

《司法程序（烈風警告期間聆訊延期）條例》 (第 62 章)

Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62)

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尚未實施的條文 / 修訂 ——

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制定史

本為 1969 年第 37 號——1972 年第 37 號，1978 年第 85 號，1983 年第 43 號，1984 年編正版，1993 年第 41 號，1995 年第 (C)12 號法律公告(中文真確本)，1997 年第 362 號法律公告，1998 年第 25 號，1999 年第 21 號，1999 年第 39 號，2016 年第 18 號，2017 年第 4 號編輯修訂紀錄

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《司法程序(烈風警告期間聆訊延期)條例》

(第 62 章)

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Judicial Proceedings (Adjournment During Gale Warnings) Ordinance

(Cap. 62)

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本條例旨在就烈風警告或暴雨警告期間將司法程序延期，以及為附帶或相關事宜訂定條文。

(由 1993 年第 41 號第 2 條修訂)

(格式變更——2017 年第 4 號編輯修訂紀錄)

[1969 年 7 月 4 日]

1. 簡稱

本條例可引稱為《司法程序(烈風警告期間聆訊延期)條例》。

2. 釋義

在本條例中，除文意另有所指外——

工作日 (working day) 指不屬星期六或公眾假期的日子；(由 2016 年第 18 號第 11 條增補)

台長 (Director) 指香港天文台台長；(由 1993 年第 41 號第 3 條修訂；由 1997 年第 362 號法律公告修訂)

司法程序 (judicial proceedings) 指在任何法院、審裁處、委員會或其他根據法律有權收取經宣誓後作出的證供的人席前進行的任何法律程序；

延期期間 (period of adjournment) 指由第 3 或 6 條將任何司法程序延期的期間；

烈風警告 (gale warning) 指藉使用第 5(1)(a)(i) 條所指的熱帶氣旋警告訊號，就香港或香港附近出現熱帶氣旋而作出的警告；(由 1978 年第 85 號第 2 條代替。由 1993 年第 41 號第 3 條修訂；由 1999 年第 21 號第 2 條修訂)

經延期的聆訊 (adjourned hearing) 指司法程序由本條例或根據本條例延期後恢復進行的聆訊；

To provide for the adjournment of judicial proceedings during a gale warning or a rainstorm warning and for matters incidental thereto or connected therewith.

(Amended 41 of 1993 s. 2)

(Format changes—E.R. 4 of 2017)

[4 July 1969]

1. Short title

This Ordinance may be cited as the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

adjourned hearing (經延期的聆訊) means the resumed hearing of any judicial proceedings adjourned by or under this Ordinance;

Director (台長) means the Director of the Hong Kong Observatory; (Amended 41 of 1993 s. 3; L.N. 362 of 1997; 39 of 1999 s. 3)

gale warning (烈風警告) means a warning of the occurrence of a tropical cyclone in, or in the vicinity of, Hong Kong by the use of any of the tropical cyclone warning signals referred to in section 5(1)(a)(i); (Replaced 85 of 1978 s. 2. Amended 41 of 1993 s. 3)

judicial proceedings (司法程序) means any proceedings before a court, tribunal, commission or other person having by law power to receive evidence on oath;

period of adjournment (延期期間) means a period during which any judicial proceedings are adjourned by section 3 or 6;

暴雨警告 (rainstorm warning) 指藉使用第 5(1)(a)(ii) 條所指的暴雨警告訊號，就香港或香港附近出現暴雨而作出的警告；
(由 1993 年第 41 號第 3 條增補。由 1999 年第 21 號第 2 條修訂)

熱帶氣旋 (tropical cyclone) 指任何熱帶低氣壓、熱帶風暴、強烈熱帶風暴及颱風。

3. 烈風警告或暴雨警告期間將司法程序延期

- (1) 所有司法程序，不論是否已進行部分聆訊，如經編排的聆訊時間或正進行聆訊的時間是在烈風警告或暴雨警告期間內，則司法程序須予暫停，並延期至按照第 4 條恢復進行為止。
- (2) 儘管有第 (1) 款的規定，任何司法程序仍可在烈風警告或暴雨警告期間內繼續進行，而在此情況下繼續進行的司法程序在法律上完全有效。

(由 1993 年第 41 號第 4 條修訂)

4. 經延期的司法程序恢復進行

憑藉第 3 條延期的司法程序，須於烈風警告或暴雨警告終止日之後的下一個工作日，於根據第 3 條延期當日為該司法程序所指明的時間及地點恢復進行。

(由 1993 年第 41 號第 5 條修訂；由 2016 年第 18 號第 12 條修訂)

