

## **BRIEF FOR THE LEGISLATIVE COUNCIL**

### **The Hong Kong University of Science and Technology Ordinance (Cap. 1141)**

#### **The Hong Kong University of Science and Technology (Amendment) Bill 2023**

### **INTRODUCTION**

The Hong Kong University of Science and Technology (“HKUST” or “the University”) is one of the eight local universities funded by the University Grants Committee (“UGC”). It was established in 1988 through the enactment of The Hong Kong University of Science and Technology Ordinance (Chapter 1141 of the Laws of Hong Kong) (“the Ordinance”).

2. The Council of HKUST (“University Council”) endorsed on 13 January 2023 that the maximum number of Vice Presidents (VPs) that may be appointed by the University Council as provided by the Ordinance should be proposed to be relaxed to such a number that is determined by the University Council from time to time in order to cater for the new development needs of Hong Kong in alignment with the strategic direction of the University.

3. To give effect to the proposed relaxation, The Hong Kong University of Science and Technology (Amendment) Bill 2023 (“the Amendment Bill”) will be introduced into the Legislative Council (“LegCo”) by the Hon Rock Chen, who is currently a member of the University Council, as a Member’s Bill.

### **JUSTIFICATIONS**

#### **Enhancement of University Management Structure to Cater for New Development Needs and Strategic Direction of HKUST**

4. Under existing section 12(1)(b) of the Ordinance, the University Council may, under the special voting procedure provided under section 12(3)(a) and (c) of the Ordinance, appoint not more than 3 VPs. VPs so appointed are to undertake duties that are recommended by the President and approved by the University Council.

5. HKUST is sparing no efforts to bring new knowledge, innovations and technologies to society. In order to maximize opportunities arising from the national and regional policy support for Hong Kong to develop into an international innovation and technology hub anchored in the Greater Bay Area, there is a strong need to enhance HKUST’s Senior Management structure by relaxing the number of VPs appointable by the University Council to support its further development. HKUST envisions to elevate to the next level of excellence as the most innovative university in Asia with the HKUST3.0 Vision Plan being launched to pursue developmental goals including attracting and retaining talents on all fronts; developing strategic areas to support innovation and knowledge transfer; expanding

resources to enhance the University's competitiveness; and strengthening the humanities on campus while promoting the fusion of humanities and innovation.

6. The University Council is subject to a robust governance structure, under which the ratio of external members to university members in the University Council is 2:1. Moreover, any appointment of VP requires a special HKUST Council approval of  $\frac{3}{4}$  majority votes from such external members and the President.

7. Under the ordinances of the other UGC-funded universities (except Lingnan University), there is no restriction on the number of VPs or officers of comparable position that may be appointed. The proposed amendment to the Ordinance benchmarks against the ordinances of the aforesaid universities, enabling the University to be provided with necessary enhancement in leadership to drive or keep up with developments of the higher education landscape and evolving societal needs.

## **THE AMENDMENT BILL**

8. The provisions of the Amendment Bill are at Annex A. Its key operative provision is clause 3, that proposes to amend section 12 of the Ordinance by repealing the existing limit of 3 VPs that the University Council may appoint and to provide that the number of VPs that may be appointed is such as may be determined by the University Council from time to time.

9. A comparison table showing the current version of the Ordinance and the proposed change to section 12(1)(b) of the Ordinance is at Annex B.

## **CONSULTATION**

10. A series of consultations were conducted among the University's stakeholders across the administrative, academic and governance structures. There was consensus that the number of VPs that may be appointed under the Ordinance should be relaxed.

11. The Education Bureau was informed about the University Council's proposal to relax the existing limitation on the number of VPs in January 2023. The Bureau stated in its letter dated 21 February 2023 (Annex C) that as the proposed relaxation related to the internal management and operation of HKUST, and with due respect for the principle of institutional autonomy, the Bureau did not have in-principle objection to the proposal contained in the Amendment Bill.

12. A draft of the Amendment Bill was presented to the Panel on Education for consultation and it was considered at the Panel's meeting on 31 March 2023.

## **LEGISLATIVE PROCEEDINGS ON THE AMENDMENT BILL**

13. In accordance with Rule 51(2) of the LegCo Rules of Procedure, HKUST has obtained the Law Draftsman's Certificate on the Amendment Bill (Annex D).

