

Chapter 10

Constitutional and Mainland Affairs

The Constitution provides the legislative foundation and source of authority for the Basic Law, which enshrines within a legal document the concepts of 'one country, two systems', 'Hong Kong people administering Hong Kong' and a high degree of autonomy. The Constitution and the Basic Law together form the constitutional basis of the Hong Kong Special Administrative Region.

Hong Kong has been part of the territory of China since ancient times. To uphold national unity and territorial integrity and to maintain the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China (PRC) decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a Hong Kong Special Administrative Region (HKSAR) would be established in accordance with the provisions of Article 31 of the Constitution of the PRC, and that under the principle of 'one country, two systems', the socialist system and policies would not be practised in Hong Kong. On 1 July 1997, Hong Kong became a Special Administrative Region of the PRC and the Basic Law came into effect.

The HKSAR's executive authorities and legislature are composed of permanent residents of Hong Kong. The HKSAR remains a free port, a separate customs territory and an international financial centre, and may, on its own, using the name 'Hong Kong, China', maintain and develop relations, and conclude and implement agreements with foreign states and regions and relevant international organisations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports.

The Constitution and the Basic Law

The Constitution is the most fundamental law of the state, as well as the general guidelines of administering state affairs. It has supreme legal status and effect. To the HKSAR, the Constitution is a fundamental manifestation of 'one country'. The Constitution gives the legislative foundation and source of authority for the Basic Law.

The Basic Law is the constitutional document of the HKSAR. It enshrines within a legal document the important concepts of 'one country, two systems', 'Hong Kong people administering Hong Kong' and a high degree of autonomy. Under the Basic Law, the HKSAR exercises executive, legislative and independent judicial power, including that of final adjudication.

The Constitution and the Basic Law together form the constitutional basis of the HKSAR.

Improved Electoral System

The Improving Electoral System (Consolidated Amendments) Ordinance 2021 came into effect on 31 May 2021 to ensure that the electoral system of the HKSAR upholds the principle of 'one country, two systems' and accords with the actual situation of the HKSAR, and that the principle of 'patriots administering Hong Kong' can be fully implemented. The ordinance implemented amendments to Annex I to the Basic Law on Method for the Selection of the Chief Executive of the HKSAR and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the HKSAR and Its Voting Procedures, which were adopted by the Standing Committee of the National People's Congress (NPC) on 30 March 2021.

Election Committee

According to Annex I and Annex II to the Basic Law, the Election Committee is responsible for electing the Chief Executive and 40 members of the Legislative Council, and for nominating

candidates for the Chief Executive and Legislative Council elections. The Election Committee is composed of 1,500 members from five sectors comprising 40 subsectors.

Members of the Election Committee are returned by three methods: a maximum of 982 seats are returned by subsector elections; 156 seats are returned by nomination by designated bodies of specific subsectors; and a minimum of 362 seats are ex officio members. The term of the Election Committee is five years.

Method for Selection of the Chief Executive

The Chief Executive is elected by the Election Committee and appointed by the Central People's Government. The method for selecting the Chief Executive is prescribed in Annex I to the Basic Law. The Election Committee elects the Chief Executive by secret ballot on a one-person-one-vote basis.

According to the Basic Law, the term of office of the Chief Executive is five years, and he or she may serve for not more than two consecutive terms.

Method for Formation of the Legislative Council

According to Annex II to the Basic Law, the Legislative Council of the HKSAR is composed of 90 members for each term. The composition of the Legislative Council is as follows:

Members returned by the Election Committee	40
Members returned by functional constituencies	30
Members returned by geographical constituencies through direct elections	20

Election Committee Constituency

The electorate of the Election Committee constituency is composed of all members of the Election Committee. The Election Committee elects members of the Legislative Council by secret ballot through a 'block vote' system. The 40 candidates who obtain the highest numbers of votes shall be elected.

Functional Constituencies

There are 28 functional constituencies: (1) agriculture and fisheries; (2) Heung Yee Kuk; (3) industrial (first); (4) industrial (second); (5) textiles and garment; (6) commercial (first); (7) commercial (second); (8) commercial (third); (9) finance; (10) financial services; (11) insurance; (12) real estate and construction; (13) transport; (14) import and export; (15) tourism; (16) catering; (17) wholesale and retail; (18) technology and innovation; (19) engineering; (20) architectural, surveying, planning and landscape; (21) accountancy; (22) legal; (23) education; (24) sports, performing arts, culture and publication; (25) medical and health services; (26) social welfare; (27) labour; and (28) HKSAR deputies to the NPC, HKSAR members of the National Committee of the Chinese People's Political Consultative Conference, and representatives of relevant national organisations.

