



## President's Ruling on Member's Bill

### Rule 51(3) and (4) of the Rules of Procedure

Since October 2009, the President has on several occasions considered whether a Member's Bill was caught by Rule 51(3) and (4) of the LegCo Rules of Procedure ("RoP"). In these occasions, the President ruled that the Bills concerned related to Government policies and hence may not be introduced without the written consent of the CE. A summary of the ruling of the President on two of the Member's Bills is provided below.

Rule 51(3) of the RoP provides that Members may not individually or jointly introduce a bill which, in the opinion of the President, relates to: (i) public expenditure; (ii) political structure; or (iii) operation of the Government. Rule 51(4) further provides that in the case of a bill which, in the opinion of the President, relates to Government policies, the written consent of CE is required for its introduction.

### The Hong Kong Polytechnic University (Amendment) Bill 2009

This decision was made on 27 November 2009 in respect of the Hong Kong Polytechnic University (Amendment) Bill 2009 ("2009 Amendment

Bill") proposed by Dr. Hon Lam Tai-fai. The Bill proposed to repeal s. 10(1)(d) of the Hong Kong Polytechnic University Ordinance (Cap. 1075) ("HKPUO") and substitute it by a new provision such that:

- (i) the number of lay members of the Council of the Hong Kong Polytechnic University ("PolyU's Council") be reduced from 20 to 17, of which 9 is appointed by CE and the remaining 8 by PolyU's Council;
- (ii) the express provision that CE shall appoint not more than 2 public officers to PolyU's Council would be removed.

Under s. 10(1)(d) of the HKPUO, 20 lay members of PolyU's Council are to be appointed by CE, of whom not more than 2 shall be public officers.

In the opinion of the President, in order for a bill not to be caught by Rule 51(3) and (4) of RoP, the bill must not have any substantive effect on Government policies which include policies reflected in legislation. The current Government policy relating to the appointment of members to PolyU's Council is clearly reflected in s. 10(1)(d) of the HKPUO. Insofar as the 2009 Amendment Bill proposed to: (i) reduce the number of members to be appointed by CE

to PolyU's Council from 20 to 9; and (ii) remove the express provision on CE's power to appoint public officers to PolyU's Council, it would clearly have a substantive effect on Government policy as reflected in the HKPUO.

## **The Hong Kong Polytechnic University (Amendment) Bill 2010**

This decision was made on 15 December 2010 in respect of the Hong Kong Polytechnic University (Amendment) Bill 2010 ("2010 Amendment Bill"). Dr. Hon LAM Tai-fai submitted the revised Bill after making changes to the 2009 Amendment Bill. The only difference between the 2009 Amendment Bill and the 2010 Amendment Bill is the proposal in relation to the method of electing the 2 representatives of full-time staff on PolyU's Council. The 2009 Amendment Bill proposed to change the method of electing the 2 representatives of full-time staff on PolyU's Council to the effect that 1 is to be elected by and from full-time academic staff and 1 to be elected by and from full-time non-academic staff.

According to Dr. Hon LAM's letter to the President, the PolyU Staff Association conducted an opinion poll among full-time staff to seek their views with regard to staff representation on PolyU's Council. The outcome of the poll indicates that a higher percentage of staff prefer that the 2 full-time staff representatives on PolyU's Council be elected by and from all full-time staff instead of electing 1 representative from full-time academic staff and 1 representative from full-time non-academic

staff. Having considered the polling result and in line with the wish of staff, PolyU's Council decided to change the proposal to electing the 2 staff representatives by and from all full-time staff.

The President was of the opinion that although the new proposal in relation to staff representation of full-time staff on PolyU's Council does not pose any procedural issue under the RoP, the 2010 Amendment Bill still contains the same proposal as those made in the 2009 Amendment Bill which, in the opinion of the President, will have substantive effect on the current Government policy on the appointment of members to PolyU's Council, the written consent of CE is required for its introduction.