5. 烈風警告或暴雨警告期間

rainstorm warning (暴雨警告) means a warning of a heavy rainstorm in, or in the vicinity of, Hong Kong by the use of the heavy rainstorm warning signal referred to in section 5(1)(a)(ii); (Added 41 of 1993 s. 3. Amended 21 of 1999 s. 2)

tropical cyclone (熱帶氣旋) means a tropical depression, a tropical storm, a severe tropical storm and a typhoon; (Amended 18 of 2016 s. 11)

working day (工作日) means a day that is neither a Saturday nor a public holiday. (Added 18 of 2016 s. 11)

3. Adjournment of judicial proceedings during gale warning or rainstorm warning

- (1) All judicial proceedings, part-heard or otherwise, which are set down for hearing or are being conducted at a time which falls within the duration of a gale warning or a rainstorm warning shall stand and remain adjourned until resumed in accordance with section 4.
- (2) Notwithstanding the provisions of subsection (1) any judicial proceedings may be continued during a gale warning or a rainstorm warning and if so continued shall have full effect in law.

(Amended 41 of 1993 s. 4)

4. Resumption of adjourned judicial proceedings

Any judicial proceedings adjourned by virtue of section 3 shall be resumed on the next working day after the day on which the gale warning or rainstorm warning ceases at the time and place specified for such proceedings on the date of such adjournment under section 3.

(Amended 41 of 1993 s. 5; 18 of 2016 s. 12)

5. Duration of gale warning and rainstorm warning

(1) 就本條例而言——

- (a) (i) 烈風警告須由台長自香港天文台發出報告，表示通常稱為 8 號西北、8 號西南、8 號東北、8 號東南、9 號或 10 號的熱帶氣旋警告訊號正生效時開始；及
- (ii) 暴雨警告須由台長自香港天文台發出報告，表示通常稱為黑色暴雨警告訊號的暴雨警告訊號正生效時開始；及 (由 1999 年第 21 號第 3 條修訂)
- (b) 烈風警告或暴雨警告(視屬何情況而定)須於台長自香港天文台發出報告，表示(a)段所述的訊號全部解除時終止。(由 1993 年第 41 號第 6 條代替；由 1997 年第 362 號法律公告修訂)

(2) 在烈風警告或暴雨警告終止後，台長須在切實可行範圍內，盡快藉憲報公告宣布烈風警告或暴雨警告的開始與終止日期與時間。(由 1993 年第 41 號第 6 條修訂)

6. 終審法院首席法官可命令將司法程序延期或恢復進行

- (1) 儘管有第 3 及 4 條的規定，終審法院首席法官如認為因熱帶氣旋或暴雨的出現或由此引起的任何情況，包括該氣旋或雨帶過境，適宜採取以下措施，則可藉命令訂定——(由 1993 年第 41 號第 7 條修訂；由 1998 年第 25 號第 2 條修訂)
 - (a) 任何司法程序的延期進行；及
 - (b) 根據(a)段或憑藉第 3 條延期的司法程序的恢復進行。

(1) For the purposes of this Ordinance—

- (a) (i) a gale warning shall commence when the Director issues from the Hong Kong Observatory a report to the effect that any of the tropical cyclone warning signals commonly referred to as No. 8NW, 8SW, 8NE, 8SE, 9 or 10 is in force; and
- (ii) a rainstorm warning shall commence when the Director issues from the Hong Kong Observatory a report to the effect that the heavy rainstorm warning signal commonly referred to as Black is in force; and (*Amended 21 of 1999 s. 3*)
- (b) the gale warning or rainstorm warning as the case may be shall cease when the Director issues from the Hong Kong Observatory a report to the effect that none of the signals mentioned in paragraph (a) remains in force. (*Replaced 41 of 1993 s. 6. Amended L.N. 362 of 1997*)

(2) As soon as practicable after a gale warning or a rainstorm warning ceases the Director shall by notice in the Gazette declare the times at which and the days on which the gale warning or rainstorm warning commenced and ceased. (*Amended 41 of 1993 s. 6*)

6. Chief Justice may order adjournment or resumption of judicial proceedings

- (1) Notwithstanding sections 3 and 4, the Chief Justice may by order provide for—
 - (a) the adjournment of any judicial proceedings; and
 - (b) the resumption of any judicial proceedings adjourned under paragraph (a) or by virtue of section 3,if, in his opinion, it is expedient to do so, by reason of a tropical cyclone, a heavy rainstorm or any circumstances

- (2) 根據第 (1) 款作出的命令，須在切實可行範圍內盡快於命令作出後在憲報刊登；如屬恢復司法程序的命令，則須指明經延期的司法程序恢復進行的日期與時間。

(由 1972 年第 37 號第 3 條代替)

