or other form of joint venture with other persons; (Added 92 of 1994 s. 10)
- acquire, hold and dispose of interests in other corporate bodies and take part in forming corporate bodies; (Added 92 of 1994 s. 10)
- provide for profit or otherwise advisory, consultancy, research and other related services. (Added 92 of 1994 s. 10)

8. (由 1994 年第 92 號第 11 條廢除)

8. (Repealed 92 of 1994 s. 11)

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FROM

LEGCO SECRETARIAT (LSD)

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CAP. 1126 Hong Kong Baptist University

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大學

(市 1994 年第 93 號第 6 條修訂)

3. 大學成立為法團及其宗旨

- (1) 香港沒負大學 (Flong Kong Baptist University) 是一個以該名稱成立的永久延 續的法人關體。可認訴與被起訴。
- (2) 在符合本條例的規定下,大學的宗旨是提供理科、商科、社會科學學科、支 科及其他學科的研修、網練及研究。

(山1994年第93號第7條修訂)

監督

- (1) 大學設有監督。由行政長官出任。 (由 2000 年第 53 號第 3 條修訂)
- (2) 監督可以大學的名義頒授學位及其他學術名銜。

(山 1994 年第 93 號第 8 條代件)

5. 大學印章

大學須備有一個法觀印章:加蓋印章須 --

- (a) 由校董會藉決議授權或追認;及
- (6) 由以下的人簽署認證 ----
 - ① 校提或任何副校提;及
 - (ii) 1 名雙校董會一般授權或特別授權作簽署認證的校董會成員。 (山1994年第93號第9條修訂)

大學的文件

(1) 大學可在執行其職能或行使其權力時或就執行其職能或行使其權力所合理附 帶或相應引起的任何事宜、訂立與蠶立任何文件。

PART []

THE UNIVERSELY

(Amended 93 of 1994 s. 6)



3. Incorporation and objects of the University

- (1) The Hong Kong Baptist University (香港浸食大學) shall in that name be a body corporate with perpetual succession and be capable of suing and being sucd.
- (2) The objects of the University shall, subject to this Ordinance, be to provide for studies, training and research in science, commerce, social science, arts and other subjects of learning.

(Amended 93 of 1994 s. 7)

4. Chancellor

- (1) There is a Chancellor of the University who is the Chief Executive. (Amended 53 of 2000 s. 3)
- (2) The Chancellor may confer degrees and other academic awards in the name of the University.

(Replaced 93 of 1994 s. 8)

5. Seal of the University

The University shall have a common seal, and the affixing of the seal shall-

- (a) be authorized or ratified by resolution of the Council; and
- (b) be authenticated ---
 - (i) by the signature of the President and Vice-Chancellor or of any Vice-President; and
 - (ii) by the signature of I member of the Council, authorized by the Council either generally or specially to act for that purpose.

(Amended 93 of 1994 s. 9)

Documents of the University

(1) The University may make and execute any document in the performance or exercise of its functions or powers or in connexion with any matter reasonably incidental to or consequential upon the performance or exercise of its functions or powers.

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(2) 任何看來是經蓋上大學印章而妥為簽立的文件,須獲接納為遊嫌,而且除非相反親明成立,否則須當作已妥為簽立。

(由 1994 年第 93 號第 10 條修訂)

7. 大學的權力

在符合第 8 條的規定下,大學有權為貫徹執行其職能而作出一切所需或所附帶的事情,或作出一切有助於貫徹執行其職能或與該目的相關的事情,並在不損害前述條文的一般性的原則下,此可一一 (由 1994 年第 93 號第 11 錄修訂)

- (a) 取得、承租、購買、持有和享有任何種類的財產,以及出售、出租或以 其他方式處置或處理該等財產,其方式及範圍為假使該等財產是由一名 自然人按與大學相同的權益持有時法律所容許者;
- (b) 訂立任何合約;
- (c) 建造、提供、装備、保養、改動、移去、拆卸、更換、擴大、改善、維 條與規管其建築物、處所、家具及設備以及其他財產;
- (d) 訂定教職員的薪酬條款及服務條件;
- (e) 聘請非金職人員;
- (f) 為其學生及大學僱用的人提供合題的適意設備(包括住宿安排、社交及 康體活動所需的設施);
- (g) 收取與動用資金;
- (4) 以具認為需要或合宜的方式及規模,將大學的資金用於投資;
- (7) 以其認為合宜的方式,並以其認為合宜的保證或條款借入款項;
- (7) 為執行其職能而以其認為適當的條件申請與接受任何資助;
- (k) 聘請專業人士或專家就任何事宜向大學提供意見;
- (/) 就大學所提供的課程、設施及其他服務僅定與收取費用,並指明使用該等設施及服務的條件;
- (m) 在一般情况下或就任何個別情況或類別的情況減收,免收或退還上述所 關定的費用;
- (n) 不渝是以信託方式或其他方式。以大學名義接受與徽求顧贈,以及擔任 以信託方式歸屬大學的款項或其他財產的受託人;

