

LCQ13: Civil servants to take oath or sign declaration

Following is a question by the Hon Kwok Wai-keung and a written reply by the Secretary for the Civil Service, Mr Patrick Nip, in the Legislative Council today (December 2):

Question:

Earlier on, the Civil Service Bureau (CSB) issued a circular to various government departments, requiring that all civil servants appointed on or after July 1 this year (new appointees) must take an oath or sign a declaration that they will uphold the Basic Law, bear allegiance to the Hong Kong Special Administrative Region (SAR) and be responsible to the SAR Government. CSB has indicated that it will, after consulting the staff side and conducting a study on the matter, finalise the arrangements for civil servants appointed before July 1 this year to take the oath or sign the declaration. In this connection, will the Government inform this Council:

(1) of the respective up-to-date numbers of new appointees who (i) took the oath and (ii) signed the declaration (with a breakdown by the department, grade and rank to which they belonged), as well as the number of civil servants to date who were required to leave the service due to their refusal to take the oath or sign the declaration;

(2) of the up-to-date number of applicants for civil service posts who had been issued with an appointment letter but were eventually not appointed due to their refusal to take the oath or sign the declaration;

(3) of the progress and expected completion date of the aforesaid consultation exercise and study; whether the civil servants who are on probation, on permanent employment terms, and soon to be promoted and transferred will be treated differently under the proposed arrangements; and

(4) whether it will, before implementing the arrangements applicable to civil servants appointed before July 1 this year, establish a channel for such civil servants to voluntarily take the oath or sign the declaration; if so, of the details; if not, the reasons for that?

Reply:

President,

Having consulted the relevant bureaux/departments, my consolidated reply to the the Hon Kwok Wai-keung's question is set out below:

According to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law) and the Civil Service Code, it has consistently been the duty and responsibility of civil servants to uphold the Basic Law, bear allegiance to the Hong Kong Special

Administrative Region of the People's Republic of China (HKSAR) and be responsible to the HKSAR Government. This has all along been what the Government and the society expect and require of them. Appointees to civil service posts should in no uncertain terms acknowledge and accept these duties.

The Civil Service Bureau (CSB) issued a circular to all departments on October 12 this year, requiring all civil servants joining the HKSAR Government on or after July 1 this year to take an oath or make a declaration that they will uphold the Basic Law, bear allegiance to the HKSAR and be responsible to the HKSAR Government, as one of the conditions for appointment. For civil servants appointed directly to senior positions such as Heads of Department, arrangements will be made for them to take an oath.

In case a prospective appointee neglects or refuses to take the oath or make the declaration, Heads of Department/Heads of Grade should treat the prospective appointee as failing to meet the conditions for appointment and the conditional offer shall lapse accordingly. Officers who have already assumed duty on the date of the circular must also make the declaration. If any officer who has already assumed duty on the date of the circular but neglects or refuses to make the declaration, he/she will be regarded as refusing to accept the duties of a civil servant, and hence not suitable to perform the duties of a civil servant. The appointment authority will terminate the service of the officer concerned.

During the period from July 1, 2020 to October 31, 2020, there were a total of about 2 980 civil servants who joined the HKSAR Government and duly made the declaration. They come from around 140 grades. The breakdown by bureaux/departments is set out in the Annex. During this period, there was no civil servant whose service was terminated due to his/her refusal to make the declