

LEGISLATIVE COUNCIL BRIEF

NATIONAL FLAG AND NATIONAL EMBLEM (AMENDMENT) BILL 2021

INTRODUCTION

At the meeting of the Executive Council on 10 August 2021, the Council **ADVISED** and the Chief Executive **ORDERED** that the National Flag and National Emblem (Amendment) Bill 2021 (“the Bill”) at **Annex A** should be introduced into the Legislative Council (“LegCo”) to implement the relevant provisions in the amended Law of the People’s Republic of China on the National Flag (“National Flag Law”) and Law of the People’s Republic of China on the National Emblem (“National Emblem Law”) in the Hong Kong Special Administrative Region (“HKSAR”).

Annex A

JUSTIFICATIONS

Requirement of Article 18 of the Basic Law

2. On 17 October 2020, the 22nd session of the Standing Committee of the 13th National People’s Congress endorsed the amendments to the National Flag Law and the National Emblem Law, which have come into force since 1 January 2021. The National Flag Law and the National Emblem Law have been listed in Annex III to the Basic Law. The full text of the two amended national laws are at **Annex B**. According to Article 18(2) of the Basic Law, the national laws listed in Annex III to the Basic Law shall be applied locally by way of promulgation or legislation by the HKSAR. The National Flag Law and the National Emblem Law were applied locally by legislation through the enactment of National Flag and National Emblem Ordinance (“NFNEO”) in July 1997. In light of the recent amendments to the two national laws, the HKSAR has the constitutional responsibility to implement the two amended national laws locally.

Annex B

Implementation by Local Legislation

3. Having regard to the common law system practised in Hong Kong, as well as the fact that the two national laws had previously been implemented in Hong Kong by local legislation, i.e. NFNEO, we propose to implement the two amended national laws by amending NFNEO instead of by promulgation. This approach is consistent with the “One Country, Two Systems” principle, as well as the implementation of the Law of the People’s Republic of China on the National Anthem (“National Anthem Law”), which has been adapted and implemented in Hong Kong by the National Anthem Ordinance (“NAO”).

Key Features of the Bill

4. The principle of the legislative amendments is to reflect the provisions, principles and spirit of the amended National Flag Law and the amended National Emblem Law, safeguard the proper use and preserve the dignity of the national flag and the national emblem which are the symbols and signs of our country, so as to promote respect for the national flag and national emblem, enhance the sense of national identity among citizens and promote patriotism, whilst taking into account our common law system and the actual circumstances in Hong Kong.

5. In the amended National Flag Law and the amended National Emblem Law, there are 24 and 19 articles respectively, the majority of which have been suitably incorporated into the Bill. Provisions in the two amended national laws that are not applicable to the HKSAR are not included in the Bill. A table comparing the provisions in the amended National Flag Law and the amended National Emblem Law with the proposed provisions in the Bill is at **Annex C**.

Annex C

6. The key features of the Bill are set out in paragraphs 7 to 21 below.

(A) Use of national flag and national emblem

7. The key principles of the amended National Flag Law and the amended National Emblem Law are to safeguard and promote the proper use of the national flag and the national emblem, strengthen the monitoring of their use, etc. To reflect such fundamentals and the relevant provisions in the two amended national laws, the Bill proposes to provide the Chief Executive with new statutory underpinning to -

- (a) stipulate the organisations that must use the design of the national emblem in a prominent position on the home page of their websites in adapting Article 7 of the amended National Emblem Law; and
- (b) stipulate the recovery and disposal of national flags and national emblems in adapting Article 22 of the amended National Flag Law and Article 17 of the amended National Emblem Law.

8. Following the established mechanism¹, the stipulations to be made by the Chief Executive will be in the form of a gazette notice (“the Stipulations”). To implement the two provisions, the Stipulations currently in force (**Annex D**) will be revised to stipulate that -

Annex D

- (a) the HKSAR Government, the LegCo and the Judiciary are the organisations that must use the national emblem design on the home page of their websites; and
- (b) in relation to the mechanism on the recovery and disposal of national flags and national emblems, any damaged, defiled, faded or

¹ For illustration purpose, according to section 3(2) of the NFNEO, the Chief Executive may stipulate the organisations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The stipulations is published in the form of a gazette notice, and the currently in force was issued on 14 October 2016.

substandard national flags and national emblems must be returned to designated collection points for central handling by the HKSAR Government.

9. To implement Articles 5 to 7 of the amended National Flag Law and Articles 4 to 6 of the amended National Emblem Law, the Chief Executive will follow the established mechanism to stipulate the organisations, occasions and places that are applicable to the HKSAR through the Stipulations. For other occasions on which the national flag may be displayed (see Article 8 of the amended National Flag Law), when necessary, the Chief Executive will stipulate applicable occasions via the Stipulations as well.

10. The Bill also proposes to amend the NFNEO to provide for the use of nonstandard sizes of national flags and national emblems in special circumstances, and require that they should be commensurate with the purpose of the use, the surrounding buildings and the surrounding environment. These amendments reflect Article 3 of the amended National Flag Law and Article 16 of the amended National Emblem Law.

(B) National flag and national emblem not to be used inappropriately

11. To suitably adapt Article 19 of the amended National Flag Law and Article 14 of the amended National Emblem Law, the Bill proposes to require that -

- (a) a national flag or a national emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem;
- (b) a national flag or national emblem must not be discarded at will;
- (c) a national flag or national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive; and
- (d) after an event in which national flags or national emblems are used, the organiser must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems used on the site of the event.

(C) Etiquette for taking part in or attending national flag raising ceremony

12. The Bill proposes to list out the etiquette to be followed by the persons who take part in or attend a national flag raising ceremony on the basis of Article 14 of the amended National Flag Law. The requirement of playing and singing the national anthem at a national flag raising ceremony is already provided for in section 5 and item 2 of Schedule 3 to the NAO.

(D) Expanded scope of prohibition on certain uses of national flag and national emblem

13. To reflect Article 20 of the amended National Flag Law, the Bill proposes to prohibit the display or use of the national flag or its design in registered designs or commercial advertisements, in addition to those currently stated in section 6(1) of the NFNEO.

14. Similarly, the Bill proposes to extend the original scope in section 6(2) of the NFNEO regarding the prohibition on the display or use of the national emblem or its design to cover registered designs, commercial advertisements or products in everyday life, with a view to reflecting Article 13 of the amended National Emblem Law.

15. The Bill also contains consequential amendments to the Registered Designs Ordinance and the Registered Designs Rules to provide that designs with national flag or national emblem are not registerable.

(E) Protection of the national flag and national emblem

16. The Bill clarifies the provisions relating to offences of desecrating behaviour in relation to the national flag and national emblem. The offence provisions as amended will be similar to those in the NAO. The Bill proposes to prohibit a person from publicly and intentionally desecrating the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way; and from intentionally publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way, with intent to desecrate the national flag or national emblem. In effect, public and intentional desecrating acts in relation to the national flag and national emblem committed in both real life and the virtual world would be an offence. The level of penalty, i.e. up to a fine at level 5 and to imprisonment for three years, remains unchanged and is the same as that in respect of insulting the national anthem in the NAO.

17. In addition, since the abovementioned desecrating behaviour may involve the use of the Internet and social media (e.g. publishing an image of a defiled national flag on Facebook), to allow sufficient time for the Police to complete an investigation, the Bill proposes to provide for an extension of prosecution time bar² to (a) one year after the date on which the offence is discovered by, or comes to the notice of, the Commissioner of Police; or (b) two years after the date on which the offence is committed, whichever is the earlier. This is the same as the prosecution time bar for similar offences under the NAO.

² According to section 26 of the Magistrates Ordinance, in any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information shall be laid within six months from the time when the matter of such complaint or information respectively arose.

(F) Education in national flag and national emblem

18. To suitably adapt the spirit of Articles 6, 14 and 21 of the amended National Flag Law and Article 15 of the amended National Emblem Law, the Bill proposes to require the Secretary for Education (“SED”) -

- (a) to give directions for the inclusion of the national flag and national emblem in primary education and in secondary education as defined under section 3(1) of the Education Ordinance, covering primary schools and secondary schools, regardless of funding modes and curriculum; and
- (b) to give directions to specified schools (i.e. those providing nursery education, kindergarten education, primary education or secondary education as defined under section 3(1) of the Education Ordinance) for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony.

19. Moreover, the Bill proposes to provide that for dealing with matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony, a post secondary education institution must make reference to the directions given under paragraph 18(b) above. This requirement is made having regard to the institutional autonomy of post secondary education institutions.

(G) Inclusion in sound broadcasting and domestic television programme services

20. To suitably adapt Article 21 of the amended National Flag Law and Article 15 of the amended National Emblem Law, the Bill proposes to amend the NFNEO to provide for the statutory basis for the inclusion of the national flag, the national emblem and their designs in announcements or materials in the public interest (“APIs”), which domestic free and pay television programme service licensees and sound broadcasting service licensees are required to broadcast pursuant to the terms and conditions in their respective licenses granted by the Chief Executive in Council under the Broadcasting Ordinance or the Telecommunications Ordinance. This approach follows that in the NAO.

21. The Communications Authority is required to make a determination or direction to the licensees, requiring them to promote the national flag, the national emblem and their designs by an API in accordance with any directions on broadcasting arrangements given by the Chief Executive. The Constitutional and Mainland Affairs Bureau is now working on the APIs for promoting the national flag, national emblem and national anthem, which are targeted to be broadcast after the passage of the Bill.

THE BILL

22. The main provisions of the Bill are as follows -

Part 2 - Amendments to the NFNEO (Clauses 3 to 16)

- (a) **Clause 4** adds a preamble to set out the legislative background, principle and spirit of the Bill to provide a context in which to understand the Bill;
- (b) **Clause 5(2)** adds a new section 3(2A) to empower the Chief Executive to stipulate the organisations that must use the design of the national emblem in a prominent position on the home page of their websites;
- (c) **Clause 5(3)** adds a new section 3(3A) to empower the Chief Executive to make stipulations in relation to the recovery and disposal of national flags and national emblems;
- (d) **Clause 5(3)** also adds a new section 3(3B) to provide for the provision of a standard version of the design of the national flag and national emblem for online use on a website of the Government;
- (e) **Clause 6** amends section 4 to provide for additional circumstances at which the national flag and national emblem must not be used or disposed of inappropriately;
- (f) **Clause 7** adds a new section 4A to provide for the etiquette for taking part in or attending a national flag raising ceremony;
- (g) **Clause 8** amends sections 5(1) and 5(3) to reflect the latest requirements in the two amended national laws relating to the manufacturing of the national flag and the national emblem, so that national flags no longer need to be manufactured by designated enterprises. It also removes the requirement to seek prior approval from Central People's Government for using the national emblem in unusual dimensions;
- (h) **Clause 9** amends section 6 to extend the scope of prohibition on certain uses of the national flag, the national emblem or their designs, and define "registered design";
- (i) **Clause 10** replaces section 7 of the NFNEO with a new one to clarify the offence of desecrating behaviour in relation to the national flag and national emblem to include the publishing of a desecration of the national flag and national emblem, define "desecrate" and "publish" for the purposes of the prohibitions, and provide for an extension of the prosecution time bar;
- (j) **Clause 11** adds a new section 7A to provide for the education in national flag and national emblem;

- (k) **Clause 11** also adds a new section 7B to provide for the inclusion of the national flag, the national emblem and their designs in APIs to be broadcast by domestic television and sound broadcasting licensees;
- (l) **Clause 12** amends section 8 to tally with the wording adopted in a corresponding deeming provision in the NAO;
- (m) **Clause 13** amends section 9 to update the references to the National Flag Law and National Emblem Law;
- (n) **Clauses 14 and 15** add new sections to Schedules 1 and 2 to the NFNEO respectively to provide for the use of nonstandard sizes of national flags and national emblems in special circumstances;
- (o) **Clause 16** amends Schedule 3 to the NFNEO to provide for - (a) the conditions for flying the national flag at half staff; (b) the raising and lowering of the national flag; (c) the use of the national flag at mourning ceremonies; and (d) the method for using the design of the national emblem in foreign affairs activities; and

Parts 3 and 4 - Amendment to the Registered Designs Ordinance and the Registered Designs Rules (Clauses 17 and 18)

- (p) **Clauses 17 and 18** introduce corresponding amendments to the Registered Designs Ordinance and the Registered Designs Rules to provide that designs with the national flag, the national emblem or their designs are not registerable.

LEGISLATIVE TIMETABLE

23. The legislative timetable is as follows -

Publication in the Gazette	13 August 2021
First Reading and commencement of Second Reading debate	18 August 2021
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

24. The legislative proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no civil service, productivity, economic, financial, environmental, sustainability, family or gender implications. Any additional work arising from implementation of the Bill will be absorbed by relevant bureaux and departments with existing resources. The Bill does not affect the current binding effect of the NFNEO.

PUBLIC CONSULTATION

25. On 18 February 2021, we briefed the Panel on Constitutional Affairs of the LegCo on the proposed direction and outline of the amendments to the NFNEO. Members expressed support to the proposed direction. They suggested that the Government should ensure proper implementation of the relevant provisions and enhance public education on these important national symbols.

PUBLICITY

26. We will issue a press release and arrange a spokesperson to answer media enquiries. Besides, to support the legislative work of the Bill, we are working on APIs to promote the background of the national flag, national emblem and national anthem, and the etiquette to be observed when the national flag and national emblem are raised or displayed and when the national anthem is performed or played.

ENQUIRIES

27. For enquiries on this brief, please contact Ms Cordelia LAM, Principal Assistant Secretary for Constitutional and Mainland Affairs, at 2810 2333.

