

立法會
Legislative Council

LC Paper No. CB(3) 370/01-02

Ref : CB(3)/P/2
Tel : 2869 9205
Date : 29 January 2002
From : Clerk to the Legislative Council
To : All Members of the Legislative Council

Council meeting of 6 February 2002

Application for special leave to give evidence of Council Proceedings

The Secretary for Justice has, under section 7 of the Legislative Council (Powers and Privileges) Ordinance Cap. 382, sought special leave of the Council for five members of the staff of the Legislative Council Secretariat to give evidence in a court case.

2. In accordance with Rule 90 of the Rules of Procedure, the President has directed that the request be placed on the Agenda for the Council meeting to be held on Wednesday 6 February 2002. A copy of the request is attached in **Appendix I**. The statements referred to in the last paragraph of the request letter are kept by the undersigned and are available for Member to read in his office during office hours.

3. For Members' easy reference, copies of section 7 of Cap. 382 and Rule 90 of the Rules of Procedure are in **Appendices II and III** 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.

Appendix I

律政司
刑事檢控科
香港金鐘道 66 號
金鐘道政府合署高座 7 樓
圖文傳真:852-2869 0236

DEPARTMENT OF JUSTICE
Prosecutions Division
7/F., High Block
Queensway Government Offices
66 Queensway, Hong Kong
Fax: 852-2869 0236

本司檔號 Our Ref: WSCC 13512/2001

來函檔號 Your Ref:

電話號碼 Tel. No.:2867 2274

25 January, 2002

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

Dear Sir,

HKSAR v Leung Kwok-hung and Koo Sze-yiu
Case No.: WSCC 13512/2001

Application for Special Leave of the Legislative Council
for Officers and Employees of the Legislative Council
to Give Evidence of Council Proceedings

This is an application for special leave of the Legislative Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance Cap382 ('the Ordinance') for Mr Fung Choi-cheung Ricky, Secretary-General of the Legislative Council Secretariat, Security Assistants Messrs Cheung Chi-pun, Chan Sang, Hui Tack-ming and Kam Chun-yi to give evidence in the captioned case in respect of the contents of minutes, records of evidence or any document laid before the Legislative Council or a committee or sub-committee of the Legislative Council, and/or in respect of the proceedings held before the Legislative Council or committee.

The reason for the application is as follows. Leung Kwok-hung ("Leung") and Koo Sze-yiu ('Koo') were each charged with on count of Contempt, contrary to section 17(c) of the Legislative Council (Powers and Privileges) Ordinance. It is alleged that both Leung and Koo created a disturbance which interrupted the proceedings of the Legislative Council held on 11 October 2001 while the Legislative Council was sitting. The case is scheduled to be heard before a Magistrate at Western

Magistracy from 12 March to 13 March 2002. Mr Fung is required to give evidence in relation to the incident and to tender the necessary records of the proceedings. The Security Assistants are required to give evidence in relation to the disturbance so created by Leung and Koo.

The witness statements of Mr Fung and Messrs Cheung Chi-pun, Chan Sang, Hui Tack-ming and Kam Chun-yi are attached herewith to this application.

Yours faithfully,

(Stanley Chan)
Senior Government Counsel
For and on behalf of the Secretary for Justice

Encl.

第 382 章 立法會(權力及特權)條例

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)*

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.