
Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill 2021

Contents

Clause		Page
Part 1		
Preliminary		
1.	Short title	C155
2.	Enactments amended	C155
Part 2		
Amendment to Interpretation and General Clauses Ordinance (Cap. 1)		
3.	Section 3AA added	C157
	3AA. References to upholding Basic Law and bearing allegiance to HKSAR	C157
Part 3		
Amendments to Oaths and Declarations Ordinance (Cap. 11)		
4.	Section 16 amended (forms of Oaths)	C167
5.	Section 17 substituted	C167
	17. Oaths of judicial officers	C167
6.	Section 18 substituted	C167
	18. Oaths of members of Executive Council	C169
7.	Section 19 substituted	C169
	19. Oath of members of Legislative Council	C169

Clause		Page
8.	Section 19A added	C169
	19A. Oath of members of District Councils	C171
9.	Section 20A added	C171
	20A. Declining or neglecting to take oath	C171
10.	Section 21 amended (consequence of non-compliance)	C173
11.	Section 22 repealed (when Oaths need not be repeated)	C175
12.	Schedule 2 amended	C175
13.	Schedule 3 amended	C175

Part 4

Amendments to Hong Kong Court of Final Appeal Ordinance (Cap. 484)

14.	Part II, Division 2 heading amended (appeal from Court of Appeal to Court; appeal relating to election)	C179
15.	Section 22 amended (civil appeals)	C179
16.	Section 24 amended (applications for leave to appeal)	C181

Part 5

Amendments to Legislative Council Ordinance (Cap. 542)

17.	Section 15 amended (when Member ceases to hold office)	C183
18.	Section 17 amended (proceedings of Legislative Council not affected by vacancy in membership)	C185

Clause	Page
19.	Section 39 amended (when person is disqualified from being nominated as a candidate and from being elected as a Member) C185
20.	Section 65 amended (period within which election petition and appeal must be lodged) C189
21.	Section 73 amended (proceedings against persons on grounds of disqualification) C189

Part 6

Amendments to District Councils Ordinance (Cap. 547)

22.	Section 19 amended (disqualification of ex officio members) C197
23.	Section 21 amended (when person is disqualified from being nominated as a candidate and from being elected as an elected member) C199
24.	Section 24 amended (disqualification of elected members) C201
25.	Section 72 amended (proceedings of a District Council or a committee not affected by vacancy or defect in membership) C203
26.	Section 79 amended (proceedings against persons on grounds of disqualification) C205

Clause Page

Part 7

Amendments to Chief Executive Election Ordinance (Cap. 569)

27. Section 14 amended (disqualification from being nominated) C211
28. Section 20 amended (disqualification from being elected) C213

Part 8

Amendments to National Anthem Ordinance (2 of 2020)

29. Schedule 3 amended (occasions on which national anthem must be played and sung) C215

Part 9

Consequential Amendments

Division 1—Amendment to High Court Ordinance (Cap. 4)

30. Section 14 amended (appeals in civil matters) C217

Division 2—Amendment to Electoral Affairs Commission Ordinance (Cap. 541)

31. Section 7 amended (regulations) C217

A BILL

To

Amend the Interpretation and General Clauses Ordinance to explain the meaning of a reference to upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China; to amend the Oaths and Declarations Ordinance to include in Part IV of the Ordinance an oath to be taken by every member of the District Councils, the requirements for taking the oaths specified in that Part and the consequences of declining or neglecting to take an oath; to amend the Legislative Council Ordinance and the District Councils Ordinance to add new grounds for disqualification from being nominated as a candidate for election as a member of the Legislative Council or as a member of a District Council and for disqualification from being elected, and from holding office, as such a member, to remove the time limit within which proceedings may be brought by the Secretary for Justice against a person on the ground of disqualification from acting as such a member and to provide for suspension of functions and duties of such a member on certain of such proceedings being brought by the Secretary for Justice; to amend the Hong Kong Court of Final Appeal Ordinance to provide for application for leave to appeal to the Hong Kong Court of Final Appeal in relation to such proceedings; to amend the Chief Executive Election Ordinance to add new grounds for disqualification from being nominated

as a candidate for election of the Chief Executive and from being elected as the Chief Executive; to amend the National Anthem Ordinance to add the oath-taking ceremony by members of the District Councils as an occasion on which the national anthem must be played and sung; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Ordinance 2021.

