

The Student Union of The Chinese University of Hong Kong
Judicial Committee Ordinance
(Enacted on 27th March 2017)
(Amended on 21st June 2017)

This ordinance provides for the formation of Judicial Committee, jurisdiction, practice, power and related matters.

Enacted by The Council.

Part I: Preliminary

1. Abbreviation and Commencement

- (1) This Ordinance may be cited as the Judicial Committee Ordinance.
- (2) This Ordinance comes into force at the date of passing.

2. Interpretation

In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely—

“The Union” shall mean The Student Union of the Chinese University of Hong Kong.

“The Council” shall mean The Council of The Student Union of the Chinese University of Hong Kong.

Part II: Rule of Law and Judicial Independence

3. Principle of Rule of Law and Judicial Independence

- (1) Public officers of The Union must uphold the rule of law and judicial independence of The Union.
- (2) Public officers of The Union must not affect individual judicial decisions by any special or covert contact with the Judiciary.

4. Be Heard at Meeting Of and Submitting Written Representation, Annual Report, Financial Budget, Financial Report to The Council

- (1) Chief Justice of the Judicial Committee (CJ) may represent the Judicial Committee to be heard at meetings of or submit written representations to The Council at any time on any matters regarding the Judiciary or enforcements of judicial works.
- (2) CJ must—
 - (a) Prepare and submit an Annual Report to The Council in the name of Judicial Committee on the operation of the Judiciary in that judicial year on or before 31st May each year;

- (b) Prepare and submit an Annual Financial Budget of the Committee for the upcoming financial year to The Council in the name of Judicial Committee or before 30th April each year;
- (c) Prepare and submit an Interim Financial Report to The Council in the name of Judicial Committee on the financial condition of the Committee during the financial year as 31st August each year on or before 30th September each year;
- (d) Prepare and submit an Annual Financial Report to The Council in the name of Judicial Committee on the financial condition of the Committee during the financial year as the last day of February on or before 31st May each year.

Part III: Formation of Judicial Committee

5. Judicial Committee

- (1) Judicial Committee is constituted of all Members of the Judicial Committee (MJs).
- (2) Members of the Court of Appeal and the Court of First Instance are appointed by CJ by notice. That notice must be submitted to and laid before The Council.
- (3) When affairs of the Court of First Instance or the Court of Appeal so require, CJ may direct members of the Court of Appeal to be at hearings as a member of the Court of First Instance and vice versa.

6. Members of Court of First Instance and Court of Appeal

- (1) The Court of First Instance is constituted of the MJs below—
 - (a) CJ; and
 - (b) MJ appointed as a member of the Court of First Instance by CJ in accordance with Subsection 5(2).
- (2) The Court of Appeal is constituted of the MJs below—
 - (a) CJ; and
 - (b) MJ appointed as a member of the Court of Appeal by CJ in accordance with Subsection 5(2).
- (3) CJ is the President of the Court of Appeal. If he or she is absent from the Court for any reason, a member of the Court of Appeal is to be assigned by him or her as the President

7. Meeting of Judicial Committee

- (1) CJ may call a Judicial Committee meeting at any time.
- (2) If a request of calling a meeting is made by not less than one-third of the MJs, CJ must call the meeting. If no meetings are held within seven days the request is made, one of the Commissioners who requested may do so.
- (3) The Commissioner who calls the meeting shall be the host of the meeting.
- (4) The quorum of a Judicial Committee meeting is half of total MJs.

- (5) CJ may from time to time consult MJs at Judicial Committee meetings on the administration and matters relating to his or her function.
- (6) Functions that Judicial Committee may exercise in meetings by resolution may be passed by circulation and vote.

8. Appointment of Members of the Judicial Committee (MJs)

All MJs shall be appointed by the President of The Union according to the recommendation by the Judicial Appointment Commission and with consents from not less than a two-thirds majority of all the participating Council members at a Council member meeting.

