Bills Committee on Apology Bill
Government's response to the list of follow-up actions arising from the meeting on 9 May 2017

At the meeting of the Bills Committee on 9 May 2017 (the "Meeting"), the Bills Committee heard submissions relating to the Apology Bill (the "Bill") by deputations and individuals. The discussion in the Meeting focussed on Clause 8 of the Bill concerning the protection of statements of fact contained in apologies by virtue of Clause 4 and the discretion given to decision makers to admit statements of fact as evidence in applicable proceedings before them. This paper sets out the Government's consolidated reply to views and concerns raised by Members and deputations and serves as a reply to items (a) and (b) of the List of follow-up actions arising from the Meeting attached to in the letter dated 12 May 2017 from the Clerk to the Bills Committee.

Overview

2. It appears that the deputations and individuals at the Meeting reached consensus on the following:

(a) the policy objective of the Bill as set out in Clause 2 and the enactment of apology legislation are supported;
(b) bare apologies without sufficient disclosure of facts are not conducive to amicable settlement of disputes; and
(c) statements of fact accompanying an apology should be treated as part of an apology and should be protected by the Bill.

Views and concerns expressed at the Meeting focused on the extent of protection that should be given to the statements of fact accompanying apologies in terms of their admissibility as evidence in applicable proceedings and on the discretion that a decision maker might exercise in admitting a statement of fact as evidence in applicable proceedings.

The two options

3. In the light of paragraph 2 above and the views expressed by Members, we have carefully reviewed the following two options, which were put forward in the second round public consultation held in February 2016:

(a) Option 1 – absolute protection of statements of fact (i.e. omitting clause 8(2) of the Bill entirely)[1]; and
(b) Option 2 – protection of statements of fact subject to exceptional circumstances[2].

[1] This is the same as the "First Approach" as suggested in the interim report entitled "Enactment of Apology Legislation in Hong Kong: Report & 2nd Round Consultation) published by the Steering Committee on Mediation in February 2016 ("Interim Report"): "Statements of fact in connection with the matter in respect of which an apology has been made should be treated as part of the apology and should be protected. The Court does not have any discretion to admit the apology containing statements of fact as evidence against the maker of the apology" (see §10.14 of the Interim Report, available at http://www.doj.gov.hk/eng/public/pdf/2016/apologyreport.pdf)

[2] This is the same as the "Third Approach" as suggested in the Interim Report: "Statements of fact in connection with the matter in respect of which an apology has been made should be treated as part of the apology and should be protected. However, the Court retains the discretion to admit such statements of fact as evidence against the maker of the apology in appropriate circumstances" (see §10.14 of the Interim Report)

Option 1 – absolute protection

4. Option 1 may appear at first sight to have the advantage of clarity and certainty as *prima facie*, statements of fact cannot in any circumstances be admitted as evidence in applicable proceedings.

5. However, upon careful scrutiny and reflection, there are concerns that the constitutionality of Option 1 may be called into question such that there may be circumstances where the Court may refuse to uphold a statutory provision that gives effect to Option 1.

6. As stated in the Government's paper in response to the issues raised at the meeting on 24 February 2017[3] ("Government's Paper") (copy (without enclosing the annex) attached at **Annex A**), a "plaintiff's claim may be adversely affected or even be stifled in some circumstances, for example when [the facts disclosed in apologies] cannot be otherwise proved" (§5.37(2) of the Consultation Paper published in June 2015[4]). In particular, in a case where the statement of fact contained in an apology is the only evidence available to establish liability, an absolute protection of the statements of fact may infringe the claimant's right to a fair hearing. Such right is guaranteed by Article 10 of the Hong Kong Bill of Rights (which corresponds with Article 14 of the International Covenant on Civil and Political Rights) and is entrenched by Article 39 of the Basic Law.

7. To ascertain whether a blanket protection of statements of fact would violate the fundamental rights of a claimant to fair hearing, the following issues have to be considered:

(a) Whether the infringement or interference pursues a legitimate societal aim;
(b) Whether the infringement or interference is rationally connected with that legitimate aim;
(c) Whether the infringement or interference is no more than is necessary to accomplish that legitimate aim;
(d) Whether there is a reasonable balance between the societal benefits of the restriction and the effect on the protected rights.

8. These issues have been thoroughly considered by the Steering Committee on Mediation and it is of the view that an absolute protection of statements of fact conveyed in apologies regardless of circumstances and constitutional rights of the parties may not be rationally connected with the legitimate aim of the Bill (§7(b) above). A blanket protection which may deny a person's right to a fair hearing is contrary to the policy intent of the Bill to facilitate settlement of disputes. The Scottish Government and the Scottish Parliament share the same concern[5].

9. In addition, absent any discretion to disapply the protection of statements of fact in an exceptional case, the protection would be too strict and may cause hardship. It is established principle by the Court of Final Appeal that when a statutory provision is strict and causes hardship, and if there is no discretion to disapply it or to mitigate its consequence, however

[3] LC Paper No. CB(4)669/16-17(03), available at: http://www.legco.gov.hk/yr16-17/english/bc/bc103/papers/bc10320170315cb4-669-3-e.pdf
[4] Available at: http://www.doj.gov.hk/eng/public/pdf/2015/apology.pdf
[5] §§15 – 18 of the Government's Paper.

meritorious or deserving the circumstances, the Court may strike down such provision for being unconstitutional. Certain provisions of the Bankruptcy Ordinance (Cap. 6) were struck down by the Court of Final Appeal twice for this reason[6]. For details, please see §§14 – 27 of the Government's Paper.

10. As required by Article 11 of the Basic Law, it is fundamental that no law enacted by the Legislative Council shall contravene the Basic Law. Such risk of unconstitutionality is unacceptable and must be avoided.

11. Indeed, Option 1 also carries uncertainties. If Option 1 is scrutinised by the Court, the legislative provision may be read down or struck out by the Court as being inconsistent with the fundamental right to a fair hearing. It is difficult to predict:

(a) Whether and to what extent the Court will read down the provision. It seems that remedial interpretation by the Court (e.g. reading down) is unlikely because the Court cannot adopt a meaning inconsistent with a fundamental feature of the legislative scheme or its essential principles.
(b) Whether the Court will strike down the provision. If the Court makes such ruling (instead of adopting remedial interpretation), one possibility is that statements of fact will be completely unprotected. If such circumstances arise, legislative amendments (e.g. providing discretion to the Court) will have to be introduced. Pending such amendments, the Court needs to decide on a case by case basis, whether the statements of fact accompanying apologies would constitute part of the apologies. This adds to the degree of uncertainty associated with Option 1.