2. Enactments amended

The enactments specified in Parts 2 to 9 are amended as set out in those Parts.

Part 2

Amendment to Interpretation and General Clauses Ordinance (Cap. 1)

3. Section 3AA added

After section 3—

Add

“3AA. References to upholding Basic Law and bearing allegiance to HKSAR

- (1) For the purposes of an Ordinance, a person upholds the Basic Law and bears allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China if the person—
 - (a) upholds the constitutional order of the Hong Kong Special Administrative Region established by the Constitution of the People’s Republic of China and the Basic Law;
 - (b) upholds the national sovereignty, unity, territorial integrity and national security of the People’s Republic of China;
 - (c) upholds—
 - (i) the fact that the Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China;
 - (ii) the People’s Republic of China’s exercise of sovereignty over the Hong Kong Special Administrative Region; and

- (iii) the Central Authorities' exercise of governance over the Hong Kong Special Administrative Region under the Basic Law;
 - (d) upholds the implementation of “one country, two systems” principle, and safeguards the political structure of the Hong Kong Special Administrative Region;
 - (e) upholds the objective to maintain the prosperity and stability of the Hong Kong Special Administrative Region within the framework of the Basic Law; and
 - (f) is loyal to, and safeguards the interests of, the Hong Kong Special Administrative Region.
- (2) In subsection (1), a reference to uphold is a reference to intend to genuinely and truthfully observe, support, maintain and embrace, and genuinely and truthfully observe, support, maintain and embrace in words and deeds.
- (3) For the purposes of an Ordinance, a person does not uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China when the person does, or intends to do, any of the following—
 - (a) commits acts or carries out activities that endanger national security, including—
 - (i) commits an act required by Article 23 of the Basic Law to be prohibited;

- (ii) commits an offence under the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”); and
 - (iii) commits an offence relating to endangering national security under an enactment or under the common law;
- (b) refuses to recognize the People’s Republic of China’s sovereignty over the Hong Kong Special Administrative Region and the exercise of the sovereignty, including objecting to the performance of duties and functions by the body of central power in accordance with—
 - (i) the Constitution of the People’s Republic of China;
 - (ii) the Basic Law; or
 - (iii) the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”);
- (c) refuses to recognize the constitutional status of the Hong Kong Special Administrative Region as a local administrative region of the People’s Republic of China;
- (d) advocates or supports “Hong Kong independence”, including—
 - (i) pursues, promotes or implements “independence and state-building” of Hong Kong;

- (ii) participates in an organization the object of which is “Hong Kong independence”;
- (iii) pursues, promotes or implements an activity for “self-determination of sovereignty or jurisdiction”, “referendum” or “devising constitution by all people”, or participates in an organization the object of which is “self-determination”; and
- (iv) pursues or promotes the reign over Hong Kong to be transferred to a foreign country;
- (e) solicits interference by foreign governments or organizations in the affairs of the Hong Kong Special Administrative Region;
- (f) commits acts that undermine or have a tendency to undermine the order of the political structure led by the Chief Executive, contained in the Basic Law, including—
 - (i) compels or overawes the Chief Executive by any unlawful means to change a policy, or a motion to be submitted to the Legislative Council for consideration;
 - (ii) indiscriminately objects to the Government’s motion, and with this—
 - (A) intends to threaten the Government;
 - (B) intends to render the Government incapable of performing its duties and functions as normal; or
 - (C) intends to force the Chief Executive to step down and to overthrow the Government; and

