

**Bills Committee on Safeguarding National Security Bill**

**Committee Stage Amendments (“CSAs”)**

As reported to the Bills Committee at its meetings between 8 and 13 March 2024, the Government will propose CSAs to the Bill to address the comments raised by Members as well as to introduce technical or textual amendments as necessary.

2. This paper sets out at **Annex** the proposed CSAs after considering comments raised by Members and after internal review. The refinements / supplements to the original provisions are presented in marked-up format with the reasons stated in footnotes.

**Security Bureau**  
**13 March 2024**

## Preamble

WHEREAS it is a must—

- (a) to resolutely, fully and faithfully implement the policy of “one country, two systems” under which the people of Hong Kong administer Hong Kong with a high degree of autonomy;
- (b) to establish and improve the legal system and enforcement mechanisms for the HKSAR to safeguard national security; and
- (c) to prevent, suppress and punish acts and activities endangering national security in accordance with the law, to protect the lawful rights and interests of the residents of the HKSAR and other ~~people~~<sup>persons</sup><sup>1</sup> in the HKSAR, to ensure the property and investment in the HKSAR are protected by the law, to maintain prosperity and stability of the HKSAR:

AND WHEREAS there are requirements under the Constitution of the People’s Republic of China and the following law, decision and interpretation for the HKSAR to perform the constitutional duty to safeguard national security and to improve the law for safeguarding national security in the HKSAR—

- (a) the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, including the provisions of Article 23 of that Law;
- (b) the Decision of the National People’s Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for the Hong Kong Special

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<sup>1</sup> [The amendment is proposed in response to Members’ suggestion on using “persons” instead of “people” in the English text.](#)

Administrative Region to Safeguard National Security (a translation of “《全國人民代表大會關於建立健全香港特別行政區維護國家安全的法律制度和執行機制的決定》”) adopted at the Third Session of the Thirteenth National People’s Congress on 28 May 2020;

- (c) the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”); and
- (d) the Interpretation by the Standing Committee of the National People’s Congress of Article 14 and Article 47 of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《全國人民代表大會常務委員會關於〈中華人民共和國香港特別行政區維護國家安全法〉第十四條和第四十七條的解釋》”) adopted at the 38th Session of the Standing Committee of the Thirteenth National People’s Congress on 30 December 2022:

AND WHEREAS—

- (a) the executive, legislative and judicial authorities of the HKSAR must effectively prevent, suppress and punish acts and activities endangering national security in accordance with the law; and
- (b) the residents of the HKSAR must safeguard the sovereignty, unity and territorial integrity of the state; any institution, organization and individual in the HKSAR must abide by the law of the HKSAR applicable for safeguarding national security, must not engage in acts and activities endangering national security, and must provide assistance in accordance with the law in response to a request made by the authorities when conducting the

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work on safeguarding national security in accordance with the law:

### 3. Interpretation

(1) In this Ordinance—

**Central Authorities** (中央) means the body of central power under the constitutional order established by the Constitution of the People's Republic of China, including (but not limited to) the National People's Congress of the People's Republic of China and its Standing Committee, the President of the People's Republic of China, the Central People's Government of the People's Republic of China and the Central Military Commission of the People's Republic of China;

**Chinese armed force** (中國武裝力量) means an armed force of China, that is the Chinese People's Liberation Army, the Chinese People's Armed Police Force or the militia;

**Court** (法院) means any of the following courts or tribunals of the Judiciary of the HKSAR—

- (a) the Court of Final Appeal;
- (b) the Court of Appeal;
- (c) the Court of First Instance;
- (d) the Competition Tribunal;
- (e) the District Court;
- (f) a Magistrates' Court;
- (g) the Lands Tribunal;
- (h) the Labour Tribunal;
- (i) the Small Claims Tribunal;
- (j) the Obscene Articles Tribunal;
- (k) the Coroner's Court;

**designated judge** (指定法官), in relation to a Court, means a judicial officer designated among the judicial officers of the Court under Article 44 of the HK National Security Law;

**external force** (境外勢力)—see section 6;

**external place** (境外) means a region or place outside the HKSAR (other than the Mainland and Macao);

**function** (職能) includes a power and a duty;

**HK National Security Law** (《香港國安法》) means the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”), as applied in the HKSAR under the Promulgation of National Law 2020 (L.N. 136 of 2020);

**international organization** (國際組織) means—

(a) an organization the members of which include ~~one~~<sup>2</sup> or more countries, regions, places, or entities entrusted with functions by any country, region or place; or<sup>2</sup>—

~~—(i) countries, regions or places; or~~

~~—(ii) entities entrusted with functions by any country, region or place; or~~

(b) an organization established by or under a treaty, convention or agreement made by 2 or more countries, regions or places,

and includes an institution (however described) under the organization;

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<sup>2</sup> Some Members were of the view that the wording of the definition of “international organization” may lead people to mistakenly believe that some international organizations may have only one member. After consideration, we recommend that the wording of the definition be revised to avoid misunderstanding.

***judicial officer*** (司法人員) means—

- (a) a judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92); or
  - (b) a judicial officer appointed by the Chief Justice.
- (2) In this Ordinance, a reference to a case concerning national security includes—
- (a) a case in connection with an offence endangering national security;
  - (b) a case in connection with any measures taken for, or in connection with, safeguarding national security, whether under the HK National Security Law, this Ordinance or any other law; and
  - (c) any proceedings in connection with the case mentioned in paragraph (a) or (b).

## 6. Meaning of *external force*

(1) In this Ordinance—

***external force*** (境外勢力) means—

- (a) a government of a foreign country;
- (b) the authority of ~~a region or place of~~<sup>3</sup>—an external place;
- (c) a political party in an external place;
- (d) any other organization in an external place that pursues political ends;
- (e) an international organization;

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<sup>3</sup> The definition of an “external place” already covers “a region or place”. Thus, it is not necessary to repeat the reference to “region or place” in this definition of “external force”.

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- (f) a related entity of a government, authority, political party or organization mentioned in paragraph (a), (b), (c), (d) or (e); or
  - (g) a related individual of a government, authority, political party, organization or entity mentioned in paragraph (a), (b), (c), (d), (e) or (f).
- (2) In paragraph (f) of the definition of *external force* in subsection (1), a reference to a related entity of a government or authority is a reference to—
- (a) a company that falls within either or both of the following descriptions—
    - (i) the directors of the company are accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the government or authority;
    - (ii) the government or authority is in a position to exercise, by virtue of other factors, substantial control over the company; or
  - (b) a body that is not a company and that falls within either or both of the following descriptions—
    - (i) the members of the executive committee (however called) of the body are accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the government or authority;
    - (ii) the government or authority is in a position to exercise, by virtue of other factors, substantial control over the body.
- (3) In paragraph (f) of the definition of *external force* in subsection (1), a reference to a related entity of a political party in an external place, any other organization in an external place that

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pursues political ends or an international organization (*the organization*) is a reference to—

- (a) a company that falls within either or both of the following descriptions—
    - (i) the directors of the company are accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the organization;
    - (ii) the organization is in a position to exercise, by virtue of other factors, substantial control over the company;
  - (b) a body that is not a company and that falls within either or both of the following descriptions—
    - (i) the members of the executive committee (however called) of the body are accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the organization;
    - (ii) the organization is in a position to exercise, by virtue of other factors, substantial control over the body; or
  - (c) a body that falls within the following description: the law, constitution, rules or other governing documents by which the body is constituted (or according to which the body operates) contain either or both of the following requirements—
    - (i) a director, senior officer or employee of the body is required to be a member of the organization;
    - (ii) any part of the body is required to constitute a part (however called) of the organization.
- (4) In paragraph (g) of the definition of *external force* in subsection (1), a reference to a related individual of a

government, authority, political party, organization or entity is a reference to an individual that falls within either or both of the following descriptions—

- (a) the individual is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the government, authority, political party, organization or entity;
- (b) the government, authority, political party, organization or entity is in a position to exercise, by virtue of other factors, substantial control over the individual.

**12. Requirement on disclosure of commission by others of offence of treason**

- (1) If a Chinese citizen (*the person*) knows that another person has committed, is committing or is about to commit an offence under section 10(1) (*commission of offence*), the person must disclose the commission of offence and the material facts in connection with the commission of offence within the person's knowledge to a police officer as soon as reasonably practicable after the person knows of the commission of offence, unless the commission of offence has been in the public domain.
- (2) A Chinese citizen who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for 14 years.
- (3) This section does not affect any claims, rights or entitlements on the ground of legal professional privilege.

- (4) ~~The~~ This section provides for the offence of misprision of treason under common law as a statutory provision with appropriate improvements ~~is abolished~~.<sup>4</sup>

## 15. Insurrection

If—

- (a) a person joins an armed force, or ~~be~~ is<sup>5</sup> a part of an armed force, that is in an armed conflict with a Chinese armed force;
- (b) a person, with intent to prejudice the situation of a Chinese armed force in an armed conflict, assists an armed force (*that armed force*) that is in an armed conflict with a Chinese armed force, or assists the government, authority or organization to which that armed force belongs;
- (c) a person initiates armed conflict against a Chinese armed force; or
- (d) a person—
- (i) with intent to endanger the sovereignty, unity or territorial integrity of China or the public safety of the HKSAR as a whole; or
  - (ii) being reckless as to whether the sovereignty, unity or territorial integrity of China, or the public safety of the HKSAR as a whole, would be endangered, does a violent act in the HKSAR,

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<sup>4</sup> The amendment is to reflect more clearly that clause 12 provides for the offence of misprision of treason under common law as a statutory provision with appropriate improvements.

<sup>5</sup> This is a typo in the English text and is now corrected.

the person commits an offence and is liable on conviction on indictment to life imprisonment.

## 19. Inciting disaffection of public officers

(1) A person commits an offence and is liable on conviction on indictment to imprisonment for 7 years if the person knowingly incites a public officer to abandon upholding the Basic Law and abandon the allegiance to the HKSAR.

(2) A person commits an offence and is liable on conviction on indictment to imprisonment for 10 years if the person colludes with an external force to knowingly incite a public officer to abandon upholding the Basic Law and abandon the allegiance to the HKSAR.