Constitutional and Mainland Affairs Bureau
11 August 2021

National Flag and National Emblem (Amendment) Bill 2021

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A BILL**To**

Amend the National Flag and National Emblem Ordinance in light of the Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on the National Flag, and on Amending the Law of the People's Republic of China on the National Emblem, adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on 17 October 2020; and to provide for incidental matters.

Enacted by the Legislative Council.

Part 1**Preliminary****1. Short title**

This Ordinance may be cited as the National Flag and National Emblem (Amendment) Ordinance 2021.

2. Enactments amended

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

Part 2**Amendments to National Flag and National Emblem
Ordinance (116 of 1997)****3. Long title amended**

The long title—

Repeal

“emblem”

Substitute

“emblem, and for the promotion of the national flag and national emblem,”.

4. Preamble added

Before section 1—

Add**“Preamble****WHEREAS—**

- (1) the national flag and national emblem of the People’s Republic of China are a symbol and sign of the People’s Republic of China;
- (2) all individuals and organizations should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions; and
- (3) this Ordinance is enacted to preserve the dignity of the national flag and national emblem, to regulate the use of the national flag and national emblem, to

enhance citizen awareness of the People’s Republic of China, and to promote patriotism.”.

5. Section 3 amended (use of national flag and national emblem)

- (1) Section 3, heading, after “emblem”—

Add

“etc.”.

- (2) After section 3(2)—

Add

“(2A) The Chief Executive may stipulate the organizations that must use the design of the national emblem in a prominent position on the home page of their websites.”.

- (3) After section 3(3)—

Add

“(3A) The Chief Executive may make stipulations in relation to the recovery and disposal of national flags and national emblems.

(3B) The Government may provide on a website of the Government a standard version of the design of the national flag and national emblem for online use.”.

- (4) Section 3(4)—

Repeal

everything after “Schedule 3”

Substitute

“specifies—

- (a) the conditions under which the national flag is flown at half staff;
- (b) the priority of the national flag;

- (c) the raising and lowering of the national flag;
- (d) the use of the national flag at mourning ceremonies; and
- (e) the method for using the design of the national emblem in foreign affairs activities.”.

6. **Section 4 amended (damaged national flag and national emblem not to be used)**

- (1) Section 4, heading—

Repeal

“Damaged national flag and national emblem not to be used”

Substitute

“National flag and national emblem not to be used inappropriately etc.”.

- (2) Section 4—

Renumber the section as section 4(1).

- (3) After section 4(1)—

Add

“(2) A national flag or a national emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem.

- (3) A national flag or a national emblem must not be discarded at will.

- (4) A national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.

- (5) After an event in which national flags or national emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems used on the site of the event.”.

7. **Section 4A added**

After section 4—

Add

“4A. Etiquette for taking part in or attending national flag raising ceremony

When the national flag is being raised during a national flag raising ceremony, the etiquette to be followed by the persons who take part in or attend the ceremony is—

- (a) to stand solemnly facing the national flag;
- (b) to look at the national flag with respectful attention or to salute the national flag in an appropriate manner (as the case requires); and
- (c) to not behave in a way that undermines the dignity of the national flag.

Note—

For the requirement of playing and singing the national anthem at a national flag raising ceremony, please refer to section 5 of, and item 2 of Schedule 3 to, the National Anthem Ordinance (2 of 2020).”.

8. **Section 5 amended (manufacture of national flag and national emblem regulated)**

- (1) Section 5(1)—

Repeal

“national flag for flying and the”.

- (2) Section 5(3)—

Repeal

everything after “Schedule 2.”.

- (3) Section 5(5), Chinese text, before “政府”—

Add

“特區”.

9. Section 6 amended (prohibition on certain uses of national flag and national emblem)

- (1) Section 6(1)—

Repeal paragraph (a)

Substitute

“(a) trademarks, registered designs or commercial advertisements;”.

- (2) Section 6(2)—

Repeal paragraph (a)

Substitute

“(a) trademarks, registered designs or commercial advertisements;”.

- (3) Section 6(2)(b), before “furnishings”—

Add

“products in everyday life and”.

- (4) After section 6(3)—

Add

“(4) In this section—

registered design (註冊外觀設計) has the meaning given by section 2(1) of the Registered Designs Ordinance (Cap. 522).”.

10. Section 7 substituted

Section 7—

Repeal the section

Substitute

“7. Protection of national flag and national emblem

- (1) A person commits an offence if the person publicly and intentionally desecrates the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (2) A person commits an offence if, with intent to desecrate the national flag or national emblem, the person intentionally publishes a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (3) A person who commits an offence under this section is liable on conviction to a fine at level 5 and to imprisonment for 3 years.
- (4) Except as provided under subsection (2), a person does not commit an offence under this section by publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (5) Proceedings may only be commenced for an offence under this section before whichever is the earlier of the following—
 - (a) the end of the period of 1 year after the date on which the offence is discovered by, or comes to the notice of, the Commissioner of Police;
 - (b) the end of the period of 2 years after the date on which the offence is committed.

(6) In this section—

desecrate (侮辱), in relation to the national flag or national emblem, means to undermine the dignity of the national flag or national emblem as a symbol and sign of the People's Republic of China;

publish (發布) includes—

- (a) to communicate to the public in any form, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material; and
- (b) to distribute, disseminate or make available to the public.”.

11. Sections 7A and 7B added

After section 7—

Add

“7A. Education in national flag and national emblem

(1) The Secretary for Education must—

- (a) give directions for the inclusion of the national flag and national emblem in primary education and in secondary education to educate the students—
 - (i) on the history and spirit of the national flag and national emblem;
 - (ii) on the regulation of displaying and using the national flag; and
 - (iii) on the etiquette to be followed in a national flag raising ceremony; and
- (b) give directions to specified schools for matters relating to the daily display of the national flag and

the weekly conduct of a national flag raising ceremony.

- (2) For dealing with matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony, a post secondary education institution must make reference to the directions given under subsection (1)(b).

(3) In this section—

post secondary education institution (專上院校)—

(a) means—

- (i) an institution specified in section 2 of the Education Ordinance (Cap. 279); or
- (ii) a school that provides post secondary education as defined by section 3(1) of that Ordinance; but

- (b) does not include a school that solely provides regulated courses as defined by section 2(1) of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493);

primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);

school (學校) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);

secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);

specified school (指明學校) means a school that provides primary education or secondary education, or nursery education or kindergarten education as defined by section 3(1) of the Education Ordinance (Cap. 279).

7B. Inclusion in sound broadcasting and domestic television programme services

- (1) This section applies if, under the terms and conditions of a broadcasting licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service.
- (2) By a determination or direction that has been made in relation to the broadcasting licence, the licensee may be required to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service.
- (3) The Communications Authority must make a determination or direction in relation to the broadcasting licence, requiring the licensee to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given under subsection (4).
- (4) The Chief Executive may give directions on broadcasting arrangements for the purposes of subsection (3).
- (5) A direction under subsection (4) is not subsidiary legislation.
- (6) In this section—
broadcasting licence (廣播牌照) means—
 - (a) a licence granted under section 13C(2) of the Telecommunications Ordinance (Cap. 106), or such

a licence renewed under section 13E(2) of that Ordinance; or

- (b) a licence granted under sections 8(1) and 10(1) of the Broadcasting Ordinance (Cap. 562), or such a licence extended or renewed under section 11(1) of that Ordinance;

Communications Authority (通訊事務管理局) means the Communications Authority established by section 3 of the Communications Authority Ordinance (Cap. 616)."

12. Section 8 amended (copy of national flag or national emblem)

Section 8, before "belief"—

Add

"reasonable".

13. Section 9 amended (application of regional laws)

- (1) Section 9(2)—

Repeal

"national law promulgated under Annex III of the Basic Law,"

Substitute

"relevant national law,".

- (2) After section 9(2)—

Add

"(3) In this section—

National Emblem Law (《國徽法》) means the Law of the People's Republic of China on the National Emblem adopted at the 18th Meeting of the Standing Committee of the Seventh National People's Congress on 2 March 1991, as amended by—

- (a) the Decision of the Standing Committee of the National People's Congress on Amending Some Laws adopted at the 10th Meeting of the Standing Committee of the Eleventh National People's Congress on 27 August 2009; and
- (b) the Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on the National Emblem adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on 17 October 2020;

National Flag Law (《國旗法》) means the Law of the People's Republic of China on the National Flag adopted at the 14th Meeting of the Standing Committee of the Seventh National People's Congress on 28 June 1990, as amended by—

- (a) the Decision of the Standing Committee of the National People's Congress on Amending Some Laws adopted at the 10th Meeting of the Standing Committee of the Eleventh National People's Congress on 27 August 2009; and
- (b) the Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on the National Flag adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on 17 October 2020;

relevant national law (有關全國性法律) means the National Flag Law or the National Emblem Law.”.

14. Schedule 1 amended (specifications for the national flag of the People's Republic of China)

Schedule 1, before the design for making the national flag—

Add

“(4) If national flags of nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size.

(5) The size of the national flag must be proportional to the staff, and be commensurate with the purpose of use, the surrounding buildings and the surrounding environment.”.

15. Schedule 2 amended (specifications for the national emblem of the People's Republic of China)

Schedule 2, before the squared ink line sketch of the People's Republic of China's national emblem—

Add

“7. If national emblems of nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size, and be commensurate with the purpose of use, the buildings where they are hung and the surrounding environment.”.

16. Schedule 3 amended (conditions for flying the national flag at half staff, the priority of the national flag and the raising and lowering of the national flag)

(1) Schedule 3, heading—

Repeal

“Lowering of the National Flag”

Substitute

“Lowering of the National Flag, etc.”.

- (2) Schedule 3, under heading “**Flying national flag at half staff**”, section 2—

Repeal

everything after “Executive”

Substitute

“that national memorial ceremonies are held or that serious natural calamities, public health emergencies or other unfortunate events have occurred and caused especially serious casualties.”.

- (3) Schedule 3, under heading “**Raising and lowering national flag**”, after section 2—

Add

- “3. If the national flag is displayed pursuant to section 3(1) or (2), the national flag must, as far as practicable, be raised in the morning and lowered in the evening.
4. Despite any other provision of this Ordinance, the display of the national flag may be dispensed with in case of inclement weather.”.

- (4) At the end of Schedule 3—

Add**“Use of national flag at mourning ceremonies**

1. When holding a mourning ceremony for a specified person who has passed away, the remains, coffin or urn of the person may be covered with a national flag.
2. *Specified person* (指明人士) means, as the Central People’s Government advises the Chief Executive, a person who—

- (a) has made outstanding contributions to the People’s Republic of China;
- (b) is a martyr; or
- (c) is a person stipulated by the Central People’s Government.

3. When covering the remains, coffin or urn with a national flag, the flag must not touch the ground.
4. After the ceremony concerned ends, the national flag must be recovered for safekeeping.

Method for using design of national emblem in foreign affairs activities

1. The method for the use of the design of the national emblem in foreign affairs activities is to be implemented in accordance with the provision of the Ministry of Foreign Affairs.”.

Part 3**Amendment to Registered Designs Ordinance (Cap. 522)****17. Section 8A added**

After section 8—

Add**“8A. Designs with national flag or national emblem are not registrable**

(1) A design is not registrable if it consists of or contains the national flag, the national emblem or their designs.

(2) In this section—

national emblem (國徽) has the meaning given by section 2(1) of the National Flag and National Emblem Ordinance (116 of 1997);**national flag** (國旗) has the meaning given by section 2(1) of the National Flag and National Emblem Ordinance (116 of 1997).”.**Part 4****Amendment to Registered Designs Rules (Cap. 522 sub. leg. A)****18. Section 12 amended (evidence relating to armorial bearings, etc.)**

Section 12—

Repeal

“Where”

Substitute

“Subject to section 8A of the Ordinance, where”.

Explanatory Memorandum

The objects of this Bill are to amend the National Flag and National Emblem Ordinance (116 of 1997) (*Ordinance*) in light of the Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on the National Flag (*National Flag Law*), and on Amending the Law of the People's Republic of China on the National Emblem (*National Emblem Law*), adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on 17 October 2020, and to provide for incidental matters.

2. Clause 1 sets out the short title.
3. Clause 3 updates the long title of the Ordinance in light of the amendments to the other parts of the Ordinance.
4. Clause 4 adds a preamble to the Ordinance to explain the objects of the Ordinance.
5. Clause 5 adds new subsections to section 3 of the Ordinance to deal with the use of the design of the national emblem on websites and the recovery and disposal of national flags and national emblems.
6. Clause 6 adds new subsections to section 4 of the Ordinance to provide that the national flag and national emblem must not be used or disposed of inappropriately.
7. Clause 7 adds a new section 4A to the Ordinance to provide for the etiquette to be followed during a national flag raising ceremony by the persons who take part in or attend the ceremony.
8. Clause 8 amends section 5 of the Ordinance so that national flags no longer need to be manufactured by designated enterprises and that the display or use of the national emblem in unusual dimensions is no longer subject to the prior approval.
9. Clause 9 amends section 6 of the Ordinance—

- (a) to prohibit the display or use of the national flag or its design in registered designs or commercial advertisements; and
 - (b) to prohibit the display or use of the national emblem or its design in registered designs, commercial advertisements or products in everyday life.
10. Clause 10 replaces section 7 of the Ordinance with a new one. The new section 7 prohibits a person from publicly and intentionally desecrating the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way. It further prohibits a person from intentionally publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way, with intent to desecrate the national flag or national emblem. The new section 7(6) contains the definitions of *desecrate* and *publish* for the purposes of the prohibitions. A contravention of any of the prohibitions is an offence.
11. Clause 11 adds new sections 7A and 7B to the Ordinance. The new section 7A requires the Secretary for Education (*Secretary*)—
 - (a) to give directions for the inclusion of the national flag and national emblem in primary education and in secondary education; and
 - (b) to give directions to nurseries, kindergartens, primary schools and secondary schools for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony (*flag display and raising matters*).

The section also requires post secondary education institutions to make reference to the directions given by the Secretary for flag display and raising matters.

12. The new section 7B applies if under the terms and conditions of a sound broadcasting licence or domestic television licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service. By a determination or direction that has been made in relation to the licence, the licensee may be required to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service. Moreover, the Communications Authority must make a determination or direction in relation to the licence, requiring the licensee to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given by the Chief Executive.
13. Clause 12 makes a minor amendment to section 8 of the Ordinance. Clause 13 amends section 9 of the Ordinance to update the references to the National Flag Law and the National Emblem Law.
14. Clauses 14 and 15 respectively amend Schedules 1 and 2 to the Ordinance to elaborate further on the specifications for the size of national flags and national emblems.
15. Clause 16 amends Schedule 3 to the Ordinance to provide for—
 - (a) the conditions for flying the national flag at half staff;
 - (b) the raising and lowering of the national flag;
 - (c) the use of the national flag at mourning ceremonies; and
 - (d) the method for using the design of the national emblem in foreign affairs activities.
16. Clause 17 adds a new section 8A to the Registered Designs Ordinance (Cap. 522) to provide that a design is not registrable if it consists of or contains the national flag, the national emblem or their

designs. Clause 18 makes a consequential amendment to section 12 of the Registered Designs Rules (Cap. 522 sub. leg. A).

**Full text of the Law of the People’s Republic of China on the National Flag
 (“National Flag Law”) and the
 Law of the People’s Republic of China on the National Emblem (“National
 Emblem Law”)¹**

I. National Flag Law

(Adopted at the 14th Meeting of the Standing Committee of the Seventh National People’s Congress on June 28, 1990; amended for the first time pursuant to the Decision of the Standing Committee of the National People’s Congress on Amending Some Laws adopted at the 10th Meeting of the Standing Committee of the Eleventh National People’s Congress on August 27, 2009; and amended for the second time pursuant to the Decision of the Standing Committee of the National People’s Congress on Amending the Law of the People’s Republic of China on the National Flag adopted at the 22rd Meeting of the Standing Committee of the Thirteenth National People’s Congress on October 17, 2020)

Article 1 This Law is enacted in accordance with the Constitution to uphold the dignity of the national Flag, ensure its correct use, enhance citizens’ consciousness of the State, promote patriotism, cultivate and practice core socialist values.

Article 2 The national flag of the People’s Republic of China is the Five-starred Red Flag.

The national flag of the People’s Republic of China shall be made pursuant to the Directions for the Making of the National Flag promulgated by the Presidium of the First Plenary Session of the Chinese People’s Political Consultative Conference.

Article 3 The common sizes of the national flag are the five sizes specified in the Direction for the Making of the National Flag. The national flag of other sizes to be used under special circumstances shall be appropriately scaled up or down in proportion to the common sizes.

The size of the national flag shall be proportional to the flagpole height, and be commensurate with the purposes of use, surrounding buildings and surrounding environment.

Article 4 The national flag of the People’s Republic of China is the symbol and hallmark of the People’s Republic of China.

All citizens and organizations shall respect and protect the national flag.

¹ Source: The National People’s Congress of the People’s Republic of China

- Article 5** The national flag shall be raised and displayed daily at the following places or premises of institutions:
- (1) Tian'anmen Square and Xinhuaamen in Beijing;
 - (2) the Central Committee of the Communist Party of China, the Standing Committee of the National People's Congress, the State Council, the Central Military Commission, the Central Commission for Discipline Inspection of the Communist Party of China, the National Supervisory Commission, the Supreme People's Court, and the Supreme People's Procuratorate; National Committee of the Chinese People's Political Consultative Conference;
 - (3) the Ministry of Foreign Affairs; or
 - (4) airports, harbors and railway stations of entry or exit and other frontier ports, border and coastal sentry posts.

- Article 6** The national flag shall be raised and displayed during working days at the following premises of institutions:
- (1) all central departments and local committees at all levels of the Communist Party of China;
 - (2) all departments of the State Council;
 - (3) the standing committees of the local people's congresses at all levels;
 - (4) local people's governments at all levels;
 - (5) local commissions for discipline inspection and local supervisory commissions at all levels of the Communist Party of China;
 - (6) local people's courts at all levels and specialized people's courts;
 - (7) local people's procuratorates at all levels and specialized people's procuratorates;
 - (8) local committees at all levels of the Chinese People's Political Consultative Conference;
 - (9) all democratic parties and social organizations; or
 - (10) the resident organs of the Central People's Government in the Hong Kong Special Administrative Region and the resident organs of the Central People's Government in the Macao Special Administrative Region.

Schools shall raise and display the national flag daily, except during winter vacations, summer vacations and rest days. Kindergartens, when conditions permit, shall raise and display the national flag by reference to school rules.

Libraries, museums, cultural centers, art galleries, science and technology museums, memorial halls, exhibition halls,

gymnasiums, youth centers and other public cultural and sports facilities shall raise and display the national flag on open days.

Article 7 State organs at all levels, all social organizations and public places such as large squares and parks shall raise and display the national flag on the National Day, the International Labor Day, New Year's Day, the Spring Festival, National Constitution Day and other important festivals and anniversaries; and the national flag shall be raised and displayed, when conditions permit, in premises of enterprises and public institutions, villagers' committees and residents' committees and residential compounds (buildings and communities).

In ethnic autonomous areas, the national flag shall be raised and displayed on the anniversary of the founding of the area and during major traditional festivals of ethnic minorities.

When a constitutional oath-taking ceremony is held, the national flag shall be displayed at the venue where the oath is taken.

Article 8 The national flag may be raised and displayed when important celebration and commemorative activities, large-scale cultural and sports activities and major exhibitions are held.

Article 9 The State encourages citizens and organizations to use the national flag and the design thereof to express their patriotic feelings on appropriate occasions.

When using the design of the national flag, citizens and organizations shall abide by relevant provisions on internet regulations and may not impair the dignity of the national flag.

The official version of the design of the national flag for online use is provided on the websites of the National People's Congress and the State Council.

Article 10 Procedures for the raise, display and use of the national flag in diplomatic activities and by the Chinese embassies and consulates stationed in foreign countries and other diplomatic representative agencies shall be prescribed by the Ministry of Foreign Affairs.

Article 11 Procedures for the raise, display and use of the national flag by the Chinese People's Liberation Army and the Chinese People's Armed Police Force shall be prescribed by the Central Military Commission.

Article 12 Procedures for the raise and display of the national flag by civilian vessels or foreign vessels entering Chinese territorial waters shall be prescribed by the competent department in charge of transport under the State Council.

Procedures for the raise and display of the national flag by vessels on exit-entry frontier inspection, border management and public security duties shall be prescribed by the department of public security under the State Council.

Procedures for the raise and display of the national flag by vessels of national firefighting rescue teams shall be prescribed by the department of emergency management under the State Council.

Article 13 The national flag, when raised and displayed according to Article 5, 6 and 7 of this Law, shall be raised in the morning and lowered in the evening.

Where the national flag shall be raised and displayed under this Law, when the weather is inclement, it is permissible not to raise and display the National Flag.

Article 14 When the national flag is raised and displayed, a flag-hoisting ceremony may be held.

The National Anthem shall be played and sung in the flag-hoisting ceremony. While the national flag is being hoisted, people present shall face the Flag and stand solemnly to salute it with eyes, or as required, and shall not conduct any act impairing the dignity of the national flag.

The flag-hoisting ceremony shall be held daily in the Tian'anmen Square in Beijing.

A school shall hold a flag-hoisting ceremony once a week, except during vacations.

Article 15 The national flag shall be lowered to half-staff to express mourning when the following persons pass away:

- (1) President of the People's Republic of China, Chairman of the Standing Committee of the National People's Congress, Premier of the State Council and Chairman of the Central Military Commission;
- (2) Chairman of the National Committee of the Chinese People's Political Consultative Conference;

- (3) persons who have made outstanding contributions to the People's Republic of China; or
- (4) persons who have made outstanding contributions to the cause of world peace or the progress of mankind.

Where a national memorial ceremony is held, or when serious natural calamities, public health emergencies or other unfortunate events occur, causing especially serious casualties, the national flag may be lowered to half-staff nationwide or in certain areas or specific places to express mourning.

The half-staff of the national flag in accordance with Subparagraph (3) and (4) in the first and the second paragraph of this Article shall be reported by the relevant departments of the State Council or the people's governments of provinces, autonomous regions and municipalities directly under the Central Government to the State Council for decision. Dates and places for the half-staff of the national flag under this Article shall be decided by the funeral organ established by the State or by the State Council.

Article 16

When mourning ceremonies for the following persons who have passed away are held, their remains, coffins or urns may be covered with the national flag:

- (1) the persons specified in Subparagraph (1) to (3) in the first paragraph of Article 15 of this Law;
- (2) martyrs;
- (3) other persons specified by the State.

The national flag covering the remains, coffins or urns may not touch the ground, and shall be taken back for safekeeping after the ceremonies.

Article 17

When the national flag is raised and displayed, it shall be placed in a prominent position.

The national flag, when raised or carried in a procession with other flags, shall be in front of the others.

The national flag, when raised and displayed with other flags, shall be either at the center and above the others, or in a position of prominence.

When the national flags of two or more nations are raised and displayed in foreign affairs activities, relevant provisions of the Ministry of Foreign Affairs or the international practice shall be followed.

Article 18 The national flag, when hoisted or lowered from a vertical staff, shall be hoisted or lowered slowly. When raised, the national flag shall reach the peak of the staff; when lowered, it may not touch the ground.

The national flag, when lowered to half-staff, shall be first hoisted to the peak of the staff and then lowered to a point where the distance between the top of the Flag and the peak of the staff is one third of the length of the staff; the Flag, when lowered, shall be again hoisted to the peak before it is lowered.

Article 19 No damaged, defiled, faded or substandard national flag shall be raised, displayed or used, and no national flag shall be displayed upside down, inserted upside down, or raised, displayed or used in any other manners that impair the dignity of the national flag.

No national flag shall be discarded at will. The damaged, defiled, faded or substandard national flag shall be withdrawn and disposed of in accordance with relevant provisions issued by the State. After a large-scale public activity, the organizer of the activity shall withdraw or properly dispose of the national flag used on site.

Article 20 The national flag or the design thereof shall not be used as a trademark, for a design whose patent right is granted, or for a commercial advertisement, and shall not be used in private funeral activities or under other inappropriate circumstances.

Article 21 The national flag shall be considered as an important element of education in patriotism.

Primary and secondary schools shall educate students on the history and significance of the national flag, and to observe the rules on the raise, display and use of the national flag and the etiquette in a flag-hoisting ceremony.

News media shall actively publicize the knowledge on the national flag and guide citizens and organizations to correctly use the national flag and the design thereof.

Article 22 The General Office of the State Council shall make overall plans for and coordinate the work concerning the administration of the national flag nationwide. The local people's governments at all levels shall make overall plans for and coordinate the work concerning the administration of the national flag within their respective administrative regions.

The market regulatory departments of the people's governments at all levels shall supervise and administer production and sale of the national flag.

The departments designated by the people's governments at the county level shall supervise and administer the raise, display, use and withdrawal of the national flag within their respective administrative regions.

The Ministry of Foreign Affairs, the competent departments in charge of transportation under the State Council and the relevant departments of the Central Military Commission shall supervise and administer the raise, display, use and withdrawal of the national flag within their respective jurisdictions.

Article 23 A party who desecrates the national flag of the Peoples Republic of China by intentionally burning, damaging, defacing, defiling or trampling upon it in a public place shall be subject to criminal liability in accordance with the law; in less serious cases, the offender shall be detained for a maximum of 15 days by the public security organ.

Article 24 This Law shall be effective as of October 1, 1990.

Appendix:

Directions for the Making of the National Flag

(Promulgated by the Presidium of the First Plenary Session of the Chinese People's Political Consultative Conference on September 28, 1949)

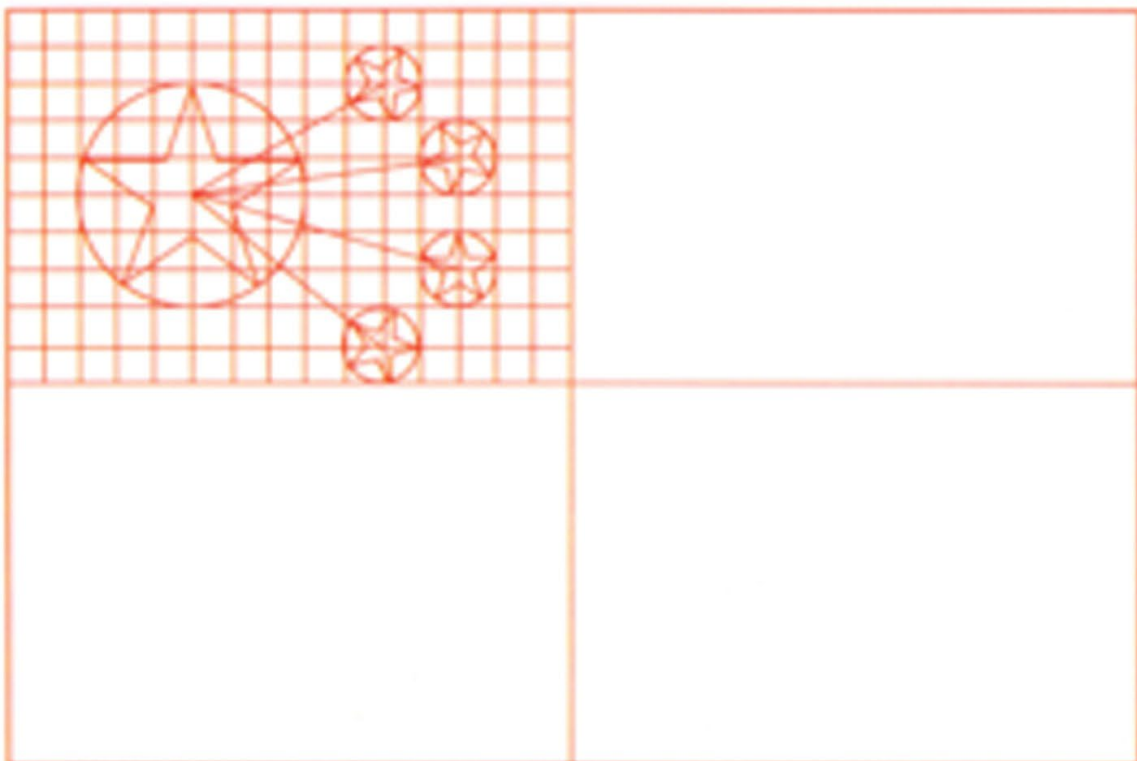
The shape and colour of either side of the national flag shall be identical, whereas the five stars on both sides of the Flag shall be opposite to each other. For convenience's sake, these directions shall take the circumstances where the staff is on the left as the basis for illustration. Where the staff is on the right, the word "left" used in these directions shall all be changed to "right", while the word "right" referring to direction shall all be changed to "left".