- (iii) makes use of an election held by the Government to organize or implement, or to incite another person to organize or implement, a “de facto referendum” in any form to confront the Central People’s Government and the Government;
 - (g) commits acts that undermine or have a tendency to undermine the overall interests of the Hong Kong Special Administrative Region;
 - (h) desecrates the national flag or national emblem, or regional flag or regional emblem, by publicly and wilfully burning, mutilating, scrawling on, defiling or trampling on it;
 - (i) insults or disrespects the national anthem or any other symbol and sign of national sovereignty.
- (4) For the purposes of an Ordinance, this section does not limit the meaning of a reference to upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.
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Part 3

Amendments to Oaths and Declarations Ordinance (Cap. 11)

4. Section 16 amended (forms of Oaths)

Before section 16(e)—

Add

“(db) the District Council Oath;”.

5. Section 17 substituted

Section 17—

Repeal the section

Substitute

“17. Oaths of judicial officers

- (1) Each of the judicial officers specified in Schedule 3 must take the Judicial Oath as soon as possible after appointment.
- (2) The Judicial Oath must be administered by—
 - (a) the Chief Executive; or
 - (b) a person authorized by the Chief Executive to administer the oath.”.

6. Section 18 substituted

Section 18—

Repeal the section

Substitute

“18. Oaths of members of Executive Council

- (1) A member of the Executive Council must take the Oath of Fidelity and the Executive Council Oath as soon as possible after appointment.
- (2) The Oath of Fidelity and the Executive Council Oath must be administered by—
 - (a) the Chief Executive; or
 - (b) a person authorized by the Chief Executive to administer the oaths.”.

7. Section 19 substituted

Section 19—

Repeal the section

Substitute

“19. Oath of members of Legislative Council

- (1) A member of the Legislative Council must take the Legislative Council Oath as soon as possible after the commencement of the member’s term of office.
- (2) The Legislative Council Oath must be administered by—
 - (a) the Chief Executive; or
 - (b) a person authorized by the Chief Executive to administer the oath.”.

8. Section 19A added

After section 19—

Add

“19A. Oath of members of District Councils

- (1) A member of a District Council must take the District Council Oath as soon as possible after the commencement of the member’s term of office.
- (2) The District Council Oath must be administered by—
 - (a) the Chief Executive; or
 - (b) a person authorized by the Chief Executive to administer the oath.”.

9. Section 20A added

After section 20—

Add

“20A. Declining or neglecting to take oath

- (1) This section applies to a person who is required by this Part to take an oath.
- (2) The person is to be regarded as declining or neglecting to take the oath if the person intentionally—
 - (a) contravenes the oath-taking procedure of the person or desecrates the oath-taking ceremony;
 - (b) alters or distorts the wording of the oath;
 - (c) says words that do not accord with the wording of the oath; or
 - (d) acts in a way that is not sincere or not solemn in purporting to take the oath.
- (3) In this section—
 - (a) a reference to the oath-taking ceremony includes—

- (i) the oath-taking procedure of any person during the ceremony; and
 - (ii) if section 5 of the National Anthem Ordinance (2 of 2020) requires the national anthem to be played and sung on the occasion of the ceremony, the playing and singing of the national anthem as required under that Ordinance; and
- (b) a reference to the oath-taking procedure of a person includes the taking of the oath by the person.
- (4) Subsection (2) does not limit the operation of section 21.”.

10. Section 21 amended (consequence of non-compliance)

- (1) Section 21, heading—

Repeal

“non-compliance”

Substitute

“declining or neglecting to take oath”.

- (2) Section 21—

Renumber the section as section 21(1).

- (3) After section 21(1)—

Add

- “(2) No person may arrange for the person who declines or neglects to take the oath to retake it.
- (3) However, subsections (1) and (2) do not apply if—
- (a) a person declined or neglected to take the oath before a person who is authorized by this Part to administer it (*oath administrator*); and

- (b) the oath administrator is satisfied that the person did not intentionally decline or neglect to take the oath.”.

