

《道歉條例》
(第 631 章)
Apology Ordinance
(Cap. 631)

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經核證文本
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(《法例發布條例》(第 614 章) 第 5 條)
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尚未實施的條文 / 修訂 ——

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制定史

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(Cap. 631)

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本條例旨在就道歉在某些程序及法律事宜中的效果，作出規定。

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

[2017 年 12 月 1 日] 2017 年第 148 號法律公告

[1 December 2017] L.N. 148 of 2017

(略去制定語式條文——2018 年第 1 號編輯修訂紀錄)

(Enacting provision omitted—E.R. 1 of 2018)

1. 簡稱

(編輯修訂——2018 年第 1 號編輯修訂紀錄)

1. Short title

(Amended E.R. 1 of 2018)

- (1) 本條例可引稱為《道歉條例》。
- (2) (已失時效而略去——2018 年第 1 號編輯修訂紀錄)

- (1) This Ordinance may be cited as the Apology Ordinance.
- (2) (Omitted as spent—E.R. 1 of 2018)

2. 本條例的目的

本條例的目的是提倡和鼓勵作出道歉，以期防止爭端惡化，和促進和睦排解爭端。

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. 釋義

在本條例中——

道歉 (apology)——參閱第 4 條；

適用程序 (applicable proceedings)——參閱第 6 條。

3. Interpretation

In this Ordinance—

apology (道歉)—see section 4;

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

4. 道歉的涵義

- (1) 在本條例中，某人就某事宜作出的道歉，指該人就該事宜表達歉意、懊悔、遺憾、同情或善意，並包括(舉例而言)該人就該事宜表達抱歉。
- (2) 上述表達可屬口頭或書面形式，亦可藉行為作出。
- (3) 如上述表達有任何部分符合以下說明，則上述道歉亦包括該部分——

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) 該部分是以明示或默示的方式，承認上述的人在上述事宜方面的過失或法律責任；或
- (b) 該部分是與上述事宜相關的事實陳述。
- (4) 在本條例中，凡提述某人作出的道歉，包括代表該人作出的道歉。
- (5) 第 5 條指明本條例適用的道歉。

5. 本條例適用的道歉

- (1) 凡某人在本條例生效日期當日或之後，就某事宜作出道歉，本條例適用於該道歉，不論——
 - (a) 該事宜是在該日期之前、當日或之後出現的；或
 - (b) 關於該事宜的適用程序，是在該日期之前、當日或之後展開的。
- (2) 然而，如——
 - (a) 某人在適用程序中送交存檔或呈交的文件中，作出道歉；
 - (b) 某人在適用程序的聆訊中作出的證供、陳詞或類似的口頭陳述中，作出道歉；或
 - (c) 某人作出道歉，並在適用程序中，援引該道歉為證據，或該道歉於該人同意下，在適用程序中被援引為證據，
 則本條例不適用於該道歉。

6. 適用程序的涵義

- (1) 在本條例中，以下程序屬適用程序——
 - (a) 司法、仲裁、行政、紀律處分及規管性程序（不論是否根據成文法則進行）；
 - (b) 根據成文法則進行的其他程序。

- (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—

- (2) 然而，適用程序並不包括——
- (a) 刑事法律程序；或
 - (b) 附表指明的程序。

7. 道歉對適用程序的效果

- (1) 就適用程序而言，某人就某事宜作出的道歉——
- (a) 並不構成以明示或默示的方式，承認該人在該事宜方面的過失或法律責任；及
 - (b) 在就該事宜裁斷過失、法律責任或任何其他爭議事項時，不得列為不利於該人的考慮因素。
- (2) 本條受第 8 條規限。

8. 道歉證據是否可予接納

- (1) 某人就某事宜作出的道歉的證據，不得在適用程序中，為就該事宜裁斷過失、法律責任或任何其他爭議事項，而接納為不利於該人的證據。
- (2) 然而，如在個別適用程序中，出現特殊情況（例如沒有其他證據，可用於裁斷爭議事項），有關的裁斷者可行使酌情權，將道歉所包含的事實陳述，在該程序中接納為證據，但該裁斷者須信納，行使該酌情權，在顧及公眾利益或公義原則之後，屬公正公平之舉，方可行使該酌情權。
- (3) 儘管任何法律規則或其他關於程序事宜的規則中，有任何相反規定，本條仍然適用。

- (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

(4) 在本條中——

裁斷者 (decision maker) 就適用程序而言，指具有權限在該程序中聆聽、收取和審查證據的人（不論是法院、法庭、審裁處、仲裁員或任何其他團體或個人）。

9. 道歉並非《時效條例》所指的承認

就《時效條例》(第 347 章) 第 23 條而言，某人就某事宜作出的道歉，並不在與該事宜相關的情況下，構成該條例所指的承認。

10. 保險或彌償合約不受影響

- (1) 如根據某保險或彌償合約，就某事宜對任何人提供保險保障、補償或其他形式的利益，則某人就該事宜作出的道歉，並不使該項保障、補償或利益無效，或受到其他影響。
- (2) 不論上述保險或彌償合約是在本條例生效日期之前、當日或之後訂立，本條仍然適用。
- (3) 儘管任何法律規則或協議中，有任何相反規定，本條仍然適用。

11. 其他不受影響的事宜

本條例並不影響——

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) 在適用程序中的文件透露程序，或在適用程序中要求程序各方披露或交出他們管有、保管或控制的文件的類似程序；
- (b) 《誹謗條例》(第 21 章)第 3、4 或 25 條的施行；或
- (c) 《調解條例》(第 620 章)的施行。

12. 修訂附表

行政長官會同行政會議可藉憲報公告，修訂附表。

13. 適用於政府

本條例適用於政府。

- (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.

附表

[第 6 及 12 條]

不屬適用程序的程序

1. 根據《調查委員會條例》(第 86 章) 進行的程序。
2. 根據《淫褻及不雅物品管制條例》(第 390 章) 進行的程序。
3. 根據《死因裁判官條例》(第 504 章) 進行的程序。
4. 立法會程序，包括由立法會為執行其職能或行使其權力而成立或委托的委員會、事務委員會或小組委員會的程序。

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.