

II. REPORT

The date of First Reading of the Bill is 23 June 2021. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: EDB(FE)CR 11/2041/89) issued by the Education Bureau in June 2021 for further details.

Object of the Bill

2. The Bill seeks to amend The Open University of Hong Kong Ordinance (Cap. 1145) to:

- (a) change the title of The Open University of Hong Kong ("OUHK") to the Hong Kong Metropolitan University ("HKMU");
- (b) expressly provide for the capacity to sue and be sued; and
- (c) provide for related matters.

Background

3. According to the LegCo Brief, OUHK was first established as The Open Learning Institute of Hong Kong in 1989 and later acquired its existing university title in 1997. Over the years, OUHK has evolved from primarily a distance learning institution into a full-fledged comprehensive university offering a wide range of programmes. Despite its rapid development, OUHK has been misconceived by many to remain mainly a distance learning institution, which has resulted in hindrance to the further development of OUHK and its graduates. In July 2020, the OUHK Council ("Council") set up a Selection Committee on University Title ("Selection Committee") after an extensive consultation exercise. The Selection Committee recommended the Council to adopt HKMU and "香港都會大學" (in Chinese) as the new university title, which was eventually approved by the Council.

Provisions of the Bill

4. The Bill proposes to amend Cap. 1145 mainly to:

- (a) amend the long and short titles (clauses 3 and 4);
- (b) amend section 3(1) to change the title of OUHK to HKMU, and provide that the university may sue and be sued in its name (clause 7(1));

- (c) add a new section 3(4) to provide for the continuation of the pre-existing body corporate of the university to the effect that the rights, obligations and liabilities of the pre-existing body corporate would not be affected by the proposed change of name (clause 7(2) and (3)); and
- (d) essentially replace all references to OUHK by HKMU, or HKMU and "香港都會大學" (in Chinese) (clauses 5, 6 and 8).

5. The Bill also proposes consequential amendments to 16 other enactments so that all references to OUHK would be amended to HKMU (Parts 1 to 16 of the Schedule to the Bill).

6. It is noted that section 12 of the Schedule to the Bill seeks to amend Table 5 in section 2 (concerning how the Election Committee ("EC") is to be constituted) of the Schedule to the Chief Executive Election Ordinance (Cap. 569). However, it appears that this Table 5 has been repealed by section 407(8) of the Improving Electoral System (Consolidated Amendments) Ordinance 2021 (Ord. No. 14 of 2021) ("2021 Ordinance"). Upon the Legal Service Division's enquiry on whether the above proposed amendment in the Bill is necessary, the Administration has replied that according to the commencement arrangement under section 1(3) of the 2021 Ordinance, section 407(8) has in their view come into operation only for the purpose of enabling arrangements to be made for the constitution of the new term of office of the EC in 2021. According to the Administration, it will only fully come into operation on 22 October 2021, i.e. the date on which the new term of office of the EC is constituted. Therefore, in their view, in so far as Table 5 is not repealed, it still has to be amended accordingly. In the light of the Administration's explanation, we consider that the proposed amendment in section 12 of the Schedule to the Bill would not present legal difficulty.

Commencement

7. The Bill, if passed, would come into operation on 1 September 2021.

Public Consultation

8. According to paragraphs 7 and 18 of the LegCo Brief, OUHK has conducted extensive consultations with the relevant stakeholders, including its staff, students, alumni, its Court, and other external stakeholders (such as donors, sponsors and other universities' Presidents) on the retitling proposal from April 2019 to May 2020 by means of focus group, townhall meetings, online consultations, etc. Overall, the relevant stakeholders agreed that a new title that could reflect OUHK's current status as a comprehensive university should be adopted.

Consultation with LegCo Panel

9. As advised by the Clerk to the Panel on Education, the Panel was briefed on the legislative proposal at its meeting on 5 March 2021. While members supported the introduction of the Bill into LegCo, some members urged OUHK to uphold its mission of providing open and flexible quality education and nurturing quality students after the retitling.

Conclusion

10. No difficulties have been identified in relation to the legal and drafting aspects of the Bill, and the Bill is ready for resumption of Second Reading debate.

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