11. Section 22 repealed (when Oaths need not be repeated)

Section 22—

Repeal the section.

12. Schedule 2 amended

Schedule 2, after Part IV—

Add

“Part IVA

The District Council Oath

I swear that, being a member of the _____
District 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.

(name of person making the oath)”.

13. Schedule 3 amended

(1) Schedule 3—

Repeal

“Part I

Oaths to be Administered by the Chief Executive”.

- (2) Schedule 3—
Repeal

“Part II

Oaths to be Administered by a Judge of the Court of First Instance”.

Part 4

Amendments to Hong Kong Court of Final Appeal Ordinance (Cap. 484)

14. Part II, Division 2 heading amended (appeal from Court of Appeal to Court; appeal relating to election)

Part II, Division 2, heading, after “Election”—

Add

“; Appeal relating to Certain Proceedings”.

15. Section 22 amended (civil appeals)

(1) Section 22(1)(b)—

Repeal

“and”.

(2) Section 22(1)(c)(viii)—

Repeal

“concerned.”

Substitute

“concerned;”.

(3) After section 22(1)(c)—

Add

“(d) at the discretion of the Court, from a decision of the Court of First Instance in proceedings brought under section 73 of the Legislative Council Ordinance (Cap. 542) (including a decision for the purpose of an application under section 73(2D) of that Ordinance); and

- (e) at the discretion of the Court, from a decision of the Court of First Instance in proceedings brought under section 79 of the District Councils Ordinance (Cap. 547) (including a decision for the purpose of an application under section 79(2E) of that Ordinance).”.

16. Section 24 amended (applications for leave to appeal)

Section 24(3)—

Repeal

“or order of the Court of First Instance referred to in section 22(1)(c)”

Substitute

“, order or decision of the Court of First Instance referred to in section 22(1)(c), (d) or (e)”.

Part 5

Amendments to Legislative Council Ordinance (Cap. 542)

17. Section 15 amended (when Member ceases to hold office)

(1) Section 15(1)(e)—

Repeal the full stop

Substitute

“; or”.

(2) After section 15(1)(e)—

Add

“(f) is in breach of an oath taken under section 19 of the Oaths and Declarations Ordinance (Cap. 11); or

(g) fails, or is declared or decided in accordance with any law to have failed, to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.

(3) After section 15(1)—

Add

“(1AA) Paragraph (g) of subsection (1) applies to a declaration or decision made after the person is elected as a Member, whether or not it is made before, on or after the date on which that paragraph comes into operation.”.

18. Section 17 amended (proceedings of Legislative Council not affected by vacancy in membership)

(1) Section 17, heading, after “**membership**”—

Add

“**etc.**”.

(2) Section 17—

Repeal subsections (1) and (2)

Substitute

“(1) The power of the Legislative Council to transact business is not affected by—

(a) a vacancy in the membership of the Legislative Council; or

(b) the suspension of a person’s functions and duties as a Member under section 73(2A).

(2) The validity of the proceedings of the Legislative Council is not affected by—

(a) a vacancy in the membership of the Legislative Council;

(b) the suspension of a person’s functions and duties as a Member under section 73(2A); or

(c) a defect in the election of a Member or as to the eligibility of a person to be a Member.”.

19. Section 39 amended (when person is disqualified from being nominated as a candidate and from being elected as a Member)

(1) After section 39(1)—

Add

- “(1A) A person is also disqualified from being nominated as a candidate at an election, and from being elected as a Member, if the election is held or is to be held within 5 years after—
- (a) the date on which the person vacates an office, or is disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath; or
 - (b) the date on which the person is declared or decided in accordance with any law—
 - (i) to be in breach of a specified oath; or
 - (ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.
- (2) Section 39(5), English text, definition of *prescribed public officer*, paragraph (f)—

Repeal

“bureau.”