9. Appointment of Deputy Member of Judicial Committee (DMJC)

- (1) Judicial Committee may resolve to appoint one as a DMJC if the Committee is satisfied that—
 - (a) the Committee has the need in operation, and
 - (b) the intended DMJC has the equal qualification to be appointed as a MJ.
- (2) The resolution aforementioned designates the term of office, but not exceeding 1 year, of the DMJC.
- (3) A DMJC shall have all jurisdiction, powers, privileges, and shall perform all duties as a MJ does.

10. Term of Office of Members of the Judicial Committee (MJs)

- (1) The term of office of a MJ is 2 years.
- (2) MJs leave duty at his or her membership termination, holding of a position in Clause 15(1)(a)(i)(A) to (I) or expiry of term of duty.
- (3) MJs may resign in written notification to CJ and the Chairperson of The Council at any time.

11. Dismissal of Members of the Judicial Committee (MJs)

- (1) MJs may only be dismissed for inability (including mental inability), serious misbehaviour, or by resolution of no confidence by universal suffrages or general meetings to discharge his or her duties,
- (2) All dismissals of MJs if not by resolution of no confidence by Referendums or General Meetings shall be in accordance with Subclauses (5) to (7) herein.
- (3) CJ may appoint one a Commission of Inquiry, wherein MJs shall take more than a half of total seats, for investigating the dismissal of MJ.
- (4) The Council may only dismiss a MJ in accordance with the recommendation by the Commission of Inquiry and a resolution passed with not less than a two-thirds majority of all Council members.
- (5) An order to suspend the function of a MJ under investigation on his or her dismissal issue may be made by the Commission of Inquiry.

12. The Chief Justice of the Judicial Committee (CJ)

- (1) CJ must be himself or herself a MJC and elected among all MJCs. In case of uncontested election, the sole nominee is elected.
- (2) Elections for CJ successor shall—
 - (a) be managed by CJ; if impracticable, be managed by one MJC who has declared his or her refusal of nomination, and
 - (b) be witnessed by the Chairperson of The Council; if impracticable, be witnessed by a Council member designated by the President.
- (3) The term of office of CJ is at 1 year with no re-appointments.
- (4) The office commencement of the CJ successor shall be at when the current CJ vacates office if the election which he or she is elected is supervised by the current CJ.
- (5) CJ may at any time notify all MJCs and the President of The Council his or her resignation by written notification.
- (6) CJ is the Chief of Judicial Committee, responsible for the administration and management of the Committee and discharge duties conferred upon him or her from time to time by the legislations.

13. Appointment of Acting Positions

- (1) If CJ is absent from Hong Kong or is prevented by illness or any grounds from attending, one MJC as Acting CJ must be appointed by him or her; if impracticable, by Judicial Committee.
- (2) If the office of CJ is vacant by death or otherwise, Judicial Committee must appoint one MJC as Acting CJ until the vacancy is filled.
- (3) Judicial Committee may by resolution regulate the arrangements (including appointing acting positions) for when a MJC is absent from Hong Kong or is prevented by illness or by any grounds for attending.

14. Removal of The Chief Justice of the Judicial Committee (CJ)

- (1) President of The Council may appoint one Commission of Inquiry investigating the issue of a suspected serious misbehaviour by CJ under a resolution passed by not less than a two-thirds majority of all the Council members.
- (2) The resolution mentioned in Subsection (1) may only be proposed with a requesting petition by not less than one-fifth of all Council members.
- (3) The Council may only remove a CJ in accordance with the recommendation by the Commission of Inquiry and a resolution passed by not less than a two-thirds majority of all Council members, while the removal of CJ shall not impose influence on his or her position of MJC.
- (4) An order to suspend the function of a CJ under Commission on his or her removal issue may be made by the Group.

