

Declaration requirement for government staff appointed on non-civil service terms on or after July 1, 2020

The Civil Service Bureau (CSB) issued a circular to all policy bureaux and departments today (May 21), promulgating the requirement for government staff appointed on non-civil service terms on or after July 1, 2020, to sign a declaration.

"Non-civil service staff of the Government whose employment contracts commenced on or after July 1, 2020, are required to sign a declaration that they will uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law), bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR), be dedicated to their duties and be responsible to the HKSAR Government. They should duly sign and return their declaration within three weeks after the department issues the letter concerned. For prospective non-civil service appointees of the Government, they will be required to sign the declaration when accepting the offer of appointment," a spokesman for the CSB said.

"The requirement for non-civil service staff of the Government to sign the declaration is an open acknowledgement of the acceptance and a genuine manifestation of the responsibilities of and expectations on non-civil service staff of the Government, which will further safeguard and promote the core values that should be upheld by all government employees, and ensure the effective governance of the HKSAR Government. This requirement accords with the requirement stipulated in the relevant provisions of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law)."

Article 6 of the National Security Law stipulates that a resident of the HKSAR who stands for election or assumes public office shall confirm in writing or take an oath to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China in accordance with the law.

It has consistently been the duty of public servants to be dedicated to their duties and be responsible to the HKSAR Government as stipulated under the Basic Law. An employee of the HKSAR Government appointed on non-civil service terms, like his/her civil service counterpart, is a public servant and should in no uncertain terms acknowledge and accept these duties.

"Negligence or refusal to duly sign and return the declaration by a non-civil service staff of the Government reflects the staff's refusal to comply with the requirement under Article 6 of the National Security Law and to acknowledge, accept and discharge the duties of public servants provided

under the Basic Law, and a serious lack of commitment to adhere to the core values of government employees. The Government will, based on the facts of each case, consider whether action should be taken to terminate the employment of the non-civil service government staff concerned. The officer concerned will be given an opportunity to give an explanation in the process," the spokesman said.

"If a non-civil service government staff commits a misconduct which also involves a breach of the declaration, the Government will, as in other misconduct cases, having regard to the specific circumstances of the case, take appropriate disciplinary action(s) against the staff for the misconduct committed in accordance with the employment contracts of the staff concerned. In determining the punishment in accordance with the relevant employment contracts, the Government will take into account the circumstances, nature and gravity of the case, etc, and will also take into consideration the fact that the misconduct is committed by the staff member even though he or she has signed a declaration to acknowledge the expectations and responsibilities brought by the official position on him or her."

The CSB had introduced, in October 2020 and January 2021 respectively, the arrangements for requiring new appointees to the civil service and serving civil servants to take an oath or sign a declaration to uphold the Basic Law, bear allegiance to the HKSAR, be dedicated to their duties and be responsible to the HKSAR Government. Civil servants appointed to senior positions such as Heads of Department are also required to take an oath.