12. As such, we are most concerned that adoption of Option 1 may ultimately frustrate the expectation of an apology maker who has made an apology in reliance on a provision of the Bill that seemingly confers an absolute protection to statements of fact contained in apologies but as a matter of law it may not so confer.

Option 2 – protection with exception

13. While the objective of the Bill is to promote and encourage the making of apologies with a view to preventing the escalation of disputes and facilitating their amicable resolution, it is not to be achieved at the expense of the just resolution of disputes in accordance with the substantive and constitutional rights of the parties. An apology should be beneficial to both parties in resolving their disputes and if the protection of an apology would unduly stifle an apology-receiver's claim, this is not intended and must be avoided. In short, the rights of apology-receivers must not be ignored. This is shared by some of the deputations and individuals at the Meeting.

14. In fact, protection of similar kinds of communication such as without prejudice communication, mediation communication and even legal professional privilege are not absolute. There are established exceptions under statutes and the common law.

[6] See e.g. the decisions of the Court of Final Appeal in *Official Receiver v Zhi Charles, formerly known as Chang Hyun Chi and another* (2015) 18 HKCFAR 467 and *Official Receiver & Trustee in Bankruptcy of Chan Wing Hing v Chan Wing Hing & Secretary for Justice* (2006) 9 HKCFAR 545.

15. As noted by some deputations, individuals and LegCo Members at the Meeting, striking the right balance between protecting apology-makers and apology-receivers is a delicate task requiring careful consideration. In considering how the exception provided in clause 8(2) should be crafted for the purposes of the Bill, we have taken into account:

(a) In the vast majority of the cases, there would be evidence from more than one source to prove certain fact. In those cases, there is no need to rely on statements of facts contained in apologies to establish liability.
(b) In civil proceedings, the parties have a continuous duty to disclose relevant documents to the other side, even though such documents may be disadvantageous to the party's own case. Furthermore, even if there is no document, parties can obtain information by interrogatory or during trial where the witness has to testify and give the whole truth under oath. Therefore in most cases disclosing documents or information relevant to the dispute would not prejudice the apology maker because the documents and information would have to be disclosed anyway if civil proceedings ensue.
(c) Apologies may be made in wide-ranging circumstances and in respect of a broad spectrum of incidence. Formulation of the exception must not be overly rigid and it is impossible to spell out all the circumstances.

16. We consider that clause 8(2) strikes an appropriate balance as the discretion could be exercised only if both of the following limbs are satisfied:

(a) There is an exceptional case (not just suitable or appropriate case) which is demonstrated by a very rare example (*viz*. there is no other evidence available for determining an issue). This limb was not included in draft Apology Bill annexed to the final report entitled "Enactment of Apology Legislation in Hong Kong: Final Report and Recommendations" published by the Steering Committee in November 2016[7]. It was included in the Bill upon consideration of views of Members of the AJLS Panel when the proposal to enact apology legislation was discussed in order to give more guidance as to the circumstances under which the discretion may be exercised.
(b) The decision maker is satisfied that it is just and equitable to do so, having regard to all the relevant circumstances.

17. The notion "just and equitable" is not a novel legal concept. It appears in statutes and the common law and there are about 90 appearances in the laws of Hong Kong (see **Annex B**).

Whether decision makers can properly exercise the discretion

18. It is noted that a few deputations or individuals are concerned that decision makers who are not judges or legally trained might not be able to properly exercise the discretion under clause 8(2).

19. The Government has taken into account the following consideration:

[7] The Final Report is available at http://www.doj.gov.hk/eng/public/pdf/2016/apologyFinal_2016.pdf

(a) As explained above, it is very rare that such discretion would need to be exercised.

(b) For non-judicial proceedings where there could be serious consequences, they are usually chaired by legally qualified persons such as Senior Counsel, Counsel, Solicitors or retired judges. Examples of the tribunals include the Inland Revenue Board of Review, the Administrative Appeals Board and the Municipal Services Appeals Board.

(c) Even if the chairperson is not legally qualified, there may be legal advisers to the tribunals. Examples include the Medical Council of Hong Kong, the Dental Council of Hong Kong and the Liquor Licensing Board.

(d) Even if there is no legally qualified person in the adjudicating panel and there is no legal adviser, the panel should have the competence to deal with clause 8(2) which concerns admissibility of evidence, a matter that is being handled in almost every proceeding. In any event, there is nothing to stop the panel from obtaining legal advice should it find it necessary.

(e) It is not uncommon that there could be statutory appeals for these proceedings. Alternatively, there could be judicial review if there is no appeal mechanism. Any party who is aggrieved by the exercise of the discretion may further challenge the matter in Courts or appeal tribunals.

(f) If the discretion could only be exercised by the judges, this could prolong the proceedings because it would require the matter to be litigated and to be adjudicated by the Court, and the judge hearing the matter would need to consider all the evidence available and the circumstances afresh before deciding whether the discretion should be exercised. This would incur much costs and time for the parties.

20. Based on the above, the Government takes the view that the decision makers of the applicable proceedings (including those without legal training) should be competent to decide when and how to exercise the discretion.

21. If enacted, the Government will monitor the operation of clause 8(2) of the Bill and will review at an appropriate juncture, e.g. when there is relevant Court decision.

Department of Justice
May 2017

Annex A

Bills Committee on Apology Bill
Government's response to the list of follow-up actions arising from the discussion at the meeting on 24 February 2017

This paper sets out the Government's response to the matters raised by Members in relation to the Apology Bill ("Bill") at the meeting on 24 February 2017.

