

立法會

Legislative Council

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Paper for House Committee meeting on 9 October 2015

Procedure for nomination and election of Members of the Legislative Council to serve on the Council of The Chinese University of Hong Kong and the Court of the University of Hong Kong

Purpose

This paper invites the House Committee ("HC") to consider the proposed amendment to the procedure for nomination and election of Members of the Legislative Council ("LegCo") to serve on the Council of The Chinese University of Hong Kong ("CUHK Council") and the Court of the University of Hong Kong ("HKU Court"), and the proposed date of the HC meeting at which the nomination and election are to be conducted.

Background

CUHK Council

2. Under Statute 11.1(1) of The Chinese University of Hong Kong Ordinance (Cap. 1109) ("CUHK Ordinance"), the CUHK Council shall consist of, among others, three persons elected by LegCo Members from among their own number. Under Statute 11.4, the term of office is three years. The election of LegCo Members to serve on the CUHK Council for the fourth year will therefore be conducted again in the last session of the Fifth LegCo. Statute 11.4 also provides that a Member will cease to hold office if he or she ceases to be a LegCo Member during the term of office. According to section 7(a) of the CUHK Ordinance, the CUHK Council is the governing and executive body of the University. The CUHK Council meets several times a year. The powers, duties and composition of the CUHK Council, as provided in section 7 of the CUHK Ordinance and paragraphs 1 and 8 of Statute 11, are in **Appendix I**.

HKU Court

3. Under Statute XV 1.(d) of the University of Hong Kong Ordinance (Cap. 1053) ("HKU Ordinance"), the HKU Court shall consist of, among others, five persons elected by LegCo Members from among their own number. Under Statute XV 5, the term of office is three years. The election of LegCo Members to serve on the HKU Court for the fourth year will therefore be conducted again in the last session of the Fifth LegCo. Statute XV 9 provides that a Member shall be deemed to have resigned from the HKU Court if he or she ceases to be a LegCo Member during the term of office. The HKU Court, which is the supreme advisory body of the University, normally meets once a year in December and most business is conducted by circulation of papers. The composition and powers of the HKU Court, as provided in Statutes XV and XVII of the HKU Ordinance respectively, are in **Appendix II**.

Proposed amendment to the procedure for nomination and election of Members to serve on the CUHK Council and the HKU Court

4. At the HC meeting on 12 October 2012, Members agreed to the following nomination and election procedure for Members to serve on the CUHK Council and the HKU Court which is largely based on that adopted in the past four terms of LegCo -

- (a) the nomination and election of Members for appointment to the CUHK Council and the HKU Court shall be conducted at a meeting of HC, the date of which shall be appointed by HC;
- (b) a valid nomination shall be made orally by a Member, seconded by at least one other Member who should not be the Member being nominated, and accepted by the Member being nominated. A Member who nominates a Member who is absent from the meeting when the nomination is made may only do so if the former states that the absent Member's acceptance of the nomination has been secured;
- (c) if the number of nominations exceeds that required for appointment, a poll shall be taken at the HC meeting at which the election is conducted; and Members shall cast their votes by using the Electronic Voting System. A Member may vote for as many nominees as, but not more than, the number required for appointment. If a Member has voted for the number of nominees which exceeds the number required for appointment, the vote(s)

which the Member has cast in excess of the required number will not be counted. The nominees who get the highest numbers of votes will be declared elected;

- (d) in cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the manner of election provided in paragraph 4(c) above; and
- (e) if, after a separate poll is held under paragraph 4(d) above, there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lots shall be drawn by the Chairman of HC among such nominees to determine which of them will take up the remaining place/places.