14. The Administration considered that the Bill does not relate to public expenditure, political structure, the operation of the Government, or Government policies as referred to in Rules 51(3) and 51(4) of the LegCo Rules of Procedure.

15. The President of LegCo has opined that the Amendment Bill does not relate to relevant matters referred to in Rules 51(3) and 51(4) of the LegCo Rules of Procedure, and that the Hon Rock Chen may give notice on the presentation of the Bill in accordance with Rules 51(1) and 51(6) of LegCo Rules of Procedure.

16. The legislative timetable is as follows:

First publication of the Amendment Bill in the Gazette	5 May 2023
Second publication of the Amendment Bill in the Gazette	12 May 2023
First publication of notice on the Amendment Bill in Newspapers	5 May 2023
Second publication of notice on the Amendment Bill in Newspapers	12 May 2023
First Reading and Commencement of Second Reading debate	31 May 2023
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

## ENQUIRIES

17. Enquiries about this brief may be directed to the office of Hon Rock Chen, Member of the Legislative Council, at Room 1521, CITIC Tower, 1 Tim Mei Avenue, Central, Hong Kong, telephone number 5978 8954, email [rockenchen1219@gmail.com](mailto:rockenchen1219@gmail.com); or the Office of the President, HKUST, Clear Water Bay, Kowloon, Hong Kong, telephone number 2358 6113, fax number 2358 8280, email [ophkust@ust.hk](mailto:ophkust@ust.hk).

Council Secretariat  
The Hong Kong University of Science and Technology  
12 May 2023

The Hong Kong University of Science and Technology (Amendment) Bill 2023

Clause 1

1

# A BILL

## To

Amend The Hong Kong University of Science and Technology Ordinance to allow appointment of such number of Vice-Presidents as determined by the Council from time to time; and to provide for related matters.

Enacted by the Legislative Council.

**1. Short title**

This Ordinance may be cited as The Hong Kong University of Science and Technology (Amendment) Ordinance 2023.

**2. The Hong Kong University of Science and Technology Ordinance amended**

The Hong Kong University of Science and Technology Ordinance (Cap. 1141) is amended as set out in section 3.

**3. Section 12 amended (appointment of President, Provost, Vice-Presidents and other staff)**

Section 12(1)(b)—

**Repeal**

“and not more than 3 Vice-Presidents”

**Substitute**

“, and such number of Vice-Presidents as determined by the Council from time to time,”.

**4. Saving**

Nothing in this Ordinance shall affect or be deemed to affect 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 this Ordinance and those claiming by, from or under them.

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### **Explanatory Memorandum**

The object of this Bill is to amend The Hong Kong University of Science and Technology Ordinance (Cap. 1141) so as to provide flexibility in the number of Vice-Presidents that may be appointed.

2. Clause 1 sets out the short title.
3. Clause 3 amends section 12 of the principal Ordinance by repealing the existing limit of three Vice-Presidents that the Council may appoint and to provide that the number of Vice-Presidents that may be appointed is such as may be determined by the Council from time to time.
4. Clause 4 is a saving provision required under Rule 50(8) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region.

**The Hong Kong University of Science and Technology (“HKUST”)**

**Proposed amendments to Section 12(1)(b) in The Hong Kong University of Science and Technology Ordinance (Cap. 1141) (“HKUST Ordinance”)**

The Hong Kong University of Science and Technology Ordinance

(Cap./Instrument No.: 1141)

(Version date: 14.04.2022)

**Part V**

**President, Provost, Vice-Presidents and Other Staff**

*(Amended 27 of 1995 s. 7; 24 of 2008 s. 6)*

**12. Appointment of President, Provost, Vice-Presidents and other staff**

*(Amended 24 of 2008 s.7)*

(1) The Council—

(a) shall, in accordance with subsection (2), appoint a President who shall be the chief executive and academic officer of the University;

(b) may, in accordance with subsection (3), appoint 1 Provost and not more than 3 Vice-Presidents who shall undertake such duties as are recommended by the President and approved by the Council; *(Amended 27 of 1995 s. 4)*

(c) may appoint such other persons to be employees of the University as it considers expedient.

