

立法會
Legislative Council

LC Paper No. LS57/13-14

**Paper for the House Committee Meeting
on 30 May 2014**

**Legal Service Division Report on
Kowloon Tong Church of the Chinese Christian and Missionary Alliance
Incorporation (Amendment) Bill 2014
(Member's Bill)**

I. SUMMARY

- 1. The Bill** This is a Member's Bill introduced by Dr Hon Priscilla LEUNG Mei-fun. The Bill proposes to amend the Kowloon Tong Church of the Chinese Christian and Missionary Alliance Incorporation Ordinance (Cap. 1031) to expand the powers of the body corporate incorporated under Cap. 1031 to enable it to borrow or raise moneys.
- 2. Public Consultation** There is no public consultation on the Bill.
- 3. Consultation with LegCo Panel** The Panel on Home Affairs has not discussed the Bill.
- 4. Conclusion** No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

II. REPORT

The Bill has been placed on the agenda of the Council meeting of 28 May 2014 for it to receive the First Reading. No LegCo Brief on the Bill has been issued.

Object of the Bill

2. The Bill proposes to amend the Kowloon Tong Church of the Chinese Christian and Missionary Alliance Incorporation Ordinance (Cap. 1031) to expand the powers of the body corporate incorporated under Cap. 1031 to enable it to borrow or raise moneys.

Background

3. This is a Member's Bill. The Member in charge is Dr Hon Priscilla LEUNG Mei-fun.

4. Cap. 1031 provides for the incorporation of the Kowloon Tong Church of the Chinese Christian and Missionary Alliance (the Church). Section 2 of Cap. 1031 provides that the trustees for the time being of the Church shall be a body corporate, and shall have the name "The Trustees of the Kowloon Tong Church of the Chinese Christian and Missionary Alliance" (the corporation), and in that name shall have perpetual succession and shall and may sue and be sued in all courts in Hong Kong.

5. Section 3 of Cap. 1031 provides for the powers of the corporation, including (a) power to invest its money upon various kinds of properties and assets and (b) power to transfer or otherwise dispose by deed under its seal any lands, properties and other kind of assets which are for the time being vested in or belonging to the corporation.

6. As a matter of principle, a statutory corporation can only have the powers given by express provisions in its incorporating legislation or the powers implied as necessary incidents of its creation and of the performance of the statutory functions conferred upon it¹. Since there is no provision in Cap. 1031 that empowers the corporation to borrow or raise moneys, the Bill, if passed, would provide the corporation with such powers.

¹ See, for the implied powers of a statutory corporation, para. 13.1.3 of *Craies on Legislation*, 10th Edition, London Sweet & Maxwell, 2012 (at p. 620).

Provisions of the Bill

7. The Bill amends section 3 of Cap. 1031 to empower the corporation to borrow or raise moneys, with or without security, on the terms and in the manner that the corporation thinks appropriate.

8. The Bill contains a saving provision saving the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in Cap. 1031 and those claiming by, from or under them. Under Rule 50(8) of the Rules of Procedure of the Legislative Council, the saving provision is required to be included in a bill which is a "private bill" as defined in the Private Bills Ordinance (Cap. 69)².

Commencement

9. By virtue of section 20 of the Interpretation and General Clauses Ordinance (Cap. 1), the Bill, upon enactment, would commence on the day on which it is published in the Gazette.

Public Consultation

10. There is no public consultation on the Bill.

Consultation with LegCo Panel

11. The Clerk to the Panel on Home Affairs (the Panel) has advised that the Panel has not discussed the Bill.

Conclusion

12. No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Prepared by

YICK Wing-kin
Assistant Legal Adviser
Legislative Council Secretariat
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² According to section 2 of the Private Bills Ordinance (Cap. 69), "private bill" means a bill which -
(a) provides primarily for the particular interest or benefit of any individual, association or body corporate rather than the interest or benefit of the public; and
(b) is not a Government measure.