

Chapter:	1145	THE OPEN UNIVERSITY OF HONG KONG ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To establish The Open University of Hong Kong as a body corporate for the provision of opportunities for higher education by means of open learning, and to provide for related matters.

(Enacted 1989. Amended 50 of 1997 s. 2)

[20 June 1989] *L.N. 178 of 1989*

(Originally 22 of 1989)

Section:	1	Short title		30/06/1997
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PART I

PRELIMINARY

This Ordinance may be cited as The Open University of Hong Kong Ordinance.

(Enacted 1989. Amended 50 of 1997 s. 3)

Section:	2	Interpretation		30/06/1997
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In this Ordinance, unless the context otherwise requires-

"Chairman" (主席) and "Deputy Chairman" (副主席) mean respectively the Chairman and Deputy Chairman of the Council appointed under section 8(2);

"Chancellor" (校監) means the Chancellor of the University under section 6; (Added 50 of 1997 s. 4)

"committee" (委員會) means a committee of the Council established under section 9;

"Council" (校董會) means the Council of the University established under section 7; (Amended 50 of 1997 s. 4)

"Court" (諮議會) means the Court of the University established by section 6A; (Added 50 of 1997 s. 4)

"financial year" (財政年度) means the period from 1 April in any year to the following 31 March, both days inclusive, or such other period as the Council may under section 14(3) fix to be the financial year of the University; (Amended 50 of 1997 s. 4)

"open learning" (公開進修) means a system of higher education which uses a variety of instructional means and which provides educational opportunities for suitable persons regardless of their previous academic attainments;

"President" (校長) and "Deputy President" (常務副校長) mean respectively the President and Deputy President of the University appointed under section 11(1) and any person for the time being acting in that capacity; (Added 50 of 1997 s. 4)

"Pro-Chancellor" (副校監) means the Pro-Chancellor of the University appointed by the Chancellor under section 6; (Added 50 of 1997 s. 4)

"Senate" (教務會) means the Senate of the University established by section 13; (Added 50 of 1997 s. 4)

"University" (大學) means The Open University of Hong Kong established by section 3(1); (Added 50 of 1997 s. 4)

"Vice President" (副校長) means a person appointed under section 4(g) as a Vice President. (Added 50 of 1997 s. 4)

(Enacted 1989. Amended 50 of 1997 s. 4)

Section:	3	Establishment and object of the University		30/06/1997
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PART II

THE OPEN UNIVERSITY OF HONG KONG

(Replaced 50 of 1997 s. 5)

(1) The institute known as The Open Learning Institute of Hong Kong immediately before the commencement of section 6 of The Open Learning Institute of Hong Kong (Amendment) Ordinance 1997 (50 of 1997) shall, on and after that commencement, be established and known as The Open University of Hong Kong.

(2) The object of the University is to provide opportunities for higher education by means of open learning and in support thereof to advance learning, knowledge and research, and thus to enhance economic and social development.

(3) Notwithstanding the repeal of section 3(1) of The Open Learning Institute of Hong Kong Ordinance, the body corporate established under this section immediately before the commencement referred to in subsection (1) continues in existence on and after that commencement as the University and, accordingly, the rights, obligations or liabilities of that body corporate shall not be affected in any way by the change of name effected by that subsection.

(Replaced 50 of 1997 s. 6)

Section:	4	Powers of the University	30/06/1997
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The University may, in furtherance of its object- (Amended 50 of 1997 s. 7)

