



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

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By Fax (2364 7084)

30 September 2011

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**

I am scrutinizing the legal and drafting aspects of the Bill. I would be grateful for your clarification on the following matters –

Clause 5 - Proposed section 6(b)

The Bill proposes to merge paragraphs (b) ("enter into any contract") and (m) ("enter into a contract, partnership or other form of joint venture with other persons") of the existing section 6 into a new section 6(b) ("enter into any contract, partnership or any other form of joint venture with other persons"). This departs from similar provisions in section 5(b) and (n) of the Hong Kong University of Science and Technology Ordinance (Cap. 1141). Please consider whether the different effects of the original paragraphs would be affected in any way by the way the proposed single provision is now drafted.

Clause 6 - Proposed section 8(4A) and (4B)

The meaning of "himself or herself" in "for the purpose of appointing or removing himself or herself" is not reflected in the proposed Chinese text. Please consider whether the accuracy of the rendition could be improved, say along the line of "就委任或免除其本人為校長而言" and "就委任或免除其本人為常務副校長而言".

Clause 9 - Proposed section 10

Under the existing section 10(1)(d), the Chief Executive may appoint 20 members (i.e. Council members who are not employees or students of the University) to the Council (including not more than two public officers). Under the proposed section 10(1)(d)(i), the Chief Executive may appoint nine members to the Council but there is nothing in the section to prevent the Chief Executive from appointing public officers as Council members. Similarly, there is nothing in the proposed section 10(1)(d)(ii) to prevent the Council from appointing public officers as Council members. Is there any intention in either provision to allow any number of public officers to be appointed?

Under the proposed section 10(1)(f), only "full-time students" (as opposed part-time students) may be elected as Council members. "Full-time students" is rendered as "全日制學生". However, in section 9 of the Hong Kong University of Science and Technology Ordinance (Cap. 1141), for example, the same term is rendered as "全日制課程學生". Please clarify how "full-time student" is determined: by the full-time nature of the programme the student is enrolled in or the time the student spends as a student in PolyU.

The duration of the term of office of a Council member is specified in section 10(3A) and (3B) of the Ordinance. Is there, or is it necessary to specify, any limit on the number of terms a person may serve as Council member?

Clause 13 - Proposed transitional provision

At present, there are three members appointed to the Council under section 10(1)(c) of the Ordinance. What is the practical effect on the membership of these serving Council members when the section is brought into force? Would their term of appointment be shortened or lengthened as a result of the section?

Please confirm whether the member who is currently serving under section 10(1)(f) of the Ordinance is a postgraduate, undergraduate or sub-degree student. If that serving member is a postgraduate student, it is possible that two postgraduate students will serve as Council members upon the implementation of clause 13(1) of the Bill.

The three subclauses of clause 13 of the Bill seem to deal with a person who was a member of the Council "appointed immediately" before the commencement of the Ordinance. Would it be more accurate to say in each of the subclauses "A member of the Council appointed under [section 10(1)(c)] of the principal Ordinance who was serving immediately before the commencement of this Ordinance...continues to be a member...?"

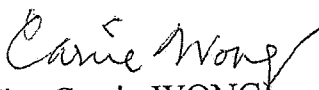
Consistency

Please consider the following consistency issues in the Bill –

- (a) "staff" is used in the proposed section 2 and the proposed section 10(1)(c) as opposed to "staff member" in the proposed section 18(g);
- (b) the phrase "to be elected by and from" which appears in the proposed section 10(1)(c)(i) and (ii) and (f)(i) and (ii) are rendered differently in the Chinese text;
- (c) "sub-degree" is rendered as "非學位課程" in the proposed section 10(1)(f) but as "學位以下程度課程" in section 13 of The Hong Kong Institute of Education Ordinance (Cap. 444) and as "專上教育程度的學位以下程度" in section 2 of Non-Local Higher And Professional Education (Regulation) Ordinance (Cap. 493); and
- (d) "from the commencement of this Ordinance for the remaining portion of the member's term of appointment" in subclause (2) and "from the commencement of this Ordinance up to the end of the member's term of appointment" in subclause (3) of the transitional provision in clause 13 both appear to carry the same meaning but are formulated differently.

I would appreciate it if you could let me have the your reply in both languages by **14 October 2011**.

Yours sincerely,

  
(Miss Carrie WONG)  
Assistant Legal Adviser

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