- (1) The face of the Flag shall be red and rectangular; the proportion of its length and height shall be 3 to 2. The upper left of the face of the Flag shall be studded with five yellow five-pointed stars. One of the stars shall be bigger than the others, with its circumcircle's diameter being three-tenth of the height of the Flag, and shall be placed in the left; the four other stars shall be smaller, with their circumcircle's diameter being one-tenth of the height of the Flag, encircling the big star on its right in the shape of an arch. The cover of the staff shall be white.
- (2) The five stars shall be positioned and drawn as follows:
 - a. To determine the position of the five stars, the face of the Flag shall be first folded both ways to form four equal rectangles; then the rectangle on the upper left shall be vertically divided into ten equal sections and horizontally divided into fifteen equal sections.
 - b. The central point of the big five-pointed star shall be at a point in the rectangle where the fifth line from above (or the fifth line from below), and the fifth line from the left (or the tenth line from the right) meet. The method of drawing shall be: taking this point as the centre and the length of three such equals as the radius to make a circle. On the circumference of this circle, five points with equal distances from each other shall be determined, one of the points must be in the right above position of the circle. Then connect each of the five points with every other point to form a straight line respectively. The outline formed by these five straight lines shall be the required big five-pointed star. An angle of the five-pointed star shall point in the right above direction.
 - c. The centres of the four small five-pointed stars shall be as follows: the first shall be at a point, in the rectangle, where the second line from above (or the eighth line from below), and the tenth line from the left (or the fifth line from the right) meet; the second shall be at a point where the fourth line from above (or the sixth line from below), and the twelfth line from the left (or the third line from the right) meet; the third shall be at a point where the seventh line from above (or the third line from below), and the twelfth line from the left

(or the third line from the right) meet; the fourth shall be at a point where the ninth line from above (or the first line from below), and the tenth line from the left (or the fifth line from the right) meet. The method for drawing shall be: taking each of the above four points as the centre and the length of one such equal as the radius to make four circles. On each circle, five points with equal distances from each other shall be determined. One of such points must be on the line linking the centre of the circle with the centre of the big five-pointed star. Then the same methods used in forming the big five-pointed star shall be used to form the small five-pointed stars. The four small five-pointed stars shall respectively have an angle pointing right at the centre of the big five-pointed star.

- (3) The measurement in common use for the national flag, from which people from various circles may choose at their discretion shall be as follows:
- a. 288 cm. in length, 192 cm. in height;
 - b. 240 cm. in length, 160 cm. in height;
 - c. 192 cm. in length, 128 cm. in height;
 - d. 144 cm. in length, 96 cm. in height;
 - e. 96 cm. in length, 64 cm. in height.

Design for making of the national flag



II. National Emblem Law

(Adopted at the 18th Meeting of the Standing Committee of the Seventh National People's Congress on March 2, 1991; amended for the first time pursuant to the Decision of the Standing Committee of the National People's Congress on Amending Some Laws adopted at the 10th Meeting of the Standing Committee of the Eleventh National People's Congress on August 27, 2009; and amended for the second time pursuant to the Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on the National Emblem adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on October 17, 2020)

Article 1 This Law is enacted in accordance with the Constitution to uphold the dignity of the national emblem, ensure its correct use, enhance citizens' consciousness of the state, advocate patriotism, cultivate and practice core socialist values.

Article 2 The national emblem of the People's Republic of China shall comprise the design of Tian'anmen in its center illuminated by five stars and encircled by ears of grain and a cogwheel.

The national emblem of the People's Republic of China shall be made in accordance with the Design of the National Emblem of the People's Republic of China adopted by the Central People's Government Council in 1950, and the Directions for the Making of the Design of the National Emblem of the People's Republic of China promulgated by the General Office of the Central People's Government Council in the same year.

Article 3 The national emblem of the People's Republic of China is the symbol and hallmark of the People's Republic of China.

All organizations and citizens shall respect and protect the national emblem.

Article 4 The following organs shall hang the national emblem:

- (1) the standing committees of the people's congresses at all levels;
- (2) the people's governments at all levels;
- (3) the Central Military Commission;
- (4) the supervisory commissions at all levels;
- (5) the people's courts and the special people's courts at all levels;
- (6) the people's procuratorates and the special people's procuratorates at all levels;
- (7) the Ministry of Foreign Affairs;
- (8) the country's embassies, consulates and other diplomatic missions stationed in other countries; and

- (9) the resident organs of the Central People's Government in the Hong Kong Special Administrative Region and the resident organs of the Central People's Government in the Macao Special Administrative Region.

The national emblem shall be hung right in the middle on top of the front gate of the organs concerned.

Article 5

The national emblem shall be hung in the following places:

- (1) the rostrum of Tian'anmen and the Great Hall of the People in Beijing;
- (2) conference halls of the people's congresses at the county and above levels and their standing committees, and the venues of the people's congresses of towns, ethnic towns and townships;
- (3) courtrooms of the people's courts at various levels and of the specialized people's courts;
- (4) venues where an oath to the Constitution is taken; and
- (5) appropriate places in ports of exit or entry.

Article 6

The design of the national emblem shall be carved on the seals of the following organs:

- (1) the Standing Committee of the National People's Congress, the State Council, the Central Military Commission, the National Supervisory Commission, the Supreme People's Court and the Supreme People's Procuratorate;
- (2) the special committees of the National People's Congress and the General Office and the working commission of the Standing Committee of the National People's Congress, the ministries and commissions under the State Council, departments directly under the State Council, the General Office of the State Council and the administrative offices that shall, as prescribed by the State Council, use seals carved with the design of the national emblem, as well as the General Office of the Central Military Commission and other organs that shall, as prescribed by the Central Military Commission, use seals carved with the design of the national emblem;
- (3) the standing committees of the local people's congresses, the local people's governments, the local supervisory commissions, the local people's courts, the local people's procuratorates at the county and above levels, and the specialized people's courts and the specialized people's procuratorates; and
- (4) the country's embassies, consulates and other diplomatic missions stationed in other countries.

Article 7 The organs as prescribed in Article 6 of this Law shall, at a prominent position on the homepages of their websites, use the design of the national emblem.

The official version of the design of the national emblem used on websites is provided on the website of the National People's Congress and the State Council.

Article 8 The design of the national emblem shall be printed on the following documents and publications:

- (1) certificates of honor, letters of appointment and diplomatic documents issued by the Standing Committee of the National People's Congress, the President of the People's Republic of China, or the State Council;
- (2) envelopes, correspondence paper and invitation cards used in foreign affairs by the President and the Vice-President of the People's Republic of China, the Chairman and the Vice-Chairmen of the Standing Committee of the National People's Congress, the Premier and the Vice-Premiers of the State Council and State Councilors, the Chairman and Vice-Chairmen of the Central Military Commission, the Chairman of the National Supervisory Commission, the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate in their respective capacities;
- (3) front covers of bulletins of the Standing Committee of the National People's Congress, the State Council, the Supreme People's Court and the Supreme People's Procuratorate; and
- (4) front covers of the official editions of laws and regulations published by the State.

Article 9 The design of the national emblem may be used on the boundary pillars and monuments marking national boundaries, the boundary monuments marking the location of territorial sea base points, and other markers used to indicate national sovereignty;

The design of the national emblem may be used on the legal currency issued by the People's Bank of China.

Article 10 The design of the national emblem may be used on the following certificates and licenses:

- (1) work and law enforcement ID cards, or otherwise of the functionaries of state organs;
- (2) business licenses, permits, approval certificates, qualification certificates, and certificates of rights, or otherwise issued by state organs;

- (3) resident identification cards, passports of the People's Republic of China, and other legal entry and exit documents;

The design of the national emblem may be used as the core pattern of the emblems of state organs and armed forces;

Citizens may wear the national emblem badges on solemn occasions to express their patriotic feelings.

Article 11 Procedures for the use of the design of the national emblem in foreign affairs and by the country's embassies, consulates and other diplomatic missions stationed in other countries shall be prescribed by the Ministry of Foreign Affairs and submitted to the State Council for approval before implementation.

Article 12 Where it is necessary to hang the national emblem or use its design outside the scope specified in this Law, it shall be prescribed by the General Office of the Standing Committee of the National People's Congress or the General Office of the State Council, in conjunction with the departments concerned.

Article 13 The national emblem and the design thereof may not be used in:

- (1) trademarks, designs for which patent rights are granted, and commercial advertisements;
- (2) daily necessities, and furnishings or ornaments in daily life;
- (3) private activities of celebration or condolence; or
- (4) other circumstances where the national emblem and the design thereof may not be used as prescribed by the General Office of the State Council.

Article 14 No damaged, defiled, or substandard national emblem shall be hung.

Article 15 The national emblem shall be considered as an important element of education in patriotism. Primary and secondary schools shall educate students on the history and significance of the national emblem.

News media shall actively publicize the knowledge on the national emblem and guide citizens and organizations to correctly use the national emblem and the design thereof.

Article 16 The national emblem to be hung shall be uniformly made by enterprises designated by the State and the diameters of its common sizes shall be as follows:

- (1) one hundred centimeters;

- (2) eighty centimeters; and
- (3) sixty centimeters.

When it is necessary to hang the national emblem in uncommon sizes, the national emblem shall be appropriately scaled up or down in proportion to the sizes of the general standard, and be commensurate with the purposes of use, the buildings where it is hung and the surrounding environment.

Article 17 The General Office of the State Council shall make overall plans for and coordinate the work concerning the administration of the national emblem nationwide. The local people's governments at all levels shall make overall plans for and coordinate the work concerning the administration of the national emblem within their respective administrative regions.

The market regulatory departments of the people's governments at all levels shall supervise and administer production and sale of the national emblem.

The departments designated by the people's governments at the county level shall supervise and administer the hanging, use and withdrawal of the national emblem within their respective administrative regions.

Article 18 A party who desecrates the national emblem of the People's Republic of China by intentionally burning, damaging, defacing, defiling or trampling upon it in a public place shall be subject to criminal liability in accordance with the law; in less serious cases, the offender shall be detained for a maximum of 15 days by the public security organ.

Article 19 This Law shall be effective as of October 1, 1991.

Appendix:

The Design of the National Emblem of the People's Republic of China

(Adopted at the Eighth Meeting of the Central People's Government Council on June 28, 1950)

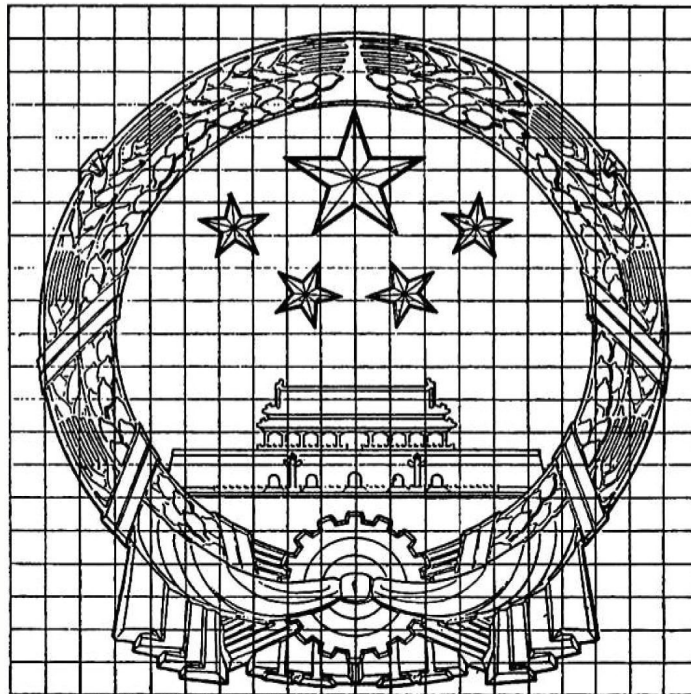


Caption: Comprising the national flag, Tian'anmen, a cogwheel and ears of wheat and rice, the national emblem symbolizes the new-democratic revolutionary struggle waged by the Chinese people since the May 4th Movement in 1919, as well as the birth of the New China under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants.

