

立法會
Legislative Council

LC Paper No. CB(3) 190/18-19

Ref : CB(3)/A/24

Tel : 3919 3300

Date : 26 November 2018

From : Clerk to the Legislative Council

To : Hon CHAN Hoi-yan

Arrangement for oath-taking by Member

As directed by the President, the Secretariat has arranged for you to take the Legislative Council (“LegCo”) Oath at the beginning of the Council meeting to be held on Wednesday 28 November 2018 at 11:00 am. **The Points to Note for Oath-taking** is in **Appendix 1**.

2. To facilitate the oath-taking arrangement, you are invited to **complete Appendix 2 and return it to the Secretariat by 12:00 noon on Tuesday 27 November 2018**. In Appendix 2, please:

- (a) indicate whether you wish to take the Oath in Cantonese, English or Putonghua;
- (b) select one of the three versions of the LegCo Oath in Appendices 2A, 2B and 2C. The versions in **Appendices 2A and 2B** are for making an oath, while the version in **Appendix 2C** is for subscribing an affirmation. All the three versions are drawn up in accordance with sections 5 and 7 of and Part IV of Schedule 2 to the Oaths and Declarations Ordinance (Cap. 11). The Secretariat will print in advance your Chinese and English names on the version of the LegCo Oath to be signed by you; and
- (c) if you use the Chinese version in Appendix 2B, indicate your choice between “全能上帝” and “全能天主”. Please note that the English translation of both references is “Almighty God”.

3. For any enquiry about the oath-taking arrangement, please call me, Assistant Secretary General 3, on 3919 3300, or Mr Thomas WONG, Chief Council Secretary 3(1), on 3919 3302.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

Points to Note for Oath-taking

Requirements under the Basic Law

1. Article 104 of the Basic Law (“BL”) stipulates that, when assuming office, Members of the Legislative Council (“LegCo”) must, in accordance with law, swear to uphold BL and swear allegiance to the Hong Kong Special Administrative Region (“HKSAR”) of the People’s Republic of China.
2. Interpretation of BL 104 by the Standing Committee of the National People’s Congress (“the Interpretation”) (**Annex**) provides for the meaning of “When assuming office must, in accordance with law, swear” which mainly includes:
 - (a) oath taking is the legal prerequisite and required procedure for LegCo Members to assume office;
 - (b) oath taking must comply with the legal requirements in respect of its form and content. An oath taker **must take the oath sincerely and solemnly, and must accurately, completely and solemnly read out the oath prescribed by law, the content of which includes “will uphold the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China”;**
 - (c) **an oath taker who intentionally reads out words which do not accord with the wording of the oath prescribed by law, or takes the oath in a manner which is not sincere or not solemn, shall be treated as declining to take the oath.** The oath so taken is invalid and the oath taker is disqualified forthwith from assuming the public office specified in BL 104;
 - (d) **the person administering the oath has the duty to ensure that the oath is taken in a lawful manner.** He or she shall determine that an oath taken in compliance with the Interpretation and the requirements under the laws of HKSAR is valid, and that an oath which is not taken in compliance with the Interpretation and the requirements under the laws of HKSAR is invalid. **If the oath taken is determined as invalid, no arrangement shall be made for retaking the oath;** and
 - (e) the oath taker **must sincerely believe in and strictly abide by the relevant oath prescribed by law.** An oath taker who makes a false oath, or, who, after taking the oath, engages in conduct in breach of the oath, shall bear legal responsibility in accordance with law.

Requirements under the Oaths and Declarations Ordinance

3. The Oaths and Declarations Ordinance (Cap. 11) (“the Ordinance”) provides that “the Legislative Council Oath” shall be in the form set out in Schedule 2 to the Ordinance, and Members **must say the words of the oath therein**.
4. Under section 19(b) of the Ordinance, the President will administer the oath at the Council meeting of 28 November 2018.