(2) Any document purporting to be duly executed under the seal of the University shall be admitted in evidence and shall, unless the contrary is proved, be deemed to have been duly executed.

(Amended 93 of 1994 s. 10)



7. The powers of the University

Subject to section 8, the University shall have power to do all such things as are necessary for, or incidental or conducive to, or connected with, the furtherance of its functions and may in particular, but without prejudice to the generality of the foregoing— (Amended 93 of 1994 s. 11)

- (a) acquire, take on lease, purchase, hold and enjoy property of any description and sell, let or otherwise dispose of or deal with the same in such manner and to such extent as the law would allow if the property were held by a natural person in the same interest;
- (b) enter into any contract;
- (c) erect, provide, equip, maintain, alter, remove, demolish, replace, enlarge, improve, keep in repair and regulate its buildings, premises, furniture and equipment and other property;
- (d) set terms of remuneration and conditions of service for staff;
- (e) engage persons on a part-time basis;
- (f) provide appropriate amenities (including residential accommodation, facilities for social activities and physical recreation) for its students and persons in its employment;
- (g) receive and expend funds;
- (h) invest its funds in such manner and to such extent as it thinks necessary or expedient;
- (i) borrow money in such manner and on such securities or terms as it thinks expedient;
- (f) apply for and receive any grant in aid for its functions on such conditions as it thinks fit;
- (k) engage any professional or expert person to advise it on any matter:
- fix and collect fees and charges for courses of study, facilities and other services provided by it and specify conditions for the use of such facilities and services;
- (m) reduce, waive or refund fees and charges so fixed generally or in any particular case or class of case;
- (n) receive and solicit gifts, whether on trust or otherwise, on its behalf and act as trustee of moneys or other property vested in it on trust;

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- (a) 順授學位及學術名銜,包括榮譽學位及榮譽名銜; (由 1988 年第 40 號第2條代替)
- (n) 取得、持有與處置在其他法人團體內的權益,以及成立或參與成立法人 團體; (山1994年第93號第11條增補)
- (q) 提供諮詢、顧問、研究及其他有關服務,不論是否為了牟利; (由 1994 年第 93 號第 11 條增補)
- (r) 按大學認為合物或合宜而印刷、製作或出版任何手稿、書籍、戲劇、音 樂·剛本·節目或其他材料。包括影音材料及電腦軟件。 (由 1994 年 第93 號第11 條層欄)
- (由 1994 年第 93 號第 12 條廢除)

第[]]部

游議會

(由 1994 年第93 號第13 條條訂)

9. 荔瓣會的設立

- (1) 現設立諮請會,名為香港沒會大學諮議會。
- (2) 諮議會是大學的最高諮詢機構。

(由 1994 年第 93 號第 14 條修訂)

10-11. (由 1994 年第 93 號第 15 終廢除)

12. 諮議會的職能

紡議會具有以下職能----

- (a) 收取校長的關年報告;
- (b) **诉議校董會向共作出的報告;**
- (c) 討論任何關於大學整體政策的動議;
- (d) 應大學要求讓集資金以貨數大學的宗旨; 及
- (e) 促進大學在香港及其便地方的據語。

(山 1994 年第93 號第 16 條代替)

- 13. (山 1994 年第 93 號第 17 條廢除)
 - 。这可从有效,由香港特别行政域政府印度局局展和關及發行

- (a) confer degrees and academic awards including honorary degrees and honorary awards; (Replaced 40 of 1988 s. 2)
- (p) acquire, hold and dispose of interests in other corporate bodies and form or take part in forming corporate bodies; (Added 93
- (q) provide for profit or otherwise advisory, consultancy, research and other related services: (Added 93 of 1994 s. 11)
- (r) print, produce or publish any manuscript, book, play, music, script, programme or other materials, including video and audio material and computer software as the University thinks appropriate or expedient. (Added 93 of 1994 s. 11)
- (Repealed 93 of 1994 s. 12)

