

LEGISLATIVE COUNCIL BRIEF

THE OPEN UNIVERSITY OF HONG KONG (AMENDMENT) BILL 2021

INTRODUCTION

At the meeting of the Executive Council on 15 June 2021, the Council ADVISED and the Chief Executive ORDERED that The Open University of Hong Kong (Amendment) Bill 2021, at the **Annex**, should be introduced into the Legislative Council.

JUSTIFICATIONS

Development of The Open University

2. First established as The Open Learning Institute of Hong Kong (OLI) in 1989 and later acquiring a university title in 1997, The Open University of Hong Kong (OUHK) has proactively expanded the range and scope of its programme offerings by introducing professional and practical programmes in response to societal developments, especially at the degree level. In support of the Government's policy objective to increase the secondary school leavers' post-secondary education participation rate to 60% within ten years as announced in the 2000 Policy Address, the OUHK first launched five full-time face-to-face sub-degree programmes in 2001 and subsequently launched the first full-time face-to-face Bachelor's degree programme in 2003. The OUHK also participated in the Joint University Programmes Admissions System in 2007 and continued to develop its full-time face-to-face programmes. To date, the OUHK has evolved from primarily a distance learning institution into a full-fledged comprehensive university offering a range of around 220 programmes, covering distance, blended, and face-to-face learning, as well as full-time and part-time modes of study, and providing students with flexible learning pathways. In the

2020/21 academic year, the OUHK offers a total of 65 full-time Bachelor's degree and 21 full-time sub-degree programmes. In terms of student numbers, the OUHK has about 11 600 full-time sub-degree and undergraduate students, about 8 700 students enrolled in part-time distance learning programmes, and about 2 000 postgraduate students in the same academic year. In terms of full-time undergraduate enrolment, the OUHK is now the sixth largest local university.

3. The OUHK is also committed to enhancing the quality of teaching and learning in various aspects to promote its academic development. To date, the OUHK has established six schools, covering academic fields including arts and social sciences, business and administration, education and languages, nursing and health studies, science and technology, as well as professional and continuing education. As regards the hardware, the OUHK has three campuses in Ho Man Tin, including the Jockey Club Institute of Healthcare, which was newly opened in January 2021, and two learning centres in Kwai Hing and Lai King respectively to support the operations of different programmes. Meanwhile, the OUHK strives to strengthen the research capabilities in its niche academic areas, and has successfully obtained a total funding of over \$100 million under the Competitive Research Funding Schemes for the Local Self-financing Degree Sector¹ administered by the Research Grants Council, which is the highest funding granted to a self-financing institution.

4. Apart from focusing on local developments, the OUHK sets its sights on the Mainland and overseas by establishing ties with various institutions outside Hong Kong to facilitate academic exchanges. The OUHK provides more than 1 000 internship, exchange, and study trip opportunities outside Hong Kong for its students each year so as to enrich their learning experiences. In addition, the OUHK signed an agreement with the Zhaoqing Municipal Government and Zhaoqing University in April 2020 to collaborate on establishing The Open University of Hong Kong (Zhaoqing). The project will foster the higher education development in the Guangdong-Hong Kong-Macao Greater Bay Area (Greater Bay Area) as well as facilitate exchange and talent nurturing between Zhaoqing and Hong Kong.

¹ The Government launched three funding schemes under the Research Endowment Fund in 2014/15, namely the Institutional Development Scheme, the Inter-Institutional Development Scheme, and the Faculty Development Scheme, with a view to supporting the academic and research development of the local self-financing degree-awarding sector on a competitive basis.

Review of the University Title

5. Despite the rapid development of the OUHK since its establishment some thirty years ago, because of its title, many people in society still have the misperception of the OUHK as mainly a distance learning institution offering part-time programmes for working adults, instead of a full-fledged comprehensive university. Different stakeholders have reflected to the OUHK that this misunderstanding has posed challenges and hindrance to the further development of the OUHK and its graduates.

