

諮詢文件

遙距聆訊：

《法院（遙距聆訊）條例草案》、
實務指示及操作指引草擬本

2022 年 6 月

目錄

	頁碼
第 1 章	引言
第 2 章	遙距聆訊的整體政策
第 3 章	擬議法例的主要特點
第 4 章	實施框架
第 5 章	實務指示及操作指引草擬本
第 6 章	徵詢意見

第 1 章：引言

目的

- 1.1 司法機構正就附錄 A所載的《法院（遙距聆訊）條例草案》（《條例草案》）草擬本諮詢公眾。《條例草案》旨在就法律程序中使用遙距聆訊的申請、操作及效力提供全面的法律框架。
- 1.2 為說明《條例草案》通過後將如何實施，司法機構亦草擬了相關實務指示（載於附錄 B¹）及操作指引（載於附錄 C¹），就遙距聆訊的運作提供操作及行政細節。

背景

- 1.3 遙距聆訊是司法機構應用科技的重要一環，亦是司法機構致力提升法庭運作效率的其中一個項目。《條例草案》旨在滿足社會及法庭使用者愈來愈高的期望，讓法院可以更多使用科技處理法庭事務，及與法庭使用者更方便和更有效率地溝通。這亦將有助法院應對例如疫症等各種難以預見和複雜的情況。
- 1.4 就民事法律程序而言，上訴法庭於 *CSFK v HWH* [2020] HKCA 207 一案的裁決中清楚指出，現時的法定框架下，並沒有任何條文限制高等法院在採用遙距聆訊模式方面的權力；只要能滿足司法公開和聆訊公正的兩大要求，法院便可行使這項權力。因此，自 2020 年 4 月起，司法機構一直在合適的情況下，於各級法院的民事法律程序中進行遙距聆訊，並發出 4 套指引列明相關安排。截至 2022 年 4 月，司法機構已進行逾千宗遙距聆訊，經驗正面。

¹ 附錄 B 及附錄 C 只有英文版本。

修訂法例的需要

- 1.5 由於法律限制，現時刑事案件的聆訊大多未能遙距進行。例如，現有法例一般規定被告人於不同階段（例如公訴提控及審訊）須親身出庭。至於民事法律程序，儘管現時的法律或已容許遙距聆訊，但沒有法律條文明文規定在遙距模式中，各項事宜應如何處理。
- 1.6 司法機構擬提出法例修訂，以提供清晰的法律基礎，使法官及司法人員在考慮所有相關情況，並顧及司法公開和聆訊公正兩大原則後，於各級別法院及審裁處在其認為合適的情況下都可命令進行遙距聆訊。此靈活性在不適宜甚至無法進行實體聆訊的情況下尤其重要，不論無法進行實體聆訊的原因是個別案件的特殊因素，或是基於公共衛生情況等特別情形，抑或是其他緊急情況。在民事法律程序方面，現時的立法工作旨在加入關於以遙距模式處理事宜的明確條文，藉以釋除疑慮。

第 2 章：遙距聆訊的整體政策

- 2.1 政策層面上，除非法院另有指示，否則聆訊的預設進行模式仍為實體聆訊，即法官、訴訟方或其法律代表，及其他相關人士（例如證人）須親身出席在法庭內進行的法律程序。只有在做法屬公平公正的情況下，並顧及到一系列須予考慮的因素後（參閱3.5段），法院才會作出遙距聆訊令。是否指示案件使用遙距聆訊屬法院就案件管理所作的決定，而法院可自行作出遙距聆訊令，訴訟方亦可向法院提出申請。
- 2.2 「遙距聆訊」是指根據法院的指示，透過語音直播聯繫（即電話）或音視直播聯繫（即視像），或其他實時通訊方式，而法官或司法人員（或合議庭的一名或多名法官成員）可進行；及／或訴訟一方及／或其法律代表可出席；及／或某人可出庭的一種聆訊模式。
- 2.3 使用遙距聆訊不一定指整個法律程序都必須以遙距方式進行，而是可以只限於聆訊過程中某一個（或多個）部分，例如向一名或多名證人取證（不論是司法管轄區範圍內或外），或可以只有部分有關人士以遙距方式參與。

不應使用遙距聆訊的例外情況

- 2.4 儘管法院只有在認為做法屬公平公正的情況下才會作出遙距聆訊令，司法機構認為，要在所有刑事法律程序中採用遙距聆訊，原則上和實際上均有若干限制。就部分案件和法律程序中的特定階段而言，被告人親身出庭應訊有實質重要性，因此法院只會在特殊情況下才作出遙距聆訊令。
- 2.5 司法機構認為，遙距聆訊一般不適合用於被告人在**裁判官席前首次出庭**的情況。裁判官應當要有機會看見親身出庭的被告人，尤其是當被告人投訴在拘留期間遭執法機關不當對待，以及是當裁判官首次就被告人的任何保釋申請進行聆訊之時。再者，為了確保被告人不親身到庭不會導致

公義不彰的情況，司法機構建議，即使聆訊可以採用遙距方式進行，但在**答辯、裁決及判刑**時，被告人仍然應該親身出庭應訊，除非法官或司法人員在考慮相關因素後另有指示。

2.6 除非法院因應特殊情況而作出指示，否則其他情況亦可能令遙距聆訊不適合應用於刑事法律程序，這些情況包括—

- (a) 被告人（及／或其他人）的人身安全及呈堂證據的性質致令遙距聆訊不合適（*Sivan* 程序為一例²）；以及
- (b) 被告人所作指控的性質致令被告人難以在遙距聆訊的情況下自由地作供。

2.7 儘管遙距聆訊的定義均適用於刑事和民事法律程序，但司法機構認為，若干刑事法律程序不應採用語音直播聯繫。舉例而言，由於保釋申請關乎被拘留人士的人身自由，法院會小心謹慎地維護有關程序，以確保申請人不會因為其保釋申請而遭受任何施壓或影響或武力對待等，所以使用語音直播聯繫處理保釋申請或許並不可行。

² 在此等法律程序中，被告人向有關當局提供的協助會被披露及評估。由於涉及高度敏感的資料，此等法律程序不適合進行遙距聆訊。該等聆訊一律為非表列聆訊，在內庭進行，而且法庭的內置錄音系統不會進行任何自動錄音，而是改以手動操作，把錄音記錄在 USB 儲存記憶體。

第 3 章：擬議法例的主要特點

適用範圍

- 3.1 《條例草案》將適用於所有級別的法院及審裁處，包括終審法院、上訴法庭、原訟法庭、區域法院、裁判法院（包括少年法庭）、競爭事務審裁處、土地審裁處、勞資審裁處、小額錢債審裁處、淫褻物品審裁處、死因裁判法庭，以及負責交付拘押的法院。

作出遙距聆訊令

- 3.2 《條例草案》的第 2 部載列遙距聆訊令的細節。
- 3.3 司法機構認為，是否作出遙距聆訊令是法院就案件管理所作的決定，而現時法院的案件管理權力亦適用於此。法院可自行或應法律程序的任何訴訟方所提出的申請作出遙距聆訊令。法院在自行作出遙距聆訊令之前，可邀請各訴訟方就該法律程序的進行模式作出陳詞，以令法院考慮各訴訟方的意見。如法院在作出遙距聆訊令前，並無邀請各訴訟方作出陳詞，又或訴訟任何一方不滿有關命令，該方可在該法院指明的期間內，向該法院作出申請，要求撤銷或更改該項命令。在考慮有關申請（如有）後，法院可按其認為合適的情況而確認、更改或撤銷有關命令，並將其決定通知各訴訟方。如各訴訟方沒有在法院指明的期間內作出申請，有關命令便會成為絕對命令。
- 3.4 此外，當案件情況發生重大改變，如法院信納在該案的情況下，更改或撤銷遙距聆訊令更有利於司法公正，法院可自行或應法律程序任何一方的申請更改或撤銷有關命令。
- 3.5 基於以有利於司法公正作為首要指導原則，司法機構建議，法院在決定是否作出遙距聆訊令時，必須因應情況考慮下述因素—

- (a) 該法律程序的性質、複雜程度及迫切程度；
- (b) 擬援引的證據的性質；
- (c) 各訴訟方的意見；
- (d) （如該程序是透過遙距媒介進行的話）各訴訟方參與和跟上該程序的能力；
- (e) 各訴訟方的個人或特殊情況，包括任何視覺或聽覺障礙、認知差異及精神或心理健康問題；
- (f) 能否維護各訴訟方的權利；
- (g) 各訴訟方是否有法律代表；
- (h) 各訴訟方與其各自的法律代表之間的特權通訊，會否受影響；
- (i) 各訴訟方及其法律代表能否有效地提出其論據；
- (j) 確保證據在不受脅迫或其他影響的情況下自願提供，所須採取的措施；
- (k) 該命令對評估證人的可信性及對所提出證據的可靠性的潛在影響；
- (l) 使用遙距媒介，是否相當可能促使該程序得以公平並有效率地處置；
- (m) 能否有效維護接受公正審判的權利；
- (n) 遙距聆訊設施的質素及安全性，以及該等設施是否可供各訴訟方使用；
- (o) 是否有任何公共秩序、安全、公共衛生或緊急情況上的考慮，致使各訴訟方親身出席該程序，並不可取，或並非切實可行；及
- (p) 任何其他相關因素。

遙距聆訊的運作

3.6 《條例草案》的第3部關於遙距聆訊的運作。

3.7 經研究其他司法管轄區的經驗後，司法機構提議引入總體式／賦權式的條文，令遙距聆訊在所有相關方面可被視為等同於實體聆訊，其中包括（但不限於）－

- (a) 法官或司法人員進行遙距聆訊時會被當作已滿足各法律規則下對親身開庭的要求，亦被當作具有在實體聆訊中所具有的所有權力；
- (b) 按法院指示出席遙距聆訊的參與者將被當作已於法律程序中的聆訊地點出席，以及已遵從所有關於親身出席該法律程序的規定。在香港有效的關於證據、程序、藐視法庭罪及宣誓下作假證供的法律將適用於在香港以外地方出席遙距聆訊的參與者；
- (c) 參與者所作宗教式或非宗教式的宣誓可以藉音視直播聯繫方式為之監誓；以及
- (d) 遙距聆訊中，訴訟方如需傳送、簽署文件，或呈示物品，可在法院指示下透過電子方式完成。

3.8 應注意的是，就刑事法律程序的證人而言，(a)《刑事訴訟程序條例》（第 221 章）第 IIIA 部下的易受傷害證人，以及 (b)第 221 章第 79I 條下的在香港以外的證人，現時可透過電視直播聯繫提供證據。對於身處海外的證人，司法機構認為新《條例草案》應已提供法律框架讓他們在香港以外提供證據，因此建議廢除現有的第 221 章第 IIIB 部，以及《電視直播聯繫(在香港以外的證人)規則》（第 221L 章），而關於易受傷害證人的第 221 章第 IIIA 部，其運作將不受《條例草案》影響。

司法公開

3.9 《條例草案》的第 4 部關於保障司法公開的措施。

3.10 一般而言，公開進行的遙距聆訊會在法院大樓內廣播，例如公開的法庭以及司法機構政務長指明的其他場地，除非法院因《香港人權法案條例》（第 383 章）的第 II 部香港人權法案第 10 條所述的任何理由而另有指示。公眾可從審訊案件表獲取遙距聆訊的資訊（如日期和時間），以及廣播場地。

3.11 司法機構預期可能會有一些例外情況，包括公眾不能夠進入法院大樓，或遙距聆訊不在法院大樓進行，又或基於特殊情況，例如公共衛生的考慮，而對親臨法庭旁聽的人數設置異常限制。在司法公開的要求下，司法機構有需要提供途徑讓公眾可觀聽以遙距聆訊方式進行的法律程序。司法機構建議，如法院宣布此等例外情況成立，法院可允許公眾實時觀聽民事及刑事的遙距聆訊。參考其他司法管轄區的做法，有意旁聽法律程序的人士須事先向法院申請。法院批准後，有關人士將獲遙距旁聽權限（連同必要保安措施），並可透過指定途徑觀聽有關法律程序。遙距聆訊旁聽者須承諾保持肅靜（將話筒設為靜音）以及隱身（攝影鏡頭保持關閉），而且不得在未經授權下記錄或發布所旁聽的法律程序。

3.12 至於刑事法律程序方面，現時若干法律程序（例如保釋及交付審判程序）設有報導限制。司法機構建議於給予公眾旁聽權限時應用此等限制。

有關記錄和發布遙距聆訊、實體聆訊和該等聆訊的廣播擬議罪行

3.13 《條例草案》的第 5 部關於訂立新罪行及罰則以保障實體及遙距聆訊得以持正進行。

3.14 在缺乏實體環境下，遙距聆訊或令法律程序更容易在未經授權的情況下被記錄及發布。司法機構認為有必要將此等

行為刑事化以產生強烈阻嚇作用。此舉亦可以向公眾發出清楚的信息：法律程序即使在遙距環境下，法律程序仍然保持公平持正。為增加阻嚇性並維持實體聆訊及遙距聆訊兩者的對等，司法機構建議引入兩項新罪行，將未經授權而記錄和發布聆訊（包括聆訊的廣播內容）定為刑事罪行，並適用於實體聆訊和遙距聆訊**兩者**。