Requirement under the Rules of Procedure

5. In accordance with Rule 1 of the Rules of Procedure, except for the purpose of enabling this Rule to be complied with, **no Member of the Council shall attend a meeting or vote therein until he has made or subscribed an oath or affirmation in accordance with the provisions of the Ordinance**.

Proceedings on oath-taking

6. Oath-taking will be held at the beginning of the Council meeting on Wednesday 28 November 2018 at 11:00 am. The Member who is to take oath should attend the meeting on time.
7. Except the Member taking an oath, all Members should remain seated when the oath-taking is taking place.
8. After the President calls the name of the Member who is to take oath, the Member should walk up to the table at the centre of the Chamber (“oath-taking table”) to take the oath.
9. The Member taking an oath must **read out**, using the selected language, **the words in the version of the oath or affirmation he/she selected**. The version selected by the Member will be placed on his/her desk in the Chamber for his/her information. **The oath or affirmation prepared by the Secretariat for the Member will be placed on the lectern set on the oath-taking table** to facilitate the Member to take the oath.
10. The Member who has chosen taking an oath and the version in which the reference to “**Almighty God**” is used should **hold in his/her uplifted hand the New Testament made available on the lectern** while taking the oath.

11. The Member who has finished taking an oath should sign the oath/affirmation (although it is not a statutory requirement) and **leave it on the lectern** (instead of handing it to the oath administrator or the Secretariat staff), and then **return to his/her seat along the same path.**

Council Business Division 3
Legislative Council Secretariat
26 November 2018

***Interpretation of Article 104 of the Basic Law of the
Hong Kong Special Administrative Region
of the People's Republic of China by the Standing Committee
of the National People's Congress**

(Adopted by the Standing Committee of the Twelfth National People's
Congress at its Twenty-fourth Session on 7 November 2016)

The Standing Committee of the Twelfth National People's Congress examined at its Twenty-fourth Session the motion regarding the request for examination of the *Draft Interpretation of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* submitted by the Council of Chairmen. Having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the *Constitution of the People's Republic of China* and Article 158(1) of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, an interpretation of the provisions of Article 104 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* regarding "When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China" as follows:

1. "To uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" and to bear "allegiance to the Hong Kong Special Administrative Region of the People's Republic of China" as stipulated in Article 104 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, are not only the legal content which must be included

in the oath prescribed by the Article, but also the legal requirements and preconditions for standing for election in respect of or taking up the public office specified in the Article.

2. The provisions in Article 104 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* that “When assuming office”, the relevant public officers “must, in accordance with law, swear” bear the following meaning:

(1) Oath taking is the legal prerequisite and required procedure for public officers specified in the Article to assume office. No public office shall be assumed, no corresponding powers and functions shall be exercised, and no corresponding entitlements shall be enjoyed by anyone who fails to lawfully and validly take the oath or who declines to take the oath.

(2) Oath taking must comply with the legal requirements in respect of its form and content. An oath taker must take the oath sincerely and solemnly, and must accurately, completely and solemnly read out the oath prescribed by law, the content of which includes “will uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China”.

(3) An oath taker is disqualified forthwith from assuming the public office specified in the Article if he or she declines to take the oath. An oath taker who intentionally reads out words which do not accord with the wording of the oath prescribed by law, or takes the oath in a manner which is not sincere or not solemn, shall be treated as declining to take the oath. The oath so taken is invalid and the oath taker is disqualified forthwith from assuming the public office specified in the Article.

(4) The oath must be taken before the person authorized by law to administer the oath. The person administering the oath has the duty to ensure that the oath is taken in a lawful manner. He or she shall determine that an oath taken in compliance with this Interpretation and the requirements under the laws of the Hong Kong Special Administrative Region is valid, and that an oath which is not taken in

compliance with this Interpretation and the requirements under the laws of the Hong Kong Special Administrative Region is invalid. If the oath taken is determined as invalid, no arrangement shall be made for retaking the oath.