6. In this connection, the OUHK Council decided in March 2019 to set up a Working Group on University Title Review (Working Group), chaired by the President, to conduct a formal review of the university title. The Working Group considered that the existing title of the OUHK would give rise to the following challenges in relation to its future development –

- (a) **Hindrance to future academic development and exchange** – Some universities and academics still perceive the OUHK as primarily a distance learning institution with no solid academic vigour. This hinders the OUHK’s co-operation in research and scholarly activities with other universities;
- (b) **Difficulty in student recruitment** – Some parents and secondary school teachers do not encourage secondary school graduates to apply for admission into the OUHK, as they perceive the OUHK as primarily a distance learning institution mainly for adult learners. Some secondary school students also have this misconception. This affects the OUHK’s student recruitment to some extent;
- (c) **Hindrance to the career development of the OUHK’s graduates** – Many employers and human resources personnel do not appreciate that the academic qualifications of the OUHK’s full-time Bachelor’s degree graduates are equivalent to those of other universities. The graduates have received the same quality-assured university education, had the same campus life, and are equally well-equipped for joining the workforce. This

adversely affects the long-term career developments of the OUHK's graduates; and

- (d) **Impact on donors and sponsors** – Some potential donors' and sponsors' misunderstanding of the OUHK's nature may affect the chances for the OUHK to secure donations and sponsorships, which affects its finance and future developments.

7. Given the above considerations, the Working Group agreed that there were sufficient grounds for considering retitling the OUHK, and extensively consulted various stakeholders, including staff, graduates, students, the Court (the statutory supreme advisory body of the OUHK), and other external stakeholders (such as donors and sponsors, partners, Presidents of other universities) on the issue from April 2019 to May 2020 by means of focus groups, townhall meetings, online consultation, etc. On the whole, the stakeholders agreed that the misconceptions arising from the present university title would hinder the future developments of the OUHK and its students, and a new title which could reflect the OUHK's current status as a comprehensive university should be adopted to address the relevant issues and facilitate its strategic developments. In particular, more than 65% of the student respondents were supportive of the retitling proposal.

Justifications for the Proposed New Title

8. Considering the positive responses of the stakeholders to the proposed retitling in the consultation exercise, the OUHK Council set up a Selection Committee on University Title (Selection Committee) in July 2020 to co-ordinate matters relating to the university retitling. The Selection Committee, chaired by the President, comprised persons with a deep understanding of the OUHK, experienced educators and senior members of society, including representatives of the OUHK Council, the Court, staff, students, and alumni. Following the criteria set by the Selection Committee, all members of the OUHK community and the public were invited to submit nominations for new university titles from August to September 2020. During the period, around 1 000 nominations were received, including 49% from the public, 26% from students, 22% from alumni, and the rest from staff members.

9. The Selection Committee carefully considered all the nominations received through three rounds of shortlisting. Having thoroughly examined the merits and drawbacks of the various titles and sought the comments from language consultants, the Selection Committee recommended that the Council adopt “香港都會大學” (“都大”) and “Hong Kong Metropolitan University” (“HKMU”) as the new university title. Having taken into account the following considerations, the Council approved the recommendation on 10 December 2020 –

- (a) Hong Kong is a vibrant international metropolitan city. The new title carries the concept of the OUHK being an integral part of Hong Kong, supporting and contributing to Hong Kong’s development and innovation;
- (b) The students of the OUHK come from diverse backgrounds with different aspirations. Moreover, the programmes offered by the OUHK cover a wide variety of disciplines, including full-time and distance learning programmes. The new title embraces diversity, which fits the present status and strategic goals of the OUHK as a comprehensive university, and reflects the innovative, progressive, and diverse spirit of the OUHK, its students and alumni;
- (c) The new title reflects the professional and practical nature of the education provided by the OUHK, which helps equip students so that they contribute to Hong Kong through different channels and in different capacities;
- (d) The new title conveys the idea that the OUHK’s teaching and research are modern and forward-looking, addressing the needs of Hong Kong and its neighbouring regions;
- (e) The new title is neutral in academic inclination and can facilitate the OUHK’s development in new academic fields to meet the ever-changing learning aspirations and talent needs of society, in alignment with the strategic development of the OUHK while fulfilling its object of promoting open learning;
- (f) As the “open universities” on the Mainland generally only offer distance learning programmes, the new title is beneficial to the development of the OUHK and the proposed OUHK (Zhaoqing) in the Greater Bay Area; and

- (g) The title “Metropolitan University” has been adopted by many universities in major international cities, and does not carry any negative connotations.

Impact of University Retitling

10. The mission of the OUHK is “to advance learning, knowledge, and research that meet students’ learning aspirations and society’s talent needs, focusing on practical and professional programmes”. The OUHK believes that the retitling can help stakeholders (including prospective students, parents, employers, and members of the public) better understand the mission and role of the OUHK and correct their misunderstandings of the OUHK, which will in turn facilitate the continuous development of the OUHK and its contribution to the advancement of the higher education sector in Hong Kong.