- (a) plan degree and other academic award programmes, either on its own or in conjunction with other institutions of higher education;
- (b) either on its own or in conjunction with any other person, produce, develop, acquire and provide courses of study using a variety of instructional means;
- (c) admit to courses of study suitable persons, regardless of their previous academic attainments;
- (d) confer and revoke degrees and other academic awards including honorary degrees and honorary awards;
- (e) provide, whether for profit or otherwise, advisory, consultancy, research and other related services;
- (f) take on lease, purchase or otherwise acquire, and hold, manage and enjoy property of any description, and sell, let or otherwise dispose of the same;
- (g) appoint such persons to be employees, advisers, consultants or Vice Presidents of the University as it thinks fit, either on a full or part time basis, and decide the terms of remuneration and conditions of service of such persons; (Amended 50 of 1997 s. 7)
- (h) provide for its students and employees appropriate amenities;
- (i) invest its funds in such manner and to such extent as it thinks fit;
- (j) borrow money in such manner and on such security or terms as may be expedient;
- (k) apply for and receive any grant in aid on such terms as may be expedient;
- (l) solicit and receive gifts, whether on trust or otherwise, and act as trustee of moneys or other property vested in it on trust;
- (m) fix fees and charges for courses of study, facilities and other services provided by it and specify conditions for the use of such facilities and services;
- (n) reduce, waive or refund such fees or charges either generally or in any particular case or class of cases;
- (o) pay the reasonable travelling and accommodation expenses of any member of the Council, of the Senate or of any committee incurred in connection with his duties as such member; (Amended 50 of 1997 s. 7)
- (p) agree with other institutions and persons suitable terms for the provision of equipment, facilities or academic materials used in courses of study provided by the University; (Amended 50 of 1997 s. 7)
- (q) enter into partnership or any other form of joint venture with any person;
- (r) acquire, hold and dispose of interests in other bodies corporate and form or take part in forming bodies corporate;
- (s) print, sell, reproduce or publish or arrange for the printing, sale, reproduction or publication of any manuscript, book, play, music, poster, advertisement or other material, including video and audio material and computer software;
- (t) do such other things as are provided for by this Ordinance or as are necessary for, or incidental or conducive to, the furtherance of the object of the University; (Amended 50 of 1997 s. 7)
- (u) enter into any contract; (Added 50 of 1997 s. 7)
- (v) erect, provide, equip, maintain, keep in repair and regulate the buildings, premises, furniture and equipment and all other means necessary for carrying on the work of the University. (Added 50 of

Section:	5	Common seal of University		30/06/1997
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The common seal of the University shall be affixed pursuant to a resolution of the Council and the affixing of the seal shall be authenticated by the signature of any 2 members of the Council authorized by the Council either generally or specifically to act for that purpose.

(Replaced 50 of 1997 s. 8)

Section:	6	The Chancellor and Pro-Chancellor	53 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 53 of 2000 s. 3

PART III

THE CHANCELLOR, THE COURT AND THE COUNCIL

(Amended 50 of 1997 s. 9)

- (1) There shall be a Chancellor of the University who shall be the head of the University.
- (2) The Chief Executive or a person designated by him shall be the Chancellor of the University. (Amended 53 of 2000 s. 3)
- (3) The Chancellor of the University may confer degrees and other academic awards in the name of the University and in his absence, the Chairman or any other member of the Council nominated by resolution of the Council may confer such degrees and awards in the name of the University.
- (4) The Chancellor may, on the recommendation of the Council, appoint a person to be the Pro-Chancellor of the University for such term as the Chancellor may specify.
- (5) The Pro-Chancellor may, on the authority of the Chancellor, exercise any of the powers or perform any of the duties of the Chancellor under this Ordinance.
- (6) The Pro-Chancellor may resign by giving notice in writing to the Chancellor.
- (7) In the absence of the Pro-Chancellor, the Chancellor may appoint a person to act as the Pro-Chancellor and the person so appointed may exercise all or any of the powers, and perform all or any of the duties of the Pro-Chancellor as the Chancellor may determine in the appointment.

(Replaced 50 of 1997 s. 10)

Section:	6A	The Court		30/06/1997
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- (1) There shall be a Court of the University which shall be the supreme advisory body of the University.
- (2) The Court shall consist of the Chancellor as the chairman and such other persons as the statutes made under section 18 may specify.
- (3) The Court has the following functions-
 - (a) to receive an annual report from the President;
 - (b) to consider reports made to it by the Council;
 - (c) to discuss any motion on general University policy and advise thereon;
 - (d) to raise funds, including donations, subscriptions and bequests, at the request of the University to further the University's object;
 - (e) to advise on the promotion of the interests of the University in Hong Kong and elsewhere.

(Added 50 of 1997 s. 10)

Section:	7	The Council and its functions		30/06/1997
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There shall be a Council of the University which, subject to this Ordinance-

- (a) shall be the supreme governing body of the University;
- (b) shall have general control over the administration of the University and the conduct of its affairs; and

- (c) on behalf of the University, may exercise any of the powers conferred and shall perform all of the duties imposed by law on the University.