(3) In this section—

*public officer* (公職人員) means—

(a) a person holding an office of emolument under the Government, whether such office be permanent or temporary;

(b) any of the following persons (if the person is not a person mentioned in paragraph (a))—

(i) a principal official of the Government appointed in accordance with the Basic Law;

(ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) or a person appointed under section 5A(3) of that Ordinance;

(iii) the Chairman of the Public Service Commission;

(iv) a staff member of the Independent Commission Against Corruption;

(v) The Ombudsman or a person appointed under section 6 of The Ombudsman Ordinance (Cap. 397);

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- (vi) the Privacy Commissioner for Personal Data or a person employed or engaged by the Commissioner under the Personal Data (Privacy) Ordinance (Cap. 486);
  - (vii) the Chairperson or a member of the Equal Opportunities Commission, or a person employed or engaged by the Commission under the Sex Discrimination Ordinance (Cap. 480);
  - (viii) a judicial officer or a staff member of the Judiciary;
  - (c) a member of the Executive Council;
  - (d) a member of the Legislative Council;
  - (e) a member of a District Council;~~or~~
  - (f) a member of the Election Committee as defined by section 2(1) of the Chief Executive Election Ordinance (Cap. 569); or-
  - (g) a person of a class specified under section 19A.<sup>6</sup>

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<sup>6</sup> The amendments (clauses 19 and 19A) are proposed in response to the strong views expressed by a number of Members during the scrutiny of the Bill that as certain public organizations have an important bearing on the security or vital interests of the HKSAR, it may pose risks to national security if disaffection is incited among their staff members. Moreover, some public organizations may have a greater chance to gain access to state secrets. In the current Bill, staff members of these organizations are not covered under the definition of “public officers”. Members suggested empowering the Chief Executive in Council to expand the scope of “public officers” in respect of the offence of incitement to disaffection or offences in connection with state secrets by means of subsidiary legislation. We consider this forward-looking approach can allow more effective implementation of the Ordinance.

### **19A. Specification of public officers**

For the purposes of section 19, the Chief Executive in Council may, by order published in the Gazette, specify a class of persons as public officers if the Chief Executive in Council reasonably considers that it is necessary for safeguarding national security to specify the class of persons as public officers.

### **28. Interpretation**

In this Division—

***disclose*** (披露), in relation to a document or other article, includes parting with possession of the document or article, and disclosing the information contained in the document or article;

***government contractor*** (政府承辦商) means a person who is not a public officer but who provides, or is employed in the provision of, goods or services—

- (a) for the purposes of the Government; or
- (b) under an agreement or arrangement that is certified by the Chief Executive as being an agreement or arrangement to which the authority of a region or place, the government of a foreign country (including an institution under the government) or an international organization is a party, or that is subordinate to, or made for the purposes of implementing, any such agreement or arrangement;

***information*** (資料), except in section 31 or 32, includes—

- (a) information stored by electronic means; and
- (b) message or intelligence that is not stored on any medium;

***public officer*** (公職人員) means—

- (a) a person holding an office of emolument under the Government, whether such office be permanent or temporary;

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- (b) any of the following persons (if the person is not a person mentioned in paragraph (a))—
- (i) a principal official of the Government appointed in accordance with the Basic Law;
  - (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) or a person appointed under section 5A(3) of that Ordinance;
  - (iii) the Chairman of the Public Service Commission;
  - (iv) a staff member of the Independent Commission Against Corruption;
  - (v) The Ombudsman or a person appointed under section 6 of The Ombudsman Ordinance (Cap. 397);
  - (vi) the Privacy Commissioner for Personal Data or a person employed or engaged by the Commissioner under the Personal Data (Privacy) Ordinance (Cap. 486);
  - (vii) the Chairperson or a member of the Equal Opportunities Commission, or a person employed or engaged by the Commission under the Sex Discrimination Ordinance (Cap. 480);
  - (viii) a judicial officer or a staff member of the Judiciary;
- (c) a member of the Executive Council;
- (d) a member of the Legislative Council;
- (e) a member of a District Council; ~~or~~
- (f) a member of the Election Committee as defined by section 2(1) of the Chief Executive Election Ordinance (Cap. 569); or

(g) a person of a class specified under section 29A;<sup>7</sup>

**region** (地區) means a region, not being a country, outside the HKSAR;

**specified disclosure** (指明披露)—see section 29;

**state secret** (國家秘密) means one of the following secrets the disclosure, without lawful authority, of which would likely endanger national security—

- (a) a secret concerning major policy decision on affairs of China or the HKSAR;
- (b) a secret concerning the construction of national defence of China or concerning a Chinese armed force;
- (c) a secret concerning diplomatic or foreign affair activities of China, a secret concerning external affairs of the HKSAR, or a secret that China or the HKSAR is under an external obligation to preserve secrecy;
- (d) a secret concerning the economic or social development of China or the HKSAR;
- (e) a secret concerning the technological development or scientific technology of China or the HKSAR;

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<sup>7</sup> The amendments (clauses 28 and 29A) are proposed in response to the strong views expressed by a number of Members during the scrutiny of the Bill that as certain public organizations have an important bearing on the security or vital interests of the HKSAR, it may pose risks to national security if disaffection is incited among their staff members. Moreover, some public organizations may have a greater chance to gain access to state secrets. In the current Bill, staff members of these organizations are not covered under the definition of “public officers”. Members suggested empowering the Chief Executive in Council to expand the scope of “public officers” in respect of the offence of incitement to disaffection or offences in connection with state secrets by means of subsidiary legislation. We consider this forward-looking approach can allow more effective implementation of the Ordinance

- (f) a secret concerning activities for safeguarding national security or the security of the HKSAR or for the investigation of offences;
- (g) a secret concerning the relationship between the Central Authorities and the HKSAR (including information on affairs relating to the HKSAR for which the Central Authorities are responsible under the Basic Law).

### **29A. Specification of public officers**

For the purposes of this Division, the Chief Executive in Council may, by order published in the Gazette, specify a class of persons as public officers if the Chief Executive in Council reasonably considers that it is necessary for safeguarding national security to specify the class of persons as public officers.

### **32. Unlawful possession of state secrets when leaving HKSAR**

- (1) A person who is (or was) a public officer commits an offence and is liable on conviction on indictment to imprisonment for 7 years if the person—
  - (a) acquires or possesses (or acquired or possessed) any information, document or other article by virtue of the person's capacity as a public officer;
  - (b) knows that the information, document or article is or contains a state secret; and
  - (c) with intent to endanger national security or being reckless as to whether national security would be endangered, and without lawful authority, possesses the information, document or article when leaving the HKSAR.
- (2) For a person leaving the HKSAR on a cross-boundary departure conveyance, a reference in subsection (1) to the person possessing any information, document or other article includes any of the following circumstances—

- (a) the information, document or article being part of the personal belongings of the person carried on the conveyance;
- (b) the information, document or article being in the checked baggage of the person (whether or not carried, or to be carried, on the same conveyance).

(3) In this section—

~~*cross-boundary*~~*departure conveyance* (跨離境運輸工具)<sup>8</sup> means a vehicle, vessel, aircraft, hovercraft or other means of transport engaged on a journey leaving the HKSAR;

*information* (資料)—

- (a) includes information stored by electronic means; but
- (b) does not include message or intelligence that is not stored on any medium.

### 38. Extra-territorial effect of this Division

(1) If—

(a) any—

- (i) HKSAR resident;
- (ii) body corporate that is incorporated, formed or registered in the HKSAR; or
- (iii) body of persons, whether corporate or unincorporate, that has a place of business in the HKSAR,

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<sup>8</sup> Regarding the offence of “unlawful possession of state secrets when leaving HKSAR” under clause 32 of the Bill, the relevant conveyance refers to a conveyance engaged on a journey leaving the HKSAR. Therefore, it is recommended that the term of “cross-boundary conveyance” be revised as “departure conveyance” to make it more in line with the actual scenario.

does any act outside the HKSAR; and

- (b) the act would have constituted an offence under section 30(1) or (3), 31(1) or (3), 33(6) or ~~(8)(7)~~<sup>9</sup> or 34(1) had it been done in the HKSAR,

the resident or body commits the offence.

- (2) If a person does any act outside the HKSAR, and the act would have constituted an offence under section 33(1), (4) or (5) or 35(1) or (2) had it been done in the HKSAR, the person commits the offence.

- (3) In this section—

**HKSAR resident** (特區居民) means—

- (a) a Hong Kong permanent resident; or
- (b) a person who is qualified to be issued with an identity card under the Registration of Persons Ordinance (Cap. 177) but has no right of abode in Hong Kong under the Immigration Ordinance (Cap. 115).

### 39. Interpretation

- (1) In this Division—

**conveyance** (運輸工具) includes a vehicle, vessel, aircraft ~~or~~ and<sup>10</sup> hovercraft;

**document** (文件) includes part of a document;

**munitions** (軍火) includes the whole or any part of any vessel, aircraft, tank or similar engine, arms and ammunition, torpedo or mine, intended or adapted for use in war or armed conflict,

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<sup>9</sup> This reference to the offence provision is a typo and is now corrected.

<sup>10</sup> This reference to “or” is a typo in the English text and is now corrected as “and” which corresponds to the Chinese text.

and any other article, material or device, whether actual or proposed, intended for such use;

**place** (地方) means any place, and includes—

- (a) any conveyance; and
- (b) any tent or structure (whether or not movable or offshore);

**prohibited place** (禁地) means any of the following that is situated in the HKSAR—

- (a) a work of defence, arsenal or military or national defence establishment;
- (b) a place declared as a military restricted zone under Article 12 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區駐軍法》”);
- (c) a station, factory, dockyard, mine, minefield, camp, vessel or aircraft belonging to or occupied by or on behalf of the Central Authorities or the Government (**relevant Authority**) and used for military or national defence purpose;
- (d) a place that—
  - (i) belongs to or is occupied by or on behalf of a relevant Authority; and
  - (ii) may only be entered by a person performing a function in relation to that place, and is designed for placing one or more of the following items or relevant facilities—
    - (A) radiocommunications installation;
    - (B) telecommunications system;
    - (C) telecommunications installation;
    - (D) telecommunications network;

- (E) telecommunications line;
- (F) server;
- (e) a place belonging to or occupied by or on behalf of a relevant Authority and used for the purpose of building, repairing, making or storing any munitions, vessel, aircraft, arms or materials or instruments for use in time of war or armed conflict, or any information, document or other article relating to such munitions, vessel, aircraft, arms or materials or instruments, or for the purpose of getting any metals, oil or minerals of use in time of war or armed conflict;
- (f) a place not belonging to the relevant Authorities where any munitions, or any information, document or other article relating to such munitions, are being made, repaired, obtained or stored under a contract with, or with a person on behalf of, a relevant Authority, or otherwise on behalf of a relevant Authority; or
- (g) a place declared under section 40 as a prohibited place;

***radiocommunications installation*** (無線電通訊裝置) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

***telecommunications installation*** (電訊裝置) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

***telecommunications line*** (電訊線路) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

***telecommunications network*** (電訊網絡) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

***telecommunications system*** (電訊系統) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

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***unmanned tool*** (無人工具) means a conveyance or other power driven machine that is operated with no person on board.