Substitute

“bureau;”.

- (3) Section 39(5)—

Add in alphabetical order

“*specified oath* (指明誓言) means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.

20. Section 65 amended (period within which election petition and appeal must be lodged)

After section 65(2)—

Add

“(3) In subsection (2)—

working day (工作日) means any day other than—

- (a) a general holiday;
- (b) a black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or
- (c) a gale warning day as defined by that section.”.

21. Section 73 amended (proceedings against persons on grounds of disqualification)

(1) Section 73(2), after “brought”—

Add

“by an elector”.

(2) After section 73(2)—

Add

“(2A) Immediately after proceedings are brought by the Secretary for Justice under this section against a person on the ground that the person is disqualified from acting as a Member—

- (a) for breach of an oath taken under section 19 of the Oaths and Declarations Ordinance (Cap. 11); or

- (b) for failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China,

the person's functions and duties as a Member are suspended until the decision of the Court in the proceedings becomes final.

- (2B) For the purposes of subsection (2A), a decision of the Court becomes final—

- (a) if no motion for the purpose of an application for leave to appeal to the Court of Final Appeal under section 22(1)(d) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is filed by the end of the period specified under subsection (4A)—when that period expires; or
- (b) if, before the end of that period, motion for the purpose of such an application is filed—
 - (i) when the application is abandoned or otherwise ceases to have effect;
 - (ii) when the application is refused; or
 - (iii) if the application is granted—
 - (A) when the appeal is abandoned or otherwise ceases to have effect; or
 - (B) when the appeal is determined.

- (2C) If a person's functions and duties as a Member are suspended under subsection (2A), the person—

- (a) must not act as a Member;
- (b) must neither exercise any function nor perform any duty of a Member; and

- (c) is not to be regarded as a Member for the purposes of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).
- (2D) The Court may, on the application of a person whose functions and duties as a Member are suspended under subsection (2A), lift the suspension.
- (2E) If a person acts, or claims to be entitled to act, as a Member while his or her functions and duties as a Member are suspended under subsection (2A), the Secretary for Justice may apply to the Court for an interim injunction restraining the person from so acting or claiming.”.
- (3) After section 73(4)—
- Add**
- “(4A) Despite section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), notice of a motion for the purpose of an application for leave to appeal to the Court of Final Appeal under section 22(1)(d) of that Ordinance must be filed within 14 working days after the date on which the written judgment of the Court to be appealed from is handed down, and the applicant must give the opposite party 3 days’ notice of his or her intended application at any time during the period of 14 working days.”.
- (4) After section 73(8)—
- Add**
- “(9) In subsection (4A)—
- working day* (工作日) means any day other than—
- (a) a general holiday;

- (b) a black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or
 - (c) a gale warning day as defined by that section.”.
-

Part 6

Amendments to District Councils Ordinance (Cap. 547)

22. Section 19 amended (disqualification of ex officio members)

(1) After section 19(1)—

Add

“(1A) An ex officio member is also disqualified from holding office if—

(a) the term of office is to begin within 5 years after—

(i) the date on which the person vacates an office, or is disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath; or

(ii) the date on which the person is declared or decided in accordance with any law—

(A) to be in breach of a specified oath; or

(B) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China;

(b) the person is in breach of an oath taken under section 19A of the Oaths and Declarations Ordinance (Cap. 11); or

(c) the person fails, or is declared or decided in accordance with any law to have failed, to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

(1B) Subsection (1A)(c) applies to a declaration or decision made after the person holds office as such ex officio member, whether or not it is made before, on or after the date on which that subsection comes into operation.”.

(2) After section 19(6)—

Add

“(7) In this section—

specified oath (指明誓言) means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.”.

