



Hong Kong Special Administrative Region
of the People's Republic of China

Basic Law Article 23 Legislation: Safeguarding National Security Bill

Foreword

- ◆ Public consultation was conducted between 30 January and 28 February 2024, during which 98.6% of over 13 000 respondents expressed support for the legislative proposals and provided positive responses.
- ◆ The international landscape is ever-changing and geopolitics is becoming increasingly complicated. Hong Kong has always been a target of interference by external forces. It must seize the moment to discharge its constitutional duty and complete enactment of relevant laws as soon as possible.
- ◆ Having duly considered the public responses, the legislative proposals have been refined and improved. The Safeguarding National Security Bill (the Bill) was published in the Gazette and introduced into the Legislative Council for first reading on 8 March 2024.

Purpose of the Bill

- ◆ To resolutely, fully and faithfully implement the policy of “one country, two systems” under which the people of Hong Kong administer Hong Kong with a high degree of autonomy.
- ◆ To establish and improve the legal system and enforcement mechanisms for the HKSAR to safeguard national security.
- ◆ To prevent, suppress and punish acts and activities endangering national security, to protect the lawful rights and interests of HKSAR residents and other people in the HKSAR, to ensure properties and investments in the HKSAR are protected by the law, and to maintain prosperity and stability of the HKSAR.



Preliminary matters under the Bill (Part 1)

Apart from interpretation provisions, it also stipulates the principles of the Bill:

- ◆ The highest principle of the policy of “one country, two systems” is to safeguard national sovereignty, security and development interests.
- ◆ Human rights are to be respected and protected, and fundamental rights and freedoms are to be protected in accordance with the law.
- ◆ Acts and activities endangering national security are to be prevented, suppressed and punished in accordance with the principle of the rule of law.

Main Offences under the Bill (Parts 2 to 6)

Treason etc. : improve the offence of “treason” (「叛逆」) under the existing Crimes Ordinance and related offences

Part 2

- ◆ Introduce the **offence of “treason”** (「叛國」罪) by modelling on the existing offence of “treason” (「叛國」罪), covering acts such as the use or threat of force with intent to endanger national sovereignty, unity or territorial integrity.
- ◆ Retain and amend the existing “treasonable offences” (i.e. the **offence of “publicly manifest intent to commit offence of treason”**).
- ◆ Codify the offence of “misprision of treason” under the common law (i.e. “**requirement on disclosure of commission by others of offence of treason**”).
- ◆ Improve the existing **offence of “unlawful drilling”** to cover unlawful drilling involving an external force (with exceptions and transitional provisions provided).

Insurrection, Incitement to Mutiny and Disaffection, and Acts with Seditious Intention, etc. : improve the relevant offences

under the existing Crimes Ordinance

Part 3

- ◆ Introduce the **offence of “insurrection”**.
- ◆ Improve the provisions relating to “**incitement to mutiny**” and “**incitement to disaffection**” under the existing Crimes Ordinance.
- ◆ Improve the **offences in connection with “seditious intention”**.

Offences in connection with State Secrets and Espionage :

improve the relevant offences under the existing Official Secrets Ordinance

Part 4

- ◆ Improve the existing offences and provisions relating to protection of state secrets:
 - With reference to the relevant national laws, provide a detailed **definition of “state secret”**.
 - Introduce **offences in connection with “unlawful acquisition”, “unlawful possession” and “unlawful disclosure”**.
 - Introduce the **offence of “unlawful disclosure of information etc. that appears to be confidential matter”** to prohibit improper acts of disclosure by public officers or government contractors with intent to endanger national security.
 - Provide for a **defence for making a “specified disclosure”** based on public interest.

- ◆ Improve the existing offences in connection with “espionage”, so as to curb espionage and other acts and activities endangering national security involving collusion with an external force:
 - Improve the existing offences in connection with “**espionage**”.
 - Improve the existing provisions on “**prohibited place**”.
 - Introduce **the offence of “participating in or supporting external intelligence organizations, or accepting advantages offered by them, etc.”.**



Sabotage Endangering National Security etc. : introduce new offences with reference to the laws of foreign countries

Part 5

- ◆ Introduce the **offence of “sabotage endangering national security”**: To prohibit any person from damaging or weakening a public infrastructure with intent to endanger national security or being reckless as to whether national security would be endangered (with reference to similar offences in foreign countries such as the United Kingdom and Australia).
- ◆ Introduce the **offence of “doing acts endangering national security in relation to computers or electronic systems”**: To prohibit any person from doing an act or activity endangering national security in relation to a computer or electronic system without lawful authority and with intent to endanger national security (with reference to similar offence in the United Kingdom).

