



LAWS OF HONG KONG

LEGISLATIVE COUNCIL (POWERS AND
PRIVILEGES) ORDINANCE

CHAPTER 382



REVISED EDITION 1985

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER
HONG KONG

CHAPTER 382**LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES)
ORDINANCE****ARRANGEMENT OF SECTIONS**

<i>Section</i>	<i>Page</i>
PART I	
PRELIMINARY	
1. Short title	3
2. Interpretation	3
PART II	
PRIVILEGES AND IMMUNITIES	
3. Freedom of speech and debate	4
4. Immunity from legal proceedings	4
5. Freedom from arrest	4
6. Service of civil process and exemptions	4
7. Evidence of proceedings in the Council or any committee not to be given without leave	5
8. Regulation of admittance to precincts of the Chamber	5
PART III	
EVIDENCE	
9. Power to order attendance of witnesses	5
10. Attendance to be notified by summons	6
11. Witnesses may be examined on oath	6
12. Power to issue warrant to compel attendance	6
13. Objection to answer question or produce papers	7
14. Privileges of witnesses	7
15. Determination of questions relating to evidence and production of documents before the Council or committee	8
16. Limitation on privilege against incrimination of self or spouse	8
PART IV	
OFFENCES AND PENALTIES	
17. Contempts	9
18. False evidence and deception	9
19. Interference with members, officers or witnesses	9
20. Offences by persons entering or remaining in precincts of Chamber	10

Section

Page

PART V

MISCELLANEOUS

21.	Journals printed by order of the Council to be admitted as evidence	10
22.	Powers of President supplementary to powers under Letters Patent or Royal Instructions	10
23.	Courts not to exercise jurisdiction in respect of acts of the Council, President or officers	10
24.	Officers of the Council to have powers of police officer	11
25.	President may act when the Council is dissolved	11
26.	Consent of Attorney General to prosecute	11

CHAPTER 382

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES)

To declare and define certain powers, privileges and immunities of the Legislative Council and of the members and officers thereof; to secure freedom of speech in the Legislative Council; to make provision for regulating admittance to and conduct within the precincts of the Chamber of the Legislative Council; to provide for the giving of evidence in proceedings before the Legislative Council or committees thereof, and for offences in respect of such proceedings and related matters; and for purposes incidental to or connected therewith.

Originally
35 of 1985.

[26 July 1985.]

L.N. 215/85.

PART I

PRELIMINARY

1. This Ordinance may be cited as the Legislative Council (Powers and Privileges) Ordinance.

Short title.

2. (1) In this Ordinance, except where the context otherwise requires—

Interpretation.

“Chamber” means the Chamber in which the proceedings of the Council are conducted, and any galleries and places therein provided for members of the public and representatives of the press, television and radio, and includes any lobbies, offices or precincts used exclusively in connexion with the proceedings of the Council;

“Clerk” means any of the following—

- (a) the Clerk to the Legislative Council; and
- (b) the Clerk of Councils;

“committee” means any standing, select or other committee of the Council;

“Council” means the Legislative Council;

“journals” means the minutes of the Council or the official record of the votes and proceedings thereof;

“member” means a member of the Council;

“officer of the Council” means the Clerk or any other officer or person acting within the precincts of the Chamber under the orders of the President and includes any police officer on duty within the precincts of the Chamber;

“precincts of the Chamber” means the Chamber and offices of the Council and any adjacent galleries and places provided for the use or accommodation of members of the public and representatives of the press, television and radio, and subject to any exceptions made by the President under subsection (2) includes, while the Council or a committee is sitting, the entire building in which the Chamber is situated and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the Council;

“President” means the President of the Council, and includes any other member of the Council when presiding at a sitting of the Council;

“Standing Orders” means the Standing Orders of the Council for the time being in force.