7. 在經延期的聆訊中出席

- (1) 任何人如是——
- (a) 原告人或證人，並以擔保或其他方式簽保，保證在任何司法程序中出席或列席，而經編排的聆訊日期與時間恰在延期期間內；
 - (b) 被告人或被控人，並已獲准保釋或在其他方式的規定下，須在任何司法程序中出席或列席，而經編排的聆訊日期與時間恰在延期期間內，
- 則須在經延期的聆訊中出席。
- (2) 任何遭還押看守的人，如須於某日期與時間為司法程序的目的而被帶上法庭，而該日期與時間恰在延期期間內，則該人須在經延期的聆訊中被帶上法庭。

8. 遭警方逮捕或羈押的人

- (1) 凡任何人根據《警隊條例》(第 232 章) 第 52(1) 條，在有擔保人或無擔保人的情況下擔保獲釋，以保證該人在擔保書上指定的時間到裁判官席前應訊，或保證該人為接受送達一項逮捕及扣留令或為獲得釋放而報到，而該時間恰在烈風警告或暴雨警告期間內，則該時間須當作予

arising therefrom, including its passing. (*Amended 41 of 1993 s. 7*)

- (2) Any order made under subsection (1) shall be published in the Gazette as soon as practicable after the making thereof and, in the case of an order for resumption, shall specify the day and the time when the adjourned proceedings shall be resumed.

(*Replaced 37 of 1972 s. 3*)

7. Attendance at adjourned hearing

- (1) Any person who—
- (a) being a prosecutor or witness, is bound over, by recognizance or otherwise, to appear in, or attend at, any judicial proceedings set down for hearing on a day and at a time which falls within a period of adjournment;
 - (b) being a defendant or an accused, is admitted to bail or is otherwise required to appear in, or attend at, any judicial proceedings set down for hearing on a day and at a time which falls within a period of adjournment,
- shall attend the adjourned hearing.
- (2) Any person who is remanded in custody and is required to be produced before a court for purposes of any judicial proceedings on a day and at a time which falls within a period of adjournment shall be produced before the court at the adjourned hearing.

8. Persons arrested or detained by police

- (1) Where a person is discharged under section 52(1) of the Police Force Ordinance (Cap. 232) upon his entering into a recognizance, with or without sureties, to appear before a magistrate or to surrender for service of a warrant of arrest and detention or for discharge at the time named in the

以延遲，至烈風警告或暴雨警告終止日之後的下一個工作日的同樣時間。(由 2016 年第 18 號第 13 條修訂)

- (2) 凡任何人在烈風警告或暴雨警告期間內根據《警隊條例》(第 232 章)第 52(1) 或 (4) 條被扣留羈押，而在上述第 (1) 或 (4) 款(視屬何情況而定)所訂明的時限內，將該人帶到裁判官席前並不切實可行，則該人須於緊接烈風警告或暴雨警告終止日之後而又非公眾假期的日子被帶到裁判官席前。

(由 1993 年第 41 號第 8 條修訂)

9. 接獲傳票而出庭等

- (1) 任何人因傳票或法庭其他法律程序文件規定或以其他方式規定，須於某日期與時間在任何司法程序中出庭，而該日期與時間恰在延期期間內，則該人須在經延期的聆訊中出庭。
- (2) 任何人因傳召出庭令或以其他方式規定，須於某日期與時間在任何司法程序中出示任何文件或其他物件，而該日期與時間恰在延期期間內，則該人須在經延期的聆訊中出示該文件或其他物件。

10. (由 1983 年第 43 號第 3 條廢除)

11. 故意犯過失的懲罰

任何人不遵守第 7、8 或 9 條的條文，並不會因為此過失而招致任何懲罰，但故意犯過失者除外。

recognizance and such time falls within the duration of a gale warning or a rainstorm warning the time shall be deemed to be extended until the same time on the next working day after the day on which the gale warning or rainstorm warning ceases. (Amended 18 of 2016 s. 13)

- (2) Where any person is detained in custody under section 52(1) or (4) of the Police Force Ordinance (Cap. 232) during a gale warning or a rainstorm warning and it is not practicable to produce the person before a magistrate within the time limit prescribed in the said subsection (1) or (4), as the case may be, he shall be produced before a magistrate on the next day, which is not a public holiday, after the day on which the gale warning or rainstorm warning ceases.

(Amended 41 of 1993 s. 8)

9. Attendance on summons, etc.

- (1) Any person who is required by a summons or other court process or otherwise to attend any judicial proceedings on a day and at a time which falls within a period of adjournment shall attend the adjourned hearing.
- (2) Any person who is required by a subpoena or otherwise to produce any document or other thing at any judicial proceedings on a day and at a time which falls within a period of adjournment shall produce the document or other thing at the adjourned hearing.

10. (Repealed 43 of 1983 s. 3)

11. Penalty for wilful default

A person who fails to comply with any of the provisions of section 7, 8 or 9 shall not incur any penalty for such default unless the default is wilful.