

**立法會**  
**Legislative Council**

LC Paper No. CB(3) 168/01-02

Ref : CB(3)/P/2 (II)  
Tel : 2869 9205  
Date : 19 November 2001  
From : Clerk to the Legislative Council  
To : All Members of the Legislative Council

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**Council meeting of 28 November 2001**

**Application for special leave to give evidence of Council Proceedings**

The Acting Deputy Director of Public Prosecution has, under section 7 of the Legislative Council (Powers and Privileges) Ordinance Cap. 382, sought special leave of the Council for three members of the staff of the Legislative Council Secretariat to give evidence in a court case.

2. In accordance with Rule 90, the President has directed that the request be placed on the Agenda for the Council meeting to be held on Wednesday 28 November 2001. A copy of the request is attached in **Appendix I**. The statements and the documents referred to in the last paragraph of the request letter are kept by the undersigned and are available for Members to read in his office during office hours. A list of the statements and documents is in **Appendix II**.

3. For Members' easy reference, copies of section 7 of Cap. 382 and Rule 90 of the Rules of Procedure are in **Appendices III and IV** respectively. Members are advised that under Rule 90(2), upon the placing of such a request on the Agenda for a meeting, the Council shall be deemed to have ordered that leave be granted, unless on a motion which may be moved without notice at the meeting by any Member the Council determines that such leave shall be refused.



( Mr Ray CHAN )  
for Clerk to the Legislative Council

Encl.

律政司

刑 事 檢 控 科  
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本司檔號 Our Ref.: DCCC 524/2001  
來函檔號 Your Ref.:  
電話號碼 Tel. No.: 2867 2260

Clerk to the Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

13 November 2001

Dear Sir,

**Application for special leave of the Legislative Council  
for Mr. Fung Choi-cheung, Ricky, Ms. Tai Yin-ping, Flora and  
Ms. Chan Man-ling, Doris to give evidence of Council Proceedings  
in DCCC No. 524 of 2001**

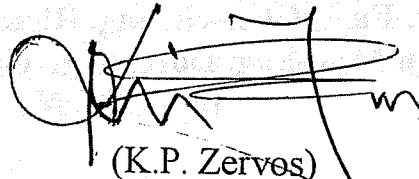
This is an application for special leave of the Legislative Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) for Mr. Fung Choi-cheung, Ricky (Mr. Fung), Secretary General of the Legislative Council Secretariat, Ms. Tai Yin-ping, Flora (Ms. Tai), Chief Assistant Secretary of the Legislative Council Secretariat, and Ms. Chan Man-ling, Doris (Ms. Chan), Chief Assistant Secretary of the Legislative Council Secretariat, to give evidence in the case of *HKSAR v Cheng Kai-nam, Gary*, DCCC No. 524 of 2001 in respect of the contents of minutes, records of evidence or any documents laid before the Legislative Council or a committee or subcommittee of the Legislative Council.

The reason for the application is as follows. Mr. Cheng Kai-nam, Gary (Mr. Cheng) is a former member of the Legislative Council who is being prosecuted for one charge of false accounting, contrary to section 19(1)(a) of the Theft Ordinance (Cap. 210), two charges of theft, contrary to section 9 of the Theft Ordinance (Cap. 210), one charge of accepting an advantage as a public servant, contrary to sections 4(2)(a) and 12(1) of the Prevention of Bribery Ordinance (Cap. 201) and one charge of misconduct in public office, contrary to Common Law. It is alleged that Mr. Cheng in his capacity as a member of the Legislative Council accepted an advantage and/or engaged in misconduct in the

discharge of his public office in relation to the appointment of members to the Hong Kong Sports Development Board. Mr. Fung is required to give evidence in relation to Mr. Cheng's position as a member of the Legislative Council and his attendance and participation in meetings of the Legislative Council and its panel and subcommittee in relation to the Hong Kong Sports Development (Amendment) Bill 1999. Ms. Tai and Ms. Chan are required to give evidence by producing the relevant minutes thereto.

The statements of Mr. Fung, Ms. Tai and Ms. Chan and the documents they are required to produce are attached to this application.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'K.P. Zervos', written over a faint grid background.

(K.P. Zervos)

Deputy Director of Public Prosecutions (Ag.)