23. Section 21 amended (when person is disqualified from being nominated as a candidate and from being elected as an elected member)

(1) After section 21(1)—

Add

“(1A) A person is also disqualified from being nominated as a candidate at an election, and from being elected as an elected member, if the election is held or is to be held within 5 years after—

- (a) the date on which the person vacates an office, or is disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath; or
 - (b) the date on which the person is declared or decided in accordance with any law—
 - (i) to be in breach of a specified oath; or
 - (ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.
- (2) After section 21(3)—

Add

“(4) In this section—

specified oath (指明誓言) means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.

24. Section 24 amended (disqualification of elected members)

After section 24(2)—

Add

- “(2A) An elected member is also disqualified from holding office if the person, after being elected—
- (a) is in breach of an oath taken under section 19A of the Oaths and Declarations Ordinance (Cap. 11); or

(b) fails, or is declared or decided in accordance with any law to have failed, to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

(2B) Subsection (2A)(b) applies to a declaration or decision made before, on or after the date on which that subsection comes into operation.”.

25. Section 72 amended (proceedings of a District Council or a committee not affected by vacancy or defect in membership)

(1) Section 72, heading, after “**membership**”—

Add

“**etc.**”.

(2) Section 72—

Repeal subsection (1)

Substitute

“(1) The power of a District Council to transact business is not affected by—

(a) a vacancy in the membership of the District Council; or

(b) the suspension of a person's functions and duties as a member under section 79(2A).”.

(3) After section 72(2)(a)—

Add

“(ab) the suspension of a person's functions and duties as a member under section 79(2A);”.

26. Section 79 amended (proceedings against persons on grounds of disqualification)

(1) Section 79—

Repeal subsection (2).

(2) Before section 79(3)—

Add

“(2A) Immediately after proceedings are brought by the Secretary for Justice under this section against a person on the ground that the person is disqualified from acting as a member—

(a) for breach of an oath taken under section 19A of the Oaths and Declarations Ordinance (Cap. 11); or

(b) for failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China,

the person’s functions and duties as a member are suspended until the decision of the Court in the proceedings becomes final.

(2B) For the purposes of subsection (2A), a decision of the Court becomes final—

(a) if no motion for the purpose of an application for leave to appeal to the Court of Final Appeal under section 22(1)(e) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is filed by the end of the period specified under subsection (4A)—when that period expires; or

(b) if, before the end of that period, motion for the purpose of such an application is filed—

- (i) when the application is abandoned or otherwise ceases to have effect;
 - (ii) when the application is refused; or
 - (iii) if the application is granted—
 - (A) when the appeal is abandoned or otherwise ceases to have effect; or
 - (B) when the appeal is determined.
- (2C) If a person's functions and duties as a member are suspended under subsection (2A), the person—
 - (a) must not act as a member;
 - (b) must not do anything for the purpose of carrying into effect the provisions of this Ordinance or any other enactment conferring functions on a District Council; and
 - (c) is not to be regarded as a member for the purposes of section 86.
- (2D) If a person's functions and duties as a member are suspended under subsection (2A) and the person is absent from a meeting of a District Council during the suspension, the person is not to be regarded as being absent from that meeting for the purposes of sections 19(4) and 24(5).
- (2E) The Court may, on the application of a person whose functions and duties as a member are suspended under subsection (2A), lift the suspension.
- (2F) If a person acts, or claims to be entitled to act, as a member while his or her functions and duties as a member are suspended under subsection (2A), the Secretary for Justice may apply to the Court for an interim injunction restraining the person from so acting or claiming.”.

- (3) After section 79(4)—

Add

“(4A) Despite section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), notice of a motion for the purpose of an application for leave to appeal to the Court of Final Appeal under section 22(1)(e) of that Ordinance must be filed within 14 working days after the date on which the written judgment of the Court to be appealed from is handed down, and the applicant must give the opposite party 3 days’ notice of his or her intended application at any time during the period of 14 working days.”.

