



# Laws on safeguarding national security

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## Overview

**National security** is a matter of top priority for any state and the **fundamental prerequisite for the survival and development of a state**. Under “One Country, Two Systems”, the dual legislation on national security (i.e. the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“Hong Kong National Security Law”) and the Safeguarding National Security Ordinance) have been implemented effectively in the Hong Kong Special Administrative Region (“HKSAR”). After building up a solid defence for safeguarding national security, Hong Kong has showcased to the world a business environment that is safer, freer and more open, thereby bringing strong development impetus for the Hong Kong economy.

This issue of **Policy Pulse** gives a brief overview of the key points of the dual legislation on national security, how it properly protects human rights and ensures that the public will not be inadvertently caught by the law, as well as its role in contributing to the prosperity and stability of Hong Kong. It also summarizes the relevant discussions of the Legislative Council (“LegCo”).

## Enactment of national security laws is an international practice

- The enactment of laws on safeguarding national security is an inherent right of every sovereign state, and also an international practice. As a basic governance strategy, **many countries** have **enacted laws on safeguarding national security** and **established** relevant **decision-making and executive bodies**.
- Various countries also enact new laws on safeguarding national security from time to time in light of the latest situation. A recent example: Canada enacted the Countering Foreign Interference Act in 2024,<sup>Note 1</sup> which requires individuals and entities that have entered into arrangements with foreign principals to register and disclose any foreign influence activities undertaken that are in relation to government or political process in Canada. The New Zealand Parliament is also scrutinizing the Crimes (Countering Foreign Interference) Amendment Bill, which is introduced to address foreign interference.<sup>Note 2</sup>

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Note 1 i.e. The Foreign Influence Transparency and Accountability Act under the [Countering Foreign Interference Act](#).

Note 2 i.e. [The Crimes \(Countering Foreign Interference\) Amendment Bill](#).

### Number of laws of overseas countries relevant to safeguarding national security (position as at January 2024)

	At least		At least
	9		6
(Canada)	pieces	(Singapore)	pieces
	14		2
(United Kingdom)	pieces	(New Zealand)	pieces
	21		4
(United States)	pieces	(Australia)	pieces

(Source: Annex 2 to the Public Consultation Document on Basic Law Article 23 Legislation)

## “Dual legislation and dual enforcement mechanism” achieving compatibility and complementarity

- The top priority of the principle of “One Country, Two Systems” is to safeguard national sovereignty, security and development interests. **HKSAR** has the **constitutional duty** to safeguard national security. Article 23 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (“Basic Law”) stipulates that HKSAR shall **enact laws on its own** to prohibit **seven types of acts and activities endangering national security**.<sup>Note 3</sup>
- The Hong Kong National Security Law and the Safeguarding National Security Ordinance, together with the Office for Safeguarding National Security of the Central People’s Government of the People’s Republic of China in HKSAR and the Committee for Safeguarding National Security of HKSAR, have jointly established a comprehensive and effective legal system and enforcement mechanisms for safeguarding national security, reflecting the implementation of national security within the purview of the Central Authorities and as the constitutional duty of HKSAR.

### Hong Kong National Security Law

- The National People’s Congress (“NPC”) has, pursuant to the Constitution of the People’s Republic of China and the relevant provisions of the Basic Law, made the Decision of the National People’s Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for the Hong Kong Special Administrative Region to Safeguard National Security, and authorized the Standing Committee of the NPC (“NPCSC”) to enact the relevant law.
- The Hong Kong National Security Law was **adopted by NPCSC** on 30 June 2020, and was added to Annex III to the Basic Law in accordance with Article 18 of the Basic Law on the same day after consulting the Basic Law Committee and the HKSAR Government.
- The Law was **published in the gazette on 30 June 2020** by the HKSAR Government for promulgation and **implementation** in HKSAR.
- The Law has provided for the following **four types of offences endangering national security**:
  - (1) secession
  - (2) subversion
  - (3) organization and perpetration of terrorist activities
  - (4) collusion with a foreign country or with external elements to endanger national security.
- The Law has provided for **dual enforcement mechanisms**: establishing **the Office for Safeguarding National Security of the Central People’s Government of the People’s Republic of China in HKSAR** and the **Hong Kong National Security Committee**.

### Safeguarding National Security Ordinance

- The HKSAR Government conducted a public consultation on the Basic Law Article 23 legislation from 30 January to 28 February 2024. During the consultation period, 98.6% of the views received were supportive of the legislative exercise and positive, indicating the overwhelming support from the public for the legislation.
- The Subcommittee to Study Matters Relating to Basic Law Article 23 Legislation and the Bills Committee on Safeguarding National Security Bill of **LegCo scrutinized the Bill** and related issues **in detail**.
- The motion for the Third Reading of the Safeguarding National Security Bill was passed by LegCo on 19 March 2024 in a historic unanimous vote. The Ordinance was **published in gazette and came into effect on 23 March 2024**.
- The Ordinance has provided for the following **five types of offences endangering national security**:
  - (1) treason
  - (2) insurrection, incitement to mutiny and disaffection, and acts with seditious intention
  - (3) offences in connection with state secrets and espionage
  - (4) sabotage endangering national security
  - (5) external interference endangering national security and organizations engaging in activities endangering national security.
- The Ordinance has provided for matters relating to **improving the legal system and enforcement mechanisms for safeguarding national security**.

Note 3 The seven types of acts and activities endangering national security are: (1) treason, (2) secession, (3) sedition, (4) subversion against the Central People’s Government, (5) theft of state secrets, (6) conducting political activities in HKSAR by foreign political organizations or bodies, and (7) political organizations or bodies of HKSAR establishing ties with foreign political organizations or bodies.

### Members’ views

Members fully **support the enactment of laws to safeguard national security**. They have pointed out that the Hong Kong National Security Law and the Safeguarding National Security Ordinance, enacted by the country and HKSAR respectively, work in tandem with each other in a compatible and complementary manner with mutual reinforcement in their enforcement and interpretation, **forming an architecture of “the dual legislation and dual enforcement mechanism”** with the Office for Safeguarding National Security of the Central People’s Government of the People’s Republic of China in HKSAR and the Hong Kong National Security Committee, so that HKSAR can effectively respond to national security risks and threats.

### LegCo Relevant Paper



## Completion of scrutiny of the Safeguarding National Security Bill by the Legislative Council in 2024



Hong Kong passed and implemented the Safeguarding National Security Bill in March 2024, fulfilling its constitutional obligation under the Basic Law

**25 meetings, 50 hours  
in total**

**Meetings** held by the committees to study the Bill

**91 amendments**

**Number of amendments** proposed by the Administration **in response to Members' views** Note 4

**Nearly 2 000**

**Number of questions and comments** raised by **Members** at committee meetings

**Passed by all LegCo Members in a historic unanimous vote on the Third Reading**

Note 4 The amendments cover various areas which include making the elements of the relevant offences clearer. For instance, to highlight the fact that the conduct of the offence of external interference is markedly different from normal international exchanges, the offence is renamed as “the offence of external interference endangering national security”.



### Members' views

- Members are of the view that **various bureaux, departments**, as well as **statutory bodies**, etc., must **establish codes, procedures or guidelines** to ensure that in discharging their day-to-day functions and in implementing any programmes or projects, they will **regard national security as an important consideration**, e.g. incorporating in contracts or service agreements clauses on safeguarding national security.
- Members consider that public officers shall be tasked with the mission of safeguarding national security. Regarding the guidelines on the Safeguarding National Security Ordinance to be issued by the Administration in the first half of 2025, Members have suggested that the Administration must **ensure that public officers can fully understand the contents of the national security laws**, and abide by the Ordinance's requirements in discharging their duties.