Item 1 – Apology and Statements of Fact

2. As stated in the "Consultation Paper: Enactment of Apology Legislation in Hong Kong"[1] ("Consultation Paper") published by the Steering Committee on Mediation ("Steering Committee") in June 2015, there is "a common concern that an apology or a simple utterance of the word 'sorry' may be used by a plaintiff in civil or other non-criminal proceedings (such as disciplinary proceedings) as evidence of an admission of fault or liability by the defendant for the purpose of establishing legal liability. Although the question of whether a party is legally liable for a mishap (e.g. in negligence) is usually a matter for the court and that an apology (depending on its terms and other relevant circumstances) is not necessarily an admission of fault or liability, the fact that the courts may draw the conclusion that an apology (especially one bearing an admission of fault or liability) provides evidence from which liability can be inferred is sufficiently alarming to a party which might otherwise be willing to offer an apology or a statement of condolences, sympathy or regret after a mishap has happened" (see §§1.1 and 1.2 of the Consultation Paper). The people's unwillingness to apologise for the fear that the apology may be used as evidence against them in applicable proceedings is the mischief that the Bill seeks to target.

3. The phenomenon of reluctance to apologise "is not confined to private individuals and commercial entities. Public officials and civil servants acting in their official capacities are similarly concerned with the legal implications of an apology or expression of regret." This was also observed by the former Ombudsman (see §1.6 of the Consultation Paper).

4. The following extract from the Discussion Paper on Apology Legislation published by the Ministry of Attorney General, British Columbia (as cited in §3.4 of the Consultation Paper) further illustrates this:

"Yet, notwithstanding the recognized value of apologies, both morally and

[1] http://www.doj.gov.hk/eng/public/pdf/2015/apology.pdf

> as an effective tool in dispute resolution, apologies are not fully embraced within our legal culture. A recent review of apologies in Canadian law indicates the legal consequences of an apology are far from clear. However, lawyers continue to be legitimately concerned that an apology could be construed as an admission of liability. As apology could also have adverse consequences for insurance coverage. As a result, lawyers generally advise their clients to avoid apologizing."

5. However, as suggested above, the court is the sole and ultimate body to decide whether a person is liable and it is strictly speaking wrong to suggest that an apology would invariably amount in law to an admission of fault or liability. There are instances where the court has refused to find liability despite the fact that an apology was made, e.g. *Dovuro Pty Limited v Wilkins* [2003] HCA 51, an Australian case cited in §3.6 of the Consultation Paper. "The finding of liability often requires the application of the relevant legal standard or principles. A person who has admitted that he was negligent might not be so regarded by the court if the court is of the view that such admission was made out of one's unfamiliarity with or ignorance of the relevant legal standard or legal principles thus rendering the admission to be of dubious value" (§3.7 of the Consultation Paper). The same is applicable to disciplinary proceedings, otherwise it would usurp the task and power of the court or tribunal to judge the legal quality of the conduct.

6. Perhaps because of the position noted in paragraph 5 above, it appears that there is no court decision in Hong Kong in which the liability was found solely based on the defendant's apology (which does not contain statements of fact). However, as discussed above, the fact that an apology may be regarded as an admission of liability or fault in the relevant proceedings creates barriers to a party who wishes to apologise.

7. In civil proceedings, any relevant statement of fact is generally admissible as evidence in establishing liability. For overseas jurisdictions where apology legislation (which does not protect statements of fact) applies, the court would, in appropriate cases, segregate the statements of fact from the apology and admit such statements as evidence against the apology maker. For example, in *Robinson v Cragg*, 2010 ABQB 743, a decision made by the Court of Queen's Bench of Alberta, Canada, the court ruled that the part of the letter which contained an expression of sympathy or regret and an admission of fault was inadmissible and should be redacted. The remaining part of the letter was ruled admissible because it contained admissions

of facts that were not combined with the apology (see §5.32 of the Consultation Paper).

8. A similar approach was also adopted in *Cormack v Chalmers*, 2015 ONSC 5564 by the Ontario Superior Court of Justice (see §4.2(18) of the "Enactment of Apology Legislation in Hong Kong: Final Report and Recommendations"[2] ("Final Report") published by the Steering Committee in November 2016).

9. There are different views on this approach of segregation of statements of fact from the apology. As stated in §5.33 of the Consultation Paper, Professor Robyn Carroll who was consulted by the Steering Committee during the 1st round public consultation, commented that it gave "proper effect to the intent of the legislation. It remains to be seen though how closely connected the 'admission' and the other words of 'apology' will need to be before both will be redacted or excluded completely." She was of the view that "an apology that does not incorporate, or is not attached to admission of fact or fault, lacks evidentiary value to establish liability. It follows that apology legislation is not necessary to protect a party who makes an apology that contains no admission of any kind. Where an apology does contain admissions, *Robinson v Cragg* confirms that apology legislation, depending on its terms, is effective to exclude evidence of words expressing emotion and admissions." However, Ms Nina Khouri criticised the judgment as being "problematic" because of the chilling effect, see §5.34 of the Consultation Paper. She argued that "defendants would most likely not have made the factual statements at all if not for the expectation that the letter would be protected from admission into evidence. As argued unsuccessfully by the defendants, it is analogous to saying that a without prejudice settlement letter becomes admissible simply by redacting the proposed settlement amount. This would be legally wrong; all common law jurisdictions protect surrounding statements made in connection with the attempt to settle the dispute. This narrow interpretation of the legislative protection is inconsistent with the legislation's aim of encouraging apologetic, pro-settlement discourse. Instead, it will have a chilling effect on defendants' willingness to apologise."

10. In this connection, it is noted that Professor Robyn Carroll made submissions to the Steering Committee in the 2nd round consultation and stated that there was much merit in the recommendation regarding statements of fact as reflected in the draft Apology Bill (see §4.2(10) of the Final Report). After discussing the pros and cons of protecting statements of fact, Professor Robyn Carroll stated the

[2] http://www.doj.gov.hk/eng/public/pdf/2016/apologyFinal_2016.pdf

followings:

> "Overall I am persuaded that, provided statement of fact in clause 4(3)(b) is construed narrowly by the courts as part of an 'expression' as defined in clause 4(1), the concerns that have been expressed can be allayed and there is much merit in the recommendation as reflected in the draft Apology Bill. Further, clause 10 clarifies that parties are still obliged to give disclosure, which might provide independent evidence of facts and admissions. By including clause 4(3) and excluding statements of fact as admissible evidence the Hong Kong legislation would go further than any other apology legislation. By taking a more comprehensive approach to addressing the issues raised in the emerging apology case law, the legislation creates a valuable opportunity to measure the effectiveness of removing the potential for admissions of fault, liability and of facts to be used as adverse evidence in civil proceedings to 'promote and encourage the making of apologies with a view to facilitating the resolution of disputes' (clause 2)"