(Enacted 1989. Amended 50 of 1997 s. 11)

Section:	8	Membership of the Council	23 of 2002	19/07/2002
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- (1) The Council shall consist of-
- (a) the President;
 - (b) the Deputy President, if any;
 - (c) not more than 3 Vice Presidents, if any, nominated by the President and appointed by the Council;
 - (d) at least 1 but not more than 2 public officers appointed by the Chief Executive;
 - (e) at least 3 but not more than 4 persons appointed by the Council, who shall be neither public officers nor employees of the University and who shall be persons considered by the Council to have had relevant experience in higher education in Hong Kong;
 - (f) at least 13 but not more than 16 other persons appointed by the Chief Executive, who shall be neither public officers nor employees of the University, and of whom-
 - (i) at least 9 shall be persons considered by the Chief Executive to have had relevant experience in commerce or industry in Hong Kong;
 - (ii) at least 2 but not more than 3 shall be persons considered by the Chief Executive to have had relevant experience in higher education either in Hong Kong or elsewhere; and
 - (iii) at least 2 shall be persons considered by the Chief Executive to have had relevant experience in Hong Kong other than in commerce, industry or higher education;
 - (g) 2 members of the Senate nominated by the Senate and appointed by the Council;
 - (h) 1 member of the full-time staff elected by and from eligible full-time staff, as defined in the statutes made under section 18, and appointed by the Council;
 - (i) 1 member of the part-time tutorial staff elected by and from eligible part-time tutorial staff, as defined in the statutes made under section 18, and appointed by the Council; and
 - (j) the President of the Students' Union. (Replaced 50 of 1997 s. 12)
- (2) The Chief Executive shall appoint, from among those members appointed under subsection (1)(f)(i) or (iii)-
- (a) the Chairman of the Council;
 - (b) the Deputy Chairman of the Council; and
 - (c) the Treasurer of the Council.
- (3) A member of the Council appointed under subsection (1)(d) shall hold office at the discretion of the Chief Executive.
- (4) A member of the Council appointed under subsection (1)(f)-
- (a) shall be appointed for 3 years or such lesser period as the Chief Executive may specify in any particular case;
 - (b) may resign by giving notice in writing to the Chief Executive;
 - (c) may be reappointed (except that a member may not be reappointed as the Chairman for more than 2 consecutive terms).
- (4A) A member of the Council appointed by the Council under subsection (1)(e)- (Amended 23 of 2002 s. 82)
- (a) shall be appointed for 3 years or such lesser period as the Council may specify in any particular case;
 - (b) may resign by giving notice in writing to the Chairman of the Council;
 - (c) may be reappointed. (Added 50 of 1997 s. 12)
- (4AA) A member of the Council appointed by the Council under subsection (1)(g), (h) or (i)-
- (a) shall be appointed for 3 years or such lesser period as the Council may specify in any particular case but shall cease to be a member of the Council when he ceases to be a member of the body that nominated or elected him;
 - (b) may resign by giving notice in writing to the Chairman of the Council;
 - (c) may be reappointed. (Added 23 of 2002 s. 82)
- (5) (Repealed 50 of 1997 s. 12)
- (6) Unless this Ordinance otherwise provides, sections 42, 49 and 50 of the Interpretation and General Clauses Ordinance (Cap 1) shall apply to appointments made under this section.

(Enacted 1989. Amended 50 of 1997 s. 12; 53 of 2000 s. 3)

Section:	9	Committees of the Council		30/06/1997
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(1) The Council may, in furtherance of its object, establish, and appoint the members of, such committees as it thinks fit and any such committee may consist partly of persons who are not members of the Council.

(2) The chairman of every committee shall be appointed by the Council from among the members of the Council.

(3) The Council may in writing, with such restrictions or conditions as it thinks fit, delegate to a committee any of its functions, including the appointment of an acting President or acting Deputy President under section 11, except-

- (a) its functions under section 7(a) and (b);
- (b) the appointment or dismissal of the President or Deputy President;
- (c) decisions on terms of remuneration and conditions of service for employees of the University;
- (d) the duty to cause financial statements to be prepared as required by section 14(2);
- (e) approval of the report required to be submitted to the Chancellor under section 16(1);
- (f) the making of statutes under section 18;
- (g) the power to establish committees under this section or to appoint members to such committees;
- (h) any function delegated to the President under section 12.

(4) Unless statutes made under section 18 otherwise provide, sections 48 to 52 of the Interpretation and General Clauses Ordinance (Cap 1) shall apply to every committee and to the appointment of members to any committee.

(5) Subject to this section and to any statutes made under section 18, a committee established under this section may regulate its own procedure.

(Enacted 1989. Amended 50 of 1997 s. 13)

Section:	10	Meetings and procedures of the Council		30/06/1997
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(1) The Schedule shall have effect with respect to the meetings and procedures of the Council.

(2) Subject to this Ordinance, the Council may regulate, its own procedure.

(Enacted 1989)

Section:	11	Appointment of President and Deputy President		30/06/1997
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PART IV

PRESIDENT AND DEPUTY PRESIDENT

(Replaced 50 of 1997 s. 14)

(1) The Council shall appoint a President of the University, and may appoint a Deputy President of the University, on such terms of remuneration and conditions of service as it may decide.

