

Apology Bill
Debate and voting arrangements

Object of the Bill : To provide for the effect of apologies in certain proceedings and legal matters to promote and encourage the making of apologies, with a view to preventing the escalation of disputes and facilitating the amicable resolution of disputes.

First debate	: Clauses with no - Clauses 1 to 7 and 9 to 13 amendment
Voting	: To vote on the above clauses standing part of the Bill together
Second debate	: Clause and Schedule - Clause 8 and Schedule with amendment proposed by the Secretary for Justice (“SJ”)
Joint debate on the original clause and Schedule and the amendments.	
Clause 8	
<ul style="list-style-type: none">- Currently, it is possible for an apology to be admitted in evidence in civil proceedings to prove the matters stated in the apology in order to establish legal liability. Clause 8(1) of the Bill alters the current position by making evidence of a person’s apology inadmissible for determining fault, liability or other issues to the prejudice of the person in “applicable proceedings”. However, clause 8(2) provides that a statement of fact contained in an apology is admissible as evidence in particular “applicable proceedings” at the decision maker’s discretion, which may be exercised in an exceptional case (for example, where there is no other evidence available for determining an issue) and only if it is just and equitable to do so, having regard to all the relevant circumstances.- The amendment seeks to amend clause 8(2) to specify that the decision maker may exercise a discretion when there is an exceptional case and only if he/she is satisfied that it is just and equitable to do so, having regard to “the public interest or the interests of the administration of justice” (but not “all the relevant circumstances” as proposed in the Bill).	

Schedule

- Under clause 6(1) of the Bill, “applicable proceedings” include judicial, arbitral, administrative, disciplinary and regulatory proceedings, as well as other proceedings conducted under an enactment. Under clause 6(2), “applicable proceedings” do not include criminal proceedings or proceedings specified in the Schedule to the Bill (i.e. proceedings conducted under the Commissions of Inquiry Ordinance (Cap. 86), the Control of Obscene and Indecent Articles Ordinance (Cap. 390) or the Coroners Ordinance (Cap. 504)).
- The amendment seeks to amend the Schedule to specify that the **proceedings of the Legislative Council (“LegCo”), including proceedings of a committee, panel or subcommittee established or mandated by LegCo to discharge a function or exercise a power of LegCo are not “applicable proceedings”.**

Order of Voting	Remarks
To vote on the amendment to clause 8	Then vote on the original clause or the clause as amended standing part of the Bill
To vote on the amendment to the Schedule	Then vote on the original Schedule or the Schedule as amended standing part of the Bill

SJ’s amendments

(set out in LC Paper No. CB(3) 797/16-17 issued on 4 July 2017)

Council Business Division 3
Legislative Council Secretariat
11 July 2017