
Legislative Council (Disciplinary Sanctions and Remote Sitting) (Miscellaneous Amendments) Bill 2021

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A BILL

To

Amend the Legislative Council (Powers and Privileges) Ordinance to impose sanctions in relation to a member of the Council who is suspended from the service of the Council, or who is absent without valid reasons from a sitting of the Council which is adjourned due to a lack of quorum; to allow sittings of the Council or a committee to be conducted remotely in exceptional circumstances; to amend the provision dealing with the admission of journals as evidence; and to make related amendments to The Legislative Council Commission Ordinance and the Legislative Council Ordinance.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Legislative Council (Disciplinary Sanctions and Remote Sitting) (Miscellaneous Amendments) Ordinance 2021.

2. Enactments amended

- (1) The Legislative Council (Powers and Privileges) Ordinance (Cap. 382) is amended as set out in Part 2.
 - (2) The Legislative Council Commission Ordinance (Cap. 443) is amended as set out in Part 3.
 - (3) The Legislative Council Ordinance (Cap. 542) is amended as set out in Part 4.
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Part 2

Amendments to Legislative Council (Powers and Privileges) Ordinance

3. **Long title amended**

The long title, before “to provide for”—

Add

“to make provision for disciplinary sanctions against the members of the Legislative Council in certain circumstances;”.

4. **Section 2 amended (interpretation)**

After section 2(1A)—

Add

“(1B) In relation to a sitting of the Council or a committee conducted remotely pursuant to an authorization under section 27—

- (a) the definitions of *Chamber* and *precincts of the Chamber* in subsection (1) are to be construed as including the place or places designated under section 27(2) for the sitting; and
- (b) the definition of *precincts of the Chamber* in subsection (1) is not to be construed as including the entire building in which the proceedings of the Council or a committee are conducted, or the entire building in which the place or places referred to in paragraph (a) is or are situated.”.

5. Part IV heading amended (offences and penalties)

Part IV, heading—

Repeal

“Penalties”

Substitute

“Disciplinary Sanctions”.

6. Sections 20A and 20B added

Part IV, after section 20—

Add

“20A. Members not entitled to remuneration and allowance during suspension

(1) This section applies to a member who is suspended under the Rules of Procedure from the service of the Council for engaging in grossly disorderly conduct.

(2) The member is not entitled to receive any remuneration or allowance to which the member is, apart from this section, entitled in respect of the period of suspension, but the member is entitled to be reimbursed the operating expenses incurred by the member in respect of that period.

20B. Members liable to financial penalty if absence causes adjournment of Council

(1) This section applies in relation to a member if—

(a) the member is absent from a sitting of the Council;

- (b) the Council is adjourned under the Rules of Procedure because a quorum is not present at that sitting; and
 - (c) the President is not satisfied that there is a valid reason for the member's absence.
- (2) The member is liable to pay a financial penalty on each occasion that the Council is so adjourned.
- (3) The financial penalty is to be—
- (a) determined by the Council according to the Rules of Procedure; and
 - (b) deducted from the member's remuneration to which the member is entitled.
- (4) For the purposes of subsection (1)(b), it does not matter whether the Council adjourned is subsequently resumed for continuation of any unfinished business under the Rules of Procedure.”.

7. Section 21 amended (journals printed by order of the Council to be admitted as evidence)

- (1) Section 21, heading—

Repeal

“**printed by order of the Council**”.

- (2) Section 21—

Repeal

everything after “of any”

Substitute

“member—

- (a) any copy of the journals—

- (i) printed or purporting to be printed by the Director of Government Logistics; or
- (ii) printed or purporting to be printed by or under the authority of the Council; or
- (b) any copy of the journals authenticated by the signature of the Clerk,

is to be admitted as evidence of such journals in all courts and places without further proof.”.

8. Section 27 added

After section 26—

Add

“27. Sittings of Council or committee may be conducted remotely

- (1) The Council may, by a resolution passed at a physical sitting of the Council, authorize that during a specified period, sittings of the Council or a committee may be conducted remotely in accordance with the Rules of Procedure by the virtual, digital or electronic means determined by the Council.
- (2) The President may designate a place or places for a sitting conducted remotely pursuant to an authorization under subsection (1) (*remote sitting*), including any virtual, digital or electronic location at which members or other persons attending the sitting may attend or participate by remote access.