(2) The President shall, subject to any statutes made under section 18 and to any directions of the Council, be responsible for the management and administration of the University and for the discipline of students and employees thereof.

(3) The Deputy President, if any, appointed under subsection (1) shall perform such duties as the President may specify and shall during the incapacity or absence from Hong Kong of the President, or if the office of President is temporarily vacant, perform the functions of the President.

(4) During any period when the Deputy President is performing the functions of the President, or during the incapacity or absence from Hong Kong of the Deputy President, the Council may appoint any person to act as Deputy President.

(5) If no Deputy President is appointed under subsection (1) then, during the incapacity or absence from Hong Kong of the President, or if the office of President is temporarily vacant, the Council may appoint any person to act as President.

(6) The appointment or dismissal of the President or Deputy President shall be effected by a resolution passed by not less than two-thirds of the members of the Council who are competent to vote on the matter.

(7) A member of the Council appointed under section 8(1)(g), (h), (i) or (j) shall not participate in any deliberation or vote on the appointment or dismissal of the President or Deputy President.

(8) The President or Deputy President may be dismissed from office only on the ground of misconduct, incompetence, inefficiency or for other good cause.

(Enacted 1989. Amended 50 of 1997 s. 15)

Section:	12	Power of the Council to delegate to the President		30/06/1997
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The Council may in writing, with such restrictions or conditions as it thinks fit, delegate to the President any of its functions which under section 9(3) it may delegate to a committee, except the appointment of an acting President or acting Deputy President.

(Enacted 1989. Amended 50 of 1997 s. 16)

Section:	12A	Power of the President to delegate		30/06/1997
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(1) Subject to subsection (2), the President may in writing, with such restrictions or conditions as he thinks fit, delegate to such person or committee of persons as he thinks fit his powers and duties, including any function of the Council delegated to him under section 12.

(2) The power conferred by this section on the President to delegate any power or duty of the Council delegated to him under section 12, and the exercise or performance by any person or committee of persons of any such power or duty shall be subject to any restriction or condition imposed in respect thereof by the Council under that section.

(Added 50 of 1997 s. 17)

Section:	13	The Senate of the University		30/06/1997
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PART V

SENATE AND SCHOOLS

(Replaced 50 of 1997 s. 18)

- (1) There is established a Senate, which is the supreme academic body of the University to-
 - (a) plan, develop and maintain the academic programmes of the University;
 - (b) direct and regulate the teaching and research of the University;
 - (c) regulate the admission of persons to courses of study provided by the University and their continuance thereon;
 - (d) regulate the conduct of assessments and examinations leading to degrees and other academic awards of the University;
 - (e) regulate the requirements for the award of degrees and other academic awards of the University other than honorary degrees and other honorary awards. (Replaced 50 of 1997 s. 19)
- (2) The members of the Senate shall be appointed in accordance with statutes made under section 18. (Amended 50 of 1997 s. 19)
- (3) Unless statutes made under section 18 otherwise provide, sections 48 to 52 of the Interpretation and General Clauses Ordinance (Cap 1) shall apply to the Senate. (Amended 50 of 1997 s. 19)
- (4) Subject to this section and to any statutes made under section 18, the Senate may regulate its own procedure. (Amended 50 of 1997 s. 19)
- (5) (Repealed 50 of 1997 s. 19)

(Enacted 1989)

Section:	13A	Schools, etc.		30/06/1997
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- (1) The Council on the recommendation of the Senate may establish schools and other equivalent bodies.
 - (2) A school shall be administered by a board of the school.
 - (3) The Council may make statutes under section 18 to determine the membership of the board of each school.
- (Added 50 of 1997 s. 20)

Section:	14	Accounts		30/06/1997
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PART VI

ACCOUNTS AND REPORTS

- (1) The Council shall keep proper accounts and records of the financial transactions of the University.
- (2) As soon as is practicable after the end of each financial year, the Council shall cause to be prepared statements of the income and expenditure of the University during that financial year and of the assets and liabilities of the University on the last day of that financial year.
- (3) The Council may from time to time fix a period of 12 months to be the financial year of the University.
(Enacted 1989. Amended 50 of 1997 s. 21)

Section:	15	Auditors		30/06/1997
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- (1) The Council shall appoint auditors, who shall be entitled at any time to have access to all books of account, vouchers and other financial records of the University and to require such explanations thereof and such other information as they think fit. (Amended 50 of 1997 s. 22)
- (2) The auditors shall, as soon as is practicable, audit the statements prepared under section 14(2) and shall report thereon to the Council in sufficient time for the Council to take the action required by section 16.
(Enacted 1989)