(2) In this Division—

- (a) an expression referring to communicating includes any communicating, whether in whole or in part, and whether the information, document or other article itself or the substance, effect or description of the information, document or other article only be communicated;
- (b) an expression referring to the communication of any information, document or other article includes the transfer or transmission of the information, document or other article, and also includes providing means of obtaining or accessing the information, document or other article; and
- (c) an expression referring to obtaining any information, document or other article includes copying or causing to be copied the whole or any part of the information, document or other article.

#### **40. Declaration of prohibited places and authorization of guards**

- (1) For the purposes of this Division, the Chief Executive may, by order [published in the Gazette](#)<sup>11</sup>, declare a place situated in the HKSAR as a prohibited place if, having regard to the matters specified in subsection (2), the Chief Executive reasonably considers that it is necessary for safeguarding national security to declare the place as a prohibited place.
- (2) The matters are—

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<sup>11</sup> [This amendment is proposed in response to the views expressed by Members during the examination of the Bill that the Government should state clearly in what way would the Chief Executive make such an order.](#)

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- (a) the use of the place;
  - (b) the owner or occupier of the place;
  - (c) the nature of any information kept, stored or processed in the place; and
  - (d) the nature of any technology, equipment or material situated at the place.
- (3) An order made under subsection (1) may be made in respect of a particular place and may also be made in respect of a description of place.
- (4) The Chief Executive may authorize any person or any class of persons as a person or persons to discharge duty as a guard or sentry in respect of any prohibited place.

#### **41. Espionage**

- (1) A person commits an offence and is liable on conviction on indictment to imprisonment for 20 years if the person, with intent to endanger national security, does an act specified in subsection (2).
- (2) The act is—
- (a) approaching, inspecting, passing over or under, entering or accessing a prohibited place, or being in the neighbourhood of a prohibited place (including doing such act by electronic or remote means);
  - (b) causing an unmanned tool to approach, inspect, pass over or under, enter or access a prohibited place, or to be in the neighbourhood of a prohibited place (including doing such act by electronic or remote means); or
  - (c) obtaining (including by interception of communication), collecting, recording, producing or possessing, or communicating to any other person, any information, document or other article that is calculated to be, or is

intended to be, directly or indirectly useful to an external force.

- (3) If a person colludes with an external force to publish to the public a statement of fact that is false or misleading, and—
- (a) the person—
    - (i) with intent to endanger national security or being reckless as to whether national security would be endangered, so publishes the statement; and
    - (ii) knows that the statement is false or misleading; or
  - (b) the person—
    - (i) with intent to endanger national security, so publishes the statement; and
    - (ii) has reasonable grounds to believe that the statement is false or misleading,

the person commits an offence and is liable on conviction on indictment to imprisonment for 10 years.

- (4) For the purposes of subsection (3)—
- (a) a statement is a statement of fact if a reasonable person would consider it to be a representation of fact after reading or hearing it or after it comes to the person's knowledge by other means; and
  - (b) a statement of fact is false if it is wholly false or false in a material respect, whether on its own or in the context in which it appears; and
  - ~~(c) a statement of fact is misleading if a reasonable person, after reading or hearing it or after it comes to the person's knowledge by other means, would be misled in a material respect of the fact (whether on its own or in the context in which it appears) because—~~

- ~~—— (i) it omits in a material respect any information concerning the fact;~~
- ~~—— (ii) it conceals in a material respect any information concerning the fact; or~~
- ~~—— (iii) it provides in a material respect any information concerning the fact in a manner that is unclear, unintelligible, ambiguous or untimely.<sup>12</sup>~~

(5) In this section—

**communication** (通訊) has the meaning given by section 2(1) of the Interception of Communications and Surveillance Ordinance (Cap. 589);

**interception** (截取) has the meaning given by section 2(1) of the Interception of Communications and Surveillance Ordinance (Cap. 589).

#### 45. **Participating in or supporting external intelligence organizations, or accepting advantages offered by them, etc.**

(1) A person commits an offence and is liable on conviction on indictment to imprisonment for 14 years if the person—

- (a) with intent to endanger national security; or
- (b) being reckless as to whether national security would be endangered,

knowingly ~~do~~ <sup>does</sup><sup>13</sup> a prohibited act in relation to an external intelligence organization.

<sup>12</sup> The amendment is proposed in response to the views expressed by Members during examination of the Bill that the definition of “misleading” is too narrow. After further consideration, we considered that there is no need to define the term, hence the definition is deleted.

<sup>13</sup> This is a typo in the English text and is now corrected.

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- (2) A person commits an offence and is liable on conviction on indictment to imprisonment for 10 years if—
- (a) the person, being reckless as to whether national security would be endangered, does an act (*relevant act*);
  - (b) the relevant act constitutes a prohibited act done in relation to an external intelligence organization; and
  - (c) the person is reckless as to whether the relevant act would constitute the prohibited act.
- (3) The Chief Executive may issue a certifying document to certify whether an organization is an external intelligence organization, and the document is binding on a Court.
- (4) In this section—
- advantage* (利益) means—
- (a) any gift, loan, fee, reward or commission consisting of money, of any valuable security or of other property or interest in property of any description;
  - (b) any office, employment or contract;
  - (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
  - (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
  - (e) the exercise, or forbearance from the exercise, of any right, power or duty; and
  - (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraph (a), (b), (c), (d) or (e);

***economic resources*** (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

***entertainment*** (款待) means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment relating to, or provided at the same time as, such provisions;

***external intelligence organization*** (境外情報組織) means an organization established by an external force and engaging in the following work or activity (however described)—

- (a) intelligence work; or
- (b) subversion or sabotage of other countries or places;

***financial support*** (財政支援) means any funds or other financial assets or economic resources;

***funds*** (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents evidencing an interest in funds or financial resources; and

(h) any other instrument of export financing;

***prohibited act*** (受禁作為), in relation to an external intelligence organization, means—

(a) becoming a member of the organization;

(b) accepting a task or training from the organization (or a person acting on behalf of the organization);

(c) offering substantial support (including providing financial support or information and recruiting members for the organization) to the organization (or a person acting on behalf of the organization); or

(d) accepting substantial advantage offered by the organization (or a person acting on behalf of the organization).

#### **47. Sabotage endangering national security**

(1) A person commits an offence and is liable on conviction on indictment to imprisonment for 20 years if the person—

(a) with intent to endanger national security; or

(b) being reckless as to whether national security would be endangered,

damages or weakens a public infrastructure.

(2) A person commits an offence and is liable on conviction on indictment to life imprisonment if the person—

(a) with intent to endanger national security; or

(b) being reckless as to whether national security would be endangered,

colludes with an external force to damage or weaken a public infrastructure.

(3) For the purposes of subsections (1) and (2), an act is weakening a public infrastructure if the act causes any of the following

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effects (whenever caused) on the infrastructure (including any thing or software that constitutes the infrastructure)—

- (a) making the infrastructure vulnerable to abuse or damage;
- (b) making the infrastructure vulnerable to be accessed or altered by persons who are not entitled to access or alter the infrastructure;
- (c) causing the infrastructure not to be able to function as it should in whole or in part;
- (d) causing the infrastructure not to operate in a way as set by its owner or the owner's representative (even if the act would not reduce the reliability of the operation of the infrastructure, of the thing or software constituting the infrastructure or of the information stored in the infrastructure).

(4) In this section—

***public infrastructure*** (公共基礎設施) means—

- (a) the following item that belongs to the Central Authorities or the Government or is occupied by or on behalf of the Central Authorities or the Government (whether it is situated in the HKSAR or not)—
  - (i) infrastructure;
  - (ii) facility or equipment;
  - (iii) network or computer or electronic system;
  - (iv) office premises; or
  - (v) military or national defence facility or equipment;

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- (b) public means of transport, public transport infrastructure or public transport facility that is situated in the HKSAR (including an airport and relevant facility)<sup>14</sup>; or
- (c) the following item that is situated in the HKSAR—
- (i) ~~public facility~~the following item providing or maintaining public services (such as finance, logistics, water, electricity, energy, fuel, drainage, communication, the Internet)—
- (A) infrastructure; or
- (B) facility; or
- (ii) computer or electronic system providing or managing the services mentioned in subparagraph (i).

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<sup>14</sup> The amendments in this paragraph and paragraph (c) are proposed in response to the strong views expressed by a number of Members during the examination of the Bill that the term “public infrastructure” should cover public transport infrastructure and logistics infrastructure (e.g. cargo terminal) and infrastructure for financial services (e.g. the Hong Kong Stock Exchange). We agree with the above views and further add non-exhaustive examples of “public services” to illustrate the wide scope of “public services”.

## Part 6

### External Interference Endangering National Security<sup>15</sup> and Organizations Engaging in Activities Endangering National Security

#### Division 1—External Interference Endangering National Security

##### 50. External interference endangering national security

A person who—

- (a) with intent to bring about an interference effect, collaborates with an external force to do an act; and
- (b) uses improper means when so doing the act,

commits an offence and is liable on conviction on indictment to imprisonment for 14 years.

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<sup>15</sup> If a person collaborates with an external force to use improper means to influence the executive, legislative and judicial authorities of the HKSAR in performing their functions or interfere with any election, it would prejudice the sovereignty and political independence of our country, thereby endanger national security. Such acts are apparently different from normal international exchanges (including exchanges in areas such as commerce, academics and culture) conducted in line with the principles of sovereign equality and non-interference under international law. To highlight the nature of endangering national security of the offence of external interference, it is proposed that the name of the offence be changed to “external interference endangering national security”, with the elements of the offence remaining unchanged.

### 53. Meaning of using improper means

- (1) For the purposes of section 50, the person mentioned in that section (*subject person*) uses improper means when doing the act mentioned in that section if the person falls within at least one of the descriptions in paragraphs (a), (b) and (c)—
- (a) the subject person knowingly makes to a person a material misrepresentation when doing the act or any part of it;
  - (b) the act or any part of it is done by any one or more of the following ways—
    - (i) using or threatening to use violence against a person;
    - (ii) destroying or damaging, or threatening to destroy or damage, a person’s property;
    - (iii) causing financial loss to a person by other means, or threatening to cause financial loss to a person by other means;
    - (iv) damaging or threatening to damage a person’s reputation;
    - (v) causing ~~psychological harmful~~ injury to, or placing undue ~~mental-psychological~~ pressure on, a person<sup>16</sup>;

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<sup>16</sup> This provision relating to “improper means” is originally modelled on “spiritual injury” under section 15(2)(e) of the National Security Act 2023 of the United Kingdom (UK). However, taking into account Members’ views on this provision, and upon further research, we note that in the UK, the term “spiritual injury” is intended to cover the potential harmful impacts on an individual’s spiritual or religious well-being that could be directly caused by another individual, for example, excluding a person from the membership of an organized belief system or banning them from attending a place of worship. This is not in line with the Government’s intention. Clause 113(4) (offence of “unlawful harassment of persons handling cases or work concerning national security”) has used the term “psychological

- (c) the act or any part of it constitutes an offence.
- (2) For the purposes of subsection (1)(a), a material misrepresentation—
  - (a) may be made orally or by written representation, and may be made by other conduct; and
  - (b) may be express or implied.
- (3) In this section, a reference to making to a person a material misrepresentation is a reference to making to the person a false or misleading representation that has the effect of preventing the person from discerning—
  - (a) the fact that the subject person, with intent to bring about an interference effect, does the act; or
  - (b) the fact that the subject person collaborates with an external force to do the act.

## 56. Interpretation

In this Division—

***authorized officer*** (獲授權人員) means a public servant appointed under section 64;

***connection*** (聯繫), in relation to an organization that is a political body, means the following circumstances—

- (a) the organization solicits or accepts financial contributions, financial sponsorships or financial support of any kind or loans, or substantive support by other

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[harm”. For the sake of consistency, it is proposed that the relevant limb of the definition of “improper means” be changed to “causing psychological harm to, or placing undue psychological pressure on, a person”, which is more in line with the Government’s policy intent.](#)

means, directly or indirectly, from a political organization of an external place;

- (b) the organization is affiliated directly or indirectly with a political organization of an external place;
- (c) any policy of the organization is determined directly or indirectly by a political organization of an external place; or
- (d) a political organization of an external place directs, controls, supervises, dictates or participates, directly or indirectly, in the decision making process of the organization;

***office-bearer*** (幹事)—

- (a) in relation to an organization, means the president, vice-president, secretary or treasurer of the organization, or a member of the committee or governing body of the organization, or a person who holds in the organization an office or position analogous to any of those mentioned above; or
- (b) in relation to a prohibited organization, means a person holding any office or position in the prohibited organization other than that of an ordinary member;

***organization*** (組織) means—

- (a) a society as defined by section 2(1) of the Societies Ordinance (Cap. 151);
- (b) a person listed in the Schedule to that Ordinance; or
- (c) any other body, whatever its nature and regardless of whether the body is formed or established pursuant to, or is operated in accordance with, any object or aim;

***political body*** (政治性團體) means—

- (a) a political party or an organization that purports to be a political party; or
- (b) an organization whose principal function or main object is to promote or prepare a candidate for an election set out in section 4(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

***political organization of an external place*** (境外政治性組織) includes—

- (a) a government of a foreign country or a political subdivision of the government;
- (b) the authority ~~of a region or place~~<sup>17</sup> of an external place or a political subdivision of the authority;
- (c) an agent of the government or authority or an agent of the political subdivision of the government or authority; and
- (d) a political party in an external place or an agent of the political party;

***prohibited organization*** (受禁組織) means an organization in relation to which an order made under section 58(1) or (2) is in force.

## 59. Matters following prohibition of operation of local organizations

- (1) If the operation or continued operation in the HKSAR of any organization specified in section 58(3)(a) is prohibited under section 58 (***local prohibited organization***), the organization is dissolved on the taking effect of the order prohibiting the operation or continued operation of the organization under section 58(7).

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<sup>17</sup> The definition of an “external place” has already included “a region or place”. Thus, it is not necessary to repeat “a region or place”.

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- (2) After the dissolution of a local prohibited organization, the liability (if any) of every office-bearer and member of the organization continues and may be enforced as if the organization had not been dissolved.
  - (3) If, immediately before the taking effect of an order prohibiting the operation or continued operation of a local prohibited organization under section 58(7), the organization is registered (however described, and carried out in whatever manner) under a specified Ordinance, subsections (4) and (5) apply to the organization.
  - (4) If the organization is dissolved under subsection (1), the registration mentioned in subsection (3) is cancelled, and the specified authority must—
    - (a) if a register (however described) is required to be kept in relation to the registration under the specified Ordinance—update the register in view of the cancellation of the registration; and
    - (b) publish a notice of the cancellation of the registration in the Gazette.
  - (5) Where the organization is dissolved under subsection (1)—
    - (a) if there is any provision in the specified Ordinance that applies after the dissolution of the organization under the specified Ordinance—the provision applies as if the organization were dissolved under the specified Ordinance; and
    - (b) if there is any provision ~~in the specified Ordinance~~ that applies to the winding up of the organization, or any other

provision that has the same effect<sup>18</sup>, in the specified Ordinance—the provision applies to the organization.

- (6) Subsection (7) applies to a local prohibited organization if—
- (a) the organization is not an organization mentioned in subsection (3); or
  - (b) the organization is an organization mentioned in subsection (3), but there is ~~no~~ neither a provision that applies to the winding up of the organization nor any other provision that has the same effect in the specified Ordinance ~~that applies to the winding up of the organization~~.
- (7) Where a local prohibited organization is dissolved under subsection (1), sections 360E, 360F, 360G, 360H, 360I, 360J, 360K, 360L and 360M of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) apply, with necessary modifications, to the organization as if the organization were a company that had been struck off the Companies Register, and had been dissolved, under section 360C of that Ordinance.
- (8) In this section—
- specified authority*** (指明當局), in relation to a registration mentioned in subsection (3), means—
- (a) if a person is required to keep a register (however described) in relation to the registration under the specified Ordinance—the person; or
  - (b) in any other case—the Secretary for Security;

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<sup>18</sup> Upon review, some specified Ordinances may not use the expression “winding up” in the relevant provisions. For the sake of clarity, it is proposed to make this amendment to cover “any other provision that has the same effect”.

*specified Ordinance* (指明條例) means an Ordinance other than the Companies Ordinance (Cap. 622) and the former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap. 622).

### **Subdivision 3—Offences in connection with Prohibited Organizations**

#### **60. Prohibition of participation in activities of prohibited organizations**

- (1) A person who, after the operation or continued operation of an organization in the HKSAR is prohibited under section 58—
  - (a) is or acts as an office-bearer of the organization, or professes or claims to be an officer-bearer of the organization; or
  - (b) manages or assists in the management of the organization, commits an offence and is liable on conviction on indictment to a fine of \$1,000,000 and imprisonment for 14 years.
- (2) A person who, after the operation or continued operation of an organization in the HKSAR is prohibited under section 58—
  - (a) is or acts as a member of the organization, or professes or claims to be a member of the organization;
  - (b) conducts any activity on behalf of, or in cooperation with, or under the control, supervision or direction of, the organization;
  - (c) participates in a meeting of the organization; or
  - (d) pays money or gives aid of other kinds to or for the purposes of the organization,commits an offence and is liable on conviction on indictment to a fine of \$250,000 and imprisonment for 10 years.

- (3) The following act does not constitute an offence under subsection (1) or (2)—
- (aa) doing an act with the prior written permission of the Secretary for Security<sup>19</sup>;
  - (a) participating in any proceedings, whether in one's own capacity or as a representative of an organization that is a party to the proceedings;
  - (b) seeking, providing or accepting any legal services, or making or receiving any payment for the services; or
  - ~~(c) making any payment, or doing any act, to discharge any liability, with the prior written permission of the Secretary for Security; or<sup>20</sup>~~
  - (d) doing any act that is incidental to the act referred to in paragraph (a) or; (b) ~~or (c)~~.
- (4) It is a defence for a person charged with an offence under subsection (1) or (2) to establish that, at the time of the alleged offence, the person did not know and had no reasonable grounds to believe that the operation or continued operation of the organization in the HKSAR was prohibited under section 58.
- (5) Without affecting subsection (4)—

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<sup>19</sup> This amendment is recommended since Members pointed out during the scrutiny of the Bill that, while some members of a dissolved prohibited organization may participate in the course of the winding up of the organization for legitimate reasons, they may commit an offence of acting as a member of the prohibited organization as a result. The proposed inclusion of the mechanism of written permission by the Secretary for Security will provide flexibility so that each case can be dealt with according to the specific circumstances.

<sup>20</sup> With the addition of clause 60(3)(aa), paragraph (c) has been covered by paragraph (aa) and can therefore be deleted.

- (a) it is a defence for a person charged with an offence under subsection (1), for being or acting as an office-bearer of a prohibited organization, to establish that the person has taken all reasonable steps and exercised due diligence to terminate the status as such an office-bearer; or
  - (b) it is a defence for a person who is charged with an offence under subsection (2), for being or acting as a member of a prohibited organization, to establish that the person has taken all reasonable steps and exercised due diligence to terminate the membership.
- (6) A person is taken to have established a matter that needs to be established for a defence under subsection (4) or (5) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

### **63A. Shadow organizations of prohibited organizations<sup>21</sup>**

- (1) In section 60(1)(a) and (b) and (2)(a), (b), (c) and (d), a reference to the organization includes a shadow organization of the organization.

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<sup>21</sup> This amendment is recommended since Members pointed out during the scrutiny of the Bill that, since an organization is dissolved if the operation of it is prohibited (clause 59(1)), there may be queries about whether there will still be “office-bearers” or “members” of a dissolved organization in respect of offences in connection with prohibited organizations under clauses 60 to 63. To avoid future disputes, it is proposed to add this amendment to clearly specify that the “prohibited organization” under clauses 60 to 63 (including “an organization [prohibited under clause 58...]” in clause 60) / “the organization”) should include the “shadow organization” of the organization (i.e. the organization which holds itself out to be the prohibited

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(2) In sections 61, 62 and 63, a reference to a prohibited organization includes a shadow organization of a prohibited organization.

(3) For the purposes of this section, if an organization (*Organization A*) holds itself out to be another organization (*Organization B*), Organization A is a shadow organization of Organization B.

**72. Application of this Subdivision to persons arrested for offences endangering national security**

- (1) This Subdivision applies in relation to a person who—
- (a) is arrested for being reasonably suspected of having committed an offence endangering national security; and
  - (b) is required under section 52 of Cap. 232 to be brought before a magistrate as soon as practicable.
- (2) Subject to section ~~73~~75(1)<sup>22</sup>, the person who is detained in police custody (*arrested person*) must be brought before a magistrate as soon as practicable, and in any event, not later than the first sitting of a Magistrates' Court after the expiry of the period of 48 hours after the person's arrest.

**74. Court hearings of applications for extension of detention period**

- (1) A magistrate must not hear the application unless—
- (a) the arrested person has been given a copy of the application (the information in support of the application need not be given to the arrested person); and

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organization) so that the offences in connection with “prohibited organization” under clauses 60 to 63 would also apply to its shadow organization.

<sup>22</sup> Upon review, the clause to which this clause should refer is clause 75(1), which empowers the court to extend the period of detention.

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- (b) the arrested person has been brought before the magistrate for the hearing of the application.
- (2) If the arrested person is not represented by a solicitor or counsel but wishes to be so represented—
- (a) the magistrate may adjourn the hearing of the application for a reasonable period to enable the person to be represented by a solicitor or counsel, and the period must not exceed—
- \_\_\_\_\_ (i) for the first application after the arrested person’s arrest—7 days after the expiry of the first detention period; and
- \_\_\_\_\_ (ii) for any subsequent application—7 days after the expiry of the last period of extension, or 14 days after the expiry of the first detention period, whichever is the earlier; and<sup>23</sup>
- (b) the arrested person may is to be delivered to the police for detention in their custody during the adjournment<sup>24</sup>.

### **Subdivision 2—Applications may be Made to Court for Imposition of Appropriate Restrictions in relation to**

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<sup>23</sup> This amendment is recommended taking into account Members’ views during the scrutiny of the Bill that what “a reasonable period” refers to should be clearly stipulated.

<sup>24</sup> Upon review, the word “可” is considered not necessary in the Chinese text, and thus “may be” is changed to “is to be” in the English text.

## Consultation with ~~Lawyers~~Legal Representatives in View of Circumstances Endangering National Security

76. Consultation with relevant particular ~~lawyers~~—legal representatives may be restricted in view of circumstances endangering national security<sup>25</sup>
- (1) This section applies if a person is arrested for being reasonably suspected of having committed an offence endangering national security and is detained in police custody, and during the detention in police custody, the person requests to consult, or is consulting, a particular ~~lawyer~~—legal representative or particular ~~lawyers~~legal representatives.
  - (2) A police officer of the rank of Chief Superintendent or above or a police officer authorized by that officer may, by ex parte application supported by information on oath, apply to a magistrate for the issue by the magistrate of a warrant in relation to the person under this section.
  - (3) If the magistrate hearing the application is satisfied that there are reasonable grounds to believe that the circumstances specified in subsection (4) exist, the magistrate may issue a warrant authorizing a police officer to impose the following restriction on the person—
    - (a) the person must not, during the person’s detention in police custody—
      - (i) consult the particular ~~lawyer~~—legal representative or ~~lawyers~~legal representatives; or

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<sup>25</sup> The amendments to clauses 76 and 77 are recommended taking into account Members’ views that the reference to “lawyer” may bring about ambiguity and is also inconsistent with the terms used in other clauses. Thus, it is proposed that the reference to “lawyer” in the provision be changed to “legal representative”, with the term defined in subclause (7).

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- (ii) if the particular ~~lawyer~~ legal representative or legal representatives ~~lawyers~~ is or are in the practice of the law in a certain ~~solicitors'~~ Hong Kong firm or certain ~~solicitors'~~ Hong Kong firms—consult any legal representative ~~lawyer~~ in the practice of the law in the firm or firms; but
- (b) the person may consult any other legal representative ~~lawyer~~ of the person's choosing.
- (4) The circumstances are—
- (a) the person's consultation with any legal representative ~~lawyer~~ referred to in subsection (3)(a) (*relevant legal representative ~~lawyer~~*) during the person's detention in police custody will endanger national security or cause bodily harm to any person;
- (b) the person has benefited from the offence, and the person's consultation with the relevant legal representative ~~lawyer~~ during the person's detention in police custody will hinder the recovery of the benefit unless the authorization is given; or
- (c) the person's consultation with the relevant legal representative ~~lawyer~~ during the person's detention in police custody will pervert or obstruct the course of justice unless the authorization is given.
- (5) If the information under subsection (2) is laid during the person's consultation with a particular legal representative ~~lawyer~~ or particular legal representatives ~~lawyers~~, then, before a magistrate makes any decision on the information—
- (a) if the application that is supported by the information requests for the imposition of restrictions in relation to the person's consultation with the particular legal representative ~~lawyer~~ or legal representatives ~~lawyers~~—the person must suspend consultation with the particular

- ~~legal representative lawyer~~—or ~~legal representatives lawyers~~, but may consult any other ~~legal representative lawyer~~ of the person's choosing; or
- (b) if the particular ~~legal representative lawyer~~—or ~~legal representatives lawyers~~—is or are in the practice of the law in a certain ~~solicitors'~~—Hong Kong firm or certain ~~solicitors'~~—Hong Kong firms, and the application requests for the imposition of restrictions in relation to the person's consultation with any ~~legal representative lawyer~~—who is in the practice of the law in the firm or firms (*relevant firm or firms*)—the person must suspend consultation with the particular ~~legal representative lawyer~~—or ~~legal representatives lawyers~~, and must not consult any other ~~legal representative lawyer~~—of the relevant firm or firms, but may consult any other ~~legal representative lawyer~~—of the person's choosing.
- (6) If, after the issue of the warrant and during the person's detention in police custody, the police officer who laid the information no longer has reasonable grounds to believe that the circumstances specified in subsection (4) exist, a police officer must immediately cease to impose on the person the restriction mentioned in subsection (3).

(7) In this section—

*Hong Kong firm* (香港律師行) has the meaning given by section 2(1) of the Legal Practitioners Ordinance (Cap. 159);

*legal representative* (法律代表) means a solicitor or counsel.

**77. Consultation with ~~legal representatives lawyers~~—may be restricted in view of circumstances endangering national security**

- (1) This section applies if a person is investigated for being reasonably suspected of having committed an offence

endangering national security, regardless of whether the person has been arrested.

- (2) A police officer of the rank of Chief Superintendent or above or a police officer authorized by that officer may, by *ex parte* application supported by information on oath, apply to a magistrate for the issue by the magistrate of a warrant in relation to the person under this section.
- (3) If the magistrate hearing the application is satisfied that—
  - (a) if the person has not been arrested—
    - (i) there are reasonable grounds to suspect that the person has committed the offence;
    - (ii) there are reasonable grounds to believe that the person is about to be arrested; and
    - (iii) there are reasonable grounds to believe that the circumstances specified in subsection (4) exist; or
  - (b) if the person has been arrested—there are reasonable grounds to believe that the circumstances specified in subsection (4) exist,

the magistrate may issue a warrant authorizing a police officer to restrict the person's consultation with a [legal representative lawyer](#) during the period of detention of the person in police custody within the period of 48 hours after the person's arrest (*specified period*).

- (4) The circumstances are—
  - (a) the person's consultation with a [legal representative lawyer](#) during the specified period will endanger national security or cause bodily harm to any person;
  - (b) the person has benefited from the offence, and the person's consultation with a [legal representative lawyer](#)

during the specified period will hinder the recovery of the benefit unless the authorization is given; or

- (c) the person's consultation with a [legal representative lawyer](#) during the specified period will pervert or obstruct the course of justice unless the authorization is given.
- (5) If the warrant is issued before the person is arrested, the magistrate may direct that the warrant is only in force before the date that is specified.
- (6) After the issue of the warrant, if, before the expiry of the specified period, the police officer who laid the information no longer has reasonable grounds to believe that the circumstances specified in subsection (4) exist, a police officer must immediately cease to restrict the person's consultation with a [legal representative lawyer](#).

(7) In this section—

[legal representative \(法律代表\) means a solicitor or counsel.](#)

## 80. Applications to Court for movement restriction orders in relation to period of bail

- (1) A police officer of the rank of Chief Superintendent or above or a police officer authorized by that officer may, by ex parte application supported by information on oath, apply to a magistrate for the making by the magistrate of an order (*movement restriction order*) directing that a person on bail must comply with the specified requirements and the specified conditions imposed in relation to those requirements.
- (2) The magistrate may specify one or more of the following requirements—
  - (a) the following requirements on the place of residence of the person on bail—

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- (i) the person on bail must reside in the specified place during the specified period;
  - (ii) the person [on bail](#)<sup>26</sup> must report to the police by the specified deadline information as to the identity of any person who also resides in the specified place;
  - (iii) the person on bail must remain in the specified place during the specified time;
- (b) the person on bail must not enter the specified area or place during the specified period, or may only enter the area or place if the specified conditions are met;
  - (c) the person on bail must not, by any means or through any person, associate or communicate with the specified person during the specified period, or may only associate or communicate with the specified person if the specified conditions are met;
  - (d) the person on bail must report to the police at the specified police station at the specified time.
- (3) The information in support of the application—
- (a) must be laid by a police officer of the rank of Chief Inspector or above; and
  - (b) must state—
    - (i) the nature of the offence;
    - (ii) the general nature of the evidence on which the person on bail was arrested;
    - (iii) what inquiries have been made by the police in relation to the offence and what further inquiries are proposed to be made by them; and

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<sup>26</sup> [This is a typo in the English text and is now corrected.](#)

- (iv) the reasons why imposing any of the requirements mentioned in subsection (2) on the person on bail is necessary.

## **Division 2—Absconders ~~Charged within respect of~~ Offences Endangering National Security**

### **Subdivision 1—Specification of Relevant Absconders**

#### **86. Power of Secretary for Security to specify an absconder for application of certain measures against the absconder**

- (1) If the Secretary for Security reasonably believes that it is necessary for safeguarding national security to specify a person to which this subsection applies for the purposes of subsection (4), the Secretary for Security may, by notice published in the Gazette, specify the person for the purposes of that subsection.
- (2) Subsection (1) applies to a person if—
- (a) a ~~magistrate Court~~ has, ~~in a case in which the person is charged with an offence endangering national security,~~ issued, ~~in relation to an offence endangering national security,~~ a warrant ~~under section 72(1) of the Magistrates Ordinance (Cap. 227)~~ to arrest the person;<sup>27</sup>
  - (b) reasonable steps have been taken to inform the person of the issue of the warrant, or the Secretary for Security reasonably believes that the person knew of the issue of the warrant;

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<sup>27</sup> Upon review, it is considered that the person may abscond at any stage of criminal proceedings, but not limited to the stage at the Magistrates' Court. Thus, it is proposed to amend the scope of clause 86 to make it clear that it applies to the subject of warrant of arrest issued by a Court in relation to an offence endangering national security.

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- ~~(c) a period of 6 months after the issue of the warrant has expired;<sup>28</sup>~~
- (d) the person has not been brought before a judge or magistrate (as the case may be); and
- (e) the Secretary for Security reasonably believes that the person is not in the HKSAR.
- (3) The Secretary for Security must revoke a specification made in relation to a person under subsection (1) if—
- (a) the warrant mentioned in subsection (2)(a) in respect of the person has been revoked; or
- (b) the person has been brought before a judge or magistrate (as the case may be).
- (4) If the Secretary for Security specifies a person under subsection (1), the Secretary for Security may, during the period within which the specification is in force, by notice published in the Gazette, further specify that any one or more provisions in Subdivision 2 of this Division that the Secretary for Security reasonably considers to be suitable in all the circumstances of the case apply in relation to the person.
- (5) The Secretary for Security may, by notice published in the Gazette, vary or revoke a specification made under subsection (4).

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<sup>28</sup> Most Members of the Bills Committee strongly opposed to the condition imposed under clause 86(2)(c), which requires that measures against an absconder can only be taken after the warrant of arrest has been issued for 6 months. Members are of the view that the Secretary for Security should be given maximum flexibility to deal with the absconders and prevent circumvention from the relevant measures. After consideration, we agree with Members' view and propose to delete clause 86(2)(c).

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**88. Prohibition against certain activities in connection with immovable property**

- (1) If it is specified under section 86(4) (including by virtue of section 86(5)) that this section applies in relation to a person, the person is a relevant absconder for the purposes of this section during the period within which the specification is in force.
- (2) Except under the authority of a licence granted under section 94, a person must not—
  - (a) lease, or otherwise make available, immovable property, directly or indirectly, to a relevant absconder; or
  - (b) lease immovable property, directly or indirectly, from a relevant absconder.
- (3) A person who contravenes subsection (2) commits an offence and is liable on conviction on indictment to imprisonment for 7 years.
- (4) It is a defence for a person charged with an offence under subsection (3) to establish that the person did not know and had no reason to believe—
  - (a) for a contravention of subsection (2)(a)—that the immovable property concerned was leased, or otherwise made available, to a relevant absconder; or
  - (b) for a contravention of subsection (2)(b)—that the immovable property concerned was leased from a relevant absconder.
- (5) A person is taken to have established a matter that needs to be established for a defence under subsection (4) if—
  - (a) there is sufficient evidence to raise an issue with respect to that matter; and

(b) the contrary is not proved by the prosecution beyond reasonable doubt.

(6) If a person does an act mentioned in subsection (2) under a contract, agreement or obligation that arose before the date on which the relevant absconder became a relevant absconder, the person is not to be regarded as having contravened that subsection by reason only of that act.<sup>29</sup>

**89. Prohibition in connection with joint ventures or partnerships with relevant absconders**

- (1) If it is specified under section 86(4) (including by virtue of section 86(5)) that this section applies in relation to a person, the person is a relevant absconder for the purposes of this section during the period within which the specification is in force.
- (2) Except under the authority of a licence granted under section 94, a person must not—
- (a) establish a joint venture, partnership or any like relationship with a relevant absconder; or
  - (b) invest in such a joint venture, partnership or any like relationship.

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<sup>29</sup> Taking into account Members' view during the scrutiny of the Bill, it is proposed to amend clause 88 to stipulate that if an innocent third party has leased a property from an absconder before the absconder is specified by the Secretary for Security, the third party will instantly commit an offence when the absconder is specified by the Secretary for Security. While the Secretary for Security may address this by granting a licence, we propose that such situation be clearly excluded. According to clause 87 of the Bill, the rent paid by the tenant will be frozen after being deposited into the account of the absconder. As such, the proposed arrangement will not benefit the absconder in practice.

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- (3) A person who contravenes subsection (2) commits an offence and is liable on conviction on indictment to imprisonment for 7 years.
- (4) It is a defence for a person charged with an offence under subsection (3) to establish that the person did not know and had no reason to believe that the joint venture, partnership or like relationship concerned was one with a relevant absconder.
- (5) A person is taken to have established a matter that needs to be established for a defence under subsection (4) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (6) If a person does an act mentioned in subsection (2) under a contract, agreement or obligation that arose before the date on which the relevant absconder became a relevant absconder, the person is not to be regarded as having contravened that subsection by reason only of that act.<sup>30</sup>

## 92. Temporary removal from office of director

- (1) If it is specified under section 86(4) (including by virtue of section 86(5)) that this section applies in relation to a person, the person is a relevant absconder for the purposes of this

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<sup>30</sup> This amendment is proposed, taking into account Members' views during the scrutiny of the Bill, to stipulate that a person is not to be regarded as having contravened clause 89(2) by reason only of entering into any contract, agreement or obligation with a person before the date on which the person becomes a relevant absconder, so as to minimise the impact on third parties including those who have previously established or invested in a joint venture, partnership or any like relationship with a relevant absconder.

section during the period within which the specification is in force.

- (2) If, at any time during the period within which the specification is in force (*material time*), a relevant absconder holds the office of director of any company, the relevant absconder is, for all purposes, to be regarded as being removed temporarily from that office of director at the material time, and accordingly, the relevant absconder must not directly or indirectly take part or be concerned in the management of the company temporarily.
- (3) If, under any Ordinance, a person is required to keep a register (however described) in relation to that office of director, the person must from time to time update the register in view of the operation of subsection (2).

(4) This section does not affect—

(a) any power that a person may exercise under ~~any Ordinance~~ the law of the HKSAR in relation to a relevant absconder; or

(b) any power that a person may exercise under the constitution, rules or other governing documents by which the company is constituted (or according to which the company operates) in relation to a relevant absconder.<sup>31</sup>

(5) In this section—

*company* (公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

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<sup>31</sup> Some Members were of the view that a company and its shareholders had certain powers exercisable against directors of the company under the common law and documents such as the company's memorandum of association. Members proposed to expand the scope of subclause (4) so that a company and its shareholders may exercise such powers against a relevant absconder. We agree to the proposal.

*director* (董事) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622).

**93. Cancellation of HKSAR passports etc.**

(1) If it is specified under section 86(4) (including by virtue of section 86(5)) that this section applies in relation to a person, the person is a relevant absconder for the purposes of this section during the period within which the specification is in force.

(2) If—

(a) a relevant absconder holds a HKSAR passport; and

(b) the passport is valid immediately before the specification is made,

the passport is, for all purposes, to be regarded as being cancelled at the time when the specification is made, and accordingly, the Director of Immigration may take possession of the passport.

~~(3) To avoid doubt, a person must not appeal against the cancellation or taking of possession under section 10(1) of the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539).<sup>32</sup>~~

~~(3) If an application for a HKSAR passport is made by a relevant absconder, the application is, for the purposes of section 3(1) of the Hong Kong Special Administrative Region Passports~~

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<sup>32</sup> Some Members were of the view that the statutory appeal mechanism under the Hong Kong Special Administrative Region Passports Ordinance is obviously not applicable to the cancellation under this section, and the inclusion of subclause (3) may cause confusion. Upon consideration, it is proposed to delete this subclause.

Ordinance (Cap. 539) and all other purposes, to be regarded as being invalid<sup>33</sup>.

(4) In this section—

*HKSAR passport* (特區護照) means a passport issued by the Director of Immigration under section 3 of the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539).

## 102. Translations of documents

(1) Subsection (2) applies in place of section 80B(2)(c) and (3) of Cap. 227.

(2) Unless the magistrate, on application by the accused, orderorders<sup>34</sup>, for the purposes of section 80B(1) of Cap. 227, that a statement of a witness, or a documentary exhibit, of which a copy is served under that section must be accompanied by the following translation—

(a) if the statement or documentary exhibit is written in a language other than English—an English translation;

(b) if the statement or documentary exhibit is written in a language other than Chinese—a Chinese translation,

the statement or documentary exhibit need not be accompanied by the translation.

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<sup>33</sup> Upon review, this proposed amendment seeks to deal with the situation where an application for a HKSAR passport is made by a relevant absconder. The proposed new clause 93(3) provides that an application for a passport made by a absconder is to be regarded as invalid for the purpose of section 3(1) of Cap. 539 (provisions relating to the issue of passports by the Director of Immigration) and all other purposes. The effect of this amendment is that the Director of Immigration is not required to process the application and the applicant cannot lodge an appeal either.

<sup>34</sup> This is a typo in the English text and is now corrected.

- (3) In deciding whether to make an order under subsection (2), the magistrate must consider the need for the case to be handled in a fair and timely manner.

## Part 8

### Mechanisms for Safeguarding National Security and Relevant Protections

#### 106A. Chief Executive in Council may make subsidiary legislation for safeguarding national security<sup>35</sup>

- (1) The Chief Executive in Council may make subsidiary legislation for the needs of safeguarding national security and the better carrying into effect of the following laws and interpretation—
- (a) the HK National Security Law, including provisions in its Chapter V concerning the mandate of the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region;
- (b) the Interpretation by the Standing Committee of the National People’s Congress of Article 14 and Article 47 of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special

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<sup>35</sup> This provision is proposed to be added taking into account Members’ views during the scrutiny of the Bill that this Ordinance should, with reference to other Ordinances, empower the Chief Executive-in-Council to make subsidiary legislation for safeguarding national security, so as to further provide for the specific implementation issues in respect of laws relevant to safeguarding national security (i.e. HKNSL and its relevant Interpretation, and the Safeguarding National Security Ordinance after its enactment) and deal with unforeseen circumstances.

Administrative Region (a translation of “《全國人民代表大會常務委員會關於〈中華人民共和國香港特別行政區維護國家安全法〉第十四條和第四十七條的解釋》”) adopted at the 38th Session of the Standing Committee of the Thirteenth National People’s Congress on 30 December 2022;

(c) this Ordinance.

(2) Any subsidiary legislation made under this section may provide that a contravention of the subsidiary legislation is an indictable offence and may prescribe penalties for it of a fine not exceeding \$500,000 and imprisonment not exceeding 7 years.

**107. Administrative instructions in connection with safeguarding national security<sup>36</sup>**

- (1) The Chief Executive may issue an administrative instruction to any department or agency of the Government or any public servant~~of the Government~~ to give directions in relation to any of the following matters—
- (a) the implementation of any instruction given by the Central People’s Government in relation to safeguarding national security;
  - (b) the work on safeguarding national security;
  - (c) the provision of rights, exemptions, facilitation and support that are necessary for the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region in

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<sup>36</sup> The purpose of this amendment is to clarify that, in addition to stipulating that the Chief Executive can issue administrative instructions to any public servant, it should also be stipulated that relevant administrative instructions can be issued to any department or agency of the Government, and any department or agency of the Government must also comply with the relevant administrative instructions.

- performing its mandate under Chapter V of the HK National Security Law in accordance with the law;
- (d) any other matter that the Chief Executive considers conducive to safeguarding national security.
- (2) Any department or agency of the Government or any public servant~~of the Government~~ must comply with an administrative instruction mentioned in subsection (1).

#### **107A. Judgements and decisions of National Security Committee<sup>37</sup>**

- (1) A meeting of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (*National Security Committee*) is to be convened by the chairperson. The National Security Adviser is to sit in on meetings of the National Security Committee. The National Security Adviser is to provide advice on matters relating to the duties and functions of the National Security Committee.
- (2) The secretariat of the National Security Committee is to convey, and assist in the follow-up of and the giving of effect to, the judgements and decisions made by the National Security

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<sup>37</sup> This amendment is proposed taking into account Members' views during the scrutiny of the Bill that one of the purposes of enacting a new "Safeguarding National Security Ordinance" is to fully implement the constitutional responsibilities and obligations stipulated in the "5.28 Decision" and the Hong Kong National Security Law. The Interpretation of Article 14 and Article 47 of the Hong Kong National Security Law was adopted by the Standing Committee of the National People's Congress on 30 December 2022, but the Interpretation was not reflected in local legislation. Therefore, the relevant requirements should be clearly included in the Bill to ensure that if the law of the HKSAR confers any function on a person, any person, in making any decision in the performance of the function, must respect and execute the judgements and decisions of the National Security Committee in accordance with the law.

Committee in its performance of duties and functions under the provisions of the HK National Security Law.

- (3) If the law of the HKSAR confers any function on a person, any person, in making any decision in the performance of the function, must respect, and implement in accordance with the law, the judgements and decisions of the National Security Committee.

**107B. Provision of advice, or giving of directions, in relation to national security education etc.**<sup>38</sup>

The Chief Secretary for Administration may provide advice, or give any direction, to any person whom the Chief Secretary for Administration considers appropriate, for promoting national security education, raising the awareness of residents of the HKSAR of national security and of the obligation to abide by the law, or strengthening public communication, guidance, supervision and regulation of the work on safeguarding national security and prevention of terrorist activities.

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<sup>38</sup> The amendment is proposed taking into account Members' views during the scrutiny of the Bill that, to ensure the requirements related to taking forward national security education are implemented in a better way, the Chief Secretary for Administration, as the Chairman of the Constitution and Basic Law Promotion Steering Committee, should be empowered to give direction to any person whom the Chief Secretary for Administration considers appropriate, for the public communication, guidance, supervision and regulation of national security education, etc.

**108. Public servants to assist in work on safeguarding national security<sup>39</sup>**

- (1) A public servant must provide all such assistance that is necessary for the work on safeguarding national security.
- (2) Accordingly, a public servant must provide any department or agency that is responsible for the work on safeguarding national security, and its personnel, in the HKSAR, with all reasonable facilitation, support, backing and protection in a timely manner, including providing the necessary manpower and other necessary resources in a timely manner.
- (3) A public servant must exercise all powers and discretions that the public servant has (including any power and discretion concerning the giving of any exemption) to discharge the obligation under this section.

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<sup>39</sup> The amendment is proposed taking into account Members' views during the scrutiny of the Bill that although the provision already stipulates that any public servant must provide all such assistance that is necessary for the work on safeguarding national security, the relevant provision should be further improved to provide specific responsibilities relating thereto. As such, we propose to stipulate that a public servant must provide any department or agency that is responsible for the work on safeguarding national security, and its personnel, in the HKSAR, with all reasonable facilitation, support, backing and protection in a timely manner, including providing the necessary manpower and other necessary resources in a timely manner, and that a public servant must exercise all powers and discretions that the public servant has (including any power and discretion concerning the giving of any exemption) to discharge his or her duty in providing assistance in the work on safeguarding national security.

**109. Chief Executive to issue certificate in relation to question of whether national security or state secrets is involved**

- (1) Apart from in the circumstances mentioned in Article 47 of the HK National Security Law, the Chief Executive may also, in circumstances that the Chief Executive considers appropriate, issue a certificate to certify whether an act or matter involves national security or whether any material involves state ~~secret~~secrets<sup>40</sup>.
- (2) A certificate under subsection (1)—
  - (a) may be issued whether or not any proceedings have been commenced; and
  - (b) may be issued by the Chief Executive on the Chief Executive's own motion.
- (3) If a Court receives in any proceedings a certificate issued by the Chief Executive certifying a question under this section, the court is to be regarded as having obtained a certificate issued by the Chief Executive certifying the question under Article 47 of the HK National Security Law.

**111. Signing or certification of legal documents in respect of specified cases~~cases concerning national security~~ etc.<sup>41</sup>**

- (1) This section applies to a document in respect of a specified case~~case concerning national security~~ (*relevant document*) if an Ordinance or a direction of a Court—

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<sup>40</sup> This is a typo in the English text and is now corrected.

<sup>41</sup> The amendment is proposed taking into account Members' views during the scrutiny of the Bill that, under certain circumstances, there is a possibility that officers handling cases not related to national security may also be doxxed. Although those cases are not cases concerning national security, a party to the case may be a defendant of a case concerning national security. To provide greater

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- (a) requires the document to be signed or certified by any of the following persons—
    - (i) a party to the case;
    - (ii) a specified person representing a party to the case;
  - (b) requires the document to state the name of any of the following persons—
    - (i) a party to the case;
    - (ii) a specified person representing a party to the case;
  - (c) permits the document to be signed or certified by any of the following persons—
    - (i) a party to the case;
    - (ii) a specified person representing a party to the case; or
  - (d) permits the document to state the name of any of the following persons—
    - (i) a party to the case;
    - (ii) a specified person representing a party to the case.
- (2) However, this section does not apply to—
- (a) an affidavit or any other document made on oath;
  - (b) a statutory declaration;
  - (c) a document made by a person as a witness for stating the truth; or

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[protection to persons handling non-national security cases that involve defendants of national security cases, this amendment is proposed to expand the scope of the mechanism under clause 111 by stipulating that “specified cases” cover, in addition to cases concerning national security, a case in which a party to the case is also a party to proceedings instituted for the party’s offence concerning national security.](#)

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- (d) a statement of truth made under an Ordinance or a direction of a Court for verifying a document.
- (3) Where the relevant document—
    - (a) is one that falls within subsection (1)(a)(i) or (c)(i)—the document may be signed or certified by a specified person representing the party, and need not be signed or certified by the party; and
    - (b) is one that falls within subsection (1)(b)(i) or (d)(i)—the document may state the name of a specified person representing the party, and need not state the name of the party.
  - (4) Where the relevant document—
    - (a) is one that falls within subsection (1)(a)—the requirement under subsection (1)(a) is met if the document contains a signature specified in subsection (5);
    - (b) is one that falls within subsection (1)(b)—the requirement under subsection (1)(b) is met if the document contains a name specified in subsection (6);
    - (c) is one that falls within subsection (1)(c)—the document may contain a signature specified in subsection (5); and
    - (d) is one that falls within subsection (1)(d)—the document may contain a name specified in subsection (6).
  - (5) The signature specified for the purposes of subsection (4)(a) and (c) is—
    - (a) if the relevant document must or may (including may by virtue of subsection (3)(a)) be signed by a specified person and the specified person is a public servant—a signature made in the name of the department or agency represented by the specified person;

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- (b) if the relevant document must or may (including may by virtue of subsection (3)(a)) be signed by a specified person and the specified person is a counsel—a signature made in the name of the department or agency (or solicitors’ firm) represented by the person who gives instructions to the specified person; or
  - (c) if the relevant document must or may (including may by virtue of subsection (3)(a)) be signed by a specified person and the specified person is a solicitor—a signature made in the name of the solicitors’ firm represented by the specified person.
- (6) The name specified for the purposes of subsection (4)(b) and (d) is—
- (a) if the relevant document must or may (including may by virtue of subsection (3)(b)) state the name of a specified person and the specified person is a public servant—the name of the department or agency represented by the specified person;
  - (b) if the relevant document must or may (including may by virtue of subsection (3)(b)) state the name of a specified person and the specified person is a counsel—the name of the department or agency (or solicitors’ firm) represented by the person who gives instructions to the specified person; or
  - (c) if the relevant document must or may (including may by virtue of subsection (3)(b)) state the name of a specified person and the specified person is a solicitor—the name of the solicitors’ firm represented by the specified person.

(6A) For the purposes of subsection (1), if—

- (a) a case is a case concerning national security; or

(b) proceedings are brought against a person for an offence endangering national security, and the person is a party to a case,

the case is a specified case.

(6B) For the purposes of subsection (6A)(b), proceedings for an offence endangering national security are brought against a person if—

(a) a magistrate issues a warrant or summons against the person under section 72 of the Magistrates Ordinance (Cap. 227) in respect of the offence;

(b) the person is arrested for the offence (whether or not the person is released on bail);

(c) the person is charged with the offence after being taken into custody without a warrant; or

(d) an indictment charging the person with the offence is preferred by the direction or with the consent of a judge under section 24A(1)(b) of the Criminal Procedure Ordinance (Cap. 221).

(7) In this section—

***specified person*** (指明人士) means a public servant, counsel or solicitor;

***state*** (述明), in relation to a name, means mark, print, set out or otherwise provide the name.

### 113A. Specified Court may on application take anonymity measures<sup>42</sup>

(1) If a specified Court is satisfied that it is necessary for safeguarding national security to take certain measures in

<sup>42</sup> The amendments to add new clauses 113A and 113B are also proposed taking into account Members' views during the scrutiny of the Bill that there is a possibility that officers handling cases not related to national security may also be doxxed.

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relation to any existing or contemplated proceedings (regardless of whether the proceedings concern a case concerning national security, and regardless of whether the proceedings take place in that Court or any other Court) to protect the identity of any specified person from disclosure, the specified Court may, on ex parte application by the Secretary for Justice, order the measures be taken.

(2) Without limiting subsection (1), an order made under that subsection may prohibit a person from disclosing—

(a) information that shows the identity of a specified person;  
or

(b) information from which the identity of a specified person may be inferred.

(3) A hearing of an application under subsection (1) must take place in a closed court.

(4) If an order is made under subsection (1), a person affected by the order may apply to the specified Court to vary or revoke the order.

(5) The specified Court must not vary or revoke the order unless the specified Court, having regard to all the circumstances of the case, is satisfied that injustice would be caused if the order is not varied or revoked.

(6) To avoid doubt, unless the specified Court orders otherwise, the Secretary for Justice need not, for the purposes of an application under subsection (4), provide to the applicant documents submitted to the specified Court at the time when the Secretary for Justice made the application under subsection (1).

(7) To avoid doubt—

(a) this section does not limit any other power that any Court may exercise; and

(b) section 111 does not prevent a specified Court from ordering under subsection (1) any measures to be taken in relation to a document mentioned in section 111(2).

(8) In this section—

*specified Court* (指明法院) means any of the following courts of the Judiciary of the HKSAR—

(a) the Court of Final Appeal;

(b) the Court of Appeal;

(c) the Court of First Instance;

(d) the District Court;

(e) a Magistrates' Court;

*specified person* (指明人士), in relation to any existing or contemplated proceedings, means the following person whom the proceedings involve or are likely to involve—

(a) a public servant;

(b) a judicial officer or a staff member of the Judiciary;

(c) a counsel or solicitor; or

(d) an informer or witness.

**113B. Offence of contravening order prohibiting disclosure of identity**

(1) If a person, knowing that an order prohibiting disclosure of identity has been made, discloses information the disclosure of which is prohibited by the order, the person commits an offence and is liable on conviction on indictment to imprisonment for 5 years.

(2) It is a defence for a person charged with an offence under subsection (1) to establish that the person had a reasonable excuse or lawful authority to make the disclosure.

(3) A person is taken to have established a matter that needs to be established for a defence under subsection (2) if—

(a) there is sufficient evidence to raise an issue with respect to that matter; and

(b) the contrary is not proved by the prosecution beyond reasonable doubt.

(4) If—

(a) any—

(i) HKSAR resident;

(ii) body corporate that is incorporated, formed or registered in the HKSAR; or

(iii) body of persons, whether corporate or unincorporate, that has a place of business in the HKSAR,

does any act outside the HKSAR; and

(b) the act would have constituted an offence under a subsection (1) had it been done in the HKSAR,

the resident or body commits the offence.

(5) In this section—

*order prohibiting disclosure of identity* (身分披露禁令) means an order made under section 113A(1) prohibiting any person from making the disclosure mentioned in section 113A(2).

#### **Division 4—Amendments to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)**

**119. Section 360C amended (power of the Chief Executive in Council to order company engaging in undesirable activities to be struck off)**

**(1) Section 360C(1)—**

**Repeal**

everything before “may order”

**Substitute**

“(1) If the Chief Executive in Council is satisfied that a company formed and registered under the Companies Ordinance (Cap. 622) or any former Companies Ordinance would—

(a) if it were a society to which the Societies Ordinance (Cap. 151) applied—

(i) be liable to have its registration or exemption from registration cancelled under section 5D of that Ordinance; or

(ii) be liable to have its operation or continued operation prohibited by the Secretary for Security under section 8 of that Ordinance; or

(b) if it were an organization to which section 58(1) or (2) of the Safeguarding National Security Ordinance ( of 2024) applied—be liable to have its operation or continued operation in Hong Kong prohibited by the Secretary for Security under that section,

the Chief Executive in Council”.

(2) After section 360C(2)—

**Add**

“(2A) A company dissolved under subsection (2)—

(a) in the case of subsection (1)(a)(ii)—is, for all purposes, to be regarded as an unlawful society ~~within the meaning of the Societies Ordinance (Cap. 151)~~; or

(b) in the case of subsection (1)(b)—is, for all purposes, to be regarded as a prohibited organization ~~within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance (— of 2024).~~”.

(2B) If a person is, because of the operation of this section, required to act as a member of an unlawful society or prohibited organization to deal with matters arising from the winding up or dissolution of the society or organization, the person does not commit any offence under the Societies Ordinance (Cap. 151) or the Safeguarding National Security Ordinance (— of 2024) only because the person so acts.”<sup>43</sup>

(3) After section 360C(3)—

**Add**

“(4) In this section—

*prohibited organization* (受禁組織) means a prohibited organization within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance (— of 2024);

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<sup>43</sup> Upon review, further amendments to sections 360C and 360N of the Companies (Winding Up and Miscellaneous Provisions) Ordinance are proposed to deal with the situation where a member of a company which has become an unlawful society after its registration is cancelled by order made by the Chief Executive in Council due to non-national security reasons such as public safety may need to participate in the course of the winding up of the company (such as attending the general meeting) in the capacity of a member of the company for legitimate reasons, but the member may be subject to criminal liability in connection with “unlawful society” under the Societies Ordinance. The amendments to clauses 119 and 122 seek to address the issues related to criminal liability.

*unlawful society* (非法社團) means an unlawful society within the meaning of the Societies Ordinance (Cap. 151).”.

**122. Section 360N amended (non-Hong Kong companies)**

(1) Section 360N—

**Renumber the section as section 360N(1).**

(2) Section 360N(1)—

**Repeal**

everything before “Provided”

**Substitute**

“(1) If the Chief Executive in Council is satisfied that a non-Hong Kong company would—

(a) if it were a society to which the Societies Ordinance (Cap. 151) applied—

(i) be liable to have its registration or exemption from registration cancelled under section 5D of that Ordinance; or

(ii) be liable to have its operation or continued operation prohibited by the Secretary for Security under section 8 of that Ordinance; or

(b) if it were an organization to which section 58(1) or (2) of the Safeguarding National Security Ordinance ( of 2024) applied—be liable to have its operation or continued operation in Hong Kong prohibited by the Secretary for Security under that section,

the Chief Executive in Council may order the company to cease to carry on business within Hong Kong, and the company must immediately cease to carry on business within Hong Kong.”.

(3) After section 360N(1)—

**Add**

“(2) A company which has been ordered to cease to carry on business within Hong Kong under subsection (1)—

(a) in the case of subsection (1)(a)(ii)—is, for all purposes, to be regarded as an unlawful society ~~within the meaning of the Societies Ordinance (Cap. 151)~~; or

(b) in the case of subsection (1)(b)—is, for all purposes, to be regarded as a prohibited organization ~~within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance (— of 2024)~~.

(3) If a person is, because of the operation of this section, required to act as a member of an unlawful society or prohibited organization to deal with matters arising from the winding up or dissolution of the society or organization, the person does not commit any offence under the Societies Ordinance (Cap. 151) or the Safeguarding National Security Ordinance (— of 2024) only because the person so acts.<sup>44</sup>

(4) In this section—

*prohibited organization* (受禁組織) means a prohibited organization within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance (— of 2024);

*unlawful society* (非法社團) means an unlawful society within the meaning of the Societies Ordinance (Cap. 151).”.

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<sup>44</sup> Please refer to footnote 43 above.

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**Division 8—Amendments to Societies Ordinance (Cap. 151)****126. Section 2 amended (interpretation)**

- (1) Section 2(1), definition of *election*—

**Repeal**

everything after “means”

**Substitute**

“an election set out in section 4(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);”.

- (2) Section 2(1)—

- (a) definition of *foreign political organization*;
- (b) definition of *political organization of Taiwan*;
- (c) definition of *connection*—

**Repeal the definitions.**

- (3) Section 2(1)—

**Add in alphabetical order**

“*connection* (聯繫), in relation to a society or a branch, that is a political body, means the following circumstances—

- (a) the society or the branch solicits or accepts financial contributions, financial sponsorships or financial support of any kind or loans, or substantive support by other means, directly or indirectly, from a political organization of an external place;
- (b) the society or the branch is affiliated directly or indirectly with a political organization of an external place;
- (c) any policy of the society or the branch is determined directly or indirectly by a political organization of an external place; or

- (d) a political organization of an external place directs, controls, supervises, dictates or participates, directly or indirectly, in the decision making process of the society or the branch;

*external place* (境外) means a region or place outside Hong Kong (other than the Mainland and Macao);

*political organization of an external place* (境外政治性組織) includes—

- (a) a government of a foreign country or a political subdivision of the government;
- (b) the authority ~~of a region or place~~<sup>45</sup> of an external place or a political subdivision of the authority;
- (c) an agent of the government or authority or an agent of the political subdivision of the government or authority; and
- (d) a political party in an external place or an agent of the political party;”.

- (4) Section 2(4)—

**Repeal**

everything after “Hong Kong.”.

**Division 23—Amendments to Official Secrets Ordinance  
(Cap. 521)**

**158. Section 12 amended (interpretation)**

- (1) Section 12(1), definition of *prescribed*—

**Repeal**

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<sup>45</sup> The definition of an “external place” has already included “a region or place”. Thus, it is not necessary to repeat “a region or place”.

“Governor”

**Substitute**

“Chief Executive”.

- (2) Section 12(1), definition of *public servant*, paragraph (a)—

**Repeal**

“Crown in right of the Government of Hong Kong”

**Substitute**

“Government”.

- (3) Section 12(1), definition of *public servant*—

**Repeal paragraphs (b) and (c).**

- (4) Section 12(1)—

- (a) definition of *armed forces*;
- (b) definition of *British national*;
- (c) definition of *defence*;
- (d) definition of *disclose* and *disclosure*;
- (e) definition of *international relations*—

**Repeal the definitions.**

- (5) Section 12(1)—

**Add in alphabetical order**

“*disclose* (披露), in relation to a document or other article, includes parting with possession of the document or article, and disclosing the information contained in the document or article;

***HKSAR resident*** (特區居民) means—

- (a) a Hong Kong permanent resident; or
- (b) a person who is qualified to be issued with an identity card under the Registration of Persons

Ordinance (Cap. 177) but has no right of abode in Hong Kong under the Immigration Ordinance (Cap. 115);

***international organization*** (國際組織) means—

(a) an organization the members of which include ~~one~~ 2 or more countries, regions, places, or entities entrusted with functions by any country, region or place; or<sup>46</sup>—

~~(i) countries, regions or places; or~~

~~(ii) entities entrusted with functions by any country, region or place; or~~

(b) an organization established by or under a treaty, convention or agreement made by 2 or more countries, regions or places,

and includes an institution (however described) under the organization;”.

(6) Section 12(2)—

**Repeal**

everything after “goods or services”

**Substitute**

“for the purposes of the Government.”.

(7) Section 12—

**Repeal subsections (4), (5) and (6).**

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<sup>46</sup> Some Members were of the view that the wording of the definition of “international organization” may lead people to mistakenly believe that some international organizations may have only one member. After consideration, we recommend that the wording of the definition be revised to avoid misunderstanding.

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**Division 27—Amendments to Chief Executive Election Ordinance (Cap. 569)**

**177A. Section 26 amended (disqualification from voting)**

Section 26(1)(c), after “(b),”—

Add

“(ca),”<sup>47</sup>

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<sup>47</sup> Upon review, it is noted that the cross-reference was omitted.