- 3.15 在釐定罰則水平方面，在擬議的新罪行下，受禁行為將引致較現有罪行更為嚴重的後果。原因是未經授權而記錄和發布聆訊內容有可能會破壞或中斷法律程序，有關受禁行為亦可能導致證人對保安產生嚴重顧慮或心理上的不安，因而擔心人身安全。這極有可能會損害或干預司法工作的妥善執行。此外，被記錄或傳送的影像或聲音一旦遭不當使用，會嚴重打擊刑事司法制度的持正。在最壞的情況下，受影響的審訊或需中止，並可能被下令重審。

3.16 議擬的新罪行載列如下 —

有關記錄法庭聆訊的罪行

- 3.17 任何人如無合法權限或合理辯解，故意或企圖記錄某聆訊或某保護對象，即屬犯罪。就實體聆訊而言，罪行範圍涵蓋對進行聆訊的法庭，或任何出現在該法庭的人作未經授權的記錄。就遙距聆訊而言，罪行範圍涵蓋在參與者**連接**到司法機構遙距聆訊系統的期間作未經授權的記錄，有關期間包括法庭尚未正式開始／押後（休庭）／結束但參與者已连接到司法機構遙距聆訊系統的時間。為釋除疑慮，現行法例允許筆記記錄，該擬議法例亦將繼續准許該方式的記錄。例如，律師和記者應獲准用筆記記錄法律程序，並為各自的合法目的發布該等資料。
- 3.18 任何人犯此罪行，一經循簡易程序定罪，可處第5級罰款（50,000元）及監禁6個月。此罪行的檢控期限為由犯罪日期起計2年，或由檢控官（包括律政司及執法機關）發現罪行的日期起計12個月，以較早者為準。

有關發布未經授權的法庭聆訊紀錄的罪行

- 3.19 任何人如無合法權限或合理辯解，故意或企圖發布未經授權的法庭聆訊紀錄，即屬犯罪。司法機構希望杜絕在任何時候發布未經授權錄取的法庭聆訊紀錄。因此，該擬議罪行的涵蓋範圍不單包括在正式開庭期間發布未經授權下錄取的法庭聆訊紀錄（即直播串流），亦包括在休庭期間及在法院大樓以外的地方發布該等紀錄。舉例說，如某人於休庭期間在家中上載聆訊的相片／影片（由另一人在未經授權下拍攝），即會觸犯擬議的罪行。
- 3.20 任何人犯此罪行，一經循公訴程序定罪，可處第6級罰款（100,000元）和監禁5年。

有關記錄和發布廣播的罪行

- 3.21 廣播是指在法院大樓及司法機構政務長指定的其場地實時廣播的聆訊。此罪行的涵蓋範圍、受禁行為的詳情及罰則與第3.17 – 3.20 段所載的罪行相同。

在禁止於法院大樓內做出記錄方面修訂《簡易程序治罪條例》（第 228 章）

- 3.22 現時，《簡易程序治罪條例》（第228章）第7條涵蓋於法院大樓內拍攝指明人士的照片。鑑於此條例與載列於上述3.17至3.21段《條例草案》中的擬議罪行帶有相互關係，司法機構建議對此罪行稍作修訂，即就未經授權而記錄及發布而言，此罪行將針對發生於實體法庭外但屬法院大樓內（如法院大樓的大堂範圍）的受禁行為。司法機構屬意此罪行繼續只針對未經授權而記錄指明人士，包括任何法律程序中的法官、陪審員、證人、訴訟方、訴訟方的獲授權代表／法律代表，並建議第228章經修訂罪行循簡易程序定罪後的罰則，維持為第1級罰款。

相關修訂

3.23 《條例草案》亦建議在以下方面作出相關修訂 —

- (a) 為提高司法工作效率，司法機構建議修訂《刑事訴訟程序條例》（第 221 章）和《香港終審法院條例》（第 484 章），除非法院許可，否則被告人可免予出席基於僅涉及法律問題而提起的上訴聆訊；申請上訴許可的聆訊；或任何上訴的初步或附帶的法律程序；
- (b) 使不同法院使用的記錄方式（即機械、數碼、電子或光學）標準化；及
- (c) 對多項條例作出相應修訂，以依據草案所界定的「音視直播聯繫」取代「電視直播聯繫」的提述。

第 4 章：實施框架

4.1 司法機構已分階段就民事法律程序實施遙距聆訊。刑事法律程序方面，亦將以類似方式實施相關安排，讓持份者有時間逐步適應遙距聆訊的模式。

4.2 雖然《條例草案》將提供總體框架，讓所有類型的訴訟程序均可使用遙距聆訊，但司法機構打算採用循序漸進的實施方式，在首階段將若干法律程序和人士豁除於《條例草案》的適用範圍以外。獲豁除的法律程序包括—

- (a) 在少年法庭前進行的聆訊；及
- (b) 刑事審訊，但不包括 -
 - (i) 有易受傷害證人在根據《刑事訴訟程序條例》（第 221 章）第 IIIA 部獲批准的情況下，提供證據；或
 - (ii) 有其他證人按遙距聆訊令所指示，提供證據。

至於豁除人士方面，司法機構不打算容許審訊及死因研訊中的陪審員遙距出庭。

- 4.3 豁除的法律程序載列於《條例草案》的附表。而陪審員則沒有被包括在《條例草案》第二條「參與者」的定義中，因此他們被豁除於遙距聆訊的適用範圍外。

第 5 章：實務指示及操作指引草擬本

- 5.1 根據《條例草案》，終審法院首席法官獲賦權為執行主體法例條文規定的所需事宜訂立規則和發出指示，當中可包括於不同法庭進行遙距聆訊的程序和常規、遙距聆訊令的申請、遙距作證等。終審法院首席法官亦可於實務指示中述明作遙距聆訊的操作詳情。司法機構政務長亦可發出有關遙距聆訊、屬行政性質的指示，譬如參與遙距聆訊所需的遙距媒介技術詳情及標準、硬件、軟件、設備及其他技術規定。
- 5.2 就是次諮詢而言，**附錄 B 及 C** 載有關乎民事及刑事法律程序的實務指示，以及操作指引的草擬本，藉此便利法庭使用者考慮在《條例草案》制定成為法例後遙距聆訊將如何進行。附錄涵蓋的詳情包括但不限於遙距聆訊的申請、遙距聆訊所需的設施，以及在實際聆訊前進行聆訊前簡介和連接測試。當中亦向無律師代表訴訟人／被告人提供指引，以相對淺白的措辭列出參與者於遙距聆訊期間需要注意的重點和行為操守方面的規定。

第 6 章：徵詢意見

6.1 擬議的主體法例是為香港法院遙距聆訊的申請與運作提供法律依據，司法機構現邀請公眾就《條例草案》、實務指示及操作指引的草擬本提供意見。

6.2 回應者請以下述方式於2022年9月15日或之前提交意見—

電郵： remote_hearing_bill@judiciary.hk

傳真： 2501 4636

郵寄： 香港金鐘道66號金鐘道政府合署高座
8樓802-808室
司法機構策劃及發展部

6.3 任何回應者提交意見時，可按其意願提供個人資料。任何連同意見書提供的個人資料，只會用於是次諮詢用途。除另有指明外，所有意見書均會被當作公共資訊處理，不論全部或部分，日後或會以任何形式公開，而無須向回應者徵求批准或作出致謝。

6.4 司法機構與其他人士討論時，不論私下或公開，或在任何其後發表的報告內，可能會提述及引用就本文件所提交的意見。任何回應者如要求將其姓名／名稱及／或其提出的全部或部分意見保密，司法機構會尊重其意願。但若回應者並無在其意見書中提出此等要求，司法機構則會假設其意見書的所有內容可予公開。

6.5 回應者的意見及個人資料或會轉交其他相關機構／組織，以用於與是次諮詢有關的用途。獲取任何個人資料的機構／組織日後亦只可將此等資料用於同一用途。

6.6 任何回應者如在意見書中向司法機構提供了個人資料，均有權查閱及更正此等個人資料。查閱或更正個人資料的要求，應透過下述方式以書面提出—

電郵 : aio@judiciary.hk
傳真 : 2530 5102
郵寄 : 香港金鐘道 38 號高等法院大樓
 公開資料主任

司法機構政務處
2022 年 6 月

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

《法院(遙距聆訊)條例草案》

目錄

條次	頁次
第 1 部	
導言	
1. 簡稱.....	1
2. 釋義.....	1
3. 適用於特區政府.....	4
4. 不受本條例影響的條文.....	4
第 2 部	
遙距聆訊令	
5. 法院可作出遙距聆訊令.....	5
6. 法院可邀請陳詞.....	5
7. 法院可更改或撤銷遙距聆訊令.....	6
8. 須予考慮的因素.....	6
第 3 部	
遙距聆訊的運作	
第 1 分部 —— 法官及司法人員	
9. 法官或司法人員進行聆訊.....	8
10. 在遙距聆訊中法官或司法人員身處的地點.....	8

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

ii

條次	頁次
11. 法官或司法人員的權力	8
第 2 分部 —— 參與者	
12. 出席遙距聆訊	8
13. 缺席遙距聆訊的後果	8
14. 出席遙距聆訊須當作親身出席聆訊	9
15. 在香港施行的法律適用於海外參與者	9
16. 宗教式宣誓及非宗教式宣誓的監誓	9
第 3 分部 —— 在遙距聆訊中的文件傳送、物品呈示等	
17. 釋義及適用範圍	9
18. 文件的傳送	10
19. 物品的呈示	10
20. 文件的簽署、填寫及交回	10
第 4 部	
公眾觀聽公開法律程序	
21. 公開法律程序的涵義	12
22. 關於公眾觀聽公開法律程序的指示	12
23. 公開法律程序的廣播	12
第 5 部	
罪行及罰則	
24. 第 5 部的釋義	13

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

iii

條次	頁次
25.	記錄和發布聆訊及保護對象屬罪行 13
26.	記錄和發布廣播屬罪行 14
27.	第 25(1)(a)及 26(1)(a)條所訂罪行的檢控期限 15

第 6 部

雜項條文

28.	有權修訂附表 16
29.	終審法院首席法官可訂立規則或發出指示 16
30.	司法機構政務長可發出行政指示 16

第 7 部

相關修訂

第 1 分部 —— 修訂成文法則

31.	修訂成文法則 18
-----	-----------------

第 2 分部 —— 在禁止作出記錄方面修訂《簡易程序治罪條例》(第 228 章)

32.	取代第 7 條 18
7.	禁止在法院處所內作出記錄等 18

第 3 分部 —— 被告人出席聆訊

第 1 次分部 —— 《刑事訴訟程序條例》(第 221 章)

33.	取代第 83U 條 20
83U.	被告人出席聆訊的權利 20
34.	修訂第 122 條(不准公眾進入刑事法庭的權力) 20

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

iv

條次	頁次
35. 修訂第 123 條(在某些案件中刑事法律程序可藉非公開形式進行和不披露證人的身分).....	21
第 2 次分部 —— 《香港終審法院條例》(第 484 章)	
36. 取代第 36 條.....	21
36. 被告人出席聆訊的權利.....	22
37. 修訂第 47 條(開庭及法院事務)	22
第 4 分部 —— 法院的紀錄製作	
第 1 次分部 —— 《高等法院規則》(第 4 章, 附屬法例 A)	
38. 修訂第 48 號命令第 3 條規則(記錄判定債務人在訊問時提供的證據).....	22
39. 修訂第 49B 號命令第 1AA 條規則(記錄判定債務人在訊問時提供的證據).....	22
40. 修訂第 68 號命令第 8 條規則(以機械方法製作紀錄).....	23
第 2 次分部 —— 《勞資審裁處條例》(第 25 章)	
41. 修訂第 19 條(證據等摘要的備存)	23
第 3 次分部 —— 《勞資審裁處(一般)規則》(第 25 章, 附屬法例 A)	
42. 修訂第 4A 條(申索登記冊等的備存).....	23
第 4 次分部 —— 《刑事訴訟程序條例》(第 221 章)	
43. 修訂第 79 條(法律程序的紀錄及查閱).....	24
第 5 次分部 —— 《刑事訴訟程序(保釋法律程序紀錄)規則》(第 221 章, 附屬法例 I)	

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

v

條次	頁次
44.	修訂第 2 條(保釋法律程序的紀錄) 24
第 6 次分部 —— 《裁判官條例》(第 227 章)	
45.	修訂第 34 條(法律程序紀錄) 24
46.	修訂第 81 條(在聆訊中對證供的錄取)..... 24
第 7 次分部 —— 《裁判官(行政)規則》(第 227 章，附屬法例 A)	
47.	修訂第 2 條(案件登記冊) 25
第 8 次分部 —— 《區域法院規則》(第 336 章，附屬法例 H)	
48.	修訂第 48 號命令第 3 條規則(記錄判定債務人在訊問時 提供的證據)..... 25
49.	修訂第 49B 號命令第 1AA 條規則(記錄判定債務人在訊 問時提供的證據)..... 25
50.	修訂第 68 號命令第 8 條規則(以機械方法製作紀錄)..... 25
第 9 次分部 —— 《小額錢債審裁處條例》(第 338 章)	
51.	修訂第 15 條(證據等摘要的備存) 26
第 10 次分部 —— 《小額錢債審裁處(一般)規則》(第 338 章，附屬法例 A)	
52.	修訂第 4A 條(備存申索登記冊等)..... 26
第 11 次分部 —— 《死因裁判官規則》(第 504 章，附屬法例 B)	
53.	修訂第 14 條(死因裁判官筆錄證供等事)..... 26