The labour functional constituency returns three Legislative Council members, while the other 27 return one member each. A 'first past the post' system is adopted, whereby electors of each

constituency elect the Legislative Council member of their respective constituency by secret ballot.

Geographical Constituencies

There are 10 geographical constituencies across Hong Kong, with each returning two members to the Legislative Council. All eligible persons aged 18 or above can register as electors and vote in geographical constituency elections. With the adoption of a 'double seats and single vote' system, electors each select one candidate by secret ballot. The two candidates who obtain the most votes in each constituency shall be elected.

Method for Formation of District Councils

Coming into effect on 10 July 2023, the District Councils (Amendment) Ordinance 2023 improved the district governance system and reformed the District Councils, thereby fully implementing the principle of 'patriots administering Hong Kong' at the institutional level and enabling the District Councils to return to their positioning under Article 97 of the Basic Law as advisory and service bodies which are not organs of political power.

The total number of seats in the reformed District Councils is 470, comprising 179 members appointed by the Chief Executive, 176 members returned by the District Committees constituency election, 88 members returned by the District Council geographical constituency election, and 27 ex officio members, who are the chairpersons of the Rural Committees.

A 'block vote' system is adopted for the District Committees constituencies, whereby each elector votes by secret ballot for the number of members to be returned in the respective constituency. Candidates with the highest number of votes are elected. The District Council geographical constituencies adopt a 'double seats and single vote' system, where electors each select one candidate by secret ballot. The two candidates who obtain the most votes in each constituency shall be elected.

The election for the seventh-term District Councils was successfully held on 10 December 2023. All 470 members of the District Councils took oaths and assumed office for a four-year term on 1 January 2024.

Electoral Affairs Commission

The Electoral Affairs Commission is an independent statutory body that ensures elections in the HKSAR are conducted in an open, fair and honest manner and in accordance with the law.

Headed by a High Court judge, the commission comprises three politically neutral members, including the Chairman, all appointed by the Chief Executive. It makes recommendations to the Chief Executive on the delineation of Legislative Council geographical constituencies and District Council geographical constituencies; makes regulations on practical arrangements for the Chief Executive election, Election Committee Subsector election, Legislative Council election, District Council election and Rural Representative election; and handles complaints relating to these elections.

The Registration and Electoral Office, a government department headed by the Chief Electoral Officer, works under the commission's direction and carries out its decisions.

Legal Protection for Rights of the Individual

Chapter III of the Basic Law prescribes the fundamental rights and duties of Hong Kong residents. Among others, Article 39 provides that the provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

Protection against discrimination is provided for in the Sex Discrimination Ordinance, Disability Discrimination Ordinance, Family Status Discrimination Ordinance and Race Discrimination Ordinance, which are enforced by the Equal Opportunities Commission, while the Personal Data (Privacy) Ordinance, which is administered by the Privacy Commissioner for Personal Data, protects the privacy of individuals in relation to personal data.

Fifteen major international human rights treaties are applicable to Hong Kong. The ICCPR as applied to Hong Kong has been implemented in the HKSAR by specific legislation, namely the Hong Kong Bill of Rights Ordinance, while some of the others are implemented by various legislative and administrative measures.

Seven of these (the ICCPR; ICESCR; International Convention on the Elimination of All Forms of Racial Discrimination; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; and Convention on the Rights of Persons with Disabilities) contain an obligation to submit periodic reports and other requested information to United Nations (UN) treaty monitoring bodies.

With the exception of the ICCPR, the HKSAR submits these reports as part of corresponding reports submitted by China, and HKSAR teams attend meetings of the relevant treaty bodies as part of the Chinese delegation. Although the ICCPR has not yet been ratified by the PRC, there are arrangements in place for the HKSAR to submit reports to the UN, and the HKSAR delegation attends meetings under the leadership of the Chinese Permanent Representative and Ambassador to the UN. In addition, the UN Human Rights Council conducts a Universal Periodic Review of the human rights situation in all UN member states.

Equal Opportunities Commission

The Equal Opportunities Commission is an independent statutory body that implements anti-discrimination legislation.