11. We note that Professor John Kleefeld shared Professor Robyn Carroll's views, see §4.2(16) of the Final Report[3].

[3] §4.2(16) of the Final Report: "I favour approaches that generally protect statements of fact forming part of an apology…This view is eloquently presented by several respondents to your consultation request, such as the Hospital Authority. However, unlike the Hospital Authority, I am not persuaded that 'the nexus between the apology and the statement of facts…must be clearly provided in the new legislation' (page 59). We cannot anticipate the many situations that might arise, and the idea that legislative precision will solve the problem of fact-as-apology versus fact-as-necessary- evidence is something of a chimera. Such case law as there is suggests that results are driven more by judicial attitudes and statutory construction than by the wording, or even the existence, of apology legislation. This may seem like a bold statement to make, but I believe it is supported by a comparison of some relevant Australian and Canadian decisions. I turn to those next…The results in the Australian and Canadian cases summarized here—that is, the ones that my research suggests are most relevant to the 'statement of fact' issue—came as somewhat of a surprise to me. As the Committee notes in its main report, the Australian provisions were a 'second wave' of legislation after the US, and did not provide as broad a protection as the Canadian 'third wave'. Yet the Australian courts have tended to interpret the legislation in a broad, purposive manner—this seems so even in Western Australia, where the legislative language is weakest—while in Canada, courts in at least some cases have taken a narrow, literal approach. The number of cases in both instances is too small to say whether this indicates a trend, but cases like *Robinson v Cragg* and *Cormack v Chalmers* are a concern to those who, like me, have lauded the Canadian approach to law and apology. More to the point, the contrast between the two sets of cases reinforces my belief that judicial understanding of the legislation and attitudes towards it play as important, if not more important, a role as the legislative wording itself. For this reason, I am more attracted to the Committee's Third Approach, or a variant of it, than to either the First or Second Approaches. I believe that statements of fact that are closely bound up with an apology should generally be protected, unless the court decides otherwise. I see this residual discretion as essential even where, as I view it, courts sometimes err in their application of apology laws."

12. The pros and cons of protecting statements of fact contained in apologies are canvassed in detail in §§5.22 to 5.38 of the Consultation Paper, Chapter 10 of the "Enactment of Apology Legislation in Hong Kong: Report & 2nd Round Consultation"[4] ("Interim Report") and Chapter 4 of the Final Report (**Annex A**). After considering the responses received during the two rounds of public consultation and the development of the apology legislation in Scotland, the Steering Committee made the following final recommendation in the Final Report:

> "Factual information conveyed in an apology should likewise be protected by the proposed apology legislation and the court or tribunal in applicable proceedings should retain a discretion to admit such statements of fact as evidence against the maker of the apology where it finds it just and equitable having regard to all the circumstances."

13. To conclude, the Government takes the following views:

(a) Under the existing law in Hong Kong, there is no assurance that an apology could not be relied on by a plaintiff in civil proceedings as evidence of admission of fault or liability on the part of the defendant (i.e. the party making the apology). As such, people are unwilling to make any apology.

(b) If there is apology legislation but statements of fact are not protected, the court has to decide on a case by case basis whether and how to segregate the statements of fact from the apologies. This would bring significant uncertainty. As a result, people may either refuse to make any apology at all or only make bare apologies without disclosing any facts (even if asked). The former is not conducive to the policy intent of the Bill and the latter may even be counter-productive to the resolution of disputes.

Item 2 – Clause 8(2) and Human Rights

14. As stated above, the pros and cons of protecting statements of fact contained in apologies are canvassed in detail in §§5.22 to 5.38 of the Consultation Paper, Chapter 10 of the Interim Report and Chapter 4 of the Final Report (Annex A). One of the arguments for excluding statements of fact from the protection of the apology legislation is that "[i]f statements of [fact] are inadmissible, the plaintiff's claim may be adversely affected or even be stifled in some circumstances, for example when those facts cannot be otherwise proved" (§5.37(2) of the Consultation

[4] http://www.doj.gov.hk/eng/public/pdf/2016/apologyreport.pdf

Paper).

15. In fact, after the 1st round public consultation in May 2015, the Justice Committee of the Scottish Parliament sought views on the general principles of the Apologies (Scotland) Bill including the definition of "apology" which included the statements of fact. Part of the written submissions as set out in §10.6 of the Interim Report is relevant for the present purpose and is reproduced below:

> "If the Bill is passed with an apology defined as drafted, it could have serious consequences, and risk denying injured people access to justice, such as in this hypothetical case: Driver A emerges from a minor road and immediately turns right, knocking down a child who is starting to cross the road. The child suffers serious brain injury. Driver A says in reply to the police interview: 'I am sorry I just wasn't paying attention'. By the time driver A has time to reflect on matters he takes a different view. He now decides that there was nothing he could do, and the child simply ran out on to the road without any warning. There is no other witness evidence available. In terms of the proposed legislation, the child's action for damages will fail on the burden of proof, as the driver's statement of fault would be inadmissible." (The Association of Personal Injury Lawyers)

16. Further, the Scottish Government also expressed its views on the issue of protection of statements of fact (see §10.7 of the Interim Report):

> "There is a concern that the benefits of hearing an apology will, in certain circumstances, not be sufficient to outweigh the potential injustice to pursuers in actions for damages. That injustice could arise in cases where an admission of fault or statement of fact is the only means of demonstrating liability for the harm caused but that admission is protected and so cannot be led in evidence because it is part of the statutory apology. If there is no other evidence available on liability, a pursuer would be unable to succeed in an action for damages for compensation." (Memorandum by the Scottish Government to the Convener of the Justice Committee)

17. After the debate, the Justice Committee stated the following in the Stage 1 report (see §10.9 of the Interim Report):

"The Committee notes the view of witnesses that individuals' rights to pursue civil action could be compromised if, under the Bill, they are unable to draw on the evidence of an apology, whether that be simple apology, a statement of fact or admission of fault. While we understand that the member's intention was to allow for the widest possible disclosure, particularly for victims of historical child abuse, we have strong concerns that these particular victims could face further evidential challenges in pursuing civil action. We therefore urge the member to consider how best a balance can be struck to ensure that there are no unintended consequences for victims, whilst ensuring that the legislation remains meaningful…Most importantly, [they] must be reassured that individuals wishing to pursue fair claims are not going to be disadvantaged by the measures in the Bill."