第 8 部

相應修訂

第 1 分部 —— 修訂成文法則

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

vi

條次	頁次
54.	修訂成文法則..... 27
第 2 分部 —— 《高等法院規則》(第 4 章, 附屬法例 A)	
55.	修訂第 70 號命令第 4 條規則(進行訊問的人及訊問的方式)..... 27
56.	修訂第 70 號命令第 5 條規則(書面供詞的處理)..... 27
57.	修訂第 70 號命令第 6 條規則(要求獲得特權)..... 27
58.	修訂第 70 號命令第 7 條規則(藉電視直播聯繫方式進行訊問的紀錄)..... 28
第 3 分部 —— 《證據條例》(第 8 章)	
59.	修訂第 74 條(釋義條例)..... 28
60.	修訂第 76 條(香港法院將某項協助申請實現的權力)..... 29
61.	修訂第 77 條(證人特權)..... 29
62.	修訂第 77E 條(為取得刑事法律程序中的證據而發出請求書)..... 29
第 4 分部 —— 《刑事訴訟程序條例》(第 221 章)	
63.	修訂第 79A 條(釋義)..... 30
64.	修訂第 79B 條(藉電視直播聯繫提供的證據)..... 30
65.	修訂第 79D 條(高等法院首席法官訂立規則)..... 30
66.	修訂第 79E 條(書面供詞)..... 31
67.	廢除第 IIIB 部(藉電視直播聯繫錄取在香港以外的證人的證據)..... 31

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

vii

條次	頁次
68. 修訂第 83V 條(證據)	31
第 5 分部 —— 《電視直播聯繫及錄影紀錄證據規則》(第 221 章，附屬法例 J)	
69. 修訂名稱	31
70. 修訂第 3 條(在證人是易受傷害證人的情況下透過電視直播聯繫提供的證據或在錄影紀錄獲接納後證人透過電視直播聯繫接受盤問時提供的證據)	32
71. 修訂附表 1	32
第 6 分部 —— 《電視直播聯繫(在香港以外的證人)規則》(第 221 章，附屬法例 L)	
72. 廢除《電視直播聯繫(在香港以外的證人)規則》	33
第 7 分部 —— 《裁判官條例》(第 227 章)	
73. 修訂第 81 條(在聆訊中對證供的錄取)	33
74. 修訂第 118 條(聆訊上訴的程序)	34
第 8 分部 —— 《刑事事宜相互法律協助條例》(第 525 章)	
75. 修訂第 9 條(由香港提出的錄取證供等的請求)	34
76. 修訂第 10 條(向香港提出的錄取證供等的請求)	35
附表 獲豁除法律程序	36

本條例草案

旨在

就遙距聆訊的申請、運作及效力，訂定條文；就公平處置遙距聆訊以及就公眾觀聽遙距聆訊，訂定條文；為保障某些法律程序得以持正進行，訂明罪行；以及就相關事宜訂定條文。

由立法會制定。

第 1 部

導言

1. 簡稱

本條例可引稱為《法院(遙距聆訊)條例》。

2. 釋義

在本條例中 ——

法官或司法人員 (JJO) ——

- (a) 指《司法人員推薦委員會條例》(第 92 章)第 2 條所界定的司法人員；及
- (b) 包括 ——
 - (i) 為以下目的而獲暫時委任為司法人員的人 ——
 - (A) 執行該條所界定的司法職位的職責；或
 - (B) 以其他方式，署理如此界定的司法職位；及
 - (ii) 獲委任為指明審裁處的成員，以執行審裁職能的人；

法律代表 (legal representative) 包括 ——

- (a) 《律政人員條例》(第 87 章)第 2 條所界定的律政人員；
- (b) 《法律執業者條例》(第 159 章)第 2(1)條所界定的律師或大律師；
- (c) 根據《裁判官條例》(第 227 章)第 13 條獲委任的公職主控官；及
- (d) 根據 ——
 - (i) 任何條例；或
 - (ii) 由法院發出的實務指示，
而在法院席前有發言權的任何其他人；

法律規則 (rule of law) 指 ——

- (a) 條例；
- (b) 普通法規則或衡平法規則；或
- (c) 習慣法；

法律程序 (proceeding) 指在法院席前進行的法律程序(附表所列者除外)，並包括該等程序的部分；

法院 (court) 指 ——

- (a) 終審法院；
- (b) 上訴法庭；
- (c) 原訟法庭；
- (d) 競爭事務審裁處；
- (e) 區域法院；
- (f) 裁判法院(包括少年法庭)；
- (g) 《逃犯條例》(第 503 章)第 2(1)條所界定的負責交付拘押的法院；
- (h) 土地審裁處；

- (i) 勞資審裁處；
- (j) 小額錢債審裁處；
- (k) 淫褻物品審裁處；或
- (l) 死因裁判法庭，
並包括法官或司法人員；

指明審裁處 (specified Tribunal)指 ——

- (a) 競爭事務審裁處；
- (b) 土地審裁處；
- (c) 勞資審裁處；
- (d) 小額錢債審裁處；或
- (e) 淫褻物品審裁處；

音視直播聯繫 (live audio-visual link)就某法律程序而言，指允許在法官或司法人員及各參與者之間在該程序中進行實時音視通訊的設施；

參與者 (participant)就某法律程序而言，指在該程序中 ——

- (a) 屬訴訟方的人；
- (b) 屬訴訟方的獲授權代表的人；
- (c) 屬訴訟方的法律代表的人；
- (d) 屬證人的人；或
- (e) 具以下身分的人 ——
 - (i) 獲委任就任何關乎該程序的事宜提供意見的人員或個人，或有參與就該類事宜提供意見的人員或個人；
 - (ii) 獲委任向主持該程序的法官或司法人員提供協助的人員或個人，或有參與向該等法官或司法人員提供協助的人員或個人；或
 - (iii) 獲委任協助該程序進行的人員或個人，或有參與以其他方式利便該程序進行的人員或個人，

並包括獲有關法院准許參與該程序的任何其他人；

訴訟方 (party)就某法律程序而言，指 ——

- (a) 提起該程序的人；
- (b) 該程序的提起所針對的人；或
- (c) 在該程序中有權陳詞的任何其他人；

實體聆訊 (physical hearing)指並非受遙距聆訊令所規限的法律程序；

語音直播聯繫 (live audio link)就某法律程序而言，指允許在法官或司法人員及各參與者之間在該程序中進行實時語音通訊的設施；

遙距聆訊 (remote hearing)指受遙距聆訊令所規限的法律程序；

遙距聆訊令 (remote hearing order)指根據第 5(1)條作出並(如適用的話)根據第 7(1)條更改的命令；

遙距媒介 (remote medium)包括 ——

- (a) 語音直播聯繫；
- (b) 音視直播聯繫；及
- (c) 由終審法院首席法官藉根據第 29 條訂立的規則或根據該條發出的指示而指定的任何其他實時通訊設施。

3. 適用於特區政府

本條例適用於特區政府。

4. 不受本條例影響的條文

本條例並不影響以下條文的施行 ——

- (a) 《刑事訴訟程序條例》(第 221 章)第 IIIA 部(易受傷害證人的特別程序)；或
- (b) 《逃犯條例》(第 503 章)第 23 條。

第2部

遙距聆訊令

5. 法院可作出遙距聆訊令

- (1) 法院可自行或應某法律程序的任何訴訟方所提出的申請，命令該程序須透過遙距媒介進行。
- (2) 法院可在有關命令中 ——
 - (a) 在有關法律程序方面，指明 ——
 - (i) 就該程序而須予使用的遙距媒介；
 - (ii) 其聆訊日期及時間；及
 - (iii) 其聆訊地點或虛擬空間(或地點及虛擬空間)；
 - (b) 在該程序的參與者方面，指明 ——
 - (i) 須透過遙距媒介出席該程序的參與者(**遙距參與者**)；及
 - (ii) 遙距參與者出席該程序時須身處的地方(不論是在香港境內或境外)；及
 - (c) 指明該法院認為就該程序的進行而言屬合宜的任何其他條件。
- (3) 只有在符合以下條件的前提下，方可根據第(1)款作出某項命令：法院在考慮第8條所指的因素後，信納在有關個案的情況下，作出該項命令有利於司法公正。

6. 法院可邀請陳詞

- (1) 法院在就某法律程序作出遙距聆訊令之前，可邀請該程序的各訴訟方陳詞。
- (2) 如有關法院在作出遙距聆訊令之前，並無根據第(1)款邀請有關的各訴訟方陳詞，則有關法律程序的任何訴訟方凡

不滿該項命令，可在該法院指明的期間內，向該法院申請更改或撤銷該項命令。

- (3) 在聆訊根據第(2)款作出的申請後，有關法院可確認、更改或撤銷有關命令，亦可施加任何其認為合適的條件。
- (4) 有關法院須就根據第(3)款作出的決定，向有關法律程序的各訴訟方作出通知。

7. 法院可更改或撤銷遙距聆訊令

- (1) 法院可自行或應某法律程序的任何訴訟方所提出的申請，更改或撤銷就該程序作出的遙距聆訊令。
- (2) 只有在符合以下條件的前提下，方可根據第(1)款更改或撤銷某項命令：法院在考慮第 8 條所指的因素後，信納在有關個案的情況下，更改或撤銷該項命令有利於司法公正。
- (3) 本條在以下情況下適用 ——
 - (a) 在法院根據第 5 條作出某遙距聆訊令，以及(如適用的話)根據第 6 條更改該項命令後，情況有重大改變；或
 - (b) 在法院根據本條更改某遙距聆訊令後，情況有重大改變。

8. 須予考慮的因素

在決定是否根據第 5 或 7 條而就某法律程序作出、更改或撤銷遙距聆訊令時，法院須考慮 ——

- (a) 該程序的性質、複雜程度及迫切程度；
- (b) 擬援引的證據的性質；
- (c) 各訴訟方的意見；
- (d) (如該程序是透過遙距媒介進行的話)各訴訟方參與和跟上該程序的能力；

- (e) 各訴訟方的個人或特殊情況，包括任何視覺或聽覺障礙、認知差異及精神或心理健康問題；
 - (f) 能否維護各訴訟方的權利；
 - (g) 各訴訟方是否有法律代表；
 - (h) 各訴訟方及其各自的法律代表之間的特權通訊，會否受影響；
 - (i) 各訴訟方及其法律代表能否有效地提出其論據；
 - (j) 確保證據在不受脅迫或其他影響的情況下自願提供，所須採取的措施；
 - (k) 該命令對評估證人的可信性及對所提出證據的可靠性的潛在影響；
 - (l) 使用遙距媒介，是否相當可能促使該程序得以公平並有效率地處置；
 - (m) 能否有效維護接受公正審判的權利；
 - (n) 遙距聆訊設施的質素及安全性，以及該等設施是否可供各訴訟方使用；
 - (o) 是否有任何公共秩序、安全、公共衛生或緊急情況上的考慮，致使各訴訟方親身出席該程序，並不可取，或並非切實可行；及
 - (p) 任何其他相關因素。
-

第3部

遙距聆訊的運作

第1分部 —— 法官及司法人員

9. 法官或司法人員進行聆訊

任何法官或司法人員凡根據本條例進行遙距聆訊，即就所有效力及目的而言，當作已符合任何法律規則下的、其須親身出席有關法律程序的規定。

10. 在遙距聆訊中法官或司法人員身處的地點

法官或司法人員可在 ——

(a) 法院大樓內；或

(b) 由終審法院首席法官指示的任何其他地方，
進行遙距聆訊。

11. 法官或司法人員的權力

根據本條例進行遙距聆訊的法官或司法人員，具有假若該聆訊是實體聆訊，而有關參與者親自出席有關法律程序的話，該法官或人員會具有的權力的全部。

第2分部 —— 參與者

12. 出席遙距聆訊

除非任何法律規則或法院命令另有規定，否則參與者可在香港境內或境外的地方，出席遙距聆訊。

13. 缺席遙距聆訊的後果

如任何參與者在不遵從遙距聆訊令的情況下，沒有在有關日期及時間、於有關地點或虛擬空間出席某遙距聆訊，則其須面對

的後果，與假若該遙距聆訊是實體聆訊的話其會面對的後果相同。

14. 出席遙距聆訊須當作親身出席聆訊

任何參與者凡在遵從遙距聆訊令的情況下，透過遙距媒介出席遙距聆訊，即就所有效力及目的而言，當作已符合任何法律規則或任何法院命令或指示下的、該人須親身出席有關法律程序的規定。

15. 在香港施行的法律適用於海外參與者

凡任何參與者在遵從遙距聆訊令的情況下，在香港境外的地方出席遙距聆訊，在香港施行的關於證據、程序、藐視法庭及在宣誓下作假證供的法律，即適用於該參與者。

16. 宗教式宣誓及非宗教式宣誓的監督

凡任何宗教式或非宗教式宣誓，是由遙距聆訊的參與者作出的，則其監督可 ——

- (a) 以與親身在法院內監督的方式在切實可行的範圍內盡量近乎相同的方式，而藉音視直播聯繫進行；或
- (b) 在該參與者出席有關法律程序的地方，由獲法院授權的人，按法院指示以及代表法院而進行。