PART III

THE COURT

(Amended 93 of 1994 s. 13)

9. Establishment of the Court

- (1) There is hereby established a Court to be known as the Court of the Hong Kong Baptist University.
 - (2) The Court shall be the supreme advisory body of the University. (Amended 93 of 1994 s. 14)

10-11. (Repealed 93 of 1994 s. 15)

12. Functions of the Court

The Court has the following functions-

- (a) to receive an annual report from the President and Vice-Chancellor,
- (b) to consider reports made to it by the Council;
- (c) to discuss any motion on general University policy;
- (d) to raise funds at the request of the University to further the University's objects; and
- (e) to promote the interests of the University in Hong Kong and elsewhere.

(Replaced 93 of 1994 s. 16)

13. (Repealed 93 of 1994 s. 17)

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CAP. 1075 The Hong Kong Polytechnic University

"教務委員會" (Senate) 指根據第 8A 條設立的大學教務委員會。 (山 1994 年第 94 號 第4條增額)

(山1978年第5號第2條代替。由1994年第94號第4條條訂)

3. 大學的設立及宗旨

- (1) 現設立香港理工大學 (The Hong Kong Polytechnic University) 為一個永久延 缭的法人刚體,該法人刚體可以其名義起訴與被起訴。
 - (2) 大學有能力作出亦有能力推許法人團體可合法作出或准許的作為及事情。
- (3) 大學的宗旨是提供科技、理科、商科、文科及其他學科的研修、訓練及研 71. 0

(山1994 年第94 號第5 條代替)

3A. 大學的主管人員

- (1) 大學的主幹人員為當其時出任以下職位的人(此榮職位現構成大學的主管職 (分)---
 - (a) 大學校監:
 - (6) 校董會主席;
 - (c) 校黄仓副主席;
 - (d) 大學司庫;
 - (e) 大學校長;及
 - (/) 大學常務副校長。
- (2) 大學校監由行政長官出任。如行政長官缺席,則由依照《基本法》第五十三條 在當其時代理行政長官職務的人出任署理校監,署理校監在署理校監職位期間具有校 監的權力及職責。 (由1994年第94號第6條代替。由2000年第53號第3條修訂)
- (2A) 校監可以大學的名義頒授學位及學術名銜,包括榮譽學位及榮譽名銜。如 校監練席。則主席可以大學的名義順授學位及學術名衡。包括榮譽學位及榮譽名衡。 (由 1994 年第 94 號第 6 條增額)
- (3) 大學司庫由行政長官從根據第 10(1)(d) 解獲委任的校遊會成員中委由。 (由 2000 年第 53 號第 1 條條訂)
 - (4) 校長及常務副校長(如有的話)的委任須按照第8條作出。

了由 1978 年第5 建第3 蘇滑網。由 1994 年第 94 號第6 綠修訂)

"University" (大學) means The Hong Kong Polytechnic University established under section 3. (Added 94 of 1994 s. 4) (Replaced 5 of 1978 s. 2. Amended 94 of 1994 s. 4)



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.
- (3) The objects of the University are to provide for studies, training and research in technology, science, commerce, arts and other subjects of learning. (Replaced 94 of 1994 s. 5)

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. (Replaced 94 of 1994 s. 6. Amended 53 of 2000 s. 3)
- (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. (Added 94 of 1994 s. 6)
- (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). (Amended 53 of 2000 s. 3)
- (4) The appointment of the President and of the Deputy President (if any) shall be in accordance with section 8.