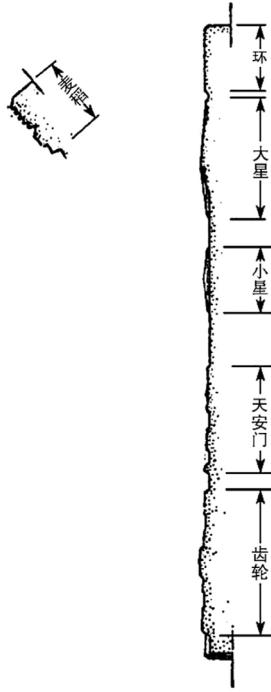
Directions for the Making of the Design of the National Emblem of the People's Republic of China

(Promulgated by the General Office of the Central Government Council on September 20, 1950)

1. Two bunches of wheat and rice form a round ring. A cogwheel is placed where the wheat and rice stems cross at the base. Red ribbon forms a knot in the centre of the cogwheel. The red ribbon coils up the wheat and rice on the left and right of the cogwheel and hangs down, dividing the cogwheel into an upper and a lower part.
2. If a vertical straight line is drawn in the centre of the design, the left and the right parts thereof are completely symmetrical.
3. The positions and measurements of the various parts of the design may be enlarged or reduced to the scale of the squared ink line sketch.
4. If a relief sculpture is made, the height of the various parts may be magnified or lessened to the scale of the sectional drawing.
5. The national emblem is in red and gold: the wheat and rice, the five stars, Tian'anmen and the cogwheel are in gold, the base of the part within the round ring and the hanging ribbon are in red; the red is pure red (the same as the national flag), the gold is pure gold (light and bright).



The squared ink line sketch of the People's Republic of China's national emblem



The sectional drawing of the People's Republic of China's national emblem

Table comparing the amended National Flag Law and the National Emblem Law with the National Flag and National Emblem (Amendment) Bill 2021 (“the Bill”)

I. Amended National Flag Law and the Bill

Amended National Flag Law (amendments are highlighted with <i><u>underline and italic</u></i> prints)		The Bill	
Article 1	<p>This Law is enacted in accordance with the Constitution to uphold the dignity of the national flag, <i><u>ensure its correct use</u></i>, enhance citizens’ consciousness of the State, promote patriotism, <i><u>cultivate and practice core socialist values</u></i>.</p> <p><i>(Article 1 prior to amendment)</i></p>	Preamble (3)	<p>Preamble</p> <p>(3) this Ordinance is enacted to preserve the dignity of the national flag and national emblem, to regulate the use of the national flag and national emblem, to enhance citizen awareness of the People’s Republic of China, and to promote patriotism;</p>
Article 2	<p>The national flag of the People’s Republic of China is the Five-starred Red Flag.</p> <p>The national flag of the People’s Republic of China shall be made pursuant to the Directions for the Making of the National Flag promulgated by the Presidium of the First Plenary Session of the Chinese People’s Political Consultative Conference.</p> <p><i>(Article 2 prior to amendment)</i></p>	s.2(1), 2(2)	<p>2. Interpretation</p> <p>(1) In this Ordinance, unless the context otherwise requires—</p> <p>...</p> <p><i>national flag</i> (國旗) means the national flag of the People’s Republic of China adopted by resolution of the First Plenary Session of the Chinese People’s Political Consultative Conference on 27 September 1949;</p> <p><i>specifications</i> (規格) means the relevant specifications for the national flag or the national emblem set out in Schedules 1 and 2.</p> <p>(2) The specifications for the national flag are set out in Schedule 1.</p>
Article 3	<p><i><u>The common sizes of the national flag are the five sizes specified in the Direction for the Making of the National Flag. The national flag of other sizes to be used under special</u></i></p>	Schedule 1	<p>Schedule 1</p> <p>Specifications for the National Flag of the People’s Republic of China</p> <p>(3) The measurement in common use for the national flag, from which people</p>

	<p><u>circumstances shall be appropriately scaled up or down in proportion to the common sizes.</u></p> <p><u>The size of the national flag shall be proportional to the flagpole height, and be commensurate with the purposes of use, surrounding buildings and surrounding environment.</u></p> <p>(New article)</p>		<p>from various circles may choose at their discretion shall be as follows:</p> <ol style="list-style-type: none"> 288 cm in length, 192 cm in height; 240 cm in length, 160 cm in height; 192 cm in length, 128 cm in height; 144 cm in length, 96 cm in height; 96 cm in length, 64 cm in height. <p>(4) If national flags of nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size.</p> <p>(5) The size of the national flag must be proportional to the staff, and be commensurate with the purpose of use, the surrounding buildings and the surrounding environment.</p>
Article 4	<p>The national flag of the People's Republic of China is the symbol and hallmark of the People's Republic of China.</p> <p>All citizens and organizations shall respect and protect the national flag.</p> <p>(Article 3 prior to amendment)</p>	Preamble (1), (2)	<p>Preamble</p> <p>(1) the national flag and national emblem of the People's Republic of China are a symbol and sign of the People's Republic of China;</p> <p>(2) all individuals and organizations should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions; and</p>
Article 5	<p>The national flag shall be raised and displayed daily at the following places or premises of institutions:</p> <p>(1) Tian'anmen Square and Xinhuaamen in Beijing;</p>	s.3(1), 3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(1) The national flag or the national emblem or both must be displayed at main Government buildings.</p>

	<p>(2) <u>the Central Committee of the Communist Party of China, the Standing Committee of the National People's Congress, the State Council, the Central Military Commission, the Central Commission for Discipline Inspection of the Communist Party of China, the National Supervisory Commission, the Supreme People's Court, and the Supreme People's Procuratorate; National Committee of the Chinese People's Political Consultative Conference;</u></p> <p>(3) the Ministry of Foreign Affairs; or</p> <p>(4) airports, harbors and railway stations of entry or exit and other frontier ports, border and coastal sentry posts.</p> <p>(Article 5 prior to amendment)</p>		<p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>
Article 6	<p><u>The national flag shall be raised and displayed during working days at the following premises of institutions:</u></p> <p><u>(1) all central departments and local committees at all levels of the Communist Party of China;</u></p> <p><u>(2) all departments of the State Council;</u></p> <p><u>(3) the standing committees of the local people's congresses at all levels;</u></p> <p><u>(4) local people's governments at all levels;</u></p> <p><u>(5) local commissions for discipline inspection and local supervisory commissions at all levels of the Communist Party of China;</u></p> <p><u>(6) local people's courts at all levels and specialized people's courts;</u></p>	<p>s.3(1), 3(2);</p> <p>s.7A(1)(b), 7A(2), 7A(3)</p>	<p>3. Use of national flag and national emblem etc.</p> <p>(1) The national flag or the national emblem or both must be displayed at main Government buildings.</p> <p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>

<p><u>(7) local people's procuratorates at all levels and specialized people's procuratorates;</u></p> <p><u>(8) local committees at all levels of the Chinese People's Political Consultative Conference;</u></p> <p><u>(9) all democratic parties and social organizations; or</u></p> <p><u>(10) the resident organs of the Central People's Government in the Hong Kong Special Administrative Region and the resident organs of the Central People's Government in the Macao Special Administrative Region.</u></p> <p>shall display the national flag during working days.</p> <p>Whole day schools <u>Schools</u> shall raise and display the national flag daily, except during winter vacations, summer vacations and <u>Sundays rest days</u>. <u>Kindergartens, when conditions permit, shall raise and display the national flag by reference to school rules.</u></p> <p><u>Libraries, museums, cultural centers, art galleries, science and technology museums, memorial halls, exhibition halls, gymnasiums, youth centers and other public cultural and sports facilities shall raise and display the national flag on open days.</u></p> <p>(Article 6 prior to amendment)</p>	<p>7A. Education in national flag and national emblem</p> <p>(1) The Secretary for Education must—</p> <p>(b) give directions to specified schools for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony.</p> <p>(2) For dealing with matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony, a post secondary education institution must make reference to the directions given under subsection (1)(b).</p> <p>(3) In this section—</p> <p>post secondary education institution (專上院校)—</p> <p>(a) means—</p> <p>(i) an institution specified in section 2 of the Education Ordinance (Cap. 279); or</p> <p>(ii) a school that provides post secondary education as defined by section 3(1) of that Ordinance; but</p> <p>(b) does not include a school that solely provides regulated courses as defined by section 2(1) of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493);</p> <p>primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p> <p>school (學校) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p>
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			<p>secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p> <p>specified school (指明學校) means a school that provides primary education or secondary education, or nursery education or kindergarten education as defined by section 3(1) of the Education Ordinance (Cap. 279).</p>
Article 7	<p>State organs at all levels, and all social organizations <u>and public places such as large squares and parks</u> shall raise and display the national flag on the National Day, the International Labor Day, the New Year's Day, and the Spring Festival, <u>National Constitution Day and other important festivals and anniversaries</u>; and the national flag may shall be raised and displayed, when conditions permit, in premises of enterprises and public institutions, villagers' committees and residents' committees, <u>and</u> residential compounds (buildings <u>and communities</u>) <u>and in public places such as squares and parks</u>.</p> <p><u>In minority nationality areas where the Spring Festival is not a traditional festival, whether the national flag is raised during the Spring Festival shall be prescribed by the authorities practicing self governance in the ethnic autonomous areas.</u></p> <p>In ethnic autonomous areas, the national flag may shall be raised and displayed on the anniversary of the founding of the area and during major traditional festivals of ethnic minorities.</p>	s.3(1), 3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(1) The national flag or the national emblem or both must be displayed at main Government buildings.</p> <p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>

	<p><u>When a constitutional oath-taking ceremony is held, the national flag shall be displayed at the venue where the oath is taken.</u></p> <p>(Article 7 prior to amendment)</p>		
Article 8	<p>The national flag may be raised and displayed when important celebration and commemorative activities, large-scale cultural and sports activities and major exhibitions are held.</p> <p>(Article 8 prior to amendment)</p>	s.3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>
Article 9	<p><u>The State encourages citizens and organizations to use the national flag and the design thereof to express their patriotic feelings on appropriate occasions.</u></p> <p><u>When using the design of the national flag, citizens and organizations shall abide by relevant provisions on Internet regulations and may not impair the dignity of the national flag.</u></p> <p><u>The official version of the design of the national flag for online use is provided on the websites of the National People's Congress and the State Council.</u></p> <p>(New article)</p>	Preamble (2), s.3(3B)	<p>Preamble</p> <p>(2) all individuals and organizations should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions; and</p> <p>3. Use of national flag and national emblem etc.</p> <p>(3B) The Government may provide on a website of the Government a standard version of the design of the national flag and national emblem for online use.</p>

Article 10	<p>Procedures for the raise, display and use of the national flag in diplomatic activities and by the Chinese embassies and consulates stationed in foreign countries and other diplomatic representative agencies shall be prescribed by the Ministry of Foreign Affairs.</p> <p><i>(Article 9 prior to amendment)</i></p>	N/A	Foreign affairs are not within the autonomy of the HKSAR, hence, this article on foreign affairs will not be incorporated into the Bill.
Article 11	<p><u>Procedures for the raise, display and use of the national flag by the Chinese People's Liberation Army and the Chinese People's Armed Police Force shall be prescribed by The national flag shall be raised by military organs at barracks and on military vessels in accordance with the relevant provisions of</u> the Central Military Commission.</p> <p><i>(Article 10 prior to amendment)</i></p>	N/A	Defence affairs are not within the autonomy of the HKSAR, hence, this article will not be incorporated into the Bill.
Article 12	<p>Procedures for the raise and display of the national flag by civilian vessels or foreign vessels entering Chinese territorial waters shall be prescribed by the competent department in charge of transport under the State Council.</p> <p>Procedures for the raise and display of the national flag by public security vessels on frontier defence exit-entry <u>frontier inspection, border management and public security</u> or fire control duties shall be prescribed by the department of public security under the State Council.</p> <p><u>Procedures for the raise and display of the national flag by vessels of national</u></p>	N/A	The part on vessel arrangements in this article is not applicable to the HKSAR, hence, will not be incorporated into the Bill.