11. Meanwhile, the OUHK is aware that it has a unique positioning and role in the higher education sector in Hong Kong as prescribed in the OUHK Ordinance (Cap. 1145), i.e. to provide opportunities for higher education by means of open learning, and to advance learning, knowledge, and research in support of its object, thus enhancing economic and social development. Despite its transformation into a full-fledged comprehensive university in recent years, the OUHK still treasures open learning as its core business. It is still one of the University’s strategic focuses to provide sub-degree and degree programmes through a distance learning mode. After the retitling, the OUHK will continue to uphold its object of providing opportunities for higher education by means of open learning, and maintain its vision “to be a leader in providing open and flexible education to all, and to excel as a provider of quality higher education”.

Considerations

12. The Education Bureau (EDB) respects the autonomy enjoyed by the OUHK in managing its internal affairs as an independent and autonomous statutory body. The EDB understands that the OUHK’s retitling decision was approved by the OUHK Council after extensive consultation and a rigorous selection conducted by the OUHK. The EDB

respects the decision of the OUHK and recommends amending the OUHK Ordinance to change the title of the OUHK.

13. Provisions of the OUHK Ordinance concerning the object, powers, governance structure, and operational mode of the OUHK remain unchanged. Related amendments are also to be made to other enactments that refer to the OUHK.

THE BILL

14. The major provisions are set out below –

- (a) **Clause 7** provides for the change of the title of “The Open University of Hong Kong” to “Hong Kong Metropolitan University”; and to expressly provide for the capacity to sue and be sued; and
- (b) **The Schedule** provides for related amendments to the title of the OUHK in other enactments.

LEGISLATIVE TIMETABLE

15. The legislative timetable will be –

Publication in the Gazette	18 June 2021
First Reading and commencement of Second Reading debate	23 June 2021
Resumption of Second Reading debate, committee stage, and Third Reading	to be notified

16. We propose that the Bill should take effect on 1 September 2021 to tie in with the commencement of the new academic year, with a view to avoiding complications to the student recruitment and administration of the OUHK.

IMPLICATIONS OF THE PROPOSAL

17. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the OUHK Ordinance. It has no family, financial and civil service, economic, productivity, environmental, gender, and sustainability implications.

PUBLIC CONSULTATION

18. The OUHK extensively consulted the relevant stakeholders, including its staff, students, alumni, the Court, and other external parties as part of the retiling exercise. The Legislative Council Panel on Education was briefed on the proposal on 5 March 2021 and it has indicated support for the proposal.

PUBLICITY

19. A press release will be issued. A spokesperson will be available for answering public enquiries.

BACKGROUND

20. The predecessor of the OUHK, the OLI, was established by the Government under The OLI Ordinance (Cap. 1145) in 1989, with degree-awarding power and operated on a self-financing basis. The OLI aimed to provide opportunities for higher education to all those aspiring to it, regardless of their previous qualifications, age, gender, and race, by means of open learning and adopting a variety of instructional means. In support of its object, the OLI sought to advance learning, knowledge, and research, thus enhancing economic and social development.

21. At the early stage of the OLI's establishment, there were limited opportunities for secondary school leavers to receive higher education and most of them chose to join the workforce. Therefore, the OLI primarily

adopted a distance learning mode to provide quality and flexible further education opportunities for young people and working adults. As its development became more sophisticated, the OLI was granted a self-accrediting status in 1996 and then a university title in 1997, named as “香港公開大學” and “The Open University of Hong Kong”, through the enactment of The OLI (Amendment) Ordinance 1997.

ENQUIRIES

22. In case of enquiries, please contact Mr Kasper NG, Principal Assistant Secretary (Further Education), at 3509 8502.

Education Bureau
June 2021

The Open University of Hong Kong (Amendment) Bill 2021

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A BILL

To

Amend The Open University of Hong Kong Ordinance to change the title of The Open University of Hong Kong to the Hong Kong Metropolitan University; to expressly provide for the capacity to sue and be sued; and to provide for related matters.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as The Open University of Hong Kong (Amendment) Ordinance 2021.
- (2) This Ordinance comes into operation on 1 September 2021.

2. Enactments amended

- (1) The Open University of Hong Kong Ordinance (Cap. 1145) is amended as set out in sections 3 to 8.
- (2) The enactments specified in the Schedule are amended as set out in the Schedule.

3. Long title amended

The long title—

Repeal

“The Open University of Hong Kong as a body corporate”

Substitute

“a body corporate known as the Hong Kong Metropolitan University”.