3. The taking of the oath stipulated by Article 104 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* is a legal pledge made by the public officers specified in the Article to the People's Republic of China and its Hong Kong Special Administrative Region, and is legally binding. The oath taker must sincerely believe in and strictly abide by the relevant oath prescribed by law. An oath taker who makes a false oath, or, who, after taking the oath, engages in conduct in breach of the oath, shall bear legal responsibility in accordance with law.

This Interpretation is hereby announced.

Note:

* This is an English translation of the original instrument in Chinese and is published for information.

(Please return by 12:00 noon on Tuesday 27 November 2018)

To : Mr Thomas WONG
Chief Council Secretary (3)1
Council Business Division 3

Fax No. : 2810 1691

Arrangement for oath-taking

I shall take the Legislative Council Oath on 28 November 2018 in:

(Please tick **ONE**)

Cantonese	<input type="checkbox"/>
English	<input type="checkbox"/>
Putonghua	<input type="checkbox"/>

I shall use the:

(Please tick **ONE**)

Legislative Council Oath in Appendix 2A to LC Paper No. CB(3) 190/18-19	<input type="checkbox"/>
Legislative Council Oath in Appendix 2B to LC Paper No. CB(3) 190/18-19 (I shall use the word “全能上帝”) <input type="checkbox"/> (I shall use the word “全能天主”) <input type="checkbox"/>	<input type="checkbox"/>
Legislative Council Affirmation in Appendix 2C to LC Paper No. CB(3) 190/18-19	<input type="checkbox"/>

In the version of the Oath/Affirmation to be signed by me, I wish my name to read as:

(Chinese) _____

(English) _____

Signature : _____

Name of Member : _____

Name and tel. no. of contact person : _____

Date : _____



立法會誓言

我，
，謹此宣誓，本人就任
中華人民共和國香港特別行政區立法會議員，定當擁護
《中華人民共和國香港特別行政區基本法》，效忠中華
人民共和國香港特別行政區，盡忠職守，遵守法律，廉
潔奉公，為香港特別行政區服務。

The Legislative Council Oath

I,
，swear
that, being a member of the Legislative Council of the Hong Kong
Special Administrative Region of the People's Republic of China,
I will uphold the Basic Law of the Hong Kong Special Administrative
Region of the People's Republic of China, bear allegiance to the
Hong Kong Special Administrative Region of the People's Republic
of China and serve the Hong Kong Special Administrative Region
conscientiously, dutifully, in full accordance with the law, honestly
and with integrity.

日期
Date

簽署
Signature



立法會誓言

本人，「全能上帝/
全能天主」
，謹對
宣誓，本人就任中華人民共和國香港特別行政區立法會議員，定當擁護《中華人民共和國香港特別行政區基本法》，效忠中華人民共和國香港特別行政區，盡忠職守，遵守法律，廉潔奉公，為香港特別行政區服務。

The Legislative Council Oath

I, _____, swear by Almighty God that, being a member of the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, I will uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China and serve the Hong Kong Special Administrative Region conscientiously, dutifully, in full accordance with the law, honestly and with integrity.

日期
Date

簽署
Signature



立法會誓詞

本人，
，謹以至誠，據實
聲明及確認，本人就任中華人民共和國香港特別行政區
立法會議員，定當擁護《中華人民共和國香港特別行政
區基本法》，效忠中華人民共和國香港特別行政區，盡
忠職守，遵守法律，廉潔奉公，為香港特別行政區服
務。

The Legislative Council Affirmation

I,
，solemnly,
sincerely, and truly declare and affirm that, being a member of the
Legislative Council of the Hong Kong Special Administrative Region
of the People's Republic of China, I will uphold the Basic Law of
the Hong Kong Special Administrative Region of the People's
Republic of China, bear allegiance to the Hong Kong Special
Administrative Region of the People's Republic of China and serve
the Hong Kong Special Administrative Region conscientiously,
dutifully, in full accordance with the law, honestly and with integrity.

日期
Date

簽署
Signature