	<p><u>firefighting rescue teams shall be prescribed by the department of emergency management under the State Council.</u></p> <p>(Article 11 prior to amendment)</p>		
Article 13	<p>The national flag, when raised and displayed according to Article 5, 6 and 7 of this Law, shall be raised in the morning and lowered in the evening.</p> <p>Where the national flag shall be raised and displayed under this Law, when the weather is inclement, it is permissible not to raise and display the national flag.</p> <p>(Article 12 prior to amendment)</p>	s.3(4)(c), Schedule 3	<p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(c) the raising and lowering of the national flag; ...</p> <p>Schedule 3</p> <p>Conditions for Flying the National Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Raising and lowering national flag</p> <p>3. If the national flag is displayed pursuant to section 3(1) or (2), the national flag must, as far as practicable, be raised in the morning and lowered in the evening.</p> <p>4. Despite any other provision of this Ordinance, the display of the national flag may be dispensed with in case of inclement weather.</p>
Article 14	<p>When the national flag is raised and displayed, a flag-hoisting ceremony may be held.</p> <p><u>The national anthem shall be played and sung in It the flag-hoisting ceremony. While the national flag is being hoisted, participants people present</u> shall face the flag and stand solemnly to salute it; and the national</p>	s.4A; s.7A(1)(b), 7A(2), 7A(3)	<p>4A. Etiquette for taking part in or attending national flag raising ceremony</p> <p>When the national flag is being raised during a national flag raising ceremony, the etiquette to be followed by the persons who take part in or attend the ceremony is—</p> <p>(a) to stand solemnly facing the national flag;</p>

	<p><i>anthem may be played or sung while the national flag is being raised with eyes, or as required, and shall not conduct any act impairing the dignity of the national flag.</i></p> <p><i>The flag-hoisting ceremony shall be held daily in the Tian'anmen Square in Beijing.</i></p> <p><i>Whole day secondary and primary schools</i> <i>A school</i> shall hold a flag-hoisting ceremony once a week, except during vacations.</p> <p><i>(Article 13 prior to amendment)</i></p>	<p>(b) to look at the national flag with respectful attention or to salute the national flag in an appropriate manner (as the case requires); and</p> <p>(c) to not behave in a way that undermines the dignity of the national flag.</p> <p>Note—</p> <p>For the requirement of playing and singing the national anthem at a national flag raising ceremony, please refer to section 5 of, and item 2 of Schedule 3 to, the National Anthem Ordinance (2 of 2020).</p> <p>7A. Education in national flag and national emblem</p> <p>(1) The Secretary for Education must—</p> <p>(b) give directions to specified schools for matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony.</p> <p>(2) For dealing with matters relating to the daily display of the national flag and the weekly conduct of a national flag raising ceremony, a post secondary education institution must make reference to the directions given under subsection (1)(b).</p> <p>(3) In this section—</p> <p><i>post secondary education institution</i> (專上院校)—</p> <p>(a) means—</p> <p>(i) an institution specified in section 2 of the Education Ordinance (Cap. 279); or</p>
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			<p>(ii) a school that provides post secondary education as defined by section 3(1) of that Ordinance; but</p> <p>(b) does not include a school that solely provides regulated courses as defined by section 2(1) of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493);</p> <p>primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p> <p>school (學校) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p> <p>secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);</p> <p>specified school (指明學校) means a school that provides primary education or secondary education, or nursery education or kindergarten education as defined by section 3(1) of the Education Ordinance (Cap. 279).</p>
Article 15	<p>The national flag shall be lowered to half-staff to express mourning when the following persons pass away:</p> <p>(1) President of the People's Republic of China, Chairman of the Standing Committee of the National People's Congress, Premier of the State Council and Chairman of the Central Military Commission;</p> <p>(2) Chairman of the National Committee of the Chinese People's Political Consultative Conference;</p> <p>(3) persons who have made outstanding contributions to the People's Republic of China; or</p>	s.3(4)(a), Schedule 3	<p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(a) the conditions under which the national flag is flown at half staff; ...</p> <p>Schedule 3</p> <p>Conditions for Flying the National Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Flying national flag at half staff</p>

	<p>(4) persons who have made outstanding contributions to the cause of world peace or the progress of mankind.</p> <p><u>Where a national memorial ceremony is held, or when serious natural calamities, public health emergencies or other unfortunate events occur, When unfortunate events causing especially serious casualties occur or when serious natural calamities have caused heavy casualties, the national flag may be lowered to half-staff nationwide or in certain areas or specific places to express mourning.</u></p> <p>The half-staff of the national flag in accordance with subparagraph (3) and (4) in the first and the second paragraph of this Article shall be <u>reported by the relevant departments of the State Council or the people's governments of provinces, autonomous regions and municipalities directly under the Central Government to decided by the State Council for decision.</u></p> <p>Dates and places for the half-staff of the national flag under this Article shall be decided by the funeral organ established by the State or by the State Council.</p> <p><i>(Article 14 prior to amendment)</i></p>		<p>1. The national flag must be lowered to the half staff as a token of mourning when the following persons pass away—</p> <p>(a) President of the People's Republic of China, Chairman of the Standing Committee of the National People's Congress, Premier of the State Council and Chairman of the Central Military Commission.</p> <p>(b) Chairman of the National Committee of the Chinese People's Political Consultative Conference.</p> <p>(c) Persons who have made outstanding contributions to the People's Republic of China as the Central People's Government advises the Chief Executive.</p> <p>(d) Persons who have made outstanding contributions to world peace or the cause of human progress as the Central People's Government advises the Chief Executive.</p> <p>2. The national flag may be flown at half staff as a token of mourning when the Central People's Government advises the Chief Executive that national memorial ceremonies are held or that serious natural calamities, public health emergencies or other unfortunate events have occurred and caused especially serious casualties.</p>
Article 16	<p><u>When mourning ceremonies for the following persons who have passed away are held, their remains, coffins or urns may be covered with the national flag:</u></p>	s.3(4)(d), Schedule 3	<p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(d) the use of the national flag at mourning ceremonies; and ...</p>

	<p><u>(1) the persons specified in subparagraph (1) to (3) in the first paragraph of Article 15 of this Law;</u></p> <p><u>(2) martyrs;</u></p> <p><u>(3) other persons specified by the State.</u></p> <p><u>The national flag covering the remains, coffins or urns may not touch the ground, and shall be taken back for safekeeping after the ceremonies.</u></p> <p>(New article)</p>		<p>Schedule 3</p> <p>Conditions for Flying the National Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Use of national flag at mourning ceremonies</p> <p>1. When holding a mourning ceremony for a specified person who has passed away, the remains, coffin or urn of the person may be covered with a national flag.</p> <p>2. Specified person (指明人士) means, as the Central People's Government advises the Chief Executive, a person who—</p> <p>(a) has made outstanding contributions to the People's Republic of China;</p> <p>(b) is a martyr; or</p> <p>(c) is a person stipulated by the Central People's Government.</p> <p>3. When covering the remains, coffin or urn with a national flag, the flag must not touch the ground.</p> <p>4. After the ceremony concerned ends, the national flag must be recovered for safekeeping.</p>
Article 17	<p>When the national flag is raised and displayed, it shall be placed in a prominent position.</p> <p>The national flag, when raised or carried in a procession with other flags, shall be in front of the others.</p>	s.3(4)(b), Schedule 3	<p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(b) the priority of the national flag; ...</p> <p>Schedule 3</p> <p>Conditions for Flying the National</p>

	<p>The national flag, when raised and displayed with other flags, shall be either at the center and above the others, or in a position of prominence.</p> <p>When the national flags of two or more nations are raised and displayed in foreign affairs activities, relevant provisions of the Ministry of Foreign Affairs or the international practice shall be followed.</p> <p><i>(Article 15 prior to amendment)</i></p>		<p>Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Priority of national flag</p> <ol style="list-style-type: none"> 1. When the national flag is displayed, it shall be placed in a prominent position. 2. The national flag, when raised or carried in a procession with another flag or flags, shall be in front of the other flag or flags. 3. The national flag, when displayed with another flag or flags, shall be either at the centre, above the other flag or flags, or in a position of prominence. 4. When the national flags of two or more nations are displayed in foreign affairs activities, relevant provisions of the Ministry of Foreign Affairs or the international practice shall be followed.
Article 18	<p>The national flag, when hoisted or lowered from a vertical staff, shall be hoisted or lowered slowly. When raised, the national flag shall reach the peak of the staff; when lowered, it may not touch the ground.</p> <p>The national flag, when lowered to half-staff, shall be first hoisted to the peak of the staff and then lowered to a point where the distance between the top of the flag and the peak of the staff is one third of the length of the staff; the flag, when lowered, shall be again hoisted to the peak before it is lowered.</p> <p><i>(Article 16 prior to amendment)</i></p>	s.3(4)(c), Schedule 3	<p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(c) the raising and lowering of the national flag; ...</p> <p>Schedule 3</p> <p>Conditions for Flying the National Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Raising and lowering national flag</p> <ol style="list-style-type: none"> 1. The national flag, when hoisted or lowered from a vertical staff, shall be hoisted or lowered slowly. When hoisted, the national flag must reach the

			<p>peak of the staff; when lowered, it may not touch the ground.</p> <p>2. The national flag, when flown at half staff, shall be first hoisted to the peak of the staff and then lowered to a point where the distance between the top of the flag and the peak of the staff is one third of the length of the staff; the flag, when lowered, shall be again hoisted to the peak before it is lowered.</p>
Article 19	<p>No damaged, defiled, faded or substandard national flag shall be raised, and displayed <i>or used, and no national flag shall be displayed upside down, inserted upside down, or raised, displayed or used in any other manners that impair the dignity of the national flag.</i></p> <p><i>No national flag shall be discarded at will. The damaged, defiled, faded or substandard national flag shall be withdrawn and disposed of in accordance with relevant provisions issued by the State. After a large-scale public activity, the organizer of the activity shall withdraw or properly dispose of the national flag used on site.</i></p> <p><i>(Article 17 prior to amendment)</i></p>	s.4	<p>4. National flag and national emblem not to be used inappropriately etc.</p> <p>(1) A national flag or a national emblem which is damaged, defiled, faded or substandard must not be displayed or used.</p> <p>(2) A national flag or a national emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem.</p> <p>(3) A national flag or a national emblem must not be discarded at will.</p> <p>(4) A national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.</p> <p>(5) After an event in which national flags or national emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems used on the site of the event.</p>

Article 20	<p>The national flag or the design thereof shall not be used as a trademark, <u>for a design whose patent right is granted</u>, or <u>for a commercial</u> advertisement, and shall not be used in private funeral activities <u>or under other inappropriate circumstances</u>.</p> <p>(Article 18 prior to amendment)</p>	s.6(1), 6(3), 6(4)	<p>6. Prohibition on certain uses of national flag and national emblem</p> <p>(1) The national flag or its design must not be displayed or used in—</p> <ul style="list-style-type: none"> (a) trademarks, registered designs or commercial advertisements; (b) private funeral activities; or (c) other occasions on which or places at which the display or use of the national flag or its design is restricted or prohibited under a stipulation made by the Chief Executive. <p>(3) A person who without lawful authority or reasonable excuse displays or uses the national flag, national emblem or the design of the national flag or of the national emblem contrary to subsection (1) or (2) commits an offence and is liable on summary conviction—</p> <ul style="list-style-type: none"> (a) for an offence against subsection (1)(a) or (2)(a), to a fine at level 5; and (b) for an offence against subsection (1)(b) or (c) or (2)(b), (c) or (d), to a fine at level 2. <p>(4) In this section— registered design (註冊外觀設計) has the meaning given by section 2(1) of the Registered Designs Ordinance (Cap. 522).</p>
Article 21	<p><u>The national flag shall be considered as an important element of education in patriotism.</u></p> <p><u>Primary and secondary schools shall educate students on the history and significance of the national flag, and to observe the rules on the raise, display</u></p>	s.7A(1)(a), 7A(3); s.7B	<p>7A. Education in national flag and national emblem</p> <p>(1) The Secretary for Education must—</p> <ul style="list-style-type: none"> (a) give directions for the inclusion of the national flag and national emblem in primary education and in secondary

	<p><u>and use of the national flag and the etiquette in a flag-hoisting ceremony.</u></p> <p><u>News media shall actively publicise the knowledge on the national flag and guide citizens and organizations to correctly use the national flag and the design thereof.</u></p> <p>(New article)</p>	<p>education to educate the students—</p> <ul style="list-style-type: none"> (i) on the history and spirit of the national flag and national emblem; (ii) on the regulation of displaying and using the national flag; and (iii) on the etiquette to be followed in a national flag raising ceremony; and ... <p>(3) In this section— primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279); ... secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279); ...</p> <p>7B. Inclusion in sound broadcasting and domestic television programme services</p> <p>(1) This section applies if, under the terms and conditions of a broadcasting licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service.</p> <p>(2) By a determination or direction that has been made in relation to the broadcasting licence, the licensee may be required to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service.</p> <p>(3) The Communications Authority</p>
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			<p>must make a determination or direction in relation to the broadcasting licence, requiring the licensee to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given under subsection (4).</p> <p>(4) The Chief Executive may give directions on broadcasting arrangements for the purposes of subsection (3).</p> <p>(5) A direction under subsection (4) is not subsidiary legislation.</p> <p>(6) In this section— <i>broadcasting licence</i> (廣播牌照) means—</p> <ul style="list-style-type: none"> (a) a licence granted under section 13C(2) of the Telecommunications Ordinance (Cap. 106), or such a licence renewed under section 13E(2) of that Ordinance; or (b) a licence granted under sections 8(1) and 10(1) of the Broadcasting Ordinance (Cap. 562), or such a licence extended or renewed under section 11(1) of that Ordinance; <p><i>Communications Authority</i> (通訊事務管理局) means the Communications Authority established by section 3 of the Communications Authority Ordinance (Cap. 616).</p>
Article 22	<u><i>The General Office of the State Council shall make overall plans for and coordinate the work concerning the administration of the national flag</i></u>	s.3(3A); s.4(4), 4(5); s.5(2),	<p>3. Use of national flag and national emblem etc.</p> <p>(3A) The Chief Executive may make stipulations in relation to the recovery</p>