- (4) After section 79(6)—

Add

“(7) In subsection (4A)—

working day (工作日) means any day other than—

- (a) a general holiday;
 - (b) a black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or
 - (c) a gale warning day as defined by that section.”.
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Part 7

Amendments to Chief Executive Election Ordinance (Cap. 569)

27. Section 14 amended (disqualification from being nominated)

(1) Section 14—

Renumber the section as section 14(1).

(2) After section 14(1)—

Add

“(2) Without prejudice to section 13(1)(c) of the Electoral Affairs Commission Ordinance (Cap. 541), a person is also disqualified from being nominated as a candidate if, within the 5 years before the date of nomination—

(a) the person has vacated an office, or has been disqualified from entering on an office, under the law, for declining or neglecting to take a specified oath; or

(b) the person has been declared or decided in accordance with any law—

(i) to be in breach of a specified oath; or

(ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.

(3) In this section—

specified oath (指明誓言) means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.”.

28. Section 20 amended (disqualification from being elected)

(1) Section 20(1)(b)—

Repeal

“section 14”

Substitute

“section 14(1)”.

(2) Section 20(1)(c)—

Repeal

“section 14(h); or”

Substitute

“section 14(1)(h);”.

(3) After section 20(1)(c)—

Add

“(ca) a candidate falls or has fallen, within the 5 years before the polling date, within any paragraph of section 14(2); or”.

Part 8

Amendments to National Anthem Ordinance (2 of 2020)

29. Schedule 3 amended (occasions on which national anthem must be played and sung)

(1) Schedule 3, item 1(d)—

Repeal

“or”.

(2) Schedule 3, item 1(e)—

Repeal

“Ordinance”

Substitute

“Ordinance; or”.

(3) Schedule 3, after item 1(e)—

Add

“(f) for taking the District Council Oath under section 19A of that Ordinance”.

Part 9

Consequential Amendments

Division 1—Amendment to High Court Ordinance (Cap. 4)

30. Section 14 amended (appeals in civil matters)

Section 14(3)(g)—

Repeal

“or order of the Court of First Instance referred to in section 22(1)(c)”

Substitute

“, order or decision of the Court of First Instance referred to in section 22(1)(c), (d) or (e)”.

Division 2—Amendment to Electoral Affairs Commission Ordinance (Cap. 541)

31. Section 7 amended (regulations)

Section 7(1A)(a)—

Repeal

“section 14(h)”

Substitute

“section 14(1)(h)”.

Explanatory Memorandum

The main objects of this Bill are—

- (a) to provide for matters relating to the taking of an oath under the law that the oath-taker will uphold the Basic Law of the Hong Kong Special Administrative Region (*Basic Law*) and bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China (*HKSAR*), including a new requirement for every member of the District Councils to take such an oath, and matters relating to the consequences of declining or neglecting to take such an oath and of breach of such an oath; and
- (b) to provide for matters relating to the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR, including matters relating to the consequences of failure to fulfil those legal requirements and conditions.

2. The Bill is divided into 9 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title.

Part 2—Amendment to Interpretation and General Clauses Ordinance (Cap. 1) (*IGCO*)

4. Clause 3 proposes to amend the IGCO to add a new section 3AA to explain the meaning of a reference to upholding the Basic Law and bearing allegiance to the HKSAR.

**Part 3—Amendments to Oaths and Declarations Ordinance (Cap. 11)
(ODO)**

5. Clauses 4 and 12 propose to amend Part IV of, and Schedule 2 to, the ODO to include in that Part and that Schedule an oath to be taken by every member of the District Councils.
6. Clauses 5, 6, 7, 8 and 13 propose to amend Part IV of, and Schedule 3 to, the ODO to provide for the requirements for taking the oaths specified in that Part.
7. Clauses 9 and 10 propose to amend Part IV of the ODO to explain the meaning of declining or neglecting to take an oath and to provide for the consequences of declining or neglecting to take an oath.
8. Clause 11 proposes to repeal section 22 (when Oaths need not be repeated) of the ODO.