5. In accordance with the above nomination and election procedure, Members were elected to serve on the CUHK Council and the HKU Court respectively at the HC meeting on 19 October 2012. However, some Members expressed concern at that HC meeting that the arrangement of disregarding only the vote(s) which a Member had cast in excess of the required number of votes would work to the disadvantage of the nominee(s) who was/were at the end of the list of nominees, and suggested that it was more appropriate to disregard all the votes cast by a Member if the number of nominees he had voted for exceeded the number required for appointment. Since then, HC has adopted the arrangement whereby if the number of nominees a Member has voted for exceeds the number required for appointment, all the votes which the Member has cast, and not just the vote(s) which the Member has cast in excess of the required number, will not be counted, for the procedure for nomination and election of Members for appointment to the Select Committee to Inquire into Matters Relating to Mr Timothy TONG's Duty Visits, Entertainment, and Bestowing and Receipt of Gifts during his Tenure as Commissioner of the Independent Commission Against Corruption and the procedure for nomination and election of Members for appointment to the Select Committee to Inquire into the Background of and Reasons for the Delay of the Construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. **It is therefore proposed that the procedure for nomination and election of Members to serve on the CUHK Council and the HKU Court be amended to the effect that if a Member has voted for a number of nominees which exceeds the number required for appointment, all the votes which the Member has cast will not be counted** (paragraph 4(c) above refers).

Date of election

6. The terms of office of the serving Members¹ on the CUHK Council and the HKU Court will expire on 18 and 19 October 2015 respectively. Subject to Members' agreement to the proposed amendment to the nomination and election procedure detailed in paragraph 5 above, it is proposed that Members be invited to make nominations at the HC meeting on 16 October 2015 for the purpose of electing three Members to serve on the CUHK Council and five Members to serve on the HKU Court.

Advice sought

7. Members are invited to -
- (a) endorse the amendment to the procedure for nomination and election of Members to serve on the CUHK Council and the HKU Court proposed in paragraph 5 above; and
 - (b) endorse the proposal for the nomination and election of Members to serve on the CUHK Council and the HKU Court to take place at the HC meeting on 16 October 2015.

Council Business Division 2
Legislative Council Secretariat
7 October 2015

¹ Members currently serving on the CUHK Council are Hon Tommy CHEUNG, Hon Gary FAN and Dr Hon Elizabeth QUAT. The five Members currently serving on the HKU Court are Hon James TO, Hon Abraham SHEK, Hon Paul TSE, Hon IP Kin-yuen and Hon Christopher CHUNG.

**Section 7 of
The Chinese University of Hong Kong Ordinance (Cap. 1109)**

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Section :	7	Powers and duties of the Council	18 of 2007	13/07/2007
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Subject to this Ordinance and the Statutes, the Council shall-

- (a) be the governing and executive body of the University;
- (b) have the management and control of the affairs, purposes and functions of the University;
- (c) have the control and management of the property and financial affairs of the University including the property of the constituent Colleges, but in the exercise of such power of control and management in respect of any immovable property of any original College or Shaw College, the Council shall not alter the use of any such property without the prior consent of the Board of Trustees of the College concerned; (Amended 59 of 1986 s. 4; 18 of 2007 s. 5)
- (d) make such University appointments as it thinks proper;
- (e) power to approve the fees charged by the University in respect of approved courses of study;
- (f) provide for the custody and use of the University's seal.

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**Paragraph 1 of Statute 11 of
The Chinese University of Hong Kong Ordinance (Cap. 1109)**

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STATUTE 11

THE COUNCIL

1. The Council shall consist of-
 - (a) the Chairman, who shall be appointed by the Chancellor on the nomination of the Council from persons under subparagraphs (k), (l), (m) and (n);
 - (b) the Vice-Chancellor;
 - (c) the Pro-Vice-Chancellors;
 - (d) the Treasurer;
 - (da) life members appointed by the Council; (*L.N. 31 of 1981*)
 - (e) in relation to the original Colleges and Shaw College, 2 members elected by the Board of Trustees of each College from among its own members; (*18 of 2007 s. 5*)
 - (f) the Heads of the original Colleges and of Shaw College; (*18 of 2007 s. 5*)
 - (g) the Dean of each Faculty and of the Graduate School;
 - (h) in relation to the original Colleges and Shaw College, one Fellow of each College elected by the College's Assembly of Fellows; (*18 of 2007 s. 5*)
 - (i) 3 members elected by the Senate from among the academic members of the Senate;
 - (j) (*Repealed L.N. 481 of 1997*)
 - (k) 6 persons nominated by the Chancellor; (*L.N. 481 of 1997*)
 - (l) 3 persons elected by the Unofficial Members of the Legislative Council, other than Official Members, from among their own number; (*67 of 1987 s. 2*)
 - (m) not more than 6 other persons, normally resident in Hong Kong; who shall be elected by the Council; (*L.N. 481 of 1997*)
 - (n) after a date to be appointed by the Council, such number of members of the Convocation not exceeding 3 as shall be determined by the Council from time to time, to be elected by the Convocation in the manner determined by the Council.