	<p><u>nationwide. The local people's governments at all levels shall make overall plans for and coordinate the work concerning the administration of the national flag within their respective administrative regions.</u></p> <p><u>The market regulatory departments of the people's governments at all levels shall supervise and administer production and sale of the national flag.</u></p> <p>The <u>departments designated by the</u> local people's governments at the <u>county all</u> levels shall supervise and administer the raise, display, and use <u>and withdrawal</u> of the national flag within their respective administrative regions.</p> <p>The Ministry of Foreign Affairs, the competent departments in charge of transportation under the State Council and the <u>relevant departments of the Central Military Commission</u> General Political Department of the Chinese People's Liberation Army shall supervise and administer the raise, display, and use <u>and withdrawal</u> of the national flag within their respective jurisdictions.</p> <p><u>The national flag shall be made by enterprises designated by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.</u></p> <p>(Article 4 prior to amendment)</p>	5(4), 5(5)	<p>and disposal of national flags and national emblems.</p> <p>4. National flag and national emblem not to be used inappropriately etc.</p> <p>(4) A national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.</p> <p>(5) After an event in which national flags or national emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems used on the site of the event.</p> <p>5. Manufacture of national flag and national emblem regulated</p> <p>(2) The national flag must be manufactured in accordance with the specifications set out in Schedule 1.</p> <p>(4) If a person manufactures a national flag or national emblem other than in accordance with this section, the Secretary of Justice may apply to the District Court—</p> <p>(a) for an injunction to prohibit the unauthorized manufacture or manufacture of the flag or emblem that does not meet the specifications; and</p> <p>(b) for an order of forfeiture of the flag, emblem and other materials used in the manufacture of the flag or emblem.</p> <p>(5) If the District Court is satisfied that</p>
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			the application is well founded, it may grant the injunction and order that the flag, emblem and other materials used in the manufacture of the flag or emblem be forfeited to the Government.
Article 23	<p>A party who desecrates the national flag of the People's Republic of China by intentionally burning, damaging, defacing, defiling or trampling upon it in a public place shall be subject to criminal liability in accordance with the law; in less serious cases, the offender shall be detained for a maximum of 15 days by the public security organ.</p> <p><i>(Article 19 prior to amendment)</i></p>	s.7	<p>7. Protection of national flag and national emblem</p> <p>(1) A person commits an offence if the person publicly and intentionally desecrates the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(2) A person commits an offence if, with intent to desecrate the national flag or national emblem, the person intentionally publishes a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(3) A person who commits an offence under this section is liable on conviction to a fine at level 5 and to imprisonment for 3 years.</p> <p>(4) Except as provided under subsection (2), a person does not commit an offence under this section by publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(5) Proceedings may only be commenced for an offence under this section before whichever is the earlier of the following—</p>

			<p>(a) the end of the period of 1 year after the date on which the offence is discovered by, or comes to the notice of, the Commissioner of Police;</p> <p>(b) the end of the period of 2 years after the date on which the offence is committed.</p> <p>(6) In this section— desecrate (侮辱), in relation to the national flag or national emblem, means to undermine the dignity of the national flag or national emblem as a symbol and sign of the People’s Republic of China; publish (發布) includes—</p> <p>(a) to communicate to the public in any form, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material; and</p> <p>(b) to distribute, disseminate or make available to the public.</p>
Article 24	<p>This Law shall be effective as of October 1, 1990.</p> <p><i>(Article 20 prior to amendment)</i></p>	N/A	<p>This article will not be incorporated into the Bill, which will enter into force after the passage of legislation.</p>
<p>Appendix: Directions for the making of the national flag</p> <p><i>(Appendix to the National Flag Law prior to amendment)</i></p>	<p>s.2(1), 2(2), Schedule 1</p>	<p>2. Interpretation</p> <p>(1) In this Ordinance, unless the context otherwise requires— specifications (規格) means the relevant specifications for the national flag or the national emblem set out in Schedules 1 and 2.</p> <p>(2) The specifications for the national flag are set out in Schedule 1.</p>	

		Schedule 1 Specifications for the National Flag of the People’s Republic of China
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II. Amended National Emblem Law and the Bill

Amended National Emblem Law (amendments are highlighted with <u>underline and italic</u> prints)		The Bill	
Article 1	<p>This Law is enacted in accordance with the Constitution to uphold the dignity of the national emblem, and ensure its correct use, <u>enhance citizens' consciousness of the state, advocate patriotism, cultivate and practise core socialist values.</u></p> <p><i>(Article 1 prior to amendment)</i></p>	Preamble (3)	<p>Preamble</p> <p>(3) this Ordinance is enacted to preserve the dignity of the national flag and national emblem, to regulate the use of the national flag and national emblem, to enhance citizen awareness of the People's Republic of China, and to promote patriotism;</p>
Article 2	<p>The national emblem of the People's Republic of China shall comprise the design of Tian'anmen in its center illuminated by five stars and encircled by ears of grain and a cogwheel.</p> <p>The national emblem of the People's Republic of China shall be made in accordance with the Design of the National Emblem of the People's Republic of China adopted by the Central People's Government Council in 1950, and the Directions for the Making of the Design of the National Emblem of the People's Republic of China promulgated by the General Office of the Central People's Government Council in the same year.</p> <p><i>(Article 2 prior to amendment)</i></p>	s.2(1), 2(3)	<p>2. Interpretation</p> <p>(1) In this Ordinance, unless the context otherwise requires—</p> <p><i>national emblem</i> (國徽) means the national emblem of the People's Republic of China adopted by the Eighth Session of the Central People's Government Committee on 28 June 1950; ...</p> <p><i>specifications</i> (規格) means the relevant specifications for the national flag or the national emblem set out in Schedules 1 and 2.</p> <p>(3) The specifications for the national emblem are set out in Schedule 2.</p>
Article 3	<p>The national emblem of the People's Republic of China is the symbol and hallmark of the People's Republic of China.</p> <p>All organizations and citizens shall respect and protect the national</p>	Preamble (1), (2)	<p>Preamble</p> <p>(1) the national flag and national emblem of the People's Republic of China are a symbol and sign of the People's Republic of China;</p> <p>(2) all individuals and organizations</p>

	<p>emblem.</p> <p><i>(Article 3 prior to amendment)</i></p>		<p>should respect and cherish the national flag and national emblem, and use the national flag and its design on appropriate occasions; and</p>
Article 4	<p>The following organs shall hang the national emblem:</p> <p>(1) the standing committees of the people's congresses at or above the county level <u>all levels</u>;</p> <p>(2) the people's governments at or above the county level <u>all levels</u>;</p> <p>(3) the Central Military Commission;</p> <p>(4) the supervisory commissions at all levels;</p> <p>(5) (4) the people's courts and the special people's courts at all levels;</p> <p>(6) (5) the people's procuratorates and the special people's procuratorates at all levels;</p> <p>(7) (6) the Ministry of Foreign Affairs;</p> <p>(8) (7) the country's embassies, consulates and other diplomatic missions stationed in other countries; <u>and</u></p> <p>(9) the resident organs of the Central People's Government in the Hong Kong Special Administrative Region and the resident organs of the Central People's Government in the Macao Special Administrative Region.</p> <p>The people's governments of townships, nationality townships and town may hang the national emblem; specific measures for which shall be stipulated by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government in light of their actual circumstances.</p>	s.3(1), 3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(1) The national flag or the national emblem or both must be displayed at main Government buildings.</p> <p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>

	<p>The national emblem shall be hung right in the middle on top of the front gate of the organs concerned.</p> <p><i>(Article 4 prior to amendment)</i></p>		
Article 5	<p>The national emblem shall be hung in the following places:</p> <p>(1) the rostrum of Tian'anmen and the Great Hall of the People in Beijing;</p> <p>(2) conference halls of the people's congresses at the county and above levels and their standing committees, <u>and the venues of the people's congresses of towns, ethnic towns and townships</u>;</p> <p>(3) courtrooms of the people's courts at various levels and of the specialized people's courts;</p> <p><u>(4) venues where an oath to the Constitution is taken; and</u></p> <p><u>(5)(4)</u> appropriate places in ports of exit or entry.</p> <p><i>(Article 5 prior to amendment)</i></p>	s.3(1), 3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(1) The national flag or the national emblem or both must be displayed at main Government buildings.</p> <p>(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>
Article 6	<p>The design of the national emblem shall be carved on the seals of the following organs:</p> <p>(1) the Standing Committee of the National People's Congress, the State Council, the Central Military Commission, <u>the National Supervisory Commission</u>, the Supreme People's Court and the Supreme People's Procuratorate;</p> <p>(2) the special committees of the National People's Congress and the General Office and the working commission of the Standing Committee of the National People's Congress, the ministries and</p>	s.3(3)	<p>3. Use of national flag and national emblem etc.</p> <p>(3) The Chief Executive may stipulate the organizations that must include the design of the national emblem in their seals. The Chief Executive may stipulate other uses to which the national emblem may be applied.</p>

	<p>commissions under the State Council, departments directly under the State Council, the General Office of the State Council and the administrative offices that shall, as prescribed by the State Council, use seals carved with the design of the national emblem, as well as the General Office of the Central Military Commission and other organs that shall, as prescribed by the Central Military Commission, use seals carved with the design of the national emblem;</p> <p>(3) the standing committees of the local people's congresses, the local people's governments, <i>the local supervisory commissions</i>, the local people's courts, the local people's procuratorates at the county and above levels, and the specialized people's courts and the specialized people's procuratorates; and</p> <p>(4) the country's embassies, consulates and other diplomatic missions stationed in other countries.</p> <p><i>(Article 6 prior to amendment)</i></p>		
Article 7	<p><u>The organs as prescribed in Article 6 of this Law shall, at a prominent position on the homepages of their websites, use the design of the national emblem.</u></p> <p><u>The official version of the design of the national emblem used on websites is provided on the website of the National People's Congress and the State Council.</u></p>	s.3(2A), 3(3B)	<p>3. Use of national flag and national emblem etc.</p> <p>(2A) The Chief Executive may stipulate the organizations that must use the design of the national emblem in a prominent position on the home page of their websites.</p> <p>(3B) The Government may provide on a website of the Government a standard version of the design of the national flag</p>

	<i>(New article)</i>		and national emblem for online use.
Article 8	<p>The design of the national emblem shall be printed on the following documents and publications:</p> <p>(1) certificates of honor, letters of appointment and diplomatic documents issued by the Standing Committee of the National People's Congress, the President of the People's Republic of China, or the State Council;</p> <p>(2) envelopes, correspondence paper and invitation cards used in foreign affairs by the President <u>and the Vice-President</u> of the People's Republic of China, the Chairman <u>and the Vice-Chairmen</u> of the Standing Committee of the National People's Congress, the Premier <u>and the Vice-Premiers</u> of the State Council <u>and State Councilors</u>, the Chairman <u>and Vice-Chairmen</u> of the Central Military Commission, <u>the Chairman of the National Supervisory Commission</u>, the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate in their respective capacities;</p> <p>(3) front covers of bulletins of the Standing Committee of the National People's Congress, the State Council, the Supreme People's Court and the Supreme People's Procuratorate; and</p> <p>(4) front covers of the official editions of laws and regulations published by the State.</p> <p><i>(Article 7 prior to amendment)</i></p>	N/A / s.3(3)	<p>The issues mentioned in this article are not applicable to the HKSAR, hence, will not be incorporated into the Bill. If needed in future, the HKSAR Government could handle such in accordance with the established mechanism stipulated in s.3(3):</p> <p>3. Use of national flag and national emblem etc.</p> <p>(3) The Chief Executive may stipulate the organizations that must include the design of the national emblem in their seals. The Chief Executive may stipulate other uses to which the national emblem may be applied.</p>

Article 9	<p><u>The design of the national emblem may be used on the boundary pillars and monuments marking national boundaries, the boundary monuments marking the location of territorial sea base points, and other markers used to indicate national sovereignty;</u></p> <p><u>The design of the national emblem may be used on the legal currency issued by the People's Bank of China.</u></p> <p>(New article)</p>	N/A	The issues mentioned in this article are not applicable to the HKSAR, hence, will not be incorporated into the Bill.
Article 10	<p><u>The design of the national emblem may be used on the following certificates and licenses:</u></p> <p><u>(1) work and law enforcement ID cards, or otherwise of the functionaries of state organs;</u></p> <p><u>(2) business licenses, permits, approval certificates, qualification certificates, and certificates of rights, or otherwise issued by state organs;</u></p> <p><u>(3) resident identification cards, passports of the People's Republic of China, and other legal entry and exit documents;</u></p> <p><u>The design of the national emblem may be used as the core pattern of the emblems of state organs and armed forces;</u></p> <p><u>Citizens may wear the national emblem badges on solemn occasions to express their patriotic feelings.</u></p> <p>(New article)</p>	N/A / s.3(3)	<p>The issues mentioned in this article are not applicable to the HKSAR, hence, will not be incorporated into the Bill. Besides, as there is currently no manufacturer of national emblem badges in the HKSAR, the provision which states that citizens may wear the national emblem badges at solemn occasions has not been incorporated at present. If needed in future, the HKSAR Government could handle such in accordance with the established mechanism stipulated in s.3(3):</p> <p>3. Use of national flag and national emblem etc.</p> <p>(3) The Chief Executive may stipulate the organizations that must include the design of the national emblem in their seals. The Chief Executive may stipulate other uses to which the national emblem may be applied.</p>

Article 11	<p>Procedures for the use of the design of the national emblem in foreign affairs and by the country's embassies, consulates and other diplomatic missions stationed in other countries shall be prescribed by the Ministry of Foreign Affairs and submitted to the State Council for approval before implementation.</p> <p><i>(Article 8 prior to amendment)</i></p>	N/A / s.3(4)(e), Schedule 3	<p>Foreign affairs are not within the autonomy of the HKSAR, hence, the part on foreign affairs in this article will not be incorporated into the Bill.</p> <p>On the part relating to external affairs in this article, it will be incorporated into s.3(4)(e) of the Bill:</p> <p>3. Use of national flag and national emblem etc.</p> <p>(4) Schedule 3 specifies—</p> <p>(e) the method for using the design of the national emblem in foreign affairs activities.</p> <p>Schedule 3</p> <p>Conditions for Flying the National Flag at Half Staff, the Priority of the National Flag and the Raising and Lowering of the National Flag, etc.</p> <p>Method for using design of national emblem in foreign affairs activities</p> <p>1. The method for the use of the design of the national emblem in foreign affairs activities is to be implemented in accordance with the provision of the Ministry of Foreign Affairs.</p>
Article 12	<p>Where it is necessary to hang the national emblem or use its design outside the scope specified in this Law, it shall be prescribed by the General Office of the Standing Committee of the National People's Congress or the General Office of the State Council, in conjunction with the departments concerned.</p> <p><i>(Article 9 prior to amendment)</i></p>	s.3(2)	<p>3. Use of national flag and national emblem etc.</p> <p>(2) ... The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.</p>