(2) (a) The President shall be appointed by resolution of the Council passed by the votes of not less than three-quarters of its members for the time being.

(b) The President may be removed from office by resolution of the Council passed by the votes of not less than three-quarters of

Proposed amendments (highlighted in purple)

**CHANGE TO -**

(b) may, in accordance with subsection (3), appoint 1 Provost ~~and not more than 3 Vice-Presidents~~, and such number of Vice-Presidents as determined by the Council from time to time, who shall undertake such duties as are recommended by the President and approved by the Council;

Justification

To cater for new development needs and strategic direction, HKUST sees the need to enhance the university senior management structure by relaxing the number of Vice-Presidents (“VPs”) that can be appointed by the University Council under the HKUST Ordinance.

its members for the time being on the ground of his misconduct, incompetence, inefficiency or other good cause.

- (c) In this subsection **members** (成員) does not include members appointed under section 9(1)(a), (aa), (b), (c), (f), (h) or (i).
- (3) (a) The Provost and the Vice-Presidents shall be appointed on the recommendation of the President by resolution of the Council passed by the votes of not less than three-quarters of its members for the time being. *(Amended 27 of 1995 s. 4)*
- (b) The Provost or a Vice-President may on the recommendation of the President be removed from office by resolution of the Council passed by the votes of not less than three-quarters of its members for the time being on the ground of his misconduct, incompetence, inefficiency or other good cause. *(Amended 27 of 1995 s. 6)*
- (c) In this subsection **members** (成員) does not include members appointed under section 9(1)(aa), (b), (c), (f), (h) or (i).
- (4) (a) The Council may appoint any person to act as President on a temporary basis during the incapacity or absence from Hong Kong of the President or if that office is vacant for any reason.
- (b) The Council may appoint any person to act as the Provost or as a Vice-President on a temporary basis during the incapacity or absence from Hong Kong of the Provost or any Vice-President, as the case may be, or if the office of the Provost or any Vice-President, as the case may be, is vacant for any reason. *(Replaced 24 of 2008 s. 7)*
- (c) An appointment under this subsection shall be made on the recommendation of the President, except where the President is for any reason prevented from or incapable of making such a recommendation or where that office is vacant for any reason.

*(Amended 27 of 1995 s. 3; 24 of 2008 s. 7)*

Under the ordinances of most of the other UGC-funded universities, there is no restriction on the number of VP or officer of equivalent position to be appointed. The University Council, with current ratio of external members to university members being 2:1, provides robust governance and effective supervision on important University matters including personnel appointments and financial management. The appointment of each individual VP is also subject to stringent governance safeguard provided under the HKUST Ordinance. After a series of internal consultation, HKUST proposes that the relevant stipulation in Section 12(1)(b) be revised to the effect that HKUST is allowed to appoint such number of VPs as shall be determined by the University Council from time to time.





中華人民共和國香港特別行政區政府總部教育局  
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21 February 2023

Office of the President  
The Hong Kong University of Science and Technology  
Clear Water Bay  
Kowloon  
Hong Kong  
(Attn: Mr Ernest Chan)

Dear Mr Chan,

Thank you for your letter of 30 January on the subject proposal. We note that the amendments proposed by HKUST serve to achieve the objective of relaxing the existing limitations on the number of Provost and Vice-Presidents. As this is related to the internal management and operation of HKUST, with due respect for the principle of institutional autonomy, we do not have in-principle objection to the proposal.

As HKUST takes forward the legislative exercise, we should be most grateful if you would keep us posted of the progress as HKUST sees fit. We stand ready to provide facilitation as appropriate.

Yours sincerely,

( Derek Lai )  
for Secretary for Education

**The Hong Kong University of Science and Technology (Amendment)  
Bill 2023**

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**Certificate under Rule 51(2) of the Rules of Procedure  
of the Legislative Council of the Hong Kong  
Special Administrative Region**

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I am of the opinion that The Hong Kong University of Science and Technology (Amendment) Bill 2023 conforms to the requirements of Rule 50 and the general form of Hong Kong legislation.

*Michael Lam*  
(Michael Lam)  
Law Draftsman

3 April 2023