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Paper**





## Dual legislation on national security properly protects human rights

- Both the Hong Kong National Security Law and the Safeguarding National Security Ordinance **clearly stipulate** that HKSAR shall **respect and protect human rights**, and shall **protect** rights and freedoms which Hong Kong residents enjoy (including the freedoms of press, speech, publication, association, assembly, etc.) in accordance with the law. These rights and freedoms are set out in **the Basic Law, the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights** as applied to Hong Kong. Any measures or enforcement actions taken under the relevant laws must observe the above principles.
- Hong Kong residents can exercise their **freedom of expression** in accordance with the law, including criticizing government policies or decisions made by officials based on facts.
- **Such rights and freedoms are not absolute and may be subject to necessary restrictions as prescribed by law.** ICCPR also expressly states that some of these rights and freedoms may be subject to restrictions as prescribed by law that are necessary for protection of national security, public safety, public order or the rights and freedoms of others, etc.
- In providing for the relevant restrictive measures under the legislation, the following principles have been taken into account to ensure proper safeguards for human rights and freedoms:
  - (1) **grounds for restrictions:** enforcement measures are sought to respond to actual national security risks, such as extension of the detention period to prevent suspects from destroying evidence or tipping off. The restrictions must be directly related to safeguarding national security.
  - (2) **extent of restrictions:** restrictions on the suspects should not be imposed to an extent more than necessary for safeguarding national security to ensure proportionality.
  - (3) **gatekeeping by judicial authorities:** inclusion of an appropriate mechanism of independent adjudication by judicial authorities, whereby enforcement authorities are required to provide the court with sufficient evidence to justify the necessity and reasonableness of the restrictions. Restrictions should be subject to regular review to ensure that they remain reasonable and proportionate.



### Members' views

- Members have suggested that the Administration should **step up public education** on all fronts to enable the public, the business sector and investors to understand in a clear and easily comprehensible manner how the implementation of the Hong Kong National Security Law and the Safeguarding National Security Ordinance jointly establish an effective legal system for safeguarding national security, which is conducive to the social, economic and business development of Hong Kong.
- Members hope that the authorities will **continue to promote national education and national security education on campuses and in the community**, so as to strengthen people's national identity and raise their awareness of national security.

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## Dual legislation on national security is implemented based on the principles of the rule of law and judicial independence

Dual legislation on national security ensures that the public will not be inadvertently caught by the law

The dual legislation actively prevents, suppresses and punishes acts and activities that endanger national security, in accordance with **the principle of the rule of law**. The legislation **only targets an extremely small minority of people and organizations endangering national security**, while **protecting the lives and property** of the general public, as well as the normal international exchanges in areas such as commerce, academics and culture.

- The elements constituting various offences are clearly set out in the Hong Kong National Security Law and the Safeguarding National Security Ordinance, with appropriate exceptions and defences to ensure that **legitimate day-to-day activities will not constitute an offence** and law-abiding persons will not unwittingly violate the law.
- Taking the Safeguarding National Security Ordinance as an example:
  - (1) in order to allay public concerns about inadvertent breaches of the law, **the provisions** are sought to be **clear and precise** by clearly setting out **the definitions** of key concepts such as “state secrets”, “external interference”, “seditious intention”, etc., **the constituent elements** and **the circumstances involved**.
  - (2) provide for **clear defences** for specific offences, such as the defence based on **“public interest”** for offences relating to state secrets, striking a balance between the important public interest in protecting state secrets and the freedom of expression.

- (3) impose **stringent conditions and restrictions** on the exercise of the powers conferred on law enforcement agencies, including the need to apply to the court, the setting of time limits and review procedures, etc., so as to ensure that there are proper checks and balances on the powers.

### The role of judicial authorities in prosecution and adjudication remains unchanged under the dual legislation on national security

- The Department of Justice of HKSAR makes independent prosecutorial decisions in accordance with the law, and prosecutions will only be initiated if there is sufficient evidence to support **a reasonable prospect of conviction** and if it is **in the public interest to do so**.
- The HKSAR **judicial authorities exercises judicial power independently in accordance with the law**. As guaranteed by both the Basic Law and the Hong Kong Bill of Rights, all defendants charged with a criminal offence shall have the right to a **fair trial** by the judicial authorities.
- The same principles of law apply in national security cases as in others. **The presumption of innocence**, the requirement that guilt be proved **beyond reasonable doubt**, and the right to a fair trial are all essential safeguards that remain firmly in place. They are specifically affirmed under Article 5 of the Hong Kong National Security Law as well as section 2 of the Safeguarding National Security Ordinance.