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**Paragraph 8 of Statute 11 of
The Chinese University of Hong Kong Ordinance (Cap. 1109)**

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8. Subject to the Ordinance and the Statutes and without derogating from the generality of its power, it is specifically prescribed-

- (1) that the Council shall have the power-
 - (a) to make Statutes, provided that no Statute shall be made until the Senate shall have had an opportunity of reporting thereon to the Council;
 - (b) to make decrees for any purpose for which decrees are or may be authorized to be made, provided that no decree shall be made until the Senate shall have had an opportunity of reporting thereon to the Council;
 - (c) to invest any money belonging to the University;
 - (d) to borrow money on behalf of the University;
 - (e) to sell, buy, exchange, lease or accept leases of any real or personal property on behalf of the University;
 - (f) to enter into, vary, perform and cancel contracts on behalf of the University;
 - (g) in relation to the original Colleges and Shaw College, to require the Board of Trustees of each College annually to produce its audited accounts in such form and at such time as the Council may determine; (*18 of 2007 s. 5*)
 - (h) to receive from public sources grants for capital and recurrent expenditure;
 - (i) to receive annually and for such longer periods as the Council may determine from time to time from the Vice-Chancellor, after he has consulted the Senate, and to approve, estimates of expenditure;
 - (j) to receive gifts and to approve, subject to such conditions as the Council thinks fit, the receipt of gifts by the Colleges;
 - (k) to provide for the welfare of persons employed by the University and the wives, widows and dependants of such persons, including the payment of money, pensions, or other payments and to subscribe to benevolent and other funds for the benefit of such persons;
 - (l) to provide for the discipline and welfare of students;
 - (m) to recommend the award of degrees honoris causa;
 - (n) after report from the Senate to establish additional Faculties, Departments or Schools of Studies or to abolish, combine or subdivide any Faculty, Department or School of Studies; (*L.N. 452 of 1994; L.N. 174 of 2010*)
 - (na) on the recommendation of the Senate, to determine the organization or structure of each Faculty and its Departments and each School of Studies and to make such alterations to such organization or structure as deemed fit by the Council; (*L.N. 452 of 1994; L.N. 174 of 2010*)
 - (o) to prescribe fees of the University;
- (2) that it shall be the duty of the Council-
 - (a) to appoint bankers, auditors and any other agents whom it deems expedient to appoint;
 - (b) to appoint an Administrative and Planning Committee;
 - (c) to cause proper books of account to be kept for all sums of money received and expended by the University and for the assets and liabilities of the University so that such books give a true and fair statement of financial transactions and position of the University;
 - (d) to cause the accounts of the University to be audited within 6 months after the termination of each financial year as the Council may determine;
 - (e) to provide the buildings, libraries, laboratories, premises, furniture, apparatus and other equipment needed for the University;
 - (f) in consultation with the Senate to encourage and provide for research by members of the University;
 - (g) to review the instruction and teaching in courses of study leading to degrees, diplomas, certificates and other awards of the University;
 - (h) after consultation with the Senate, to institute all teaching posts;
 - (i) to administer or cause to be administered a Superannuation Fund or Funds for the benefit of persons employed by the University;

- (ia) to make, on such terms and conditions and in accordance with such procedures as the Council may determine from time to time, such University appointments as the Council deems necessary, and for the appointment of teachers, after consulting the Senate or member or members of the Senate designated by the Senate for the purpose of appointment of teachers; (*L.N. 174 of 2010*)
- (j)-(l) (*Repealed L.N. 174 of 2010*)
- (m) on the recommendation of the Senate, to appoint a Chairman for each Department, a Director for each School and a Director of Studies for each academic subject not subsumed under a Department or a School of Studies; (*L.N. 452 of 1994; L.N. 174 of 2010*)
- (n) to appoint external examiners on the recommendation of the Senate;
- (o) to provide for the printing and publication of works which may be issued by the University; and
- (p) to consider reports from the Senate, and if the Council deems it proper to do so, to take action thereon.