第3分部 —— 在遙距聆訊中的文件傳送、物品呈示等

17. 釋義及適用範圍

(1) 在本分部中 ——

文件 (document)指載錄任何種類資料的東西；

物品 (object)指文件以外的任何其他東西(不論是有形或無形的)；

送交 (send)就某文件而言，包括送交存檔、遞交、出示、發給、通知、送達、交付、呈交或提交，或其他表示或意味着傳遞該文件的詞句。

(2) 本分部並不影響 ——

(a) 《電子交易條例》(第553章)的施行；或

(b) 《法院程序(電子科技)條例》(第638章)的施行。

18. 文件的傳送

(1) 任何文件凡關乎遙距聆訊，可按法院指示而藉電子方式傳送。

(2) 凡任何文件在遵從根據第(1)款發出的指示的情況下傳送，該項傳送即就所有效力及目的而言，當作已符合任何法律規則下的、須就實體聆訊而送交該等文件的規定。

19. 物品的呈示

任何物品凡關乎遙距聆訊，可按法院指示而藉電子方式呈示。

20. 文件的簽署、填寫及交回

(1) 凡某遙距聆訊的參與者根據任何法律規則或按法院指示，須簽署或填寫某文件，則法院可要求該參與者 ——

(a) 簽署或填寫該文件；及

(b) 按法院指示，交回該文件。

(2) 凡任何文件經已在遵從根據第(1)款作出的要求的情況下簽署或填寫，並經已在遵從該項要求的情況下交回，該項簽署或填寫及該項交回，即就所有效力及目的而言，當作已符合任何法律規則下的、須就實體聆訊而簽署或填寫該等文件及送交該等文件的規定。

(3) 在本條中 ——

《法院(遙距聆訊)條例草案》
(公眾諮詢草擬本)

第 3 部 —— 第 3 分部
第 20 條

11

填寫 (write)就某文件而言，包括繪畫、塗暗、着色、畫圈、畫上橫線或底線、加亮或加上註釋，或其他表示或意味着在該文件上作標示的詞句。

第 4 部

公眾觀聽公開法律程序

21. 公開法律程序的涵義

在本部中 ——

公開法律程序 (open proceeding) 指並非以非公開形式進行的遙距聆訊。

22. 關於公眾觀聽公開法律程序的指示

法院除非基於《香港人權法案條例》(第 383 章)第 II 部所列的香港人權法案第十條所述的理由，而另作指示，否則須就任何公開法律程序發出指示，以准許公眾觀聽該程序。

23. 公開法律程序的廣播

(1) 法院可安排實時廣播公開法律程序。

(2) 公開法律程序的實時廣播，須讓公眾能 ——

(a) 在司法機構政務長指明的地方、以司法機構政務長指明的方式；或

(b) 透過法院認為合適的其他方法，
觀聽該程序。

第 5 部

罪行及罰則

24. 第 5 部的釋義

在本部中 ——

記錄 (record) ——

(a) 指 ——

(i) 任何製作或產生影像的作為；或

(ii) 任何製作或產生語音紀錄的作為；及

(b) 包括任何製造實時傳送的語音紀錄、視像紀錄或音視紀錄的作為，不論該紀錄有否 ——

(i) 藉實物形式保留或儲存；或

(ii) 藉電子形式(該紀錄能夠從中在有借助或沒有借助任何器材下重現者)保留或儲存；

發布 (publish)包括送交、傳送、分發、傳閱、上載、複製、提供及傳布；

廣播 (broadcast)指根據第 23 條作出的廣播，或由終審法院首席法官藉根據第 29 條訂立的規則或根據該條發出的指示而指定的實體聆訊廣播；

影像 (image)指 ——

(a) 肖像、繪圖或素描；

(b) 照片、錄影紀錄或影片；或

(c) 靜態或活動視像紀錄。

25. 記錄和發布聆訊及保護對象屬罪行

(1) 任何人無合法權限或合理辯解而 ——

(a) 故意或企圖記錄 ——

- (i) 遙距聆訊；
 - (ii) 關乎遙距聆訊的受保護程序；
 - (iii) 實體聆訊；或
 - (iv) 關乎實體聆訊的保護對象；或
- (b) 故意或企圖發布 ——
- (i) 任何在違反(a)段的情況下製造的紀錄；或
 - (ii) 該紀錄的複製品，

即屬犯罪。

- (2) 任何人犯第(1)(a)款所訂罪行，一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (3) 任何人犯第(1)(b)款所訂罪行，一經循公訴程序定罪，可處第 6 級罰款及監禁 5 年。
- (4) 在本條中 ——

受保護程序 (protected process)的涵義如下：如某遙距媒介就某法律程序而獲指明，而該法律程序的參與者，在某期間與該媒介連接，則就有關遙距聆訊而言，任何關乎該法律程序而在該期間內進行的程序(不包括該聆訊本身)，即屬**受保護程序**；

法庭 (courtroom)指法律程序進行的地方；

保護對象 (protected subject)就實體聆訊而言，指 ——

- (a) 法庭；或
- (b) 任何出現在該法庭的人。

26. 記錄和發布廣播屬罪行

- (1) 任何人無合法權限或合理辯解而 ——
 - (a) 故意或企圖記錄 ——
 - (i) 任何廣播；
 - (ii) 作出該項廣播的地方；或

- (iii) 出席該項廣播的人；或
- (b) 故意或企圖發布 ——
 - (i) 任何在違反(a)段的情況下製造的紀錄；或
 - (ii) 該紀錄的複製品，即屬犯罪。
- (2) 任何人犯第(1)(a)款所訂罪行，一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (3) 任何人犯第(1)(b)款所訂罪行，一經循公訴程序定罪，可處第 6 級罰款及監禁 5 年。

27. 第 25(1)(a)及 26(1)(a)條所訂罪行的檢控期限

就第 25(1)(a)或 26(1)(a)條所訂罪行而提出的檢控，只可在以下兩者中的較早者之前展開 ——

- (a) 該罪行干犯的日期之後的 2 年屆滿之時；
- (b) 檢控官發現該罪行的日期之後的 12 個月屆滿之時。

附註 ——

此規定取代《裁判官條例》(第 227 章)第 26 條所訂的時效。

第 6 部

雜項條文

28. 有權修訂附表

終審法院首席法官可藉憲報公告，修訂附表。

29. 終審法院首席法官可訂立規則或發出指示

終審法院首席法官可就以下任何或所有事宜，訂立規則或發出指示 ——

- (a) 申請遙距聆訊令；
- (b) 根據第 6 或 7 條申請更改或撤銷遙距聆訊令；
- (c) 法院在進行遙距聆訊時須依循的程序及常規；
- (d) 透過遙距媒介提供證據；
- (e) 根據第 18 條就遙距聆訊傳送文件；
- (f) 根據第 19 條就遙距聆訊呈示物品；
- (g) 根據第 20 條就遙距聆訊簽署、填寫和交回文件；
- (h) 根據第 23 條廣播公開法律程序；
- (i) 第 25 或 26 條所指的合法權限；
- (j) 就以下定義作出指定 ——
 - (i) 在第 2 條中，**遙距媒介**的定義；或
 - (ii) 在第 24 條中，**廣播**的定義；
- (k) 為更有效施行本條例的條文，以及更有效達致本條例的目的。

30. 司法機構政務長可發出行政指示

司法機構政務長可發出與以下任何或所有事宜有關的、屬行政性質的指示 ——

-
- (a) 遙距媒介的技術詳情及標準；
 - (b) 參與遙距聆訊所需的硬件、軟件、設備及其他技術規定；
 - (c) 預先測試規定的詳情，以及應變措施的詳情；
 - (d) 廣播公開法律程序的詳情；
 - (e) 利便進行遙距聆訊的任何其他安排。
-

第 7 部

相關修訂

第 1 分部 —— 修訂成文法則

31. 修訂成文法則

第 2、3 及 4 分部指明的成文法則現予修訂，修訂方式列於上述各分部。

第 2 分部 —— 在禁止作出記錄方面修訂《簡易程序治罪條例》(第 228 章)

32. 取代第 7 條

第 7 條 ——

廢除該條
代以

“7. 禁止在法院處所內作出記錄等

(1) 任何人無合法權限或合理辯解而 ——

(a) 故意或企圖在法院處所內記錄任何指明人士；
或

(b) 故意或企圖發布 ——

(i) 任何在違反(a)段的情況下製造的紀錄；或

(ii) 該紀錄的複製品，

即屬犯罪。

(2) 任何人犯第(1)款所訂罪行，一經循簡易程序定罪，
可處第 1 級罰款。

(3) 在本條中 ——

法官 (judge)包括司法常務官及裁判官；

法庭 (courtroom)指法律程序進行的地方；

法院處所 (court premises)指任何在法院大樓內而並非法庭的地方；

指明人士 (specified person)指法律程序中的法官、陪審員、證人、訴訟方、訴訟方的獲授權代表或訴訟方的法律代表；

記錄 (record) ——

(a) 指 ——

(i) 任何製作或產生影像的作為；或

(ii) 任何製作或產生語音紀錄的作為；及

(b) 包括任何製造實時傳送的語音紀錄、視像紀錄或音視紀錄的作為，不論該紀錄有否 ——

(i) 藉實物形式保留或儲存；或

(ii) 藉電子形式(該紀錄能夠從中在有借助或沒有借助任何器材下重現者)保留或儲存；

發布 (publish)包括送交、傳送、分發、傳閱、上載、複製、提供及傳布；

影像 (image)指 ——

(a) 肖像、繪圖或素描；

(b) 照片、錄影紀錄或影片；或

(c) 靜態或活動視像紀錄。

附註 ——

就關乎記錄和發布聆訊及廣播等的罪行，請亦參閱《法院(遙距聆訊)條例》(2022 年第 號)第 5 部。”。

第 3 分部 —— 被告人出席聆訊

第 1 次分部 —— 《刑事訴訟程序條例》(第 221 章)

33. 取代第 83U 條

第 83U 條 ——

廢除該條

代以

“83U. 被告人出席聆訊的權利

- (1) 在符合第(2)款的規限下，被告人有權出席上訴的聆訊。
- (2) 除非經上訴法庭許可，否則被告人無權出席 ——
 - (a) 申請上訴許可的聆訊；
 - (b) 基於僅涉及法律問題的理由而提出的上訴的聆訊；或
 - (c) 任何上訴的初步或附帶的法律程序。
- (3) 上訴法庭判處任何人刑罰的權力，即使該人因任何理由而沒有出席有關聆訊，仍可予以行使。”。

34. 修訂第 122 條(不准公眾進入刑事法庭的權力)

第 122(1)及(2)條 ——

廢除

“為了司法公正、公安或安全有所需要”

代以

“對維護司法公正、公共秩序或安全屬必要，或對保障公共衛生或處理緊急情況屬必要”。

35. 修訂第 123 條(在某些案件中刑事法律程序可藉非公開形式進行和不披露證人的身分)

(1) 第 123(1)條 ——

廢除

“為了司法公正、公安或安全有所需要”

代以

“對維護司法公正、公共秩序或安全屬必要，或對保障公共衛生或處理緊急情況屬必要”。

(2) 第 123(1A)(b)條 ——

廢除

“害司法公正、公安或安全”

代以

“及司法公正、公共秩序、安全或公共衛生，或會妨礙處理緊急情況”。

(3) 第 123(1B)(f)條 ——

廢除

“為了司法公正、公安或安全有所需要”

代以

“對維護司法公正、公共秩序或安全屬必要，或對保障公共衛生或處理緊急情況屬必要”。

第 2 次分部 —— 《香港終審法院條例》(第 484 章)

36. 取代第 36 條

第 36 條 ——

廢除該條

代以

“36. 被告人出席聆訊的權利

- (1) 在符合第(2)款的規限下，被告人有權出席上訴的聆訊。
- (2) 除非經終審法院許可，否則被告人無權出席 ——
 - (a) 申請上訴許可的聆訊；
 - (b) 基於僅涉及法律問題的理由而提出的上訴的聆訊；或
 - (c) 任何上訴的初步或附帶的法律程序。”。

37. 修訂第 47 條(開庭及法院事務)

第 47(3)條 ——

廢除

“基於司法公正或因公安或保安理由而有必要時”

代以

“對維護司法公正、公共秩序或安全屬必要，或對保障公共衛生或處理緊急情況屬必要”。

第 4 分部 —— 法院的紀錄製作

第 1 次分部 —— 《高等法院規則》(第 4 章，附屬法例 A)

38. 修訂第 48 號命令第 3 條規則(記錄判定債務人在訊問時提供的證據)

第 48 號命令，第 3 條規則，在“機械、”之後 ——

加入

“數碼、”。

39. 修訂第 49B 號命令第 1AA 條規則(記錄判定債務人在訊問時提供的證據)

第 49B 號命令，第 1AA 條規則，在“機械、”之後 ——

加入
“數碼、”。

40. 修訂第 68 號命令第 8 條規則(以機械方法製作紀錄)

- (1) 第 68 號命令，第 8 條規則，標題 ——
廢除
“機械”
代以
“機械、數碼、電子或光學”。
- (2) 第 68 號命令，第 8 條規則，在“機械”之後 ——
加入
“、數碼、電子或光學”。

第 2 次分部 —— 《勞資審裁處條例》(第 25 章)

41. 修訂第 19 條(證據等摘要的備存)

- 第 19 條，在“機械、”之後 ——
加入
“數碼、”。

第 3 次分部 —— 《勞資審裁處(一般)規則》(第 25 章，附屬法
例 A)

42. 修訂第 4A 條(申索登記冊等的備存)

- 第 4A(b)條，在“機械、”之後 ——
加入
“數碼、”。

第 4 次分部 —— 《刑事訴訟程序條例》(第 221 章)

43. 修訂第 79 條(法律程序的紀錄及查閱)