(Added 5 of 1978 s. 3. Amended 94 of 1994 s. 6)

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4. 未經授權而使用名稱

- (1) 任何人不得组織 ----
 - (a) 沒有經校董會授權而聲稱或看來是香港理工大學或大學的分支或與大學 有關連的組織、機構或團體;或
 - (b) 大學以外的以 "The Hong Kong Polytechnic University" 或 "香港理工大學" 命名的組織,或以任何語文中與 "The Hong Kong Polytechnic University" 的詞句非常相近的名稱命名的組織,而其目的乃在於製學或數驅他人者,

亦不得參與和該組織、機構或團體相關的工作或成為其成員。

(2) 任何人逾反第(1)款、即屬犯罪、一經定罪、可處第1級罰款。

(山1994年第94號第7條代件)

5. 校童會的設立

現設立校童會,名為香港理工大學校童會,可行使賦予大學的權力,亦須執行委 予大學的職實。

(主: 1994 年第94 號第7 條代幹)

5A. 大學的法團印章

大學的法關印章須依據校園會的決議而加蓋,加蓋印章須由2名獲校薫會授權作 簽署認證的校旗會成員簽署認證,而其中一名成員不得為大學條員。

(由 1994 年第 94 號第 7 條增額)

6. 校營會的權力

校董會為大學的管治及行政機構,有權為更有效地實做大學的宗旨而作出一切所需或所附帶的事情,或作出一切有助於實權其宗旨的事情,並在不損害的越條文的一般性的原則下,允可一一 (由1978年前3號第4條修訂)

- (a) 取得、承租、購買、持有和享有任何財產、以及出售、出租或以共他方式處置該等財產; (由 1974 年第74 號第3 條條訂)
- (6) 訂立任何合約;

4. Unauthorized use of name

(1) A person shall not form, or work in connection with or be a member

(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.

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

(Replaced 94 of 1994 s. 7)

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.

(Replaced 94 of 1994 s. 7)

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.

(Added 94 of 1994 s. 7)



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 conductive to, the better carrying out of the objects of the University and may in particular, but without prejudice to the generality of the foregoing—
(Amended 5 of 1978 s. 4)

(a) acquire, take on lease, purchase, hold and enjoy any property and sell, let or otherwise dispose of the same; (Amended 74 of 1974 s. 3)

(b) enter into any contract;

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- (c) 建造、提供、装備、保養、維修與規管建築物、處所、家具及設備以及 為進行大學的工作所需的一切其他設施;
- (d) 為戒員、大學權用的人及學生提供合適的應意設備;
- (c) 為大學僱用的人及學生提供住宿安排以及社交和體育設施;
- (7) 批准大學動用資金以買徹其家旨;
- (g) 以其認為需要或合宜的方式及規模,將大學的資金用於投資;
- (4) 以其認為合宜的方式,並以其認為合宜的保證或條款(包括將大學的財 產按揭)借入款項;
- (i) 為執行其職能而以其認為適當的條件申請任何資助;
- (j) 僱用專業人士或專家就其在本條例下的任何職能所引起或與該等職能相 關的事宜向其提供意見;
- (k) 接受與徵求饋贈,以及擔任以信託方式歸屬大學的款項及其他財產的受 託人; (山1994 年第 94 號第 8 條代替)
- (4) 颁授學位及其他學術名衡,包括榮譽學位及榮譽名衡; (由 1994 年第 94 號第8 條增補)
- (m) 與他人訂立合約、成立合夥或其他形式的聯營關係; (由 1994 年第 94 號第8條增補)
- (n) 取得、持有與處置在其他法人關體內的權益,以及參與成立法人團體; (山1994 年第94 號第8 條潛補)
- (a) 提供諮詢、顧問、研究及其他有關服務,不論是否為了牟利。 1994 年第 94 號第 8 條增補)

(由1994年第94號第8條修訂)

- 7. (由 1994 年第 94 號第 9 條廢除)
- 校長及其他敦聯員的委任
 - (1) 校董會---
 - (a) 須按照第(2)款委任一名按長,校長在按董會的管轄下,獲委負責大學 的管理、運作及行政,以及學生在大學內的紀律事宜;

起问話百載。前香港舒排戶坡條政府印持時時是印刷及實行

- (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; (Amended L.N. 446 of 1994)
- (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:
- (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; (Replaced 94 of 1994 s. 8)
- (1) confer degrees and other academic awards including honorary degrees and honorary awards; (Added 94 of 1994 s. 8)
- (m) enter into a contract, partnership or other form of joint venture with other persons; (Added 94 of 1994 s. 8)
- (n) acquire, hold and dispose of interests in other corporate bodies and take part in forming corporate bodies; (Added 94 of 1994 s. 8)
- provide for profit or otherwise advisory, consultancy, research and other related services. (Added 94 of 1994 s. 8)

(Amended 94 of 1994 s. 8)

- (Repealed 94 of 1994 s. 9)
 - 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;