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**Statute XV of
The University of Hong Kong Ordinance (Cap. 1053)**

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STATUTE XV

THE COURT

1. The Court shall consist of-
 - (a) the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Deputy Vice-Chancellor, the Pro-Vice-Chancellors and the Treasurer; (G.N.A. 59 of 1960; L.N. 69 of 1968; L.N. 159 of 1970; L.N. 167 of 1992)
 - (b) life members;
 - (c) the following members ex officio:
the members of the Council,
the members of the Senate,
the Registrar,
the Chairman, Deputy Chairman and Clerk of Convocation; (L.N. 15 of 1973; L.N. 186 of 2003)
 - (d) the following elected members:
 - (i) 5 persons elected by the Members of the Legislative Council from among their own number, (67 of 1987 s. 2; L.N. 99 of 1997)
 - (ii) 12 members elected from among its number by the Standing Committee of Convocation; provided that no member of that committee who is a member of the Court by virtue of any other paragraph of this Statute shall be eligible for election, (L.N. 44 of 1985)
 - (iii) 5 members elected by the Court,
 - (iv) 3 members elected by the Grant Schools Council from among its number, (L.N. 82 of 1979; L.N. 165 of 1999)
 - (v) 3 members elected by the Hong Kong Subsidized Secondary Schools Council from among its number; and (L.N. 56 of 1986; L.N. 165 of 1999)
 - (e) not more than 20 members, not being already included in any of the foregoing classes, appointed by the Chancellor.
2. Vacancies shall be filled as they occur or as soon thereafter as conveniently may be.
3. Any member of the Court except an ex officio member may resign by written notice addressed to the secretary to the Court. (L.N. 58 of 1976)
4. The ex officio members shall continue members so long only as they hold the office in virtue of which they became members of the Court.
5. The elected members shall hold office for 3 years at a time and shall be eligible for re-election.
6. The appointed members shall hold office for 3 years at a time and shall be eligible for re-appointment.
7. The Registrar shall be the secretary to the Court. (L.N. 58 of 1976; L.N. 167 of 1992)
8. If any appointed or elected member leaves Hong Kong and either remains absent for 3 months or more or gives notice of his intended absence for 3 months or more the appointing or electing person or body may appoint or elect, as the case may require, another person to act as member in his place during his absence. The acting member shall vacate his office either on the return of the absent member to Hong Kong, or on the expiry of the absent member's term of office, whichever first happens. (L.N. 32 of 1987)
9. A member elected under paragraph 1(d)(i), (ii), (iv) or (v) of this Statute shall be deemed-
 - (a) to have resigned from the Court if he ceases to be a member of the body which elected him;
 - (b) to have resigned from his membership of the Court in that capacity if he becomes a member of the Court in another capacity. (L.N. 44 of 1985; L.N. 165 of 1999)

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**Statute XVII of
The University of Hong Kong Ordinance (Cap. 1053)**

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STATUTE XVII

POWERS OF THE COURT

Subject to the provisions of the Ordinance and the statutes, the Court shall have power-

- (a) to recommend to the Chancellor additions to, or the amendment or repeal of any of the statutes on the proposal of the Council;
- (b) (Repealed L.N. 186 of 2003)
- (ba) to elect, in accordance with regulations, its members to be members of the Council and to, on the recommendation of the Council, give the approval referred to in paragraph 2 of Statute XVIII; (L.N. 186 of 2003)
- (c) to consider the annual accounts together with any comments that may have been made by the auditors;
- (d) to consider any reports that may be made by the Council to the Court;
- (e) to discuss any motion on general University policy that may be introduced by a member; and
- (f) to appoint life members and to prescribe the procedure for making such appointments.

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