第 79(1)條，在“機械”之後 ——

加入

“、數碼、電子或光學”。

第 5 次分部 —— 《刑事訴訟程序(保釋法律程序紀錄)規則》
(第 221 章，附屬法例 I)

44. 修訂第 2 條(保釋法律程序的紀錄)

第 2(2)(b)條，在“機械、”之後 ——

加入

“數碼、”。

第 6 次分部 —— 《裁判官條例》(第 227 章)

45. 修訂第 34 條(法律程序紀錄)

第 34(1)條 ——

廢除

“方式或機械”

代以

“、機械、數碼、電子、光學”。

46. 修訂第 81 條(在聆訊中對證供的錄取)

第 81(3)條 ——

廢除

“或電動”

代以

“、數碼、電子或光學”。

第 7 次分部 —— 《裁判官(行政)規則》(第 227 章，附屬法例
A)

47. 修訂第 2 條(案件登記冊)

第 2(2)(b)條，在“機械、”之後 ——
加入
“數碼、”。

第 8 次分部 —— 《區域法院規則》(第 336 章，附屬法例 H)

48. 修訂第 48 號命令第 3 條規則(記錄判定債務人在訊問時提供的證據)

第 48 號命令，第 3 條規則，在“機械、”之後 ——
加入
“數碼、”。

49. 修訂第 49B 號命令第 1AA 條規則(記錄判定債務人在訊問時提供的證據)

第 49B 號命令，第 1AA 條規則，在“機械、”之後 ——
加入
“數碼、”。

50. 修訂第 68 號命令第 8 條規則(以機械方法製作紀錄)

(1) 第 68 號命令，第 8 條規則，標題 ——
廢除
“機械”
代以
“機械、數碼、電子或光學”。

- (2) 第 68 號命令，第 8 條規則，在“機械”之後 ——
加入
“、數碼、電子或光學”。

第 9 次分部 —— 《小額錢債審裁處條例》(第 338 章)

51. 修訂第 15 條(證據等摘要的備存)

- 第 15 條，在“機械、”之後 ——
加入
“數碼、”。

**第 10 次分部 —— 《小額錢債審裁處(一般)規則》(第 338 章，
附屬法例 A)**

52. 修訂第 4A 條(備存申索登記冊等)

- 第 4A(b)條，在“機械、”之後 ——
加入
“數碼、”。

**第 11 次分部 —— 《死因裁判官規則》(第 504 章，附屬法例
B)**

53. 修訂第 14 條(死因裁判官筆錄證供等事)

- 第 14(1)(b)條 ——
廢除
“電子或機械”
代以
“機械、數碼、電子或光學”。
-

第 8 部

相應修訂

第 1 分部 —— 修訂成文法則

54. 修訂成文法則

第 2 至 8 分部指明的成文法則現予修訂，修訂方式列於上述各分部。

第 2 分部 —— 《高等法院規則》(第 4 章，附屬法例 A)

55. 修訂第 70 號命令第 4 條規則(進行訊問的人及訊問的方式)

第 70 號命令，第 4(2)、(2A)及(3)條規則 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

56. 修訂第 70 號命令第 5 條規則(書面供詞的處理)

第 70 號命令，第 5(2)條規則 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

57. 修訂第 70 號命令第 6 條規則(要求獲得特權)

第 70 號命令，第 6(1)條規則 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

58. 修訂第 70 號命令第 7 條規則(藉電視直播聯繫方式進行訊問的紀錄)

- (1) 第 70 號命令，第 7 條規則，標題 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

- (2) 第 70 號命令，第 7(1)條規則 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

第 3 分部 —— 《證據條例》(第 8 章)

59. 修訂第 74 條(釋義條例)

- (1) 第 74 條 ——

廢除 *電視直播聯繫* 的定義。

- (2) 第 74 條 ——

按筆劃數目順序加入

“*音視直播聯繫* (live audio-visual link) 具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義；”。

60. 修訂第 76 條(香港法院將某項協助申請實現的權力)

第 76(2)(a)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

61. 修訂第 77 條(證人特權)

第 77(2)及(2A)條 ——

廢除

所有“電視直播聯繫”

代以

“音視直播聯繫”。

62. 修訂第 77E 條(為取得刑事法律程序中的證據而發出請求書)

(1) 第 77E(2)(a)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

(2) 第 77E 條 ——

廢除第(6A)款

代以

“(6A) 在第(2)款中 ——

音視直播聯繫 (live audio-visual link)具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義。”。

第 4 分部 —— 《刑事訴訟程序條例》(第 221 章)

63. 修訂第 79A 條(釋義)

(1) 第 79A 條 ——

廢除**電視直播聯繫**的定義。

(2) 第 79A 條 ——

按筆劃數目順序加入

“**音視直播聯繫** (live audio-visual link) 具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義；”。

64. 修訂第 79B 條(藉電視直播聯繫提供的證據)

(1) 第 79B 條，標題 ——

廢除

“**電視直播聯繫**”

代以

“**音視直播聯繫**”。

(2) 第 79B(2)、(3)、(4)、(4A)及(5)條 ——

廢除

“**電視直播聯繫**”

代以

“**音視直播聯繫**”。

(3) 第 79B 條 ——

廢除第(6)款。

65. 修訂第 79D 條(高等法院首席法官訂立規則)

第 79D(a)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

66. 修訂第 79E 條(書面供詞)

第 79E(9)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

67. 廢除第 IIIB 部(藉電視直播聯繫錄取在香港以外的證人的證據)

第 IIIB 部 ——

廢除該部。

68. 修訂第 83V 條(證據)

第 83V 條 ——

廢除第(14)及(16)款。

第 5 分部 —— 《電視直播聯繫及錄影紀錄證據規則》(第 221 章，附屬法例 J)

69. 修訂名稱

名稱 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

70. 修訂第 3 條(在證人是易受傷害證人的情況下透過電視直播聯繫提供的證據或在錄影紀錄獲接納後證人透過電視直播聯繫接受盤問時提供的證據)

(1) 第 3 條，標題 ——

廢除

所有“電視直播聯繫”

代以

“音視直播聯繫”。

(2) 第 3(1)(a)及(b)、(6)及(9)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

71. 修訂附表 1

(1) 附表 1 ——

廢除

“電視聯繫的通知”

代以

“音視直播聯繫的通知”。

(2) 附表 1，附註 ——

廢除

“透過電視直播聯繫”

代以

“透過音視直播聯繫”。

(3) 附表 1 ——

廢除

“藉電視聯繫提供”

代以

“藉音視直播聯繫提供”。

(4) 附表 1 ——

廢除

“後使用電視聯繫”

代以

“後使用音視直播聯繫”。

第 6 分部 —— 《電視直播聯繫(在香港以外的證人)規則》 (第 221 章，附屬法例 L)

72. 廢除《電視直播聯繫(在香港以外的證人)規則》
《電視直播聯繫(在香港以外的證人)規則》 ——
廢除該規則。

第 7 分部 —— 《裁判官條例》(第 227 章)

73. 修訂第 81 條(在聆訊中對證供的錄取)
- (1) 第 81(4)條 ——
- 廢除
- “《刑事訴訟程序條例》(第 221 章)第 IIIB 部藉電視直播聯繫”
- 代以
- “《法院(遙距聆訊)條例》(2022 年第 號)藉音視直播聯繫”。
- (2) 第 81(4)(a)及(b)條 ——
- 廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

(3) 第 81 條 ——

廢除第(5)款

代以

“(5) 在第(4)款中 ——

音視直播聯繫 (live audio-visual link) 具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義。”。

74. 修訂第 118 條(聆訊上訴的程序)

第 118(1)(b)條 ——

廢除

“及(6)至”

代以

“、(6)至(13A)、(15)及”。

第 8 分部 —— 《刑事事宜相互法律協助條例》(第 525 章)

75. 修訂第 9 條(由香港提出的錄取證供等的請求)

(1) 第 9(1)(aa)條 ——

廢除

“電視直播聯繫”

代以

“音視直播聯繫”。

(2) 第 9(4)條 ——

廢除 電視直播聯繫的定義

代以

“**音視直播聯繫** (live audio-visual link) 具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義。”。

76. 修訂第 10 條(向香港提出的錄取證供等的請求)

(1) 第 10(1)條 ——

廢除

所有“電視直播聯繫”

代以

“音視直播聯繫”。

(2) 第 10 條 ——

廢除第(15)款

代以

“(15) 在本條中 ——

音視直播聯繫 (live audio-visual link) 具有《法院(遙距聆訊)條例》(2022 年第 號)第 2 條所給予的涵義。”。

附表

[第 2 及 28 條]

獲豁除法律程序

1. 在少年法庭席前進行的聆訊
2. 刑事審訊，但如在其任何部分當中 ——
 - (a) 有易受傷害證人在根據《刑事訴訟程序條例》(第 221 章)第 IIIA 部獲准許的情況下，提供證據；或
 - (b) 有其他證人按遙距聆訊令的指示，提供證據，則不包括該審訊部分

PRACTICE DIRECTION - REMOTE HEARING IN CIVIL PROCEEDINGS

Introduction

1. This Practice Direction sets out the practice for remote hearing of civil proceedings. The provisions herein shall be read in conjunction with but without prejudice to the generality of the provisions under Courts (Remote Hearing) Ordinance (Cap. xxx).
2. “Remote hearing” means the conduct of proceedings via remote media under a remote hearing order. It may be conducted by the use of live audio, live audio-visual or any other means of real-time communication as specified by the Court.
3. A Court sitting in Hong Kong may conduct remote hearing of legal proceedings in the court building or any other place as the Court may direct.
4. Unless the context otherwise specifies, reference to the Court in this Practice Direction applies to a judge or master of the court or tribunal, as the case may be.

A. Scope of application

5. This Practice Direction is applicable to all civil proceedings conducted in the High Court, the Competition Tribunal, the District Court (including the Family Court), the Lands Tribunal, the Labour Tribunal, the Small Claims Tribunal, the Obscene Articles Tribunal and the Coroner’s Court.

B. Guiding principles

6. Under the over-arching guiding principle of safeguarding the interests of justice, the default mode remains that the Court, the parties or their legal representatives, and the other relevant persons such as witnesses,

shall be physically present in the proceedings conducted in the courtroom, unless the Court directs otherwise.

7. The Court will direct remote hearing only if it is fair and just to do so. Whether a remote hearing will be conducted is a case management decision of the Court. The Court may order a hearing to be conducted remotely after taking into account the factors set out in section 8 of the Ordinance.
8. For the avoidance of doubt, remote hearing does not necessarily mean that the entire hearing must be conducted remotely. It may be restricted to part(s) of the hearing process, for example, the taking of evidence from one or more witnesses (whether within or outside the jurisdiction), or that only some of the concerned parties are participating remotely.
9. Unless the Court directs otherwise, live audio links will not be used for trials and cross-examination of witnesses (such as death inquest, contempt proceedings, examination of debtor).

C. Application for Remote Hearing Order

10. Unless it is taken out as part of a formal application for a matter to be heard, an application for remote hearing of a matter may be made in writing to the Court. In any event, the applying party(ies) must provide the following information to the Court:
 - (a) which party is applying, and in respect of what proceedings before the Court;
 - (b) whether the entire proceedings or part, and if so, which part, of the proceedings before the Court are sought to be conducted by way of remote hearing;
 - (c) in the case of a hearing already scheduled, whether it is requested that the hearing shall proceed as scheduled by way of remote hearing or the scheduled hearing be adjourned to remote hearing on another date;
 - (d) the identity of the party or person that is proposed to be heard by the use of remote hearing;

- (e) the ground(s) on which such party or person is proposed to be heard by the use of remote hearing;
 - (f) the country, territory or place and time zone where the party or person is proposed to be heard by the use of remote hearing;
 - (g) the venue(s) (e.g. solicitors' office, counsel's chambers, conference centre or studio, etc) where the party or person is proposed to be heard by the use of remote hearing;
 - (h) the requested means of remote hearing;
 - (i) confirmation that the party or person will have access to the necessary equipment and facility at the remote location compatible with and will be able to access the remote hearing facilities of the Court;
 - (j) the draft order;
 - (k) any other relevant feature(s) of the case to which the attention of the Court ought to be drawn; and
 - (l) whether the application is consented to by the other parties.
11. Unless the application is lodged by consent of the parties, the parties served with the application shall thereafter lodge with the Court and serve on the other parties their written responses to the application within 7 days.
12. The application and responses may be lodged electronically.
13. Upon an application for remote hearing, the Court may:
- (a) decide that remote hearing is suitable, and allow the application in such terms as the Court sees fit¹;
 - (b) decide that remote hearing is not suitable, and direct an oral hearing of the proceedings to be conducted as scheduled or to be fixed in the normal way or, as the case may be, adjourn the scheduled oral hearing to be re-fixed; or
 - (c) give any other directions as the Court sees fit.

¹ This caters for proceedings where an oral hearing has been fixed, particularly in the case of a trial where only part of it needs to be conducted by remote hearing, such as live evidence from overseas witnesses. As to the proceedings where an oral hearing has not been fixed, it will primarily be for the Court to fix the date and time of the remote hearing.

