

# Apology Ordinance

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

**ORDINANCE NO. 12 OF 2017**



Carrie LAM  
Chief Executive  
20 July 2017

An Ordinance to provide for the effect of apologies in certain proceedings and legal matters.

[ ]

Enacted by the Legislative Council.

**1. Short title and commencement**

- (1) This Ordinance may be cited as the Apology Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Justice by notice published in the Gazette.

**2. Object of this Ordinance**

The object of this Ordinance is to promote and encourage the making of apologies with a view to preventing the escalation of disputes and facilitating their amicable resolution.

**3. Interpretation**

In this Ordinance—

*apology* (道歉)—see section 4;

*applicable proceedings* (適用程序)—see section 6.

**4. Meaning of *apology***

- (1) In this Ordinance, an apology made by a person in connection with a matter means an expression of the person's regret, sympathy or benevolence in connection with the matter, and includes, for example, an expression that the person is sorry about the matter.
- (2) The expression may be oral, written or by conduct.
- (3) The apology also includes any part of the expression that is—
  - (a) an express or implied admission of the person's fault or liability in connection with the matter; or
  - (b) a statement of fact in connection with the matter.
- (4) In this Ordinance, a reference to an apology made by a person includes an apology made on behalf of the person.
- (5) Section 5 specifies the apologies to which this Ordinance applies.

**5. Apology to which this Ordinance applies**

- (1) This Ordinance applies to an apology made by a person on or after the commencement date of this Ordinance in connection with a matter, regardless of whether—
  - (a) the matter arose before, on or after that date; or
  - (b) applicable proceedings concerning the matter began before, on or after that date.
- (2) However, this Ordinance does not apply to—
  - (a) an apology made by a person in a document filed or submitted in applicable proceedings;
  - (b) an apology made by a person in a testimony, submission, or similar oral statement, given at a hearing of applicable proceedings; or

- (c) an apology adduced as evidence in applicable proceedings by, or with the consent of, the person who made it.

**6. Meaning of *applicable proceedings***

- (1) In this Ordinance, the following proceedings are applicable proceedings—
  - (a) judicial, arbitral, administrative, disciplinary and regulatory proceedings (whether or not conducted under an enactment);
  - (b) other proceedings conducted under an enactment.
- (2) However, applicable proceedings do not include—
  - (a) criminal proceedings; or
  - (b) proceedings specified in the Schedule.

**7. Effect of apology for purposes of applicable proceedings**

- (1) For the purposes of applicable proceedings, an apology made by a person in connection with a matter—
  - (a) does not constitute an express or implied admission of the person's fault or liability in connection with the matter; and
  - (b) must not be taken into account in determining fault, liability or any other issue in connection with the matter to the prejudice of the person.
- (2) This section is subject to section 8.

## 8. Admissibility of evidence of apology

- (1) Evidence of an apology made by a person in connection with a matter is not admissible in applicable proceedings as evidence for determining fault, liability or any other issue in connection with the matter to the prejudice of the person.
- (2) However, if in particular applicable proceedings there is an exceptional case (for example, where there is no other evidence available for determining an issue), the decision maker may exercise a discretion to admit a statement of fact contained in an apology as evidence in the proceedings, but only if the decision maker is satisfied that it is just and equitable to do so, having regard to the public interest or the interests of the administration of justice.
- (3) This section applies despite anything to the contrary in any rule of law or other rule concerning procedural matters.
- (4) In this section—

*decision maker* (裁斷者), in relation to applicable proceedings, means the person (whether a court, a tribunal, an arbitrator or any other body or individual) having the authority to hear, receive and examine evidence in the proceedings.

## 9. Apology not a Limitation Ordinance acknowledgment

For the purposes of section 23 of the Limitation Ordinance (Cap. 347), an apology made by a person in connection with a matter does not constitute an acknowledgment within the meaning of that Ordinance in connection with the matter.

**10. Contract of insurance or indemnity not affected**

- (1) An apology made by a person in connection with a matter does not void or otherwise affect any insurance cover, compensation or other form of benefit for any person in connection with the matter under a contract of insurance or indemnity.
- (2) This section applies regardless of whether the contract of insurance or indemnity was entered into before, on or after the commencement date of this Ordinance.
- (3) This section applies despite anything to the contrary in any rule of law or agreement.

**11. Other matters not affected**

This Ordinance does not affect—

- (a) discovery, or a similar procedure in which parties are required to disclose or produce documents in their possession, custody or power, in applicable proceedings;
- (b) the operation of section 3, 4 or 25 of the Defamation Ordinance (Cap. 21); or
- (c) the operation of the Mediation Ordinance (Cap. 620).

**12. Amendment of Schedule**

The Chief Executive in Council may, by notice published in the Gazette, amend the Schedule.

**13. Application to Government**

This Ordinance applies to the Government.

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## **Schedule**

[ss. 6 & 12]

### **Proceedings that are Not Applicable Proceedings**

1. Proceedings conducted under the Commissions of Inquiry Ordinance (Cap. 86).
2. Proceedings conducted under the Control of Obscene and Indecent Articles Ordinance (Cap. 390).
3. Proceedings conducted under the Coroners Ordinance (Cap. 504).
4. Proceedings of the Legislative Council, including proceedings of a committee, panel or subcommittee established or mandated by the Legislative Council to discharge a function or exercise a power of the Legislative Council.