18. §10.10 of the Interim Report is also relevant:

"On 27 October 2015, at the debate in the Chamber of the Scottish Parliament, Ms Mitchell said as follows, 'I have listened closely to the witnesses' arguments, including those of the minister, about whether the effect of parts of the definition could possibly prevent an individual from securing compensation, particularly if a statement of fact in an apology was the only evidence available. I included statements of facts to try to encourage the fullest possible apology, but I am aware that their inclusion in the definition goes further than any other apology legislation. I have reflected on witnesses' concern and can confirm that I am persuaded that the definition in the bill should be revised to exclude statements of facts.' Mr Paul Wheelhouse, the Minister for Community Safety and Legal Affairs, said this, 'I am aware of the argument that those unintended consequences might apply only to a small number of cases and would only rarely disadvantage individuals…We cannot ignore the rights of claimants or pursuers who might need to draw upon an apology in their evidence base simply because such cases are likely to be few in number. Surely protecting the rights of minorities is at the heart of good law making.'"

19. It was against this background that three approaches were proposed by the Steering Committee to deal with statements of fact, as set out in §10.14 of the Interim Report[5]. Each of the three approaches has its own pros and cons and they are

[5] The three approaches are as follow:
First Approach: Statements of fact in connection with the matter in respect of which an apology has

canvassed in §§10.15 to 10.18 of the Interim Report. In particular, §10.18 sets out the important Basic Law and human rights considerations:

> "When deciding which of the above alternative options should be adopted, one important issue that should be carefully considered is whether there would be any possible infringement of a claimant's right to a fair hearing. This right, though can be restricted by laws, is guaranteed by **Article 10 of the Hong Kong Bill of Rights (which corresponds with Article 14 of the International Covenant on Civil and Political Rights)** and is entrenched by **Article 39 of the Basic Law**. In the rare situation where an apology that includes statements of fact is the only evidence which can establish liability, the exclusion of such statements of fact as evidence may effectively stifle the claim and this unintended consequence may arguably interfere with the claimant's right to a fair hearing. To ascertain whether the apology legislation would infringe the fundamental rights of the claimants, the following questions should be considered: (1) whether the infringement or interference pursues a legitimate societal aim; (2) whether the infringement or interference is rationally connected with that legitimate aim; and (3) whether the infringement or interference is no more than is necessary to accomplish that legitimate aim." (emphasis added)

20. During the 2nd round public consultation, comments and views were sought again on the issue of protection of statements of fact. It is noted that the majority agreed that statements of fact should be protected. As to the approach that should be taken, most respondents supported the First Approach (i.e. full protection of statements of fact without discretion to the decision maker for admission) and the Third Approach (i.e. protection of statements of fact but with discretion to the decision maker for admission).

21. Having carefully considered the three approaches, the Steering Committee

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been made should be treated as part of the apology and should be protected. The Court does not have any discretion to admit the apology containing statements of fact as evidence against the maker of the apology.

Second Approach: The wordings regarding statements of fact are to be omitted from the apology legislation and whether the statements of fact should constitute part of the apology would be determined by the Court on a case by case basis. In cases where the statement of fact is held by the Court as forming part of the apology, the Court does not have any discretion to admit the statement of fact as evidence against the maker of the apology.

Third Approach: Statements of fact in connection with the matter in respect of which an apology has been made should be treated as part of the apology and be protected. However, the Court retains the discretion to admit such statements of fact as evidence against the maker of the apology in appropriate circumstances.

recommended that, on balance, the Third Approach should be adopted.

22. Regarding the Second Approach, the Steering Committee stated the following in §4.14 of the Final Report:

> "The Steering Committee is of the view that having regard to the submissions received on this issue and noting that the majority of the submissions is in favour of protecting factual information conveyed in an apology, the Second Approach, which is silent on statements of fact and leaves it to the court to decide whether a statement of fact forms part of the apology on a case by case basis would not be adequate to address the concerns expressed in relation to the uncertainty despite the respectful submissions advanced. As discussed in §10.16 of the 2nd Round Consultation Paper, this approach can be perceived as an uncertainty and hence may be inconsistent with the objective of encouraging people to make fuller apologies. The Steering Committee considers that express wording on the protection of statements of fact will be needed."

23. Regarding the First Approach, the Steering Committee stated the following in §4.15 of the Final Report:

> "Having regard to the issues of concern surrounding the debate of the Apologies (Scotland) Bill, the Steering Committee is of the view that a blanket protection of factual information conveyed in apologies under the First Approach **may unduly affect the claimants' right to a fair hearing** and this **may not be rationally connected with the legitimate aim of the proposed legislation**. As pointed out in §10.18 of the 2nd Round Consultation Paper, to ascertain whether the apology legislation would infringe the fundamental rights of the claimants, the following questions should be considered: (1) whether the infringement or interference pursues a legitimate societal aim; (2) whether the infringement or interference is rationally connected with that legitimate aim; and (3) whether the infringement or interference is no more than is necessary to accomplish that legitimate aim. A recent case of the Court of Final Appeal ruled that a fourth step of (4) weighing the detrimental impact of the infringement or interference against the social benefit gained should also be considered. Regarding question (1), the Steering Committee is of the view that the proposed apology legislation serves a legitimate societal aim, which is to

facilitate settlement of disputes by encouraging the making of apologies. For question (2), the Steering Committee takes the view that **a blanket protection of factual information conveyed in apologies regardless of circumstances and impact on the parties may not be rationally connected with the legitimate aim of the proposed apology legislation** because such blanket protection may deny the claimants' access to justice which is contrary to the policy intent of the proposed apology legislation to facilitate settlement of disputes. It follows that question (3) could not be satisfied and there is no need to consider question (4). Hence, the Steering Committee is concerned that the First Approach, if chosen, will give rise to **an unacceptable risk that the relevant provision would be struck down by the Court**." (emphasis added)