Section:	16	Statements and reports		30/06/1997
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- (1) The Council shall, not later than 6 months after the end of each financial year or by such later date as the Chancellor may determine, submit to the Chancellor a report on the activities of the University and copies of the statements prepared under section 14(2) and of the report made under section 15(2). (Amended 50 of 1997 s. 23)
- (2) (Repealed 50 of 1997 s. 23)
(Enacted 1989)

Section:	17	Unauthorized use of title of the University		30/06/1997
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PART VII

GENERAL

- (1) No person shall incorporate or form, or be a director, officer, member or organizer of, or work in connection with, any body of persons which-
 - (a) falsely purports or holds itself out to be-
 - (i) the University or any branch or part thereof; or
 - (ii) in any way connected or associated with the University; or
 - (b) uses the title "The Open University of Hong Kong" or a title in any language which so closely resembles that title as to be capable of deceiving or misleading any person into believing that the body of persons is-
 - (i) the University or any branch or part thereof; or
 - (ii) in any way connected or associated with the University. (Amended 50 of 1997 s. 24)
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$50000.
(Enacted 1989)

Section:	18	Power of the Council to make statutes		30/06/1997
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- The Council may make statutes for the administration of the University and for matters that this Ordinance provides for inclusion in a statute.
(Replaced 50 of 1997 s. 25)

Section:	19	Admissibility of documents	30/06/1997
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(1) Any document purporting to be duly executed under the seal of the University or to be signed by the Chairman or President or some other person authorized by the Council to act in that behalf, shall be admitted in evidence and shall, unless the contrary is proved, be deemed to have been duly executed or signed.

(2) A certificate signed by the Chairman or the President that an instrument of the Council purporting to be made or issued by or on behalf of the University was so made or issued shall be conclusive evidence of that fact.

(Enacted 1989. Amended 50 of 1997 s. 26)

Schedule:		SCHEDULE	30/06/1997
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[section 10]

PROVISIONS WITH RESPECT TO MEETINGS AND PROCEDURES OF THE COUNCIL

1. Meetings of the Council shall be held at such times and places as may be appointed by the person for the time being acting as Chairman, who shall preside at all such meetings.

2. The Deputy Chairman shall act as Chairman if the Chairman is absent from Hong Kong or is, for any other reason, unable to act as Chairman, or if the office is vacant.

3. If for any period both the Chairman and the Deputy Chairman are absent from Hong Kong or are, for any other reason, unable to act as Chairman, or if the offices of Chairman and Deputy Chairman are vacant, the members of the Council may appoint one of their number appointed under section 8(1)(f)(i) or (iii) to act as Chairman for that period. (Amended 50 of 1997 s. 27)

4. At any meeting of the Council one-half of the members for the time being shall constitute a quorum.

5. A meeting of the Council may be adjourned by the person presiding or, if the meeting so resolves, by a decision of the meeting.

6. At meetings of the Council on any matter on which a decision is taken by vote-

- (a) an affirmative vote of a majority of those members present and not disqualified from voting on the matter shall be required for the passing of a resolution;
- (b) the person presiding shall have a casting as well as a deliberative vote.

7. If the Council so decides in respect of a particular meeting, any member of the Council who is an employee, adviser, consultant or student of the University may be excluded from the whole or part of that meeting. The President of the Students' Union is construed as a student for the purposes of this paragraph. (Amended 50 of 1997 s. 27)

8. If a member present at a meeting of the Council has any pecuniary or other personal interest in any matter to be considered at that meeting he shall-

- (a) as soon as possible after the commencement of the meeting disclose the existence and nature of the interest;
- (b) if so required by the person presiding, withdraw from the meeting while the matter is being considered; and
- (c) not vote on that matter.

9. The Council may transact any of its business by circulation of papers, and for that purpose a resolution in writing which is approved in writing by a majority of the members for the time being shall be as valid and effectual as if it had been passed at a meeting of the Council.

10. The powers of the Council shall not be affected by-

- (a) any vacancy in its membership;
- (b) any defect in the appointment or qualification of a person purporting to be a member; or

(c) any minor irregularity in the convening of any meeting of the Council.

11. The exercise of any power by the Council may be signified by the person presiding at the meeting or other deliberation at which such power was exercised, or by any person from time to time authorized by the Council to signify the exercise of such power

12. (Repealed 50 of 1997 s. 27)

(Enacted 1989)