(2) The President may, by notice published in the *Gazette*, order that any part of a building, forecourt, yard, garden, enclosure or open space referred to in the definition in subsection (1) of “precincts of the Chamber” shall be excluded from that definition, either generally or for a specific purpose and either temporarily or permanently.

PART II

PRIVILEGES AND IMMUNITIES

Freedom of speech and debate.

3. There shall be freedom of speech and debate in the Council or proceedings before a committee, and such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Council.

Immunity from legal proceedings.

4. No civil or criminal proceedings shall be instituted against any member for words spoken before, or written in a report to, the Council or a committee, or by reason of any matter brought by him therein by petition, Bill, resolution, motion or otherwise.

Freedom from arrest.

5. No member shall be liable to arrest—

- (a) for any civil debt (except a debt the contraction of which constitutes a criminal offence) whilst going to, attending at or returning from a sitting of the Council or a committee;
- (b) for any criminal offence whilst attending at a sitting of the Council or a committee.

Service of civil process and exemptions.

6. (1) No process issued by any court in Hong Kong or elsewhere in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Chamber while the Council is sitting, nor shall any such process be served or executed through the President or any officer of the Council unless it relates to a person employed within the precincts of the Chamber.

(2) Except by leave of the Council obtained in accordance with the Standing Orders, no member shall be required to attend as a witness in any civil proceedings on a day when the Council is sitting.

(3) A member shall be exempted from service as a juror in accordance with section 5 of the Jury Ordinance.

(Cap. 3.)

7. (1) No member or officer of the Council, and no person employed to take minutes or keep any record of evidence before the Council or a committee, shall give evidence elsewhere in respect of the contents of such minutes or record of evidence, or of the contents of any document laid before the Council or committee, as the case may be, or in respect of any proceedings or examination held before the Council or committee, as the case may be, without the special leave of the Council.

Evidence of proceedings in the Council or any committee not to be given without leave.

(2) During a recess or adjournment of the Council, the special leave referred to in subsection (1) may be given by the President or, if the President is unable to act owing to his absence from Hong Kong or incapacity, in accordance with the Standing Orders.

8. (1) Subject to this section, sittings of the Council shall be open to the public.

Regulation of admittance to precincts of the Chamber.

(2) The right of persons other than members or officers of the Council to enter or remain within the precincts of the Chamber shall be subject to the Standing Orders or any resolution of the Council limiting or prohibiting the enjoyment of such right.

(3) The President may from time to time, for the purpose of maintaining the security of the precincts of the Chamber, ensuring the proper behaviour and decorum of persons therein and for other administrative purposes, issue such administrative instructions as he may deem necessary or expedient for regulating the admittance of persons (other than members or officers of the Council) to, and the conduct of such persons within, the Chamber and the precincts of the Chamber.

(4) Copies of administrative instructions issued by the President under subsection (3) shall be duly authenticated by the Clerk and exhibited in a conspicuous position in the precincts of the Chamber; and such copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

PART III

EVIDENCE

9. (1) The Council or a standing committee thereof may, subject to sections 13 and 14, order any person to attend before the Council or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

Power to order attendance of witnesses.

(2) The powers conferred by subsection (1) on a standing committee may be exercised by any other committee which is specially authorized by a resolution of the Council to exercise such powers in respect of any matter or question specified in the resolution.

Attendance to be notified by summons.

10. (1) Where any person is lawfully ordered to attend to give evidence or to produce documents before the Council or a committee, he shall be notified by a summons issued under the hand of the Clerk by direction of the President.

(2) In every summons issued to any person under subsection (1) there shall be stated the name of that person and the time when and the place where he is required to attend and the particular documents (if any) he is required to produce, and the summons shall be served on him either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Hong Kong with some adult person.

(3) A summons issued under this section may be served by an officer of the Council or by a police officer or any public officer.

Witnesses may be examined on oath.

11. (1) The Council or a committee may require that any facts, matters and things relating to the subject of inquiry before the Council or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath.