**Part 4—Amendments to Hong Kong Court of Final Appeal Ordinance
(Cap. 484) (HKCFAO)**

9. Clauses 14, 15 and 16 propose to amend the HKCFAO to provide for application for leave to appeal to the Hong Kong Court of Final Appeal in relation to proceedings brought under section 73 of the Legislative Council Ordinance (Cap. 542) or section 79 of the District Councils Ordinance (Cap. 547).

**Part 5—Amendments to Legislative Council Ordinance (Cap. 542)
(LCO)**

10. Clause 17 proposes to amend section 15 of the LCO to add new grounds for disqualification from holding office as a

member of the Legislative Council. The new grounds relate to breach of an oath taken under section 19 of the ODO and to failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.

11. Clause 19 proposes to amend section 39 of the LCO to add new grounds for disqualification from being nominated as a candidate for election as a member of the Legislative Council and from being elected as such a member. The new grounds relate to—
 - (a) vacating an office, or disqualification from entering on an office, under the law, for declining or neglecting to take an oath to uphold the Basic Law and to bear allegiance to the HKSAR; and
 - (b) breach of such an oath or failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.

12. Clause 21 proposes to amend section 73 of the LCO to remove the time limit within which proceedings may be brought by the Secretary for Justice against a person on the ground of disqualification from acting as a member of the Legislative Council and to provide for suspension of functions and duties of such a member on certain of such proceedings being brought by the Secretary for Justice. Clause 18 proposes to amend section 17 of the LCO to provide that the power of the Legislative Council to transact business is not affected by the suspension of a person's functions and duties of such a member.

Part 6—Amendments to District Councils Ordinance (Cap. 547) (DCO)

13. Clause 22 proposes to amend section 19 of the DCO to add new grounds for disqualification from holding office as an ex officio member of a District Council. The new grounds relate to breach of an oath taken under section 19A of the ODO and to failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.
14. Clause 23 proposes to amend section 21 of the DCO to add new grounds for disqualification from being nominated as a candidate for election as an elected member of a District Council and from being elected as such a member. The new grounds relate to—
 - (a) vacating an office, or disqualification from entering on an office, under the law, for declining or neglecting to take an oath to uphold the Basic Law and to bear allegiance to the HKSAR; and
 - (b) breach of such an oath or failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.
15. Clause 24 proposes to amend section 24 of the DCO to add new grounds for disqualification from holding office as an elected member of a District Council. The new grounds relate to breach of an oath taken under section 19A of the ODO and to failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.
16. Clause 26 proposes to amend section 79 of the DCO to remove the time limit within which proceedings may be brought by the

Secretary for Justice against a person on the ground of disqualification from acting as a member of a District Council and to provide for suspension of functions and duties of such a member on certain of such proceedings being brought by the Secretary for Justice. Clause 25 proposes to amend section 72 of the DCO to provide that the power of a District Council to transact business is not affected by the suspension of a person's functions and duties of such a member.

Part 7—Amendments to Chief Executive Election Ordinance (Cap. 569) (CEEEO)

17. Clauses 27 and 28 propose to amend sections 14 and 20 of the CEEEO to add new grounds for disqualification from being nominated as a candidate for election of the Chief Executive and from being elected as the Chief Executive. The new grounds relate to—
- (a) vacating an office, or disqualification from entering on an office, under the law, for declining or neglecting to take an oath to uphold the Basic Law and to bear allegiance to the HKSAR; and
 - (b) breach of such an oath or failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR.

Part 8—Amendments to National Anthem Ordinance (2 of 2020) (NAO)

18. Clause 29 proposes to amend the NAO to add the oath-taking ceremony by members of the District Councils as an occasion on which the national anthem must be played and sung.

Part 9—Consequential Amendments

19. Clauses 30 and 31 propose to make consequential amendments to the High Court Ordinance (Cap. 4) and the Electoral Affairs Commission Ordinance (Cap. 541) respectively.