External Interference and Organizations Engaging in Activities Endangering National Security : introduce a new offence with reference to the laws of foreign countries and improve the regulatory mechanism under the Societies Ordinance

Part 6

- ◆ Introduce the **offence of “external interference”**: It is an offence to collaborate with an external force to do an act using improper means with intent to bring about an interference effect (with reference to similar offences in foreign countries such as the United Kingdom and Australia).
- ◆ **Improve** and incorporate into the Bill **the mechanism for prohibiting the operation of organizations endangering national security under the existing Societies Ordinance**, as well as covering **organizations which have a nexus with the HKSAR, irrespective of whether they are established in the HKSAR or have their chief place of business in the HKSAR.**

Other Provisions for Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security under the Bill (Parts 7 to 9)

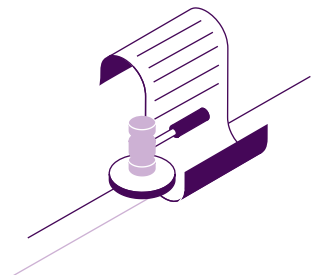
Enforcement Powers and Other Matters in connection with Investigation : with reference to relevant measures under the National Security Act 2023 of the United Kingdom

Part 7-1

- **Extension of detention period for investigations to be completed as soon as possible**
 - ◆ A magistrate may authorise the police to extend the period of detention of an arrested person without charge, with the period of extended detention not exceeding 14 days.

- **Imposition of appropriate restrictions on consultation with lawyers by an arrested person to avoid prejudicing investigations or endangering national security**
 - ◆ A magistrate may authorise the police to, during an arrested person's detention, restrict the person's consultation with a particular lawyer or particular lawyers (but the person may choose any other lawyer) or consultation with any lawyer during the period of the first 48 hours after the person's arrest.

- **Movement restriction order to avoid prejudicing investigations or endangering national security**
 - ◆ A magistrate may direct that a suspect released pending further investigation must comply with requirements, including that the person:
 - must reside in a specified place
 - must not enter a specified area or place
 - must not, by any means, associate or communicate with a specified person, etc.



Absconders Charged with Offences Endangering

National Security : address, combat, deter and prevent acts of abscondment

Parts 7-2 and 7-3

- ◆ Empower the Secretary for Security to specify a person who **has absconded for more than 6 months** and specify applicable measures (depending on the situation and subject to certain conditions being met) by gazette, including:
 - Prohibition against making available funds to, or dealing with funds of, an absconder.
 - Suspension of qualification to practise, or permission or registration required for carrying on business or for employment.
 - Temporary removal of absconder from holding office of director of a company.
 - Cancellation of HKSAR passport.
- ◆ Empower the Secretary for Security to grant licences for doing certain prohibited acts.

Criminal Procedure for Cases in connection with Offences

Endangering National Security : ensure that cases in connection with offences endangering national security are handled in a fair and timely manner

Part 7-4

- ◆ Improve the criminal procedure for cases in connection with offences endangering national security.
- ◆ Dispense with requirements that are rigid, prone to abuse or causing delay.
- ◆ On the premise of maintaining a fair trial, ensure that cases can be scheduled for trial as soon as possible, thereby better achieving the goal of handling national security cases in a timely manner, which is in line with protecting defendants' right to a fair trial without delay.

Mechanisms for Safeguarding National Security and Relevant Protections

Part 8

- ◆ A public servant must provide all such assistance that is necessary for the work on safeguarding national security.
- ◆ Apart from the circumstances mentioned in Article 47 of the Hong Kong National Security Law, the Chief Executive may also, in circumstances that the Chief Executive considers appropriate, issue a certificate in relation to the question of whether national security or state secret is involved.
- ◆ Measures to protect specified persons and informers/witnesses, including prohibition of unlawful disclosure of personal data or unlawful harassment (involving intimidating, abusive or offensive words or acts).

Related Amendments

Part 9

- ◆ Make necessary adaptations and other consequential amendments to relevant existing legislation.
- ◆ Make consequential amendments to the Crimes Ordinance, the Societies Ordinance and the Official Secrets Ordinance.
- ◆ Other major related amendments include:
 - If a prisoner serves a sentence in respect of the prisoner's conviction of an offence endangering national security, the prisoner must not be granted an early release unless the Commissioner of Correctional Services is satisfied that early release of the prisoner will not be contrary to the interests of national security.
 - Customs officers can exercise their enforcement powers of arrest and search, etc. under the Customs and Excise Service Ordinance when handling offences endangering national security.