4. Section 1 amended (short title)

Section 1—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

5. Section 2 amended (interpretation)

Section 2—

Repeal the definition of *University***Substitute**

“*University* (大學) means the body corporate known as the Hong Kong Metropolitan University by the operation of section 3(1);”.

6. Part II heading amended (The Open University of Hong Kong)

Part II, heading—

Repeal

“THE OPEN UNIVERSITY OF HONG KONG”

Substitute

“HONG KONG METROPOLITAN UNIVERSITY”.

7. Section 3 amended (establishment and object of the University)

(1) Section 3—

Repeal subsection (1)**Substitute**

“(1) On and after 1 September 2021, the pre-existing body corporate known as The Open University of Hong Kong immediately before that date—

(a) is known in English as the “Hong Kong Metropolitan University” and in Chinese as “香港都會大學”; and

(b) may sue and be sued in its name.”.

(2) Section 3—

Repeal subsection (3).

(3) At the end of section 3—

Add

“(4) Despite the repeal of section 3(1) and (3) of the OUHKO, the pre-existing body corporate continues in existence as the University on and after 1 September 2021 and, accordingly, the rights, obligations and liabilities of the pre-existing body corporate are not affected in any way by the change of name effected by subsection (1).

(5) In this section—

OLIO (《香港公開進修學院條例》) means The Open Learning Institute of Hong Kong Ordinance (Cap. 1145) that was in force immediately before 30 May 1997;

OUHKO (《香港公開大學條例》) means The Open University of Hong Kong Ordinance (Cap. 1145) that was in force immediately before 1 September 2021;

pre-existing body corporate (原有法團) means the body corporate established under section 3(1) of the OLIO and continued in existence under section 3(3) of the OUHKO.”.

8. Section 17 amended (unauthorized use of title of the University)

Section 17(1)(b)—

Repeal

“The Open University of Hong Kong”

Substitute

“Hong Kong Metropolitan University” or “香港都會大學”.

Schedule

[s. 2]

Related Amendments

Part 1

Amendment to Prevention of Bribery Ordinance (Cap. 201)

1. Schedule 1 amended (public bodies)

Schedule 1, item 53—

Repeal

“The Open University of Hong Kong”

Substitute

“Hong Kong Metropolitan University”.

Part 2

Amendment to Education Ordinance (Cap. 279)

2. Section 2 amended (application)

Section 2(k)—

Repeal

“The Open University of Hong Kong” (wherever appearing)

Substitute

“the Hong Kong Metropolitan University”.

Part 3

Amendment to Education Regulations (Cap. 279 sub. leg. A)

3. **Second Schedule, Part 1 amended (qualifications for a registered teacher)**

Second Schedule, Part 1, paragraph (b)(x)—

Repeal

“The Open University of Hong Kong” (wherever appearing)

Substitute

“the Hong Kong Metropolitan University”.

Part 4

Amendment to Education (Exemption) (Private Schools Offering Non-Formal Curriculum) Order (Cap. 279 sub. leg. F)

4. **Section 2 amended (interpretation)**

Section 2, definition of *specified institution*, paragraph (j)—

Repeal

“The Open University of Hong Kong” (wherever appearing)

Substitute

“the Hong Kong Metropolitan University”.

Part 5

Amendment to Road Traffic Ordinance (Cap. 374)

5. **Section 2 amended (interpretation)**

Section 2, definition of *educational institution*, paragraph (j)—

Repeal

“The Open University of Hong Kong” (wherever appearing)

Substitute

“the Hong Kong Metropolitan University”.

Part 6

Amendment to Employees Retraining Ordinance (Cap. 423)

6. **Schedule 2 amended (training bodies)**

Schedule 2, item 77—

Repeal

“Institute of Professional and Continuing Education, The Open University of Hong Kong”

Substitute

“School of Professional and Continuing Education, Hong Kong Metropolitan University”.

Part 7

Amendment to Sex Discrimination Ordinance (Cap. 480)

7. Schedule 1 amended (educational establishments and their responsible bodies)

Schedule 1—

Repeal item 11

Substitute

- “11. The Hong Kong Metropolitan University established by the Hong Kong Metropolitan University Ordinance (Cap. 1145) The Council or the Senate, within the meaning of section 2 of the Hong Kong Metropolitan University Ordinance (Cap. 1145), according to which of them has the function concerned”.