24. Regarding the Third Approach, the Steering Committee stated the following in §4.16 of the Final Report:

"Under the Third Approach, factual information conveyed in an apology would be protected by the proposed apology legislation but the Court or the tribunal would have the discretion to admit it as evidence in appropriate circumstances. It appears to the Steering Committee that with the discretion given to the Court or the tribunal to admit the otherwise inadmissible statements of fact as evidence when the circumstances require, the potential infringement or interference with the rights of the parties, in particularly the claimants' right to a fair hearing, could be avoided. Further, the Steering Committee considers this discretion is essential to deal with the different circumstances that may arise. This approach also addresses the concern expressed by some professional organisations/bodies and regulators that their regulatory powers would be significantly impaired if the disciplinary and regulatory proceedings they are responsible to administer were not exempted from the proposed apology legislation. The Steering Committee suggests that such discretion to admit statements of fact conveyed in apologies as evidence of fault or liability should be retained by the Court or the tribunal to be exercised when the Court or the tribunal finds it just and equitable to do so having regard to all the circumstances, including where the other parties consent to the admission of the statement of fact and whether there exists any other evidence that the claimant has or may obtain (e.g. through discovery and administration of interrogatories) to establish his claim. It is noted that there is concern that such discretion

> may lead to uncertainty and therefore satellite litigation. Nevertheless, it should also be noted that such kind of discretion by the Court or tribunal is not uncommon in civil proceedings under common law and statutes. Further, it is anticipated that such discretion would only be invoked in limited circumstances, e.g. the statement of fact accompanying the apology is the only piece of evidence available, and therefore it appears unlikely that there would be much satellite litigation on this issue and that any uncertainty would be settled or reduced with the development of case law."

25. We agree to the analysis of the Steering Committee and share the same concern about Basic Law and human rights if the First Approach is adopted. In particular, similar to what was done by the Scottish Government and the Scottish Parliament regarding the Apologies (Scotland) Bill, the Bill must be scrutinised to ensure that there would be no infringement of a claimant's right to a fair hearing which is guaranteed by Article 10 of the Hong Kong Bill of Rights and is entrenched by Article 39 of the Basic Law. In this connection, it is emphasised that paragraph 2 of Article 11 of the Basic Law states that "[n]o law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law."

26. As discussed above, the right to a fair hearing can be restricted by laws but any restriction must satisfy the 4-step test as explained by the Court of Final Appeal in *Hysan Development Co Ltd and others v Town Planning Board* (2016) 19 HKCFAR 372: (1) whether the infringement or interference pursues a legitimate societal aim; (2) whether the infringement or interference is rationally connected with that legitimate aim; (3) whether the infringement or interference is no more than is necessary to accomplish that legitimate aim; (4) whether there is a reasonable balance between the societal benefits of the restriction and the effect on the protected rights. We agree that while the restriction pursues a legitimate societal aim, such restriction is not rationally connected with that aim when the claimant's case is stifled by the apology legislation and therefore it could not pass the 4-step test. The policy intent is to promote and encourage the making of apologies with a view to preventing the escalation of disputes and facilitating their amicable resolution. Stifling a claim is certainly not amicable resolution and such unintended consequence is contrary to the policy intent. Thus, unless the decision maker has the discretion to admit statements of fact as evidence, the blanket protection of statements of fact regardless of the circumstances may unduly affect the claimants' right to a fair hearing. When a provision is strict and causes hardship, and if there is no discretion vested in the court to disapply it or to mitigate its consequence, however meritorious or deserving the

circumstances, the court may strike down such provision for being unconstitutional, see e.g. the decisions of the Court of Final Appeal in *Official Receiver v Zhi Charles, formerly known as Chang Hyun Chi and another* (2015) 18 HKCFAR 467 and *Official Receiver & Trustee in Bankruptcy of Chan Wing Hing v Chan Wing Hing & Secretary for Justice* (2006) 9 HKCFAR 545 concerning s.30A(10) of the Bankruptcy Ordinance (Cap.6) which is now repealed.

27. Based on the above, we take the view that the First Approach should not be adopted because of the potential violation of human rights guaranteed by the Basic Law and the Hong Kong Bill of Rights. The Third Approach provides a suitable discretion to the decision maker and this strikes the proper balance between the policy intent and the claimant's right to a fair hearing.

Item 3 – Clause 8(2) and Clause 10

28. Clause 8(2) provides that 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 equitable to do so, having regard to all the relevant circumstances. Clause 10(1) provides that 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.

29. Clause 8(2) and clause 10(1) are dealing with different matters. Clause 8(2) is about the discretion to admit a statement of fact contained in an apology as evidence in applicable proceedings. If the decision maker exercises the discretion, the statement of fact contained in the apology becomes admissible evidence. However, it does not affect the legal position that the statement of fact would still be part of the "apology" as defined under the Bill. As the statement of fact is part of the apology in connection with a matter, the protection under clause 10(1) applies. Accordingly, by virtue of clause 10(1), the statement of fact which is part of the apology is not to 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. It follows that the exercise of discretion under clause 8(2) has no effect on the protection of contracts of insurance or indemnity under clause 10.

30. Based on the above, we take the view that the operation of clause 8(2) has no bearing on clause 10 and it is not necessary to specify explicitly that clause 10 would apply to the "exceptional case" under clause 8(2).

Item 4 – Clause 13

31. We understand Members are aware of the principle that an Ordinance does not apply to the Government except by an express provision or by necessary implication (ref. section 66 of the Interpretation and General Clauses Ordinance (Cap. 1)). Clause 13 is included in the Bill to reflect the policy intent to apply the Bill to the Government. While we appreciate Members' suggestion, we consider it preferable for the application clause in the Bill not to be expressed differently from the usual formulation adopted in other legislation. As the current wording has been commonly used in application clauses across the statute book, we consider that its meaning and effect is sufficiently clear and certain to readers.