14. Unless directed otherwise, the Court will decide an application for remote hearing on paper only.

D. The Court's own motion

15. The Court has the discretion to direct the use of remote hearing on its own motion. The same guiding principles mentioned above apply.
16. In exercising such discretion, the Court will either invite submissions from the parties before making the order or make a *nisi* order subject to submissions of the parties. Generally speaking, parties' views will be taken into account before the Court makes the order.
17. If the Court does not invite parties to make submissions prior to the making of the remote hearing order, any party who is dissatisfied with the remote hearing order may apply to the Court to set aside or vary the order within a period specified by the Court, or not more than 14 days after the date on which notice of the order is sent to the party making the application if the Court does not specify a period. The party needs to notify other parties of such application. After considering the representations (if any), the Court may affirm, vary or revoke the order as it thinks fit, and will notify the parties of its decision. If no such application is made by the parties within the period specified by the Court, the order becomes absolute.

E. The making of remote hearing orders

18. Whether upon an application or on its own motion, the Court will specify the details as set out in section 5 of the Ordinance.
19. Subject to the direction of the Court, the parties shall follow the detailed specifications in the "Guidance Note on the Preparation and Conduct of Remote Hearing" when preparing for remote hearing.
20. It shall be the duty of the parties to liaise with the Court (i.e. the clerk of the Court taking charge of the hearing) and to provide all the necessary information in connection with the preparation as well as the timely and efficient conduct of the remote hearing from the remote locations.
21. Delay that practically impacts on the necessary arrangement prior to the remote hearing may cause the Court to revisit and, if appropriate, set aside the direction for remote hearing.

F. Unrepresented litigants

22. The Court will order a remote hearing having regard to the list of factors set out at section 8 of the Ordinance, including whether the unrepresented litigant has the appropriate device and a reliable connection.
23. Early enquiries should be made by the Court in all cases involving unrepresented litigants. An unrepresented litigant will need to complete the “Form for the Use of Remote Hearing: Unrepresented Litigants” in “Guidance Note on the Preparation and Conduct of Remote Hearing” to facilitate the Court in making listing and format decisions. The form seeks to gather information regarding devices; connectivity; confidence levels on technology; literacy; and ability to receive, view and print documents.
24. After a remote hearing has been ordered, the Court will also provide the “Note to Unrepresented Litigants attending a Remote Hearing” in “Guidance Note on the Preparation and Conduct of Remote Hearing” with a view to assisting an unrepresented litigant to connect to a remote hearing by live link in simpler terms. By way of the above Note, the unrepresented litigants will also be reminded briefly of some important requirements and conduct of participants during the hearing.
25. If unrepresented litigants have difficulty in finding a suitable remote location, the Court may direct them to participate from designated rooms equipped with appropriate VCF facilities in the Judiciary.

G. Daily cause list

26. Unless it is an urgent application or otherwise directed by the Court, a hearing fixed to be conducted by remote hearing will be so indicated in the Daily Cause List.

H. Public access

27. Generally speaking, remote hearings which are open to the public will be broadcast in Judiciary premises such as open courtrooms and other venues as specified by the Judiciary Administrator, unless the Court, for any of the reasons stated in Article 10 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383), otherwise directs.

28. There may be exceptional situations where the general public may be excluded from the court buildings, where a remote hearing is not conducted in a court building, or when there are extraordinary restrictions imposed on the size of audience permitted to be physically present in court premises due to special circumstances such as public health concern. The Court will strike a balance between the different aspects of open justice and the other competing fundamental rights.
29. In such exceptional circumstances as declared by the Court, the Court may decide to allow the public real time remote access to the remote hearing. Members of the public may refer to the “Guidance Note on the Preparation and Conduct of Remote Hearing” for application to such remote access if the Court has so allowed. Generally, the application needs to be submitted no less than 3 days before the hearing. If the notification of the remote hearing is given less than 3 days before the hearing, the application should be submitted as early as possible before the hearing. Where appropriate, direction may be given for delivery of written reasoned judgment/decision after the hearing, making available to a media representative live remote access to the hearing or making available to the public access to the audio recording of the proceedings.

I. Urgent applications

30. Urgent applications to the Duty Judge or Duty Master will be handled in the normal manner. Urgency or secrecy alone is but one of the considerations for remote hearing of an urgent application. Request for remote hearing of an urgent application should be made as part of the application. It will be up to the Duty Judge or Duty Master to decide whether or not the application should be disposed of by remote hearing in accordance with the guiding principles mentioned above.

J. Time

31. The Court has a general discretion to dispense with, or extract undertaking from the parties in respect of, the compliance with the requirements or directions mentioned in this Practice Direction, and to extend or abridge time for such compliance, as the circumstances may require.

K. Costs

32. Where the Court's remote hearing facilities are to be used in conjunction with the services and/or materials provided by commercial entities (such as telecommunications carriers, telephone conferencing or video conferencing providers, real-time court reporting, transcription and interpretation service providers), it shall be the responsibility of each party wishing to avail himself of such services and/or materials to make appropriate contractual arrangements directly with such commercial entities and directly to meet their charges. Any such engagement through the Judiciary will be made only upon the parties' undertakings to pay the costs.
33. The costs of use of the remote hearing facilities and any other services and/or materials used in conjunction with them will form part of the costs of the proceedings, and will be subject to such costs orders as the Court thinks fit.

L. Commencement Date

34. This Practice Direction shall come into effect on [] and supersedes:
- (1) Practice Direction 29;
 - (2) the Guidance Note for Remote Hearings for Civil Business in the High Court (Phase 1: Video-Conferencing Facilities) on 2 April 2020;
 - (3) the Guidance Note for Remote Hearings for Civil Business in the High Court (Phase 2: Expanded Video-Conferencing Facilities and Telephone) on 8 June 2020; and
 - (4) the Guidance Note for Remote Hearings for Civil Business in the High Court (Phase 3: Wider Video-Conferencing Facilities and Telephone) on 20 December 2020.

Dated

(Andrew Cheung)

Chief Justice

PRACTICE DIRECTION

REMOTE HEARING IN CRIMINAL PROCEEDINGS

Introduction

1. This Practice Direction sets out the practice for remote hearing of criminal proceedings. The provisions herein shall be read in conjunction with but without prejudice to the generality of the provisions under the Courts (Remote Hearing) Ordinance (Cap. xxx).
2. “Remote hearing” means the conduct of proceedings via remote media under a remote hearing order. It may be conducted by the use of live audio, live audio-visual or any other means of real-time communication as specified by the Court.
3. A Court sitting in Hong Kong may conduct remote hearing of legal proceedings in the court building or any other place as the Court may direct.
4. Unless the context otherwise specifies, reference to the Court in this Practice Direction applies to a judge or judicial officer, as the case may be.

A. Scope of application

5. This Practice Direction is applicable to all criminal proceedings conducted in the High Court, the District Court (including the Family Court) and a Magistrates’ Court (including the Juvenile Court) and the Court of Committal as defined by section 2(1) of the Fugitive Offenders Ordinance (Cap. 503).

B. Guiding principles

6. Under the over-arching guiding principle of safeguarding the interests of justice, the default mode remains that the Court, the parties or their legal representatives, and the other relevant persons such as witnesses, shall be physically present in the proceedings conducted in the courtroom, unless the Court directs otherwise.
7. The Court will direct remote hearing only if it is fair and just to do so. Whether a remote hearing will be conducted is a case management decision of the Court. The Court may order a hearing to be conducted

remotely after taking into account the factors set out in section 8 of the Ordinance.

8. For the avoidance of doubt, remote hearing does not necessarily mean that the entire hearing must be conducted remotely. It may be restricted to part(s) of the hearing process, for example, the taking of evidence from one or more witnesses (whether within or outside the jurisdiction), or it may be that only some of the concerned parties participate remotely.
9. Unless the Court directs otherwise, live audio links will not be used for bail applications, trials and proceedings in the Juvenile Court.

C. Application for Remote Hearing Order

10. An application for remote hearing may be made in writing and the applying party(ies) must provide the following information to the Court:
 - (a) which party is applying, and in respect of what proceedings before the Court;
 - (b) whether the entire proceedings or part, and if so, which part, of the proceedings before the Court are sought to be conducted by way of remote hearing;
 - (c) in the case of a hearing already scheduled, whether it is requested that the hearing shall proceed as scheduled by way of remote hearing or the scheduled hearing be adjourned to remote hearing on another date;
 - (d) the identity of the party or person that is proposed to be heard by the use of remote hearing;
 - (e) the ground(s) on which such party or person is proposed to be heard by the use of remote hearing;
 - (f) the country, territory or place and time zone where the party or person is proposed to be heard by the use of remote hearing;
 - (g) the venue(s) (e.g. solicitors' office, counsel's chambers, conference centre or studio, etc) where the party or person is proposed to be heard by the use of remote hearing;
 - (h) the requested means of remote hearing;

- (i) confirmation that the party or person will have access to the necessary equipment and facility at the remote location compatible with and will be able to access the remote hearing facilities of the Court;
 - (j) the draft order;
 - (k) any other relevant feature(s) of the case to which the attention of the Court ought to be drawn; and
 - (l) whether the application is consented to by the other parties.
11. Unless the application is lodged by consent of the parties, the parties served with the application shall thereafter lodge with the Court and serve on the other parties their written responses to the application within 7 days.
12. The application and responses may be lodged electronically.
13. Upon an application for remote hearing, the Court may:
- (a) decide that remote hearing is suitable, and allow the application in such terms as the Court sees fit²;
 - (b) decide that remote hearing is not suitable, and direct an oral hearing of the proceedings to be conducted as scheduled or to be fixed in the normal way or, as the case may be, adjourn the scheduled oral hearing to be re-fixed; or
 - (c) give any other directions as the Court sees fit.
14. Unless directed otherwise, the Court will decide an application for remote hearing on paper only.

D. The Court's own motion

15. The Court has the discretion to direct the use of remote hearing on its own motion. The same guiding principles mentioned above apply.
16. In exercising such discretion, the Court may invite submissions from the parties before making the order. Generally speaking, parties' views will be taken into account before the Court makes the order.

² This caters for proceedings where an oral hearing has been fixed, particularly in the case of a trial where only part of it needs to be conducted by remote hearing, such as live evidence from overseas witnesses. As to the proceedings where an oral hearing has not been fixed, it will primarily be for the Court to fix the date and time of the remote hearing.

17. If the Court does not invite parties to make submissions prior to the making of the remote hearing order, any party who is dissatisfied with the remote hearing order may apply to the court to set aside or vary the order within a period specified by the Court, or not more than 14 days after the date on which notice of the order is sent to the party if the Court does not specify a period. The party needs to notify other parties of such application. After considering the representations (if any), the Court may affirm, vary or revoke the order as it thinks fit, and will notify the parties of its decision. If no such application is made by the parties within the period specified by the Court, the order becomes absolute.

E. The making of remote hearing orders

18. Whether upon an application or on its own motion, the Court will specify the details as set out in section 5 of the Ordinance.
19. Subject to the direction of the Court, the parties shall follow the detailed specifications in the “Guidance Note on the Preparation and Conduct of Remote Hearing” when preparing for remote hearing.
20. It shall be the duty of the parties to liaise with the Court (i.e. the clerk of the Court taking charge of the hearing) and to provide all the necessary information in connection with the preparation as well as the timely and efficient conduct of the remote hearing from the remote locations.
21. Delay that practically impacts on the necessary arrangement prior to the remote hearing may cause the Court to revisit and, if appropriate, set aside the direction for remote hearing.

F. Defendants in custody

22. Where a defendant in custody attends court by way of remote hearing, it is likely that he or she will need to communicate remotely with his or her legal representatives immediately before or after the hearing.
23. The defendant will be directed to a designated consultation room which is equipped with appropriate confidential communication facilities for unrecorded private communications between defendants in custody and legal representatives. The consultation room is to be booked in advance through the relevant correctional service institutions. Counsel are expected to familiarize themselves with the communication facilities so that they will be able to communicate in

private with the defendant smoothly, and show or view documents or reports to and from the defendants.

24. To assist with the progression of a case, other authorised parties may use the consultation room to communicate with a remote defendant in custody. Authorised parties include probation officers, police officers or other judicial clerks for the purpose of completing reports and assessments or taking statements.

G. Unrepresented defendants

25. The Court will order a remote hearing having regard to the list of factors set out at section 8 of the Ordinance, including whether the unrepresented litigant has the appropriate device and a reliable connection.
26. Early enquiries should be made by the Court in all cases involving an unrepresented defendant. An unrepresented defendant will need to complete the “Form for the Use of Remote Hearing: Unrepresented Litigants” in “Guidance Note on the Preparation and Conduct of Remote Hearing” to facilitate the Court in making listing and format decisions. The form seeks to gather information regarding devices; connectivity; confidence levels on technology; literacy; and ability to receive, view and print documents.
27. After a remote hearing has been ordered, the Court will also provide the “Note to Unrepresented Litigants attending a Remote Hearing” in “Guidance Note on the Preparation and Conduct of Remote Hearing” with a view to assisting an unrepresented defendant to connect to a remote hearing by live link in simpler terms. By way of the above Note, the unrepresented defendants will also be reminded briefly of some important requirements and conduct of participants during the hearing.
28. If unrepresented litigants have difficulty in finding a suitable remote location, the Court may direct them to participate from designated rooms equipped with appropriate VCF facilities in the Judiciary.

H. Daily cause list

29. Unless it is an urgent application or otherwise directed by the Court, a hearing fixed to be conducted by remote hearing will be so indicated in the Daily Cause List.