Part 8

Amendment to Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)

8. Schedule 1 amended (local institutions of higher education)

Schedule 1—

Repeal item 11

Substitute

- “11. Hong Kong Metropolitan The President within the

University established by the Hong Kong Metropolitan University Ordinance (Cap. 1145)

meaning of section 2 of the Hong Kong Metropolitan University Ordinance (Cap. 1145)”.

Part 9

Amendment to Family Status Discrimination Ordinance (Cap. 527)

9. Schedule 1 amended (educational establishments and their responsible bodies)

Schedule 1—

Repeal item 11

Substitute

- “11. The Hong Kong Metropolitan University established by the Hong Kong Metropolitan University Ordinance (Cap. 1145) The Council, the Court or the Senate, within the meaning of section 2 of the Hong Kong Metropolitan University Ordinance (Cap. 1145), according to which of them has the function concerned”.

Part 10

Amendment to Copyright Ordinance (Cap. 528)

10. Schedule 1 amended (educational establishments)

Schedule 1, section 15—

Repeal

“The Open University of Hong Kong established by The Open University of Hong Kong”

Substitute

“Hong Kong Metropolitan University established by the Hong Kong Metropolitan University”.

Part 11

Amendments to Legislative Council Ordinance (Cap. 542)

11. Section 20E amended (composition of the education functional constituency)

Section 20E(a)(v), (aa)(ii)(C) and (b)(vii)—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

Part 12

Amendments to Chief Executive Election Ordinance (Cap. 569)

12. Schedule, section 2 amended (how Election Committee is to be constituted)

The Schedule, section 2, Table 5, item 5, column 3, paragraphs (1)(e), (1A)(b)(iii) and (2)(g), in so far as the Table is not repealed—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

13. Schedule, section 5B amended (specified offices of the education subsector)

The Schedule, section 5B(i), in so far as that section has come into operation for the purpose only of enabling arrangements to be made for the constitution of the new term of office of the Election Committee in 2021—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

14. Schedule, section 39V amended (specified entities of the education subsector)

The Schedule, section 39V(c), in so far as that section has come into operation for the purpose only of enabling arrangements to be made for the constitution of the new term of office of the Election Committee in 2021—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

Part 13

Amendment to Accreditation of Academic and Vocational Qualifications Ordinance (Cap. 592)

15. Schedule 2 amended (self-accrediting operators)

Schedule 2, item 8—

Repeal

“The Open University of Hong Kong”

Substitute

“Hong Kong Metropolitan University”.

Part 14

Amendment to Race Discrimination Ordinance (Cap. 602)

16. Schedule 1 amended (educational establishments and their responsible bodies)

Schedule 1, item 10—

Repeal

“Open University of Hong Kong established by The Open University of Hong Kong” (wherever appearing)

Substitute

“Hong Kong Metropolitan University established by the Hong Kong Metropolitan University”.

Part 15

Amendment to Minimum Wage Ordinance (Cap. 608)

17. Schedule 1 amended (education institutions)

Schedule 1, item 9—

Repeal

“The Open University of Hong Kong established by The Open University of Hong Kong”

Substitute

“Hong Kong Metropolitan University established by the Hong Kong Metropolitan University”.

Part 16

Amendments to Improving Electoral System (Consolidated Amendments) Ordinance 2021 (14 of 2021)

18. Section 411 amended (Schedule, Part 2A added)

Section 411, new section 5B(i), except in so far as that section has come into operation for the purpose of enabling arrangements to be made for the constitution of the new term of office of the Election Committee in 2021—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

19. Section 438 amended (Schedule, Part 4, Division 5 added)

Section 438, new section 39V(c), except in so far as that section has come into operation for the purpose of enabling arrangements to be made for the constitution of the new term of office of the Election Committee in 2021—

Repeal

“The Open University of Hong Kong”

Substitute

“the Hong Kong Metropolitan University”.

Explanatory Memorandum

The main object of this Bill is to amend The Open University of Hong Kong Ordinance (Cap. 1145) (*Ordinance*) to change the title of The Open University of Hong Kong to the Hong Kong Metropolitan University.

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 7(1) amends section 3 of the Ordinance to change the title of The Open University of Hong Kong to the Hong Kong Metropolitan University, and to expressly provide for the capacity to sue and be sued. Clause 7(3) adds new section 3(4) to the Ordinance to provide for the continuation of the body corporate now known as the Hong Kong Metropolitan University.
4. Clauses 3, 4, 5, 6 and 8 make other amendments to the Ordinance that are consequential to the change of title.
5. The Schedule makes related amendments to other enactments.