Article 13	<p>The national emblem and the design thereof may not be used in:</p> <p>(1) trademarks, <u>designs for which patent rights are granted</u>, and <u>commercial</u> advertisements;</p> <p>(2) <u>daily necessities, and furnishings</u> Furnishings or ornaments in daily life;</p> <p>(3) private activities of celebration or condolence; or</p> <p>(4) other circumstances where the national emblem and the design thereof may not be used as prescribed by the General Office of the State Council.</p> <p><i>(Article 10 prior to amendment)</i></p>	s.6(2), 6(3), 6(4)	<p>6. Prohibition on certain uses of national flag and national emblem</p> <p>(2) The national emblem or its design must not be displayed or used in—</p> <p>(a) trademarks, registered designs or commercial advertisements;</p> <p>(b) products in everyday life and furnishings or ornaments in everyday life;</p> <p>(c) private activities of celebration or condolence; or</p> <p>(d) other occasions on which or places at which the display or use of the national emblem or its design is restricted or prohibited under a stipulation made by the Chief Executive.</p> <p>(3) A person who without lawful authority or reasonable excuse displays or uses the national flag, national emblem or the design of the national flag or of the national emblem contrary to subsection (1) or (2) commits an offence and is liable on summary conviction—</p> <p>(a) for an offence against subsection (1)(a) or (2)(a), to a fine at level 5; and</p> <p>(b) for an offence against subsection (1)(b) or (c) or (2)(b), (c) or (d), to a fine at level 2.</p> <p>(4) In this section— registered design (註冊外觀設計) has the meaning given by section 2(1) of the Registered Designs Ordinance (Cap. 522).</p>
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Article 14	<p>No damaged, defiled, or substandard national emblem shall be hung.</p> <p><i>(Article 11 prior to amendment)</i></p>	s.4(1), 4(2)	<p>4. National flag and national emblem not to be used inappropriately etc.</p> <p>(1) A national flag or a national emblem which is damaged, defiled, faded or substandard must not be displayed or used.</p> <p>(2) A national flag or a national emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the national flag or the national emblem.</p>
Article 15	<p><u>The national emblem shall be considered as an important element of education in patriotism.</u></p> <p><u>Primary and secondary schools shall educate students on the history and significance of the national emblem.</u></p> <p><u>News media shall actively publicize the knowledge on the national emblem and guide citizens and organizations to correctly use the national emblem and the design thereof.</u></p> <p><i>(New article)</i></p>	<p>s.7A(1)(a), 7A(3); s.7B</p>	<p>7A. Education in national flag and national emblem</p> <p>(1) The Secretary for Education must—</p> <p>(a) give directions for the inclusion of the national flag and national emblem in primary education and in secondary education to educate the students—</p> <p>(i) on the history and spirit of the national flag and national emblem;</p> <p>(3) In this section— primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279); ... secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279); ...</p> <p>7B. Inclusion in sound broadcasting and domestic television programme services</p> <p>(1) This section applies if, under the</p>

		<p>terms and conditions of a broadcasting licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service.</p> <p>(2) By a determination or direction that has been made in relation to the broadcasting licence, the licensee may be required to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service.</p> <p>(3) The Communications Authority must make a determination or direction in relation to the broadcasting licence, requiring the licensee to promote the national flag, the national emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given under subsection (4).</p> <p>(4) The Chief Executive may give directions on broadcasting arrangements for the purposes of subsection (3).</p> <p>(5) A direction under subsection (4) is not subsidiary legislation.</p> <p>(6) In this section— <i>broadcasting licence</i> (廣播牌照) means— (a) a licence granted under section 13C(2) of the</p>
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			<p>Telecommunications Ordinance (Cap. 106), or such a licence renewed under section 13E(2) of that Ordinance; or</p> <p>(b) a licence granted under sections 8(1) and 10(1) of the Broadcasting Ordinance (Cap. 562), or such a licence extended or renewed under section 11(1) of that Ordinance;</p> <p>Communications Authority (通訊事務管理局) means the Communications Authority established by section 3 of the Communications Authority Ordinance (Cap. 616).</p>
Article 16	<p>The national emblem to be hung shall be uniformly made by enterprises designated by the State and the diameters of its common sizes shall be as follows:</p> <p>(1) one hundred centimeters;</p> <p>(2) eighty centimeters; and</p> <p>(3) sixty centimeters.</p> <p>When it is necessary to hang the national emblem in uncommon sizes in special places, approval from the General Office of the State Council shall be sought, <u>the national emblem shall be appropriately scaled up or down in proportion to the sizes of the general standard, and be commensurate with the purposes of use, the buildings where it is hung and the surrounding environment.</u></p> <p>(Article 12 prior to amendment)</p>	s.5(1), Schedule 2	<p>5. Manufacture of national flag and national emblem regulated</p> <p>(1) The national emblem for hanging may be manufactured in the Hong Kong Special Administrative Region only by enterprises designated by the Central People's Government.</p> <p>Schedule 2</p> <p>Specifications for the National Emblem of the People's Republic of China</p> <p>6. The diameters of the usual dimensions of the national emblem for display or use are as follows:</p> <p>(a) 100 cm</p> <p>(b) 80 cm</p> <p>(c) 60 cm.</p> <p>7. If national emblems of nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size, and be commensurate with the purpose of use,</p>

			the buildings where they are hung and the surrounding environment.
Article 17	<p><u>The General Office of the State Council shall make overall plans for and coordinate the work concerning the administration of the national emblem nationwide. The local people's governments at all levels shall make overall plans for and coordinate the work concerning the administration of the national emblem within their respective administrative regions.</u></p> <p><u>The market regulatory departments of the people's governments at all levels shall supervise and administer production and sale of the national emblem.</u></p> <p>The <u>departments designated by the people's governments at or above the county level shall supervise and administer the <u>hanging</u>, use <u>and withdrawal</u> of the national emblem within their respective administrative regions.</u></p> <p>(Article 14 prior to amendment)</p>	<p>s.3(3A); 4(4), 4(5); s.5(1), 5(3), 5(4), 5(5)</p>	<p>3. Use of national flag and national emblem etc.</p> <p>(3A) The Chief Executive may make stipulations in relation to the recovery and disposal of national flags and national emblems.</p> <p>4. Damaged national flag and national emblem not to be used inappropriately etc.</p> <p>(4) A national flag or a national emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.</p> <p>(5) After an event in which national flags or national emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the national flags or national emblems used on the site of the event.</p> <p>5. Manufacture of national flag and national emblem regulated</p> <p>(1) The national emblem for hanging may be manufactured in the Hong Kong Special Administrative Region only by enterprises designated by the Central People's Government.</p> <p>(3) The national emblem must be manufactured in accordance with the specifications set out in Schedule 2.</p> <p>(4) If a person manufactures a national</p>

			<p>flag or national emblem other than in accordance with this section, the Secretary of Justice may apply to the District Court—</p> <p>(a) for an injunction to prohibit the unauthorized manufacture or manufacture of the flag or emblem that does not meet the specifications; and</p> <p>(b) for an order of forfeiture of the flag, emblem and other materials used in the manufacture of the flag or emblem.</p> <p>(5) If the District Court is satisfied that the application is well founded, it may grant the injunction and order that the flag, emblem and other materials used in the manufacture of the flag or emblem be forfeited to the Government.</p>
Article 18	<p>A party who desecrates the national emblem of the People's Republic of China by intentionally burning, damaging, defacing, defiling or trampling upon it in a public place shall be subject to criminal liability in accordance with the law; in less serious cases, the offender shall be detained for a maximum of 15 days by the public security organ.</p> <p><i>(Article 13 prior to amendment)</i></p>	s.7	<p>7. Protection of national flag and national emblem</p> <p>(1) A person commits an offence if the person publicly and intentionally desecrates the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(2) A person commits an offence if, with intent to desecrate the national flag or national emblem, the person intentionally publishes a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(3) A person who commits an offence under this section is liable on conviction to a fine at level 5 and to imprisonment</p>

		<p>for 3 years.</p> <p>(4) Except as provided under subsection (2), a person does not commit an offence under this section by publishing a desecration of the national flag or national emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.</p> <p>(5) Proceedings may only be commenced for an offence under this section before whichever is the earlier of the following—</p> <ul style="list-style-type: none"> (a) the end of the period of 1 year after the date on which the offence is discovered by, or comes to the notice of, the Commissioner of Police; (b) the end of the period of 2 years after the date on which the offence is committed. <p>(6) In this section— desecrate (侮辱), in relation to the national flag or national emblem, means to undermine the dignity of the national flag or national emblem as a symbol and sign of the People’s Republic of China; publish (發布) includes—</p> <ul style="list-style-type: none"> (a) to communicate to the public in any form, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material; and (b) to distribute, disseminate or make available to the public.
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Article 19	<p>This Law shall be effective as of October 1, 1991.</p> <p><i>(Article 15 prior to amendment)</i></p>	N/A	<p>This article will not be incorporated into the Bill, which will enter into force after the passage of legislation.</p>
<p>Appendix: The design of the national emblem of the People’s Republic of China</p> <p><i>(Appendix to the National Emblem Law prior to amendment)</i></p>	<p>s.2, Schedule 2</p>	<p>2. Interpretation</p> <p>(1) In this Ordinance, unless the context otherwise requires—</p> <p>...</p> <p><i>specifications</i> (規格) means the relevant specifications for the national flag or the national emblem set out in Schedules 1 and 2.</p> <p>(3) The specifications for the national emblem are set out in Schedule 2.</p> <p>Schedule 2</p> <p>Specifications for the National Emblem of the People’s Republic of China</p>	

G.N. 5776

**STIPULATIONS FOR THE DISPLAY AND USE OF
THE NATIONAL FLAG AND NATIONAL EMBLEM AND
THE REGIONAL FLAG AND REGIONAL EMBLEM**

(Made by the Chief Executive under
section 3(2) of the National Flag and National Emblem Ordinance and
section 3(1) of the Regional Flag and Regional Emblem Ordinance)

1. Display of the national flag and national emblem

The national flag and national emblem shall be displayed at the following locations and on the following days:-

- (a) locations where the national flag shall be displayed each day:-
 - (i) the official residences of the Chief Executive;
 - (ii) Government House;
 - (iii) all boundary control and check points of the Hong Kong Special Administrative Region; and
 - (iv) Hong Kong International Airport.
- (b) locations where the national flag shall be displayed on each working day and on National Day (1 October), Hong Kong Special Administrative Region Establishment Day (1 July), and New Year's Day (1 January):-
 - (i) the office of the Chief Executive;
 - (ii) the Executive Council;
 - (iii) the Court of Final Appeal;
 - (iv) the High Court;
 - (v) the Legislative Council;
 - (vi) Hong Kong Special Administrative Region Government offices and organisations as specified in a circular issued by the Director of Administration; and
 - (vii) other organisations as specified in a circular issued by the Director of Administration.
- (c) location where the national emblem shall be displayed:-
 - (i) the office of the Chief Executive.

2. Display of the regional flag and regional emblem

The regional flag and regional emblem shall be displayed at the following locations and on the following days:-

- (a) locations where the regional flag shall be displayed each day:-
 - (i) the official residences of the Chief Executive;
 - (ii) Government House;
 - (iii) all boundary control and check points of the Hong Kong Special Administrative Region; and
 - (iv) Hong Kong International Airport.

- (b) locations where the regional flag shall be displayed on each working day and on National Day (1 October), Hong Kong Special Administrative Region Establishment Day (1 July), and New Year's Day (1 January):-
 - (i) the office of the Chief Executive;
 - (ii) the Executive Council;
 - (iii) the Legislative Council;
 - (iv) the Central Government Offices;
 - (v) the law courts in the Hong Kong Special Administrative Region;
 - (vi) Government vessels;
 - (vii) Hong Kong Special Administrative Region Government offices and organisations as specified in a circular issued by the Director of Administration; and
 - (viii) other organisations as specified in a circular issued by the Director of Administration.
- (c) locations where the regional emblem shall be displayed:-
 - (i) the official residences of the Chief Executive;
 - (ii) the Executive Council;
 - (iii) the Legislative Council;
 - (iv) the Central Government Offices;
 - (v) the law courts of the Hong Kong Special Administrative Region;
 - (vi) all boundary control and check points of the Hong Kong Special Administrative Region;
 - (vii) Hong Kong International Airport; and
 - (viii) District Offices.

3. Flying the national flag and regional flag at the same time

- (1) The national flag, when displayed with the regional flag, shall be either at the centre, above the regional flag, or in a position of prominence.
- (2) When the national flag and regional flag are displayed at the same time or displayed side by side, the regional flag shall be smaller than the national flag, with the national flag on the right and the regional flag on the left.
(For the display of the national flag and regional flag inside a building, 'left' and 'right' sides of the backing wall are ascertained by reference to a person standing with his back to the wall and looking forward. For the display of the national flag and regional flag outside a building, 'left' and 'right' sides of the building are ascertained by reference to a person standing in front of the building and looking towards the front entrance of the building.)
- (3) The national flag, when raised and carried in a procession with the regional flag, shall be in front of the regional flag.

4. Prohibition of use and application for use

A person shall not use the national flag, national emblem, regional flag or regional emblem or their designs in connection with any trade, calling or profession, or the logo, seal or badge of any non-governmental organisation, except with the prior approval of the Deputy Director of Administration or where the proposed use relates to the business of the Government Secretariat and conforms to the guidelines issued by the Director of Administration, the prior approval from a directorate officer of D2 level or above in the Office/Bureau involved is obtained. In case of an appeal against the decision on application, the Director of Administration is the appeal authority.