I. Public access

30. Generally speaking, remote hearings which are open to the public will be broadcast in Judiciary premises such as open courtrooms and other venues as specified by the Judiciary Administrator, unless the Court, for any of the reasons stated in Article 10 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383), otherwise directs.
31. There may be exceptional situations where the general public may be excluded from the court buildings, where a remote hearing is not conducted in a court building, or when there are extraordinary restrictions imposed on the size of audience permitted to be physically present in court premises due to special circumstances such as public health concern. The Court will strike a balance between open justice and other competing fundamental rights.
32. In such exceptional circumstances as declared by the Court, the Court may decide to allow the public real time remote access to the remote hearing. Members of the public may refer to the “Guidance Note on the Preparation and Conduct of Remote Hearing” for application to such remote access if the Court has so allowed. Generally, the application needs to be submitted no less than 3 days before the hearing. If the notification of the remote hearing is given less than 3 days before the hearing, the application should be submitted as early as possible before the hearing. Where appropriate, a direction may be given for delivery of written reasoned judgment/decision after the hearing, making available to a media representative live remote access to the hearing or making available to the public access to the audio recording of the proceedings.

J. Commencement Date

33. This Practice Direction shall come into effect on [] and supersedes:
- (1) Practice Direction 9.9;
 - (2) Practice Direction 29.

Dated

(Andrew Cheung)

Chief Justice

附錄 C
(只有英文版)

**Operational Guidelines:
Guidance Note on the Preparation and
Conduct of Remote Hearing**

Introduction

1. This Note should be read in conjunction with Practice Direction [].
2. This Note sets out the practical considerations required of the parties or their legal representatives, including government departments and authorities, as well as any other participants in the relevant court proceedings before the Court by way of remote hearing. Subject to the directions of the Court, this Note should be followed when the Court directs that the court proceedings, or any part of them, are to be conducted remotely.
3. Unless otherwise specified, remote hearing facilities in this Note refer to live audio-visual link (i.e. video) and live audio link (i.e. telephone) and any other real-time communications as directed by the Court; and remote location refers to a single or multiple venue(s) from which participants take part in the remote hearing.

A. Upon the direction for remote hearing

4. Once the Court has directed a remote hearing, it shall be the duty of the parties and their legal representatives to liaise promptly with the clerk to the judge in charge of the hearing for the necessary preparation for the remote hearing.
5. It shall be the duty of the parties to ensure that the remote hearing facilities and equipment proposed to be used at the remote location will be compatible with the current technical specifications of the remote hearing facilities of the Judiciary for establishing the link.
6. Please consult “The remote hearing facilities of the Judiciary” (**Appendix 1**) for the available options, technical requirements of the court users and the technical specifications of the remote hearing facilities of the Judiciary.

7. An unrepresented defendant will need to complete the form in **Appendix 2** to facilitate the Court in making listing and format decisions. Once the Court has directed a remote hearing, the party(ies) engaged in the remote hearing shall lodge a (their) submission form(s) (**Appendix 3**) with the clerk of the judge listed for the hearing, providing all the necessary information in connection with the arrangement for the remote hearing. An unrepresented litigant should also read “Note to Unrepresented Litigants attending a Remote Hearing” (**Appendix 4**) concerning the conduct of participants during remote hearing.
8. Parties should conduct pre-hearing briefing and connection tests with the Judiciary’s remote hearing technology team to ensure smooth and successful connections. Parties should demonstrate preparedness in all aspects in the trial connection scheduled with the remote hearing technology team.
9. The parties are expected to answer or react promptly to any requests by the remote hearing technology team of the Court conveyed through the clerk to the judge in charge of the hearing in respect of the compatibility, testing, connection, transmission, system security and operational requirements of the remote hearing in advance of the hearing.

B. Setting up the link

10. The setup of the venue at the remote location and the equipment in remote hearing should be private so that the proceedings will not be disrupted by noise from the surrounding or movement of people or objects in the vicinity of the venue that will be audible to the other remote location engaged and the Court during the hearing. If necessary, the venue should be properly secured and the doors should be closed.
11. In the case of live audio-visual link, the parties shall also ensure that the backdrop of the venue at the remote location that will be shown is decorated in a neutral manner and is adequately lit. The camera should be suitably positioned throughout the proceedings so that the image received by the Court and any other participating remote location is clear. If witness testimony is involved, the camera(s) must be well positioned to show the surroundings of the witness as well.

12. In the case of live audio link, unless otherwise directed, the Court will only connect with the party or person who will be addressing the court during the hearing. For instance, where counsel is instructed, the instructing solicitors will have to make their own arrangement to enable them to participate at the hearing either from the counsel's venue or from their own remote location.

C. Documents and exhibits

13. The parties shall ensure that the Court and all the parties participating in the remote hearing are provided with the hearing bundle, written submissions and authorities, as the case may require, to enable the same to be referred to during the hearing.
14. In the case of live audio-visual link, electronic version of the documents, pictures or videos ("electronic bundle") that need to be shown in the course of the remote hearing should also be available. Witnesses may also be requested to mark on documents or pictures and to produce them as exhibits in the course of oral evidence.
15. Please see "General Guidelines for Preparing Electronic Bundles in Portable Document Format ("EBPDF") in the Judiciary of HKSAR" for the format of electronic bundle¹. In addition, there are training videos which are available on the Judiciary's website at https://www.judiciary.hk/en/court_services_facilities/ebpdf.html#tech_cop11.
16. The parties should note that the undesirability, if not impracticability, of adducing entirely new document in the setting of a remote hearing may well be a ground sufficient for the Court to refuse leave to do so.
17. Where real exhibits are expected to be produced by the witness giving evidence from a remote location, the manner of their production should be raised during the preparation stage of the remote hearing. If necessary, specific direction of the Court should be sought. For instance, the actual real exhibit may be directed to be deposited with the Court prior to the remote hearing, pending its actual production in the course of oral evidence of the witness from the remote location during the hearing. If the exhibits are to be shown to the witness during the remote hearing, the defendant and legal representatives should be able

¹ Accessible at: https://www.judiciary.hk/en/court_services_facilities/ebpdf.html

to see the same materials at the same time and witness' reactions to exhibits should also be shown. Parties may consider the suitability of using a visualizer to facilitate witness testimony.

D. At the remote hearing

D1. Attendance and connection to the remote hearing

18. On the day of the hearing, it shall be the responsibility of the party or person participating in the remote hearing to attend the venue at the remote location and to link with the Court's remote hearing facilities in good time before the scheduled time (Hong Kong time) of commencement of the remote hearing.
19. In the case of live audio link, all connections to the parties will be made by court staff, before connecting to the Court to commence the hearing.
20. An attendance sheet (**Appendix 5**) should be provided to the Court by such time/date as directed. In the case of other participants, parties should make sure verification of their identities are completed prior to the commencement of the hearing.
21. No person other than those permitted by the Court shall be present at the venue at the remote location when the hearing is in progress². If appropriate, the Court may dictate the seating arrangement of the persons permitted to be present at the venue of the remote location during the hearing³. Where possible, all attending persons are to be seated within range of the camera. Any change in respect of that at any stage must be made known to and approved by the Court.
22. The parties and their legal representatives should be ready before the remote hearing commences. In case instruction needs to be taken, the Court should be alerted so that the hearing may be stood down and the transmission suspended so that the parties and their legal representatives may communicate in private and confidence.

² This is (i) to safeguard the integrity of the proceedings, particularly oral evidence, from outside interference; and (ii) to cater for the personnel responsible for manning the facilities at the remote location venue. However, the parties are expected to be allowed to be present.

³ Particularly when the party is also present at the venue.

D2. Dress and etiquette

23. Remote hearings are court hearings and the solemnity of the occasion should be observed as closely as it is in a courtroom with the judge present, notwithstanding the domestic location of some or all of the participants.
24. In the case of live audio-visual link, if the matter is listed to be heard in open court, albeit by way of remote hearing, the Court will sit fully robed and so are the barristers or solicitor advocates appearing expected to be. All the rules and practice on court etiquette shall be observed, save that standing while addressing the Court will not be expected.
25. In the case that the remote hearing is conducted by live audio-visual link, a person attending the remote hearing from a remote location should dress himself, and should in all cases conduct and behave himself, subject to the same restrictions as he would have been subject to under the relevant rules and regulations governing his presence in the physical court room.
26. Amongst other restrictions, no electronic communication device should be switched on without the permission of the Court in order not to interfere with the hearing or transmission.

D3. Giving of evidence by witness

27. The party calling a witness who is to be examined remotely will be responsible for ensuring that such witness will be at the remote location in good time for such examination to take place, having duly been supplied with copies of any documents or exhibits relevant to such examination and for the witness to be provided with an interpreter, if necessary, and so forth.
28. A witness giving evidence via live audio-visual link from a remote location must not bring along or place anything other than the hearing bundle within his or her vicinity without leave of the Court.
29. Subject to the circumstances of the case, where more than one witness will give evidence from the same venue at the remote location, arrangement should be made to ensure that no one outside the venue will be able to hear the witness in the course of his giving evidence inside the venue.

D4. Attending a remote hearing

30. Save as aforesaid, the person attending the hearing from the remote location via live audio-visual link should not move away from the camera without the Court's permission. He should have the documents for use in the hearing within convenient reach and without having to move away from the camera.
31. All persons participating in the hearing should speak slowly than a normal courtroom pace and as clearly as possible. Technically, there may be delay in the reception of sound in the course of transmission. Participants should mute their microphones when they are not speaking. To shield off noise and enhance sound quality and clarity, participants of the hearing are encouraged to use earphones with a build-in microphone, or an external microphone.
32. The parties should avoid interrupting or speaking over unfinished transmission of the sound. If a participant would like to speak when the other counsel is speaking (to clarify a point or to object), the participant should indicate so. Such interruptions should be kept to a minimum.
33. If any remote participant fails to comply with any direction, or is acting inappropriately, during the remote hearing, such misbehavior is punishable by the usual contempt of court proceedings. The judge may at appropriate time direct the link to be disconnected if necessary.

E. Interpretation

34. The Court would have given direction in relation to the arrangement of interpretation service and the location where such service will be provided.
35. When an interpreter has been arranged to assist a party who is not giving evidence at the remote location to understand the proceedings during the hearing, they should ensure that they will not create sound that will be audible by the Court and the other participating remote locations. A dedicated interpretation channel for the party may be available depending on the equipment of the requesting party. The requesting party should make such inquiry to the clerk of the judge in advance to facilitate preparation.

36. If a defendant requires an interpreter, he/she will be given access to a separate interpretation channel. He/she can view the court proceedings while the interpreter interprets the exchanges taking place in court. The interpreter will also provide interpretation on the defendant's questions and answers through the interpretation channel when he/she testifies.

F. Oath and affirmation

37. Unless the court otherwise directs, the witness before giving evidence will need to stand up when taking oath or affirming.
38. If a witness chooses to take an oath by a sacred book, he or she should provide his or her own copy of the relevant book. In any event, he or she should have the prescribed content of the oath or affirmation ready which, if necessary, should be requested from the Court prior to the hearing.

G. Public Access to remote hearing

39. Generally speaking, remote hearings that are required or directed by the Court to be conducted in a court open to the public will be broadcast in Judiciary premises such as open court rooms and other venues as specified by the Judiciary Administrator. The public will be able to obtain information (e.g. date and time) of the remote hearing, as well as the broadcasting venue, from the Daily Cause List.
40. In exceptional situations where the general public may be excluded from the court buildings, where remote hearing is not conducted in a court building, or when there are extraordinary restrictions imposed on the number of audience permitted to be physically present in Court due to special circumstances, e.g. public health concern, the Court may allow the public real time remote access to both civil and criminal remote hearing.
41. People who wish to obtain real time remote access to a remote hearing will be required to make an application (application form at **Appendix 6**) to the Court by contacting the judge's clerk in advance. In making the application, the applicant needs to undertake that he/she will abide by the Courts (Remote Hearing) Ordinance (in particular the prohibition on unauthorised recording and publishing of remote hearing), and any additional orders made by the Court.

42. Once approved by the Court, applicants will have to provide their email address to the Court for the link to remote access. Observers of remote hearings are required to remain silent (mute their microphones) and hidden (keep their camera turned off).

H. Technical issues during remote hearing

43. Visual and audio quality can also be affected as a result of equipment or network failures or faults at any site or with a service provider (including the transmission provider) or by interference from environmental factors at any site or in transmission. This can lead to unexpected loss of connection to one or all sites or deterioration to an unaccepted level of picture or sound.
44. Participants should remain alert to any deterioration in picture and sound quality and inform the clerk of the judge in charge of the hearing immediately if this is impacting on their ability to participate fully.
45. If the Court considers that it is not possible for the hearing to continue due to technical difficulties, it may adjourn the matter and require in person attendance on an appointed date and time; or make any other direction that may be appropriate in the circumstances of the case.

I. Recording of proceedings

46. The proceedings in the remote hearing, as any hearing, will be recorded by the Court's authorized recording system, DARTS.
47. No person present at the remote location shall record, transmit or broadcast the proceedings during the remote hearing in any form whatsoever.

J. Inquiries

48. Inquiries related to the preparation and facilities of remote hearing should be directed to the [].

Effective date

49. This Guidance Note will take effect on [].

Appendix 1

The Remote Hearing Facilities of the Judiciary

1. Parties who wish to participate in remote hearings have to be equipped with the following items:
 - (a) video conferencing (“VC”) unit;
 - (b) laptop computer;
 - (c) display unit;
 - (d) camera;
 - (e) speaker system; and
 - (f) microphone.