(2) An oath required to be taken under this section may be administered by the Clerk or by any other person appointed by the Council for that purpose or, in the case of a witness before a committee, by the chairman of the committee or by the member presiding in the absence of the chairman.

Power to issue warrant to compel attendance.

12. (1) Where a person to whom a summons is issued under section 10 does not attend before the Council or the committee at the time and place stated therein, the President may, if satisfied that the summons has been duly served or that such person has wilfully avoided service, direct the Clerk to issue a warrant in the prescribed form to apprehend him and bring him, at a time and place stated in the warrant, before the Council or committee, as the case may be.

(2) Where a warrant is issued under this section, the President may, by ordering an appropriate endorsement on the warrant, direct that the person named in the warrant be brought before a magistrate after arrest and released on entering into such recognizance for his appearance before the Council or committee as may be specified in the endorsement.

(3) A warrant issued under this section shall be executed by a police officer.

(4) A magistrate may, when a person is brought before him under subsection (2), release that person upon his entering into such recognizance as may be specified in the endorsement on the warrant.

(5) Every warrant and every endorsement on such warrant purporting to bear the signature of the Clerk under this section shall be deemed, unless the contrary is proved, to have been issued or made under the direction or order of the President under this section.

(6) The Governor may, by order in the *Gazette*, prescribe a form of warrant for the purposes of this section.

13. (1) Subject to section 14, where any person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before the Council refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the President may (and shall if such question or the production of such paper, book, record or document is not relevant) excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

Objection to answer question or produce papers.

(2) Subject to section 14, where any person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before any committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the chairman of the committee may report such refusal to the President with the reasons therefor; and the President may (and shall if such question or the production of such paper, book, record or document is not relevant) thereupon excuse the answering of such question or the production of such paper, book, record or document or may order the answering or production thereof.

14. (1) Every person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before the Council or a committee shall, subject to section 16, be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law.

Privileges of witnesses.

(2) No person, other than a public officer acting with the consent of the Governor, shall before the Council or a committee—

- (a) give any evidence; or
- (b) produce any paper, book, record or document,

relating to the correspondence concerning—

- (i) any naval, military or air force matter or of any other matter relating to the security of Hong Kong; or
- (ii) the responsibilities of Her Majesty's Government in the United Kingdom otherwise than with respect to the administration of Hong Kong by its Government,

nor shall secondary evidence be received by or produced before the Council or a committee of the contents of any such paper, book, record or document.

Determination of questions relating to evidence and production of documents before the Council or committee.

15. Where at any time any question arises in the Council or a committee in regard to—

- (a) the right or power of the Council or a committee to hear, admit or receive oral evidence; or
- (b) the right or power of the Council or a committee to peruse or examine any paper, book, record or document or to order, direct or call upon any person to produce any paper, book, record or document before the Council or committee; or
- (c) the right or privilege of any person (including a member of the Council or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Council or committee,

that question may, subject to this Ordinance and except in so far as express provision is made therein for the determination of that question, be determined in accordance with the usage and practice of the Council which applied prior to the commencement of this Ordinance or applies thereafter by virtue of any resolution of the Council.

Limitation on privilege against incrimination of self or spouse.

16. (1) In any proceedings in the Council or a committee, any person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before the Council or committee shall not, unless excused under section 13, be excused—

- (a) from answering any relevant question put to that person in the proceedings or producing any such paper, book, record or document; or
- (b) from complying with any order made in or in connexion with the proceedings,

on the ground that to do so may tend to expose that person, or the wife or husband of that person, to proceedings for an offence or for the recovery of a penalty.

(2) Subject to subsection (3), no statement or admission made by a person—

- (a) in answering a question put to him in any proceedings to which subsection (1) applies; or
- (b) in complying with any order made in any such proceedings,

shall, in proceedings for any offence or for the recovery of any penalty, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the wife or husband of that person.