### Members' views

- Members have pointed out that every sovereign state has its right to enact laws to safeguard national security. They have suggested that the Administration should **effectively carry out its explanatory work to the international community**, including making good use of the networks of overseas Hong Kong Economic and Trade Offices and Invest Hong Kong to explain to the business sector, media and various other sectors in overseas countries how the Hong Kong National Security Law and the Safeguarding National Security Ordinance effectively safeguard national security in Hong Kong in accordance with the rule of law principle, while at the same time fully respect and protect human rights.
- Members hope that the Administration will continue to **take the initiative to clarify and rebut inaccurate remarks and unwarranted smears** against the HKSAR's work on safeguarding national security.

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## Safeguarding national security and focusing on development

- The laws and enforcement mechanisms for safeguarding national security have been improved, which helps maintain Hong Kong's political and social stability and cultivates for all sectors **a more secure, liberal, open and expectable business environment** which plays a solid and fundamental role in safeguarding the stability and prosperity of Hong Kong.
- Taking the Safeguarding National Security Ordinance as an example, the legislation **clearly stipulates that properties and investments in HKSAR shall be protected by law**, and it gives due regard to the normal commercial activities and operational needs of the financial services industry and the media, etc. in Hong Kong. This helps attract talents and capital from all over the world to flow into Hong Kong.

## National security brings prosperity and gives full play to our strengths

- Over the past four years or so since the implementation of the Hong Kong National Security Law, Hong Kong society has rapidly restored stability. On the first anniversary of the commencement of the Safeguarding National Security Ordinance, Hong Kong has moved a step closer to the transition **from stability to prosperity**.
- Over the past year, Hong Kong, as a leading global financial economy, has continued to shine brightly on the world stage, **ranking high in a number of international ratings**, reflecting the international community's continued strong confidence in Hong Kong.

**Financial centre status** Note 5

**1st in the Asia-Pacific region**  
**3rd in the world**

**Freest economy** Note 6

**1st in the world**

**Inward foreign direct investment recipient** Note 7

**4th largest economy in the world**

**World Competitiveness** Note 8

**2nd in the Asia-Pacific region**  
**5th in the world**

**Overseas companies based in Hong Kong**



- In 2024, there were **9 960 companies in Hong Kong with parent companies located outside Hong Kong**, representing **an increase of 921** from the previous year. Note 9

**Setting up or expanding businesses**



- In 2024, **539 Mainland and overseas enterprises set up or expanded their businesses in Hong Kong** with the assistance of InvestHK, representing an increase of 41% compared to 2023. These enterprises have brought in **HK\$ 67.7 billion of investment** and created over 6 800 new jobs in the Hong Kong economy.

**Talent admission schemes**



- From end-2022 to end-2024, **over 430 000 applications** have been received under the various **talent admission schemes**, of which **nearly 270 000 have been approved**, and about 180 000 talents have arrived in Hong Kong.

- Note 5 The Global Financial Centres Index 37 Report published by the Z/Yen from the United Kingdom and the China Development Institute from Shenzhen in March 2025.
- Note 6 Economic Freedom of the World, 2024 - Annual Report published by the Fraser Institute of Canada in October 2024.
- Note 7 World Investment Report 2024 published by the United Nations Conference on Trade and Development.
- Note 8 The World Competitiveness Yearbook 2024 published by the International Institute for Management Development.
- Note 9 Report on Annual Survey of Companies in Hong Kong with Parent Companies Located outside Hong Kong published by the Census and Statistics Department of HKSAR.



### Members' views

Members consider that the enactment of the laws on safeguarding national security has brought a safer and more stable environment for Hong Kong, which will provide better protection for investors, thereby facilitating the high-quality development of Hong Kong. They have suggested that the Administration should **proactively enhance its efforts in attracting enterprises and investments** so that Hong Kong could unleash greater potential and serve as a "super connector" and a "super value-adder" for the world.



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