15. Qualification of Member of Judicial Committee (MJC)

- (1) All Full Members are qualified to be appointed as MJCs if the below is satisfied—
- (a) the member—
 - (i) is not—
 - (A) an Elected Officer of Student Union of constituent college;
 - (B) an Elected Officer of The Union;
 - (C) a Council Member;
 - (D) a committee member of a standing committee of The Council, unless his or her position is terminated by regulations in Subsection (2) hereof;
 - (E) an Elected Member of Student Press Publication Committee;
 - (F) an Elected Member of Campus Radio Editorial Board;
 - (G) a member of an Interim Executive Committee or a Special Committee appointed in accordance with Part XIII of The Constitution of The Union;
 - (H) an Elected Officer of an affiliated club or society of The Union; or
 - (I) an Elected Officer of an affiliated club or society of Student Union of Constituent College;
 - (ii) and has made a statement that he or she has no intentions to hold any aforementioned positions if appointed as MJC; or
 - (b) he or she is holding a position mentioned in Subparagraph (a)(i) but has made a statement he or she will immediately resign from the position and has no intentions to hold or continue holding any aforementioned position if appointed as MJC.
- (2) Any MJC who holds any commissioner positions of standing committee of The Council wholly incidental to the administration of an enactment shall cease his or her committee member position of affiliated club or society during his term of office of Member of the Judicial Committee and until the termination of the term.

Part 5V: Jurisdiction, Powers and Conventions**16. Jurisdiction of Court of First Instance**

The Court of First Instance has jurisdiction on—

- (a) hearings commenced for an accused commitment of a member of The Union alleged that it may subject to a disciplinary action;
- (b) hearings commenced for an impeachment of a public officers of The Union;
- (c) judicial reviews applied on an enactment or a decision, an action or an inaction in relation to public functions; and
- (d) other matters which shall be dealt by the Court of First Instance in accordance with the enactments.

17. Jurisdiction of Court of Appeal

The Court of Appeal has the sole and final jurisdiction on matters below—

- (a) appeals made on judgments or orders on any matters by the Court of First Instance;
- (b) legal issues in relation to The Constitution of The Union, referred by the Chairperson of The Council or the President of The Union; and
- (c) other matters which shall be dealt by the Court of Appeal in accordance with the enactments.

18. Leave to Appeal as Requirement For Appeal

- (1) Subject to the Rules by Judicial Committee, or a leave to appeal is granted by the Court of Appeal, no appeals to the Court of Appeal on judgments or orders by the Court of First Instance shall be lodged.
- (2) Unless in the opinion of the Court of Appeal the appeal—
 - (a) has a reasonable prospect of success; or
 - (b) involves questions of law of wider importance why the appeal should be heard, the Court of Appeal must not grant a leave of appeal referred in Subsection (1).

19. Retrial of Cases After the Final Adjudication

The Court of Appeal shall retrial any case of appeal after its final adjudication when the following is satisfied—

- (a) a resolution by the Referendum or the General Meeting directs the Court of Appeal to retrial the case; or
- (b) in the opinion of the Court of Appeal—
 - (i) substantial miscarriage of justice is to be occasioned if the Court does the contrary;
 - (ii) there present substantial grounds for a retrial subject to the special circumstances of the case; and
 - (iii) there are no remedies apart from a retrial.

20. Power of Court of First Instance and Court of Appeal

- (1) The Court of First Instance has all necessary judicial powers in exercise of jurisdiction.
- (2) The Court of Appeal may—
 - (a) affirm, reverse or vary decisions of the Court of First Instance;
 - (b) remit matters with its opinion to the Court of First Instance; and
 - (c) make such other orders in the matter as it thinks fit.
- (3) In an appeal hearing, the Court of Appeal may executive any power the Court of First Instance has or remit the matters to the Court of First Instance.

21. The Rules of the Judicial Committee and Practice Directions

- (1) Judicial Committee may amend the Rules of the Judicial Committee and regulate and specify procedures and practices the Committee shall comply.

- (2) To better operate this Ordinance or the Rule, CJ may from time to time issue Practice Directions to further regulate the procedures and practices the Committee shall comply.
- (3) CJ must lay the Rules of the Judicial Committee on the table of The Council.
- (4) The implementation of the Rules of the Judicial Committee and the Practice Directions shall be once every six months examined by, and has recommendations made on the Annual Report for the enhancement the cost-efficiency by Judicial Committee.