(3) Nothing in subsection (2) shall render any statement or admission made by a person as there mentioned inadmissible in evidence against that person in proceedings for an offence under section 32 (which relates to false statements on oath made otherwise than in a judicial proceeding) or section 36 (which relates to false statutory declarations and other false statements without oath) of the Crimes Ordinance.

(Cap. 200.)

PART IV

OFFENCES AND PENALTIES

17. Any person who—

Contempts.

- (a) disobeys any lawful order made by the Council or a committee requiring him to attend or produce any papers, books, documents or records before the Council or committee, unless such attendance or production is excused under section 13; or
- (b) refuses to be examined before, or to answer any lawful and relevant question put by, the Council or a committee during the course of any examination, unless such refusal is excused under section 13; or
- (c) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Council or a committee while the Council or such committee is sitting.

commits an offence and is liable to a fine of \$10,000 and to imprisonment for 12 months, and in the case of a continuing offence to a further fine of \$2,000 for each day on which the offence continues.

18. (1) Any person who before the Council or a committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

False evidence and deception.

(2) Any person who presents to the Council or a committee any false, untrue, fabricated or falsified document with intent to deceive the Council or such committee, unless such presentation constitutes an offence under subsection (1), commits an offence and is liable to a fine of \$10,000 and to imprisonment for 12 months.

19. Any person who—

- (a) assaults, obstructs or molests any member going to, being within or going from the precincts of the Chamber, or endeavours to compel any member by force or menace to declare himself in favour of or against any motion or matter pending before the Council or a committee; or

Interference with members, officers or witnesses.

- (b) assaults, interferes with, molests, resists or obstructs any officer of the Council while in the execution of his duty; or
- (c) tampers with, deters, threatens, molests or in any way unduly influences any witness in regard to any evidence to be given by him before the Council or a committee; or
- (d) threatens, molests or in any way punishes or injures or attempts to punish or injure any person for having given evidence before the Council or a committee or on account of any evidence which he has given before the Council or a committee,

commits an offence and is liable to a fine of \$10,000 and to imprisonment for 12 months.

Offences by persons entering or remaining in precincts of Chamber.

20. Any person, other than a member or officer of the Council, who—

- (a) enters or attempts to enter the Chamber or the precincts of the Chamber in contravention of any of the Standing Orders or any resolution under section 8(2); or
- (b) contravenes any administrative instructions issued under section 8(3), or any direction given thereunder, regulating the admittance of persons to or the conduct of persons within the Chamber or the precincts of the Chamber,

commits an offence and is liable to a fine of \$2,000 and to imprisonment for 3 months.

PART V

MISCELLANEOUS

Journals printed by order of the Council to be admitted as evidence.

21. Upon any inquiry touching the privileges, immunities and powers of the Council or of any member, any copy of the journals printed or purporting to be printed by the Government Printer shall be admitted as evidence of such journals in all courts and places without any proof being given that such copy was so printed.

Powers of President supplementary to powers under Letters Patent or Royal Instructions.

22. The powers of the President under this Ordinance shall be supplementary to any powers conferred on him by Letters Patent or Royal Instructions.

Courts not to exercise jurisdiction in respect of acts of the Council, President or officers.

23. The Council, the President or any officer of the Council shall not be subject to the jurisdiction of any court in respect of the lawful exercise of any power conferred on or vested in the Council, the President or such officer by or under this Ordinance or the Standing Orders.

24. Within the precincts of the Chamber, every officer of the Council shall, for the purposes of this Ordinance and of the application of the criminal law, have all the powers and enjoy all the privileges of a police officer.

Officers of the Council to have powers of police officer.

25. For the purposes of this Ordinance, the President may exercise the powers conferred on him by this Ordinance even though the Council has been dissolved.

President may act when the Council is dissolved.

26. No prosecution for an offence under this Ordinance shall be instituted except with the consent of the Attorney General.

Consent of Attorney General to prosecute.