There are four anti-discrimination ordinances: the Sex Discrimination Ordinance, Disability Discrimination Ordinance, Family Status Discrimination Ordinance and Race Discrimination Ordinance. The commission's functions include working towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, breastfeeding, disability, family

status and race, and towards the elimination of sexual harassment, harassment on the grounds of breastfeeding, and harassment and vilification on the grounds of disability and race.

In 2024, the commission received 4,069 enquiries and 1,075 complaints relating to the four ordinances. A total of 144 complaint cases were conciliated successfully.

Office of the Privacy Commissioner for Personal Data

The Office of the Privacy Commissioner for Personal Data is an independent body established under the Personal Data (Privacy) Ordinance to monitor, supervise and promote compliance with the ordinance.

In 2024, the office received 3,431 complaints, 18,125 enquiries and 38 matching procedure consent applications. It also carried out 439 compliance operations and published 11 guidance notes.

The office organised 441 talks, seminars, workshops and meetings with stakeholders to enhance public understanding of the respect for and protection of personal data privacy.

Code on Access to Government Information

As an open and accountable government, all bureaus and departments make information available to the public according to the Code on Access to Information. The code stipulates that bureaus and departments should work on the basis that information requested will be released, and sets out the grounds on which disclosure may be refused. The public may complain to the Ombudsman if any bureau or department does not comply with the provisions of the code.

HKSAR's External Affairs

Active participation in international activities and close liaison with international partners have enabled the HKSAR to maintain its status as a global financial, trade, aviation and shipping centre. In 2024, HKSAR Government representatives took part as members of the PRC delegation in 94 international conferences limited to states¹. HKSAR Government representatives also attended 2,787 international conferences not limited to states² using the name 'Hong Kong, China'.

The HKSAR Government concluded 30 bilateral agreements with foreign states and regions and international organisations that covered taxation, finance and other matters.

Foreign representation in the HKSAR includes 62 consulates-general and 51 honorary consulates. Eight international bodies³ have representative offices in Hong Kong.

¹ Including those organised by the International Civil Aviation Organization, World Health Organization and World Intellectual Property Organization.

² Including those organised by the Asia-Pacific Economic Cooperation, World Customs Organization and World Trade Organization.

³ These are listed at Appendix 4.

Working Relationship with Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong

The HKSAR Government works closely with the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong in these areas:

- participation in international organisations and conferences, such as obtaining the Central People's Government's views for HKSAR Government officials to take part in international conferences limited to states as members of the PRC delegation;
- negotiation and conclusion of agreements, such as obtaining the Central People's Government's authorisation to negotiate and conclude agreements with foreign states as necessary;
- consular protection for Hong Kong residents in distress overseas; and
- matters relating to consular missions in the HKSAR.

Working Relationship with Mainland and Macao Authorities

The Constitutional and Mainland Affairs Bureau coordinates contact between the HKSAR Government and the Mainland and Macao authorities; promotes regional cooperation between Hong Kong and the Mainland, and between Hong Kong and Macao; and oversees the operation of the HKSAR Government's Mainland offices.

The Hong Kong and Macao Affairs Office of the State Council facilitates the HKSAR Government's development of contacts with the Mainland authorities, and liaises closely with the HKSAR Government on matters of mutual concern and on arrangements for official visits between Hong Kong and the Mainland.

Integration into National Development

The Steering Group on Integration into National Development, established in 2022, provides steer on the policies and measures for promoting Hong Kong's active integration into national development, including proactively dovetailing with major national strategies, such as the National 14th Five-Year Plan, development of the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) and high-quality development of the Belt and Road Initiative, as well as fostering the all-round cooperation between the HKSAR and Mainland provinces, municipalities and autonomous regions. The group is chaired by the Chief Executive with three Secretaries of Departments as deputies.

Regional Cooperation with the Mainland

The HKSAR Government is committed to strengthening regional cooperation with the Mainland and acting as a facilitator and promoter, so as to identify more business and development opportunities for Hong Kong people and enterprises. Hong Kong participates in the development of the GBA; deepens regional cooperation with the Pan-Pearl River Delta region, Beijing, Shanghai, Guangdong, Shenzhen, Fujian, Sichuan, Hubei and Chongqing; and

promotes regional cooperation with the other provinces and municipalities by adopting a pragmatic approach and launching initiatives once they are ready.