## Appendix II

### A list of statements and documents provided by the witnesses

Name of Witness	Document	Reference
<b>Ricky FUNG Choi-cheung</b>	Statement of Ricky FUNG (dated 21 February 2001)	---
	The Legislative Council Oath of Mr CHENG Kai-nam	RF/1
	Letter dated 19.9.2000 from Mr CHENG Kai-nam (Re: Decision not to accept the seat in the new session of the Legislative Council with effect from 19.9.2000)	RF/2
	Rules of Procedure of the Legislative Council of the Hong Kong Special Administration Region (Amended to 9 September 1998)	RF/4
<b>Doris CHAN Man-ling</b>	Statement of Doris CHAN (dated 16 February 2001)	---
	LC Paper No. CB(2) 291/99-00 dated 8 November 1999 (Re: Minutes of the first meeting of the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999 held on 26 October 1999)	DC/1
	LC Paper No. CB(2) 2069/99-00 dated 20 May 2000 (Re: Minutes of the meeting of the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999 held on 9 November 1999)	DC/2
	LC Paper No. CB(2) 1720/99-00 dated 13 April 2000 (Re: Minutes of the meeting of the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999 held on 6 December 1999)	DC/3
	LC Paper No. CB(2) 49/99-00 dated 11 October 1999 (Re: Invitation to join the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999)	DC/4
<b>Flora TAI Yin-ping</b>	Statement of Flora TAI (dated 16 February 2001)	---
	LC Paper No. CB(2) 2574/98-99 dated 15 July 1999 (Re: Minutes of special meeting of LegCo Panel on Home Affairs held on 18 May 1999)	FT/19
	LC Paper No. CB(2) 2923/98-99 dated 23 August 1999 (Re: Minutes of special meeting of LegCo Panel on Home Affairs held on 27 May 1999)	FT/20

6 第 382 章 立法會 (權力及特權) 條例

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7. 未經許可不得就立法會或任何  
委員會的會議程序作證

(1) 如未經立法會特別許可，任何議員或立法會人員，以及受僱在立法會或任何委員會會議席上錄取會議紀要或保存證據紀錄的人，不得就上述會議紀要或證據紀錄的內容、或就提交立法會或任何委員會的文件內容(視屬何情況而定)、或就立法會或任何委員會所進行的會議程序或訊問(視屬何情況而定)，在其他地方作證。

(2) 在立法會休會或押後會議期間，第(1)款所提述的特別許可，可由主席給予；如主席因不在香港或喪失履行職務能力以致不能行事者，則可按照議事規則給予。

(由 2000 年第 71 號第 3 條修訂)

CAP. 382 *Legislative Council (Powers and Privileges)*

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

(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.

(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 Rules of Procedure. (*Amended 71 of 2000 s. 3*)

90. 就立法會會議程序提供證據一事取得許可的程序

(1) 為取得根據《立法局(權力及特權)條例》(第382章)第7條所需的立法會許可，以就會議紀要、作證紀錄或提交立法會、委員會或小組委員會會議席上省覽的任何文件的內容，或就立法會、委員會或小組委員會的任何會議或審查程序，在立法會以外的地方提供證據，要求該許可的人須向立法會秘書書面陳述其請求及說明其理由，並須提供立法會秘書在個別情況下按立法會主席的指示所進一步要求的資料。

(2) 許可的請求須列入立法會主席所指定會議的議程內；除非立法會藉任何議員在該次會議動議的一項可無經預告的議案，決定拒絕給予許可，否則立法會須當作已命令給予許可。

(3) 立法會秘書須以書面將立法會的決定通知該要求許可的人。

(4) 凡有人在立法會休假、休會待續或解散期間，向立法會要求取得第(1)款所述的許可，可由立法會主席給予，如立法會主席不能執行主席職務，則可由主持立法會會議的議員給予許可。

**90. Procedure for Obtaining Leave to Give Evidence of Council Proceedings**

(1) For the purpose of obtaining the leave of the Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) in order that evidence may be given elsewhere in respect of the contents of minutes, records of evidence or any document laid before the Council or a committee or subcommittee, or in respect of any proceedings or examination held before the Council or a committee or subcommittee, the person seeking such leave shall submit to the Clerk a written statement of the request and the reasons therefor and such further information as the Clerk, on the direction of the President, may require in any particular case.

(2) The request for leave shall be placed on the Agenda for such meeting as the President may appoint and, unless on a motion which may be moved without notice at that meeting by any Member the Council determines that such leave shall be refused, the Council shall be deemed to have ordered that such leave be granted.

(3) The Clerk shall give written notice of the decision of the Council to the person by whom the request for leave is made.

(4) Where the leave of the Council referred to in subrule (1) is sought during any recess or adjournment or dissolution of the Council such leave may be given by the President or, if the President is unable to act, by the Member presiding.