Part 6: Distribution of Work

22. Distribution of Work

- (1) Judicial Committee shall conduct a hearing at such time and place as CJ specifies. Number of attending members is regulated by the Judicial Committee Rule.
- (2) The distribution of work of the Committee shall comply with the direction by CJ.
- (3) All MJs must not involve appeal hearings with such judgments or orders appealed is made by them as members of the Court of First Instance.

23. Hearing by Single Member of Court of First Instance

- (1) Subject to Subsection (2) hereof, all judicial procedures in the Court of First Instance are heard by one member of the Court of First Instance.
- (2) CJ may as required instruct the Court of First Instance to hear judicial procedures by members of the Court of First Instance of odd number not less than 3 (1 of them be the President) and CJ appoints the number of members.
- (3) Depend on the circumstances, CJ shall appoint one member of the Court of First Instance or members of the number assigned in accordance with Subsection (2) hereof of the Court of First Instance to hear the case.

24. Formation of Court of Appeal in Jurisdiction Execution

- (1) Subject to Subsection (2)—
 - (a) In all judicial procedures, if the Court of Appeal is constituted by members of a singular number not less than 3, it is to be regarded as properly constituted.
 - (b) CJ shall appoint the number of members of the Court of Appeal in a hearing; the number must be an odd number not less than 3.
- (2) In judicial procedures conducted according to Subsection 17(b) to (c), the Court of Appeal is to be regarded as properly constituted if it is constituted by members of the Court of Appeal of a number equivalent to the sum of all MJs.
- (3) The Chief Justice shall appoint members of the Court of Appeal of the number specified in accordance with Subsections (1) or (2) hereof to hear the case.
- (4) Powers of the Court of Appeal that do not involve allowing or dismissing appeals may be exercised by a single member of the Court of Appeal. The operation is same as the execution of the power by the Court of Appeal and is subject to the same provisions.

- (5) Applicants whose request on the execution of any powers of the Court of Appeal by the single member of the Court is refused by the single member shall be entitled to a judgment on such application by the Court of Appeal.

Part 7: Registrar

25. Registry

- (1) In Judicial Committee there shall be a Registrar.
- (2) In Judicial Committee there shall be a Registry. The Registrar is responsible for managing the Registry.

26. Registrar

- (1) The Registrar has the jurisdiction and powers conferred on him or her by the Rules of the Judicial Committee or the Practice Directions.
- (2) The Registrar is responsible for executing directions from the Chief Justice on administrative and management matters and provide non-judicial supports to MJs in accordance with works of the Court of First Instance and the Court of Appeal.

Part 8: Miscellaneous Provisions

27. Matters Not Regulated Hereby

- (1) Rules, operations and procedures followed by Judicial Committee on matters not regulated hereby are decided by Judicial Committee (and the Court of First Instance and the Court of Appeal).
- (2) If Judicial Committee considers appropriate, the High Court Ordinance (Cap. 4) or the Hong Kong Court of Final Appeal Ordinance (Cap. 484) of the laws of Hong Kong may be mutatis mutandis applied.

Part 9: Judicial Finance

28. Financial Standards Nonapplicable

- (1) Financial Ordinance is nonapplicable to financial matters of Judicial Committee.

29. Judiciary Fund

- (1) There shall be a current Judiciary Fund, managed and authorised to be expended, by Judicial Committee.
- (2) Sums carried to the Fund may be transferred from the Student Union Fund.
- (3) Financial Committee of The Council may by resolution instruct an appropriation from the Student Union Fund to the Judiciary Fund if Judicial Committee so proposes.
- (4) The Fund is confined to be for the payments of non-recurrent expenses.

- (5) Before the actual payment, Judicial Committee shall—
 - (a) first consult the President of The Council and the Chairperson of Finance Committee of The Council if the sum from the Fund to be for the payments exceeds HK\$1000 and not more than HK\$5000; or
 - (b) obtain prior consents from the President of The Council and the President of Financial Committee of The Council if the sum from the Fund to be for the payments exceeds HK\$5000

30. Fine, Forfeiture and Fee

All Fines, forfeitures and fees imposed by the Court of First Instance or the Court of Appeal shall be carried to the Judiciary Foundation, except in the case there is an instruction from Judicial Committee by resolution.