- (3) In relation to a remote sitting—
- (a) a reference to a sitting of the Council or a committee in this Ordinance is not to be construed as limited to a sitting at which members or other persons attending the sitting are present in the same place; and
 - (b) this Ordinance (other than section 8(4)) is to apply to the remote sitting as if it were a physical sitting.

- (4) In this section—

physical sitting (實體會議) means a sitting of the Council or a committee at which no member or other person attending the sitting attends or participates by virtual, digital or electronic means;

specified period (指明期間) means a period—

- (a) during which the Council or a committee is precluded by an event or occurrence (including an occasion of emergency or public danger) from conducting a physical sitting; and
 - (b) that is specified in a resolution passed at a physical sitting of the Council.”.
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Part 3

Amendments to The Legislative Council Commission Ordinance

9. Section 5 amended (office of members)

After section 5(9)—

Add

“(10) If a member is suspended during a period from the service of the Council under the Rules of Procedure (as defined by section 2(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382)), the member’s functions and duties as a member are suspended during the period.”.

10. Section 18 amended (Commission may act notwithstanding vacancies, etc.)

Section 18—

Repeal

“and its proceedings shall not be”

Substitute

“, or suspension of a member’s functions and duties under section 5(10) and the proceedings of the Commission are not”.

Part 4

Amendments to Legislative Council Ordinance

11. Section 17 amended (proceedings of Legislative Council not affected by vacancy in membership etc.)
- (1) Section 17(1)(a)—
Repeal
“or”.
 - (2) Section 17(1)(b)—
Repeal the full stop
Substitute
“; or”.
 - (3) After section 17(1)(b)—
Add
“(c) the suspension of a Member from the service of the Legislative Council under the Rules of Procedure of the Legislative Council for the time being in force (*Rules of Procedure*).”.
 - (4) Section 17(2)(b)—
Repeal
“or”.
 - (5) After section 17(2)(b)—
Add
“(ba) the suspension of a Member from the service of the Legislative Council under the Rules of Procedure; or”.
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Explanatory Memorandum

The main object of this Bill is to amend the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) (*Ordinance*)—

- (a) to impose sanctions in relation to the following members of the Legislative Council (*Council*)—
 - (i) a member who is suspended from the service of the Council due to the member's grossly disorderly conduct (*misbehaved member*);
 - (ii) a member whose absence from a sitting of the Council without valid reasons caused an adjournment of the Council (*absent member*);
- (b) to allow sittings of the Council or a committee (as defined by section 2 of the Ordinance) (*committee*) to be conducted remotely in exceptional circumstances; and
- (c) to expand on the types of copy of journals (as defined by section 2 of the Ordinance) (*journals*) that can be admitted as evidence.

2. Clause 1 sets out the short title.
3. Clause 3 amends the long title of the Ordinance.
4. Clause 6 adds new sections 20A and 20B to the Ordinance to—
 - (a) deprive a misbehaved member of the member's remuneration and allowance in respect of the period during which the member is suspended from the service of the Council; and
 - (b) impose a financial penalty on an absent member.

5. Clause 7 amends section 21 of the Ordinance to expand on the types of copy of journals that can be admitted as evidence.
6. Clause 8 adds a new section 27 to the Ordinance to allow sittings of the Council or a committee to be conducted remotely in exceptional circumstances and clause 4 makes a related amendment to the definitions of *Chamber* and *precincts of the Chamber* in the Ordinance.
7. Clause 9 amends section 5 of The Legislative Council Commission Ordinance (Cap. 443) (*Cap. 443*) to provide that a member's functions and duties as a member of The Legislative Council Commission (*Commission*) are also suspended (*related suspension*) during the period of suspension of the member from the service of the Council.
8. Clause 10 amends section 18 of Cap. 443 to provide that the Commission may continue to act despite a related suspension.
9. Clause 11 amends section 17 of the Legislative Council Ordinance (Cap. 542) to provide that the power of the Council to transact business, and the validity of the Council's proceedings, are not affected by the suspension of a Member (as defined by section 3 of that Ordinance) from the service of the Council.