Department of Justice
March 2017

Annex B

Examples of provisions containing the phrase "just and equitable" in existing Hong Kong legislation
現行香港法例包含"公正公平"等詞的條文例子

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
1.	7	Landlord and Tenant (Consolidation) Ordinance 《業主與租客(綜合)條例》	50(4)(b)	Application 適用範圍	公正及公平
2.			53(2)(b)(i) & (4B)(a)	Termination of tenancies 租賃的終止	公正及公平
3.			53A(4)(b)	Restriction on order for possession for rebuilding 對收回處所的管有以供重建的命令的限制	公正及公平
4.			116(5)(b)	Application of this Part 本部適用範圍	公正及公平
5.	23	Law Amendment and Reform (Consolidation) Ordinance 《法律修訂及改革(綜合)條例》	21(1)	Apportionment of liability in case of contributory negligence 有共分疏忽時法律責任的分攤	公正與公平
6.			22B(7)	Civil liability to child born disabled 對在出生時殘疾的兒童的民事責任	公正與公平
7.	32	Companies (Winding Up and Miscellaneous Provisions) Ordinance 《公司(清盤及雜項條文)條例》	170A(4)	Liability of directors and shareholders involved in share redemption or buy-back out of capital 牽涉於從資本中贖回或回購股份的董事及股東：他們的法律責任	公正公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
8.	32	Companies (Winding Up and Miscellaneous Provisions) Ordinance 《公司(清盤及雜項條文)條例》	177(1)(f)	Circumstances in which company may be wound up by court 公司可由法院清盤的情況	公正公平
9.			180(1A)	Powers of court on hearing petition 法院在聆訊呈請時的權力	公正公平
10.			327(3)(c)	Winding up of unregistered companies 非註冊公司的清盤	公正公平
11.	38	Partnership Ordinance 《合夥條例》	37(f)	Dissolution by the court 由法院將合夥解散	公正公平
12.	41	Insurance Companies Ordinance 《保險公司條例》	44(3)	Winding up on petition of Insurance Authority 在保險業監督的呈請下清盤	公正公平
13.			47(4)	Winding up of insurers involved in transfer of business 涉及轉讓業務的保險人的清盤	公正公平
14.			76(1)(i)	Power to petition to wind up an intermediary 呈請將中介人清盤的權力	公正及公平
15.	91	Legal Aid Ordinance 《法律援助條例》	18A(3B)(c)(i)(B)	Charge on property recovered 被收回的財產的押記	公正及公平
16.			19B(1)	Disposal by Director of moneys paid to him 署長對所收到款項的處理	公正及公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
17.	91	Legal Aid Ordinance 《法律援助條例》	32(3)	Contributions for benefit of the Fund 撥付計劃基金的分擔費用	公正及公平
18.	91B	Legal Aid (Assessment of Resources and Contributions) Regulations 《法律援助(評定資源及分擔費用)規例》	12	Amendment of determination because of error or mistake 因出現錯誤或過失而對釐定作出修訂	公正及公平
19.			Sch. 1 附表 1	Rules for Computing Income 計算收入的規則	公正及公平
20.			Sch. 2 附表 2	Rules for Computing Disposable Capital 計算可動用資產的規則	公正及公平
21.	106	Telecommunications Ordinance 《電訊條例》	32O(1)(d)(v) & (vi)	Procedure and powers of Appeal Board, etc. 上訴委員會的程序及權力等	公正和公平
22.	115	Immigration Ordinance 《入境條例》	37F(6) & (7)(b)	Determination of application for forfeiture 對申請沒收的裁決	公平及公正
23.			37H(2)	Compensation for seizure of ship or property 扣押船隻或財產的賠償	公正及公平
24.	167	Dogs and Cats Ordinance 《貓狗條例》	19(1)	Compensation 補償	公正而公平
25.	276	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance 《地下鐵路(收回土地及有關規定)條例》	25(4)	Payment to mortgagees 向承按人付款	公正公平
26.			Sch. 1 附表 1	N/A 不適用	公正公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
27.	311	Air Pollution Control Ordinance 《空氣污染管制條例》	33(6)	Exercise of Appeal Board's jurisdiction 上訴委員會司法管轄權的行使	公正及公平
28.	349	Hotel and Guesthouse Accommodation Ordinance 《旅館業條例》	15(5)(e)	Constitution of Appeal Board 上訴委員會的組成	公正
29.	354	Waste Disposal Ordinance 《廢物處置條例》	15B(2)	Compensation for seizure of livestock 檢取禽畜的補償	公正及公平
30.	358AL	Water Pollution Control (Sewerage) Regulation 《水污染管制(排污設備)規例》	21(4)	Payment to mortgagees 向承按人付款	公正與公平
31.			Sch. 1 附表 1	Compensation Rights and Assessment 獲償權利及評定	公正與公平
32.	362	Trade Descriptions Ordinance 《商品說明條例》	35(2)	Compensation for loss of goods seized under section 15(1)(f) 貨品根據第 15(1)(f)條被檢取的損失補償	公正和公平
33.	370	Roads (Works, Use and Compensation) Ordinance 《道路(工程、使用及補償)條例》	22(8)	Control of building plans and commencement of work 對建築圖則及工程展開的控制	公正與公平
34.			23(1)(b)	Resumption of land on application 申請收回土地	公正與公平
35.			32(4)	Payment to mortgagees 向承按人付款	公正與公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
36.	370	Roads (Works, Use and Compensation) Ordinance 《道路(工程、使用及補償)條例》	Schedule 附表	N/A 不適用	公正與公平
37.	376	Clubs (Safety Of Premises) Ordinance 《會社(房產安全)條例》	15(5)(e)	Constitution of Appeal Board 上訴委員會的組成	公正
38.	377	Civil Liability (Contribution) Ordinance 《民事責任(分擔)條例》	4(1)	Assessment of contribution 就分擔作出評估	公正與公平
39.	400	Noise Control Ordinance 《噪音管制條例》	21(6)(e)	Constitution of Appeal Board 上訴委員會的組成	公正及公平
40.	406	Electricity Ordinance 《電力條例》	25A(2)	Compensation for seizure and detention 檢取和扣留的補償	公正和公平
41.	410	Age of Majority (Related Provisions) Ordinance 《成年歲數(有關條文)條例》	4(1)	Restitution of property by minors 由未成年人返還財產	公平合理
42.	424	Toys and Children's Products Safety Ordinance 《玩具及兒童產品安全條例》	27(2)	Compensation for seizure and detention 為檢取及扣留作出賠償	公平及合理
43.	426	Occupational Retirement Schemes Ordinance 《職業退休計劃條例》	48(2)	Application for winding up of Hong Kong domiciled schemes 申請將以香港為本籍的計劃清盤	公正及公平