(I) Options for VC unit

2. Court users may use any one of the following three alternatives in terms of VC units for connecting to the court’s VCF:
 - (a) hardware option;
 - (b) software option; or
 - (c) browser-based option.

(a) Hardware Option

3. For the hardware option, court users will continue to be connecting to the Judiciary’s VCF using some hardware VC units. Please refer to paragraph 7(a)(i) below for more information.

(b) Software Option

4. For the software option, court users will continue to be able to use normal desktop or laptop computer devices, with installation of appropriate software, to connect to the Judiciary’s VCF. Please refer to paragraph 7(a)(ii) below for more information.

(c) **Browser-based Option**

5. For the browser-based option, court users will be able to use common web browsers and normal desktop or laptop computer devices (but not mobile devices) to connect to the Judiciary's VCF. Please refer to paragraph 7(a)(iii) below for more information.
6. With this VCF solution, participant(s) will be informed of a unique meeting login ID and passcode for identity authentication. Only those connection requests associated with valid meeting login IDs and passcode pairs will be accepted by the Judiciary for the conduct of VCF hearings.

(II) **Technical Requirements of Court Users**

7. Connection to the Judiciary's VCF can be made by means of either the hardware, software or browser-based VC units. The technical requirements of these categories of VC units are as follows:

(a) **VC Unit**

(i) **Hardware VC Unit** (i.e. hardware option)

Protocol	ITU H.323, H.320 and SIP compliant
Connection	Internet
Speed	Up to 6 Mbps
Video resolution	from 352x240 up to 1920x1080
Security	embedded encryption to support <ul style="list-style-type: none">➤ direct end-to-end encryption with the Judiciary's VCF [1]➤ encryption strength of at least 128-bit AES➤ encryption protocol:<ul style="list-style-type: none">- H.235 for H.323 connections or- TLS/SRTP for SIP connections

(ii) Software VC Unit (i.e. software option)

Protocol	SIP compliant
Connection	Internet
Speed	at least 2 Mbps
Video resolution	from 352x240 up to 1920x1080
Security	embedded encryption to support <ul style="list-style-type: none">➤ direct end-to-end encryption with the Judiciary's VCF [1]➤ encryption strength of at least 128-bit AES➤ encryption protocols of SSL/TLS

(iii) Browser-based VC Unit (i.e. browser-based option)

Desktop or laptop computer	<ul style="list-style-type: none">➤ CPU :<ul style="list-style-type: none">– Intel Core i5 8th Generation or AMD Ryzen 5 Zen+ or equivalent– 1.6GHz or above;➤ Memory : 8GB or above
Operating system	<ul style="list-style-type: none">➤ Microsoft Windows 10 or above➤ MacOS version 10.15.6 or above
Browser software	<ul style="list-style-type: none">➤ Google Chrome version 98 or above➤ Microsoft Edge version 98 or above➤ Safari version 11.1 or above
Connection	Internet (wired LAN connection to computer)
Speed	at least 10 Mbps (for hearings with 2 parties connected remotely)
Video resolution	HD720p or above
Security	end-to-end encryption is implemented and controlled at the video-conferencing server system of the Judiciary

Besides, functional requirements of the common items to be used in the conduct of remote hearings are as follows:

(b) **Laptop Computer**

As a secondary channel transmission, receipt and display of document view, to be set up side-by-side the camera view as an additional function of the hardware VC unit.

(c) **Display Unit**

Appropriately sized display unit supporting high definition screen display to facilitate the conduct of remote hearings.

(d) **Camera**

For capturing the participant's facial and other views to facilitate the conduct of remote hearings. The camera shall be compatible with the VC unit of the participant, both in terms of connectivity and video resolution, and supports at least panning and zoom views

(e) **Speaker System**

The speaker shall be connected to the VC unit of the participant for the participant to hear the voices of the other participants audibly to facilitate the conduct of remote hearings. The system shall be equipped with feedback control feature.

(f) **Microphone**

The microphone shall be connected to the VC unit of the participant for capturing his/her voice to facilitate the conduct of remote hearings.

(III) Technical Specifications of the Court's VCF

8. The technical specifications of the VCF of the Judiciary are given below for reference.

(a) Video Conferencing Server System

Protocol	ITU H.323, H.320, SIP and WebRTC compliant
Connection	Internet
Speed	Up to 1 Gbps
MCU compatibility	H.241 and H.231
Video resolution	from 352x240 up to 1920x1080
Security	embedded encryption ^[2]
Multi-site conference	up to nine (9) remote sites

(b) Camera, Speakers and Microphone

^[1] End-to-end encryption is a mandatory requirement unless directed otherwise by the presiding Judges and Judicial Officers (“JJOs”)

^[2] VC connection may not be encrypted, depending on the compatibility with the remote VC unit(s)

Appendix 2

Form for the Use of Remote hearing : Unrepresented Litigants

1. Personal Details

Name:

HKID number/passport number:

2. Availability of video-conferencing facilities

Please indicate below if you have the following facilities:

- ☐ video conferencing (“VC”) unit;
For details of the VC display unit, please refer to Enclosure⁴
- ☐ laptop computer;
- ☐ display unit;
- ☐ camera;
- ☐ speaker system;
- ☐ microphone; and
- ☐ access to internet connection

⁴ The technical details will be made available at a later stage.

3. Computer literacy

Please indicate on a scale from 1 to 5 the following (please circle as appropriate):					
Experience in participating in remote meeting/hearing	1	2	3	4	5
Computer literacy/confidence level in technology	1	2	3	4	5
Ability to use receive and view documents on screen	1	2	3	4	5
Ability to engage and follow remote meeting	1	2	3	4	5

4. Views on remote hearing

Please indicate below your views on remote hearing:

- ☐ No objection
- ☐ I have reservations. Please indicate below any other personal particulars that may be relevant when the Court considers the order of a remote hearing:

**Submission Form
for the conduct of a proceeding via remote media
under a remote hearing order**

1. Case Details

Case No.:

Approving Judge:

Date of Approval:

Approval/Order Details:

Hearing/Trial Judge: (in Chinese)

Case Nature: (in Chinese)

Date(s) of Hearing:

Estimated Length:

2. Facilities for Use

- ☐ Video Conferencing:
 - Destination(s):
 - Date of testing (if known)
- ☐ Real-time transcription service
- ☐ Visualizer
- ☐ Multi-dialect Interpretation
- ☐ Multimedia playback (Video Tape, CD, DVD, VCD, MD, and MP3)
- ☐ E-Bundle
- ☐ Others/Remarks:

Please refer to Enclosure⁵ and provide necessary information

- ☐ Where the Court's remote hearing facilities are to be used in conjunction with the services and/or materials provided by commercial entities (such as telecommunications carriers, telephone conferencing or video conferencing providers, real-time court reporting, transcription and interpretation service providers), I undertake to pay the costs of the engaging these commercial entities.

3. Party Details ** (please include witness details if applicable)

[illegible]

4. Interpreter (if applicable)

Proposed location where interpretation will be arranged and provided:

- ☐ If the interpretation will be provided at a remote location outside Hong Kong, I confirm that the interpreter is qualified in accordance with Hong Kong law.

⁵ The technical details will be made available at a later stage.

5. Contact Details

Contact Person:

Post:

Legal Firm/Company:

Telephone No.:

(Office)

(Mobile)

Name of Technical Personnel (if any):

Telephone No.:

(Mobile)

The court will contact the mobile phone number on the date of pre hearing test and the actual hearing date.

**** Note: Subject to any given court order and nature of the case, information provided may be used for the purpose of display in the Daily Cause List.**

Appendix 4

Note to unrepresented litigants attending a remote hearing

This note serves to assist unrepresented litigants in preparing and participating in a remote hearing. For further details on the preparation and conduct of remote hearing, please refer to “Guidance Note on the Preparation and Conduct of Remote Hearing”.

Before the hearing

1. Once the Court has directed a remote hearing, the hearing is to be conducted using the Judiciary’s Video Conferencing Facilities (“VCF”). Please be reminded not to appear in person at the court room on the day of the hearing.

Preparation of remote hearing facilities

2. Before the hearing, you should check that you are equipped with the suitable remote hearing facilities and equipment. You have to be equipped with the following items:
 - (a) video conferencing (“VC”) unit. Both hardware, software, and browser-based options are available for the VC unit;
 - (b) laptop computer;
 - (c) display unit;
 - (d) camera;
 - (e) speaker system; and
 - (f) microphone.
3. You should refer to the “The remote hearing facilities of the Judiciary” (at Appendix 1 of the Guidance Note on the Preparation and Conduct of Remote Hearing) for the technical requirements of the VCF of the Judiciary. You may refer to the Judiciary’s website [insert hyperlink]

for step-by-step instructions on how to set up and join a remote hearing hosted by the Judiciary, as well as the action buttons that can be used during the VCF meeting.

4. To avoid technical issues from delaying or disrupting the hearing, the Clerk of the Court listed for the hearing will contact you to arrange a test connection before the hearing. You may refer to the “The remote hearing facilities of the Judiciary” for details on connection testing with the Judiciary’s staff. During the testing session, Judiciary’s staff will ensure that you are able to see and hear the Court and other parties clearly via the VCF, as well as provide guidance on how you can access, view and navigate documents electronically. Arrangement may need to be made for the unrepresented defendant to be sent a paper bundle, if necessary.
5. If you have any issues in joining the VCF or testing your equipment, please contact the Clerk of the Court listed for the hearing as soon as possible. The Court and the Judiciary’s staff will assist to ensure you will be able to participate in the hearing in a format as appropriate, having considered the circumstances.

Other preparations

6. Before the hearing you should choose an appropriate physical location for your appearance at the hearing remotely (“remote location”). You should also participate in the test connection arranged by the Judiciary’s staff from the same location.
7. The remote location should be:
 - (a) Quiet and private such that you will not be disrupted nor heard by other people during the hearing;
 - (b) Properly secured and the doors should be closed;
 - (c) Well-lit; and
 - (d) The backdrop of the venue should be in a neutral manner. You should not use virtual background.

8. If you have difficulty in finding a suitable remote location, the Court may direct you to participate from designated rooms equipped with appropriate VCF facilities in the Judiciary.

On the day of hearing

9. Please be ready at least 20 minutes before the hearing and ensure that you have:
 - (a) Dressed appropriately as if you were attending a physical court hearing;
 - (b) Fully charged or plugged in the device you are using to join the remote hearing;
 - (c) Any documents required for the hearing ready;
 - (d) Your preferred sacred book or scripture to swear an oath on (if applicable)
 - (e) Removed from the space anything that could be distracting, such as mobile phone (unless you are using it for the hearing).
10. Please also ensure that the camera is suitably positioned throughout the proceedings so that your face and your surroundings can be clearly seen.

During the hearing

11. Remote hearings are formal court hearings. You will be subject to the same rules and regulations governing your appearance as if you were appearing physically in the court room.
12. You may wish to note that:
 - (a) No electronic communication device should be switched on without the permission of the Court in order not to interfere with the hearing or transmission;

公衆諮詢草擬本

- (b) You should be alone in the remote location unless with the Court's permission otherwise;
 - (c) You should follow the Court's instructions;
 - (d) It is a criminal offence under the Courts (Remote Hearing) Ordinance to record (by audio, video or photo) and/or publish the remote hearing without lawful authority or reasonable excuse.
13. You are advised to speak in a slow and clear manner during the remote hearing. Please mute your mic when you are not speaking.
14. If there are technical errors during the remote hearing, including any deterioration in picture and sound quality, please inform the Court immediately by pressing the "raise hand" button on the screen. If the Court considers that it is not possible for the hearing to continue, it may adjourn the matter and require in person attendance on an appointed date and time; or make any other direction that may be appropriate in the circumstances of the case.

Appendix 5

**Attendance Sheet
(Telephone Hearings)**

Action Number:	
Date of hearing:	
Time of hearing:	
Name of solicitor firm:	
Name of Counsel:	
Telephone number for conference call (direct landline):	
Alternate phone number:	
Name of the solicitor/trainee/legal executive and the party acting for:	_____ (solicitor/trainee/legal executive) for _____
Telephone number for conference call (direct landline):	
Alternate phone number:	

Proposed directions (if any)⁶

⁶ Proposed directions, if any, shall be provided to the Court by 4pm on the working day before the hearing.

Appendix 5

Attendance Sheet⁷
(Browser Based VCF)

Action Number:	
Date of hearing:	
Time of hearing:	
Name of solicitor firm:	
Name of Counsel:	
Name of the solicitor/trainee/legal executive and the party acting for:	_____ (solicitor/trainee/legal executive) for _____
Email address to receive Login ID:	
Email address to receive Password ⁸ :	
Contact phone number:	

Proposed directions (if any):

⁷ This Attendance Sheet must be provided to the court by such time/date as directed.

⁸ For security reasons, please provide different email addresses for receiving Login ID and Password.

Appendix 6

**Application Form
for access to a remote hearing**

1. Case Details

Case title:

Case No.:

Date of proposed attendance:

2. Applicant's details

Name:

HKID number/passport number:

Contact number:

Email address:

*Once your application has been approved, the meeting link and password will be sent to your email.

3. Regulations

You may wish to note that under the Courts (Remote Hearing) Ordinance, it is a criminal offence to record and publish a remote hearing without lawful authority or reasonable excuse. A failure to comply with the orders of the Court may also constitute a contempt of court.

4. Undertaking

I, the applicant, certify that if the Court permits this application, I will abide by the relevant legislation, and any additional orders made by the Court.

Signed:

Dated: