

Safeguarding National Security Bill

Committee Stage

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)	In the definition of <i>international organization</i> , by deleting paragraph (a) and substituting— <p>“(a) an organization the members of which include 2 or more countries, regions, places, or entities entrusted with functions by any country, region or place; or”.</p>
6(1)	In the definition of <i>external force</i> , in paragraph (b), by deleting “a region or place of”.
12	By deleting subclause (4) and substituting— <p>“(4) This section provides for the offence of misprision of treason under common law as a statutory provision with appropriate improvements.”.</p>
15(a)	In the English text, by deleting “be” and substituting “is”.
19(3)	In the definition of <i>public officer</i> , in paragraph (e), by deleting “or”.
19(3)	In the definition of <i>public officer</i> , in paragraph (f), by deleting the full stop and substituting “; or”.
19(3)	In the definition of <i>public officer</i> , by adding— <p>“(g) a person of a class specified under section 19A.”.</p>
New	By adding—

**“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 In the definition of *public officer*, in paragraph (e), by deleting “or”.

28 In the definition of *public officer*, in paragraph (f), by adding “or” after “);”.

28 In the definition of *public officer*, by adding—

“(g) a person of a class specified under section 29A;”.

New By adding—

**“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(2) By deleting “cross-boundary” and substituting “departure”.

32(3) By deleting the definition of *cross-boundary conveyance*.

32(3) By adding in alphabetical order—

“*departure conveyance* (離境運輸工具) means a vehicle, vessel, aircraft, hovercraft or other means of transport engaged on a journey leaving the HKSAR;”.

38(1)(b) By deleting “(7)” and substituting “(8)”.

39(1) In the English text, in the definition of *conveyance*, by deleting “or” and substituting “and”.

- 40(1) By adding “published in the Gazette” after “by order”.
- 41(4)(a) By adding “and” after “means;”.
- 41(4)(b) By deleting “; and” and substituting a full stop.
- 41(4) By deleting paragraph (c).
- 45(1) In the English text, by deleting “do” and substituting “does”.
- 47(4) In the definition of *public infrastructure*, by deleting paragraph (b) and substituting—
- “(b) public means of transport, public transport infrastructure or public transport facility that is situated in the HKSAR (including an airport and relevant facility); or”.
- 47(4) In the definition of *public infrastructure*, by deleting paragraph (c)(i) and substituting—
- “(i) 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”.
- Part 6 In the heading, by adding “**Endangering National Security**” after “**External Interference**”.
- Part 6,  
Division 1 In the heading, by adding “**Endangering National Security**” after “**External Interference**”.
- 50 In the heading, by adding “**endangering national security**” after “**External interference**”.
- 53(1)(b)(v) By deleting “mental injury to, or placing undue mental” and substituting “psychological harm to, or placing undue psychological”.
- 56 In the definition of *political organization of an external place*, in paragraph (b), by deleting “a region or place of”.

- 59(5)(b) By deleting “in the specified Ordinance that applies to the winding up of the organization” and substituting “that applies to the winding up of the organization, or any other provision that has the same effect, in the specified Ordinance”.
- 59(6)(b) By deleting “no provision in the specified Ordinance that applies to the winding up of the organization” and substituting “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”.
- 60(3) By adding before paragraph (a)—  
“(aa) doing an act with the prior written permission of the Secretary for Security;”.
- 60(3)(b) By adding “or” after “services;”.
- 60(3) By deleting paragraph (c).
- 60(3)(d) By deleting “, (b) or (c)” and substituting “or (b)”.
- New In Part 6, in Division 2, in Subdivision 3, by adding—  
**“63A. Shadow organizations of prohibited organizations**  
(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.  
(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(2) By deleting “73(1)” and substituting “75(1)”.
- 74(2) By deleting paragraph (a) and substituting—  
“(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”.

74(2)(b) By deleting “may” and substituting “is to”.

Part 7,  
Division 1,  
Subdivision 2 In the heading, by deleting “**Lawyers**” and substituting “**Legal Representatives**”.

76 In the heading, by deleting “**lawyers**” and substituting “**legal representatives**”.

76(1) By deleting “lawyer or particular lawyers” and substituting “legal representative or particular legal representatives”.

76(3)(a)(i) By deleting “lawyer or lawyers” and substituting “legal representative or legal representatives”.

76(3)(a)(ii) By deleting everything after “particular” and substituting “legal representative or legal representatives is or are in the practice of the law in a certain Hong Kong firm or certain Hong Kong firms—consult any legal representative in the practice of the law in the firm or firms; but”.

76(3)(b) By deleting “lawyer” and substituting “legal representative”.

76(4)(a) By deleting “lawyer referred to in subsection (3)(a) (*relevant lawyer*)” and substituting “legal representative referred to in subsection (3)(a) (*relevant legal representative*)”.