Development of the Greater Bay Area

The GBA comprises the two SARs of Hong Kong and Macao as well as nine municipalities in the Guangdong Province: Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing.

In order to take forward the high-quality development of the GBA, the HKSAR Government maintains close liaison with relevant central ministries and commissions, the Guangdong Provincial Government, the Macao SAR Government and the municipal governments of the nine Mainland cities of the GBA.

Policy measures that have already been implemented include the enhanced Cross-Boundary Wealth Management Connect Scheme 2.0; the measures of ‘allowing Hong Kong-invested enterprises to adopt Hong Kong law’ and ‘allowing Hong Kong-invested enterprises to choose for arbitration to be seated in Hong Kong’; the Northbound Travel for Hong Kong Vehicles scheme; the Fly-via-Zhuhai-Hong Kong scheme; tax concessions for talent; facilitation of property purchase; support for young entrepreneurs; cross-boundary remittance of science and technology funding; the use of Hong Kong-registered drugs and common medical devices in designated Hong Kong-owned healthcare institutions in the GBA; and the liberalisation of professional services, enhancing connectivity and high-quality development of the GBA, as well as promoting Hong Kong’s integration into national development.

Following the Central People’s Government’s promulgation of the Overall Development Plan for the Qianhai Shenzhen-Hong Kong Modern Service Industry Co-operation Zone, the HKSAR Government and the Shenzhen Municipal Government held the first task force meeting in February to plan how to promote Qianhai’s role in the development of the GBA and further deepen the collaboration between Hong Kong and Shenzhen. The HKSAR Government also held a seminar to promote the plan and explain the significance of Qianhai’s development and opening up.

In November, the Chief Executive led a delegation of the HKSAR Government and senior representatives of the business sectors, to visit five GBA cities, namely Guangzhou, Foshan, Dongguan, Huizhou and Shenzhen, and met with the leaders of Guangdong Province and these cities to exchange views on enhancing economic, trade and investment cooperation and promoting the high-quality development of the GBA. The Chief Executive also co-chaired the 24th Plenary of the Hong Kong/Guangdong Cooperation Joint Conference with the Governor of Guangdong Province in July.

HKSAR's Offices in the Mainland

The HKSAR Government has five offices in the Mainland: the Beijing Office and four Hong Kong Economic and Trade Offices (ETOs) in Chengdu, Guangdong, Shanghai and Wuhan⁴. It also has 11 liaison units, located in Liaoning, Tianjin, Shenzhen, Fujian, Guangxi, Shandong, Zhejiang, Chongqing, Shaanxi, Hunan and Henan. These offices and units enhance government-to-government liaison as well as trade and commercial relations, business and talent attraction, and investment promotion in the Mainland; provide support to Hong Kong residents and enterprises in the Mainland; promote Hong Kong; and enhance exchanges between Hong Kong and the Mainland in arts and culture, youth and other sectors.

Immigration divisions operate in the five offices to provide practical help to Hong Kong residents in distress or seeking assistance in the Mainland, handle immigration matters, and provide an application and replacement service for HKSAR passports as well as a replacement service for HKSAR Document of Identity for Visa Purposes and HKSAR Re-entry Permits. A regional desk of Hong Kong Shipping Registry has been set up at the Shanghai ETO to provide the owners of Hong Kong registered ships with support services in the Mainland.

Websites

Code on Access to Information: www.access.gov.hk

Constitutional and Mainland Affairs Bureau: www.cmab.gov.hk

Electoral Affairs Commission: www.eac.hk

Equal Opportunities Commission: www.eoc.org.hk

Guangdong-Hong Kong-Macao Greater Bay Area: www.bayarea.gov.hk

Office of the Privacy Commissioner for Personal Data: www.pcpd.org.hk

⁴ The Beijing Office covers Beijing, Gansu, Hebei, Heilongjiang, Inner Mongolia, Jilin, Liaoning, Ningxia, Tianjin and Xinjiang. The Guangdong ETO covers Fujian, Guangdong, Guangxi and Hainan. The Shanghai ETO covers Anhui, Jiangsu, Shandong, Shanghai and Zhejiang. The Chengdu ETO covers Chongqing, Guizhou, Qinghai, Shaanxi, Sichuan, Tibet and Yunnan. The Wuhan ETO covers Henan, Hubei, Hunan, Jiangxi and Shanxi.