44.			62(3)(e)	Constitution and powers of Appeal Board 上訴委員會的組成及權力	公正及公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
45.	434	Merchant Shipping (Limitation of Shipowners Liability) Ordinance 《商船(限制船東責任)條例》	9(1)	Competent jurisdiction 司法管轄權	公正及公平
46.	435	Amusement Game Centres Ordinance 《遊戲機中心條例》	13(4)(g)	Constitution of Appeal Board 上訴委員會的組成	公平而合理
47.	446	Land Drainage Ordinance 《土地排水條例》	41(4)	Payment to mortgagees 向承按人付款	公正持平
48.			Schedule 附表	Compensation 補償	公正持平
49.	456	Consumer Goods Safety Ordinance 《消費品安全條例》	32(3)	Compensation for seizure and detention 就所檢取及扣留的消費品作出補償	公正而持平
50.	466	Dumping at Sea Ordinance 《海上傾倒物料條例》	29(7)(d)	Exercise of Appeal Board's jurisdiction 上訴委員會行使其權力	公正公平
51.	480	Sex Discrimination Ordinance 《性別歧視條例》	83(2)(b)	Help for aggrieved persons in obtaining information, etc. 對受屈人士獲取資料等的協助	公正及公平
52.			86(3)	Period within which proceedings to be brought 提出法律程序的限期	公正及公平
53.	485	Mandatory Provident Fund Schemes Ordinance 《強制性公積金計劃條例》	36(3)(e)	Constitution and powers of Appeal Board 上訴委員會的組成及權力	公正及公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
54.	486	Personal Data (Privacy) Ordinance 《個人資料(私隱)條例》	66A(2)(b)	Help for aggrieved persons in obtaining information, etc. 協助受屈人士取得資料等	公正及公平
55.	487	Disability Discrimination Ordinance 《殘疾歧視條例》	79(2)(b)	Help for aggrieved persons in obtaining information, etc. 對受屈人士獲取資料等的協助	公正及公平
56.			82(3)	Period within which proceedings to be brought 提出法律程序的限期	公正及公平
57.	493	Non-Local Higher and Professional Education (Regulation) Ordinance 《非本地高等及專業教育(規管)條例》	27(3)(e)	Constitution and powers of Appeal Board 對在出生時殘疾的兒童的民事責任	公正而公平
58.	499	Environmental Impact Assessment Ordinance 《環境影響評估條例》	19(7)(e)	Constitution of Appeal Board 上訴委員會的組成	公正和公平
59.	500	Carriage by Air Ordinance 《航空運輸條例》	2C(2)	Limitations on liability 法律責任的限制	公正和公平
60.			6(2)	Limitations on liability 法律責任的限制	公正和公平
61.			16(2)	Limitations on liability 法律責任的限制	公正和公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
62.	519	Railways Ordinance 《鐵路條例》	27(9)	Control of building plans and commencement of work 建築圖則及工程展開的控制	公正公平
63.			28(1)(b)	Resumption of land on application 應申請收回土地	公正公平
64.			37(4)	Payment to mortgagees 向承按人付款	公正公平
65.			Schedule 附表	N/A 不適用	公正公平 公正與公平
66.	527	Family Status Discrimination Ordinance 《家庭崗位歧視條例》	61(2)(b)	Help for aggrieved persons in obtaining information, etc. 對受屈人士獲取資料的協助等	公正和公平
67.			64(4)	Period within which proceedings are to be brought 提起法律程序的限期	公正和公平
68.	544	Prevention of Copyright Piracy Ordinance 《防止盜用版權條例》	36(2)	Compensation for seizure, etc. 為檢取等行動而作出的補償	公正和公平
69.	571	Securities and Futures Ordinance 《證券及期貨條例》	212(1)	Winding-up orders and bankruptcy orders 清盤令及破產令	公正公平
70.	593	Unsolicited Electronic Messages Ordinance 《非應邀電子訊息條例》	51(1)(f)	Powers of Appeal Board 上訴委員會的權力	公正和公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
71.	599	Prevention and Control of Disease Ordinance 《預防及控制疾病條例》	12(1)	Compensation 補償	公平和公正
72.	602	Race Discrimination Ordinance 《種族歧視條例》	77(2)(b)	Help for aggrieved persons in obtaining information, etc. 協助受屈人士獲取資料等	公正及公平
73.			80(4)	Period within which proceedings to be brought 提起法律程序的限期	公正及公平
74.	603	Product Eco-responsibility Ordinance 《產品環保責任條例》	15(6)(d)	Exercise of Appeal Board's jurisdiction 上訴委員會司法管轄權的行使	公正及公平
75.	607	Genetically Modified Organisms (Control of Release) Ordinance 《基因改造生物(管制釋出)條例》	42(3)	Compensation for seizure etc. 為檢取作出補償等	公正及公平
76.	610B	Buildings Energy Efficiency (Registered Energy Assessors) Regulation 《建築物能源效益(註冊能源效益評核人)規例》	19(2)	Determination of disciplinary board 紀律委員會的裁定	公正和公平
77.	612	Food Safety Ordinance 《食物安全條例》	36	Compensation 補償	公正和公平
78.	618	Lifts and Escalators Ordinance 《升降機及自動梯條例》	139(3)	Compensation for seizure etc. 為檢取作出賠償等	公正及公平
79.	622	Companies Ordinance 《公司條例》	142(5)(b)	Return of allotment 配發申報書	公正公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
80.	622	Companies Ordinance 《公司條例》	146(3)	Validation by Court of issue or allotment 原訟法庭使發行或配發有效	公正公平
81.			316(5)(b)	Return of allotment 配發申報書	公正公平
82.			346(3)(b)	Extension of time for registration 登記時限的延展	公正公平
83.			347(3)(b)	Rectification of registered particulars 已登記詳情的更正	公正公平
84.			382(5)(c)	Provisions supplementary to sections 380 and 381 補充第 380 及 381 條的條文	公正公平
85.			389(5)(c)	Provisions supplementary to section 388 第 388 條的補充條文	公正公平
86.			664(8)(c)	Contents of annual return 周年申報表的內容	公正公平
87.			693(6)	Offeror may give notice to buy out minority shareholders 要約人可發出通知表示全面收購少數股東的股份	公正及公平

Item 項目	Chapter 章號	Short Title 簡稱	Section 條文	Section Heading 條文標題	Equivalent in Chinese 相應中文用詞
88.	622	Companies Ordinance 《公司條例》	712(7)	Repurchasing company may give notice to buy out minority shareholders 回購公司可發出通知表示全面回購少數股東的股份	公正及公平
89.			879(2)	Proceedings on specified materials 關乎指明材料的法律程序	公正公平