76(4)(b) By deleting “lawyer” and substituting “legal representative”.

76(4)(c) By deleting “lawyer” and substituting “legal representative”.

76 By deleting subclause (5) and substituting—

“(5) If the information under subsection (2) is laid during the person's consultation with a particular legal representative or

particular legal representatives, 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 or legal representatives—the person must suspend consultation with the particular legal representative or legal representatives, but may consult any other legal representative of the person's choosing; or
- (b) if the particular legal representative or legal representatives is or are in the practice of the law in a certain Hong Kong firm or certain Hong Kong firms, and the application requests for the imposition of restrictions in relation to the person's consultation with any legal representative 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 or legal representatives, and must not consult any other legal representative of the relevant firm or firms, but may consult any other legal representative of the person's choosing.”.

76

By adding—

“(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

In the heading, by deleting “**lawyers**” and substituting “**legal representatives**”.

77(3)

By deleting “lawyer” and substituting “legal representative”.

77(4)(a)

By deleting “lawyer” and substituting “legal representative”.

77(4)(b)

By deleting “lawyer” and substituting “legal representative”.

77(4)(c)

By deleting “lawyer” and substituting “legal representative”.

77(6)

By deleting “lawyer” and substituting “legal representative”.

- 77 By adding—  
“(7) In this section—  
*legal representative* (法律代表) means a solicitor or counsel.”.
- 80(2)(a)(ii) In the English text, by adding “on bail” after “the person”.
- Part 7,  
Division 2 In the heading, by deleting “**Charged with**” and substituting “**in respect of**”.
- 86(2) By deleting paragraph (a) and substituting—  
“(a) a Court has issued, in relation to an offence endangering national security, a warrant to arrest the person;”.
- 86(2) By deleting paragraph (c).
- 86(2)(d) By deleting “magistrate” and substituting “judge or magistrate (as the case may be)”.
- 86(3)(b) By deleting “magistrate” and substituting “judge or magistrate (as the case may be)”.
- 88 By adding—  
“(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.”.
- 89 By adding—  
“(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.”.
- 92 By deleting subclause (4) and substituting—  
“(4) This section does not affect—

- (a) any power that a person may exercise under 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.”.

93 In the heading, by adding “**etc.**” after “**passports**”.

93 By deleting subclause (3) and substituting—

- “(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 Ordinance (Cap. 539) and all other purposes, to be regarded as being invalid.”.

102(2) In the English text, by deleting “order” and substituting “orders”.

New In Part 8, by adding—

**“106A. Chief Executive in Council may make subsidiary legislation for safeguarding national security**

- (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 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



(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(1) By deleting “public servant of the Government” and substituting “department or agency of the Government or any public servant”.

107(2) By deleting “public servant of the Government” and substituting “department or agency of the Government or any public servant”.

New By adding—

**“107A. Judgements and decisions of National Security Committee**

- (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 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.**

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.”.

108 By renumbering the clause as clause 108(1).

108 By adding—

“(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.”.

109 In the English text, in the heading, by deleting “**secret is**” and substituting “**secrets**”.

109(1) In the English text, by deleting “secret” and substituting “secrets”.

111 In the heading, by deleting “**cases concerning national security**” and substituting “**specified cases**”.

111(1) By deleting “case concerning national security” and substituting “specified case”.

111 By adding—

“(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).”.

New

In Part 8, by adding—

**“113A. Specified Court may on application take anonymity measures**

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

- 119(2) In the proposed section 360C(2A)(a), by deleting “within the meaning of the Societies Ordinance (Cap. 151)”.
- 119(2) In the proposed section 360C(2A)(b), by deleting “within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance ( of 2024)”.
- 119(2) By adding after the proposed section 360C(2A)—
- “(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.”.
- 119 By adding—
- “(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);
- unlawful society*** (非法社團) means an unlawful society within the meaning of the Societies Ordinance (Cap. 151).”.
- 122(3) In the proposed section 360N(2)(a), by deleting “within the meaning of the Societies Ordinance (Cap. 151)”.
- 122(3) In the proposed section 360N(2)(b), by deleting “within the meaning of Division 2 of Part 6 of the Safeguarding National Security Ordinance ( of 2024)”.
- 122(3) By adding after the proposed section 360N(2)—
- “(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.

(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).”.

126(3) In the proposed definition of ***political organization of an external place***, in paragraph (b), by deleting “a region or place of”.

158(5) In the proposed definition of ***international organization***, by deleting paragraph (a) and substituting—

“(a) an organization the members of which include 2 or more countries, regions, places, or entities entrusted with functions by any country, region or place; or”.

New By adding—

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

Section 26(1)(c), after “(b),” —

**Add**

“(ca),” .”.