31. Annual Financial Budget

- (1) The Annual Financial Budget submitted by Judicial Committee shall list the heads and subheads of the recurrent expenses.
- (2) When the Annual Financial Budget is approved by The Council,
 - (a) the sum of recurrent expenses listed in the Budget will be transferred from Student Union Fund to the account of Judicial Committee;
 - (b) Judicial Committee is authorised to use its account, according to the Budget, to pay for the sum of the recurrent expenses.
- (3) The Council may approve and amend the Annual Financial Budget with suggestions by Judicial Committee and consent from Finance Committee.
- (4) The balance in the account of Judicial Committee up to the last day of February each year is automatically transferred to Judicial Fund.

32. Power to Dispose of Property

- (1) Judicial Committee may hold, manage and dispose of properties.
- (2) Notwithstanding the regulation in Subsection (1), Judicial Committee must obtain prior consent from The Council and Finance Committee of The Council before proposing a gift.

33. Specimen Signature

- (1) CJ and the Registrar must update the specimen signatures of the Judiciary Foundation to the Finance Office of The University at their inaugurations.
- (2) The Chairperson of The Council must be notified at the update of specimen signature.

34. Payment

- (1) Judicial Committee must attain authorisations from CJ and the Registrar before an actual payment.

- (2) After an actual payment is made, the Committee must expeditiously submit to the Financial Consultant the table designated by the Finance Office of The University and completed and signed by CJ and the Registrar, along with the receipts.
- (3) After the verification and the signing of the table by the Financial Consultant, the Registrar shall keep the file copies and the receipts copies of the table and submit the original to the Finance Office of The University.

35. Collection of Moneys

The Registrar must expeditiously record the collection and issue a receipt after the actual collection of moneys; the collection of moneys shall be affirmed in writing by CJ, the Registrar and the Financial Consultant.

36. Financial Documents

- (1) The Registrar shall record all the financial matters and keep records of financial documents in the nearest seven or more financial years.
- (2) The Registrar shall propose the assets record which its entries shall be including but not limited to dates and reasons of procurements, values of procurements, venues of utilising, and dates and reasons of selling or disposals (if any).
- (3) For the purposes of this Section financial documents include—
 - (a) Annual Financial Budgets;
 - (b) Interim Financial Reports and Annual Financial Reports;
 - (c) monthly balance records of the Finance Office of The University;
 - (d) cash books and copies of receipts; and
 - (e) other documents and accounts related to finance.

37. Procedures of Quotation

- (1) CJ or the Registrar shall attain written quotations from not less than 3 suppliers, set procedures in the selection of suppliers, and set criteria for evaluations of goods or service quality if the Committee purchases for single goods or services of an amount exceeding HK\$1000.
- (2) If the Committee consistently purchases for goods or services of an amount exceeding HK\$3000—
 - (a) CJ or the Registrar shall attain written quotations from not less than 3 suppliers, set procedures in the selection of suppliers, and set criteria for regular evaluations of goods or service quality.
 - (b) Paragraph (a) is to be followed if in the opinions of CJ or the Registrar after the evaluation of the goods or service quality a reselection of suppliers is needed.
- (3) Subsection (1) and (2) are nonapplicable if the operation of the purchase complies with the procedure of purchase set by Business Unit of The University.

38. Disclosure of Conflict of Interest

- (1) CJ or the Registrar shall to Judicial Committee disclose their relationships with the suppliers they attain quotations from.
- (2) If CJ or the Registrar or their immediate family members are remunerated by a supplier, quotations from the supplier shall not be attained.
- (3) CJ or the Registrar must disclose all actual and potential conflicts of interest in the procedure of quotation attaining; Judicial Committee shall decide the following procedures.

Note: The English Translation is for reference only.