

立法會
Legislative Council

LC Paper No. LS9/19-20

**Legal Service Division Report on
St. John's College (Amendment) Bill 2019**

I. SUMMARY

- 1. The Bill**

The Bill is a Member's Bill and the Member in charge is Hon Jimmy NG Wing-ka, BBS, JP.

The Bill seeks to amend the St. John's College Ordinance (Cap. 1089) to give protection to members of the body corporate incorporated under Cap. 1089 and some other persons mentioned in Cap. 1089, and to give the body corporate certain express powers.
- 2. Public Consultation**

The Administration, the members/stakeholders of St. John's College, the University of Hong Kong and the relevant statutory authorities support the Bill.
- 3. Consultation with LegCo Panel**

Views on the Bill have been sought from members of the Panel on Education vide LC Paper No. CB(4)730/18-19 issued on 8 April 2019. At its meeting on 3 May 2019, the Panel noted that no views have been received on the Bill.
- 4. Conclusion**

No difficulties relating to the legal and drafting aspects of the Bill have been identified.

II. REPORT

The date of First Reading of the Bill is 4 December 2019. Members may refer to the Legislative Council ("LegCo") Brief (with no file reference) issued by Hon Jimmy NG Wing-ka, BBS, JP on 28 June 2019 for further details.

Object of the Bill

2. The Bill seeks to amend the St. John's College Ordinance (Cap. 1089) to give protection to members of the body corporate incorporated under Cap. 1089 and some other persons mentioned in Cap. 1089, and to give the body corporate certain express powers.

Background

3. This is a Member's Bill. The Member in charge of the Bill is Hon Jimmy NG Wing-ka, BBS, JP. The Administration has confirmed that the Bill does not relate to public expenditure, political structure, the Government's operation and Government policy.¹ The Law Draftsman has also confirmed that the Bill conforms to the requirements of Rule 50 of the Rules of Procedure of LegCo ("RoP") and the general form of Hong Kong legislation.

4. Under section 3 of Cap. 1089, the College of St. John the Evangelist ("College") is established as a college affiliated to the University of Hong Kong. Members of the College are constituted a body corporate by the name of the College. Under section 4(1) and (2) of Cap. 1089, the College has the power to deal with properties (such as acquiring and selling real properties, and investing moneys upon mortgages of any land or securities). According to sections 5 and 6 of Cap. 1089, the council of the College is the governing body of the College and the College shall be governed, administered and managed in accordance with, among other things, section 4 of Cap. 1089. At present, Cap. 1089 does not provide any protection to any person in the exercise of the

¹ According to Rule 51(3) and (4) of the RoP, a Member may not introduce a bill which the President considers to be relating to public expenditure, political structure or Government's operation. Further, if the President considers that a bill sought to be introduced by a Member relates to Government policy, the notice for such introduction shall be accompanied by the Chief Executive's written consent in respect of the bill.

powers or the performance of functions and duties conferred by or imposed under Cap. 1089.

Provisions of the Bill

5. The main provisions of the Bill are set out in the ensuing paragraphs.

New powers conferred on the College

6. Clause 3 of the Bill seeks to add proposed new sections 4(3) to (5) to Cap. 1089 to empower the College to:

- (a) borrow or otherwise raise moneys and may do so on the securities or terms that the College thinks expedient;
- (b) invest any money belonging to the College in the manner and to the extent that it thinks expedient;
- (c) acquire, hold and dispose of interest in other corporate bodies and take part in forming corporate bodies; and
- (d) exercise any of the College's powers alone or in association with any other person or body corporate.

Providing protection for acts performed under Cap. 1089

7. Clause 4 of the Bill seeks to add a proposed new section 8A to Cap. 1089 to provide that the following persons acting in good faith would not be personally liable for any liability or claim in respect of any act done or default made in the exercise or purported exercise of the powers conferred by Cap. 1089, or in the performance or purported performance of the functions or duties imposed under Cap. 1089:

- (a) members of the College as defined in section 2 of Cap. 1089 including the President of the College, the Master of the College and members of the council of the College;
- (b) members of any committee established under section 8 of Cap. 1089;² and

² According to section 8 of Cap. 1089, certain members of the College may establish a committee with such membership as they think fit.

- (c) officers of the College as provided under section 3 of the Schedule to Cap. 1089.³

Under the proposed new section 8A(2), the protection would not affect any liability of the College for that act or default.

8. Clause 4 of the Bill also seeks to add a proposed new section 8B to Cap. 1089 to clarify that a person falling within the definition of "members" in section 2 of Cap. 1089 would not be personally liable for any liability of the College solely because the person is one of the members of the College. The Legal Service Division ("LSD") has enquired why the proposed new section 8B, as drafted, would only apply to members of the College, but not to committee members and officers of the College referred to in paragraph 7(b) and (c) above. The Member in charge has explained that as committee members and officers of the College may also be members of the College, the former would also be covered by the proposed new section 8B.

Saving Provision

9. Clause 5 of the Bill provides for the saving of 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 the Bill and those claiming by, from or under them. The saving provision is required, under RoP 50(8), to be included in the Bill, which is a "private bill" as defined in the Private Bills Ordinance (Cap. 69).⁴

Commencement

10. The Bill, if passed, would come into operation on the day on which the enacted Ordinance is published in the Gazette.

³ These officers include the President of the College, the Master of the College and such officers as may be designated by the rules made under section 6 of Cap. 1089.

⁴ Under section 2 of 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.

Public Consultation

11. According to paragraph 5 of the LegCo Brief, the Administration, including the relevant Government bureau and departments, together with the relevant statutory authorities supports the Bill. Upon LSD's enquiry, the Member in charge has confirmed that the Bill is supported by members/stakeholders of the College and the University of Hong Kong.

Consultation with LegCo Panel

12. As advised by the Clerk to the Panel on Education, views on the Bill have been sought from Panel members vide LC Paper No. CB(4)730/18-19 issued on 8 April 2019. At its meeting on 3 May 2019, the Panel noted that no views have been received on the Bill.

Conclusion

13. No difficulties relating to the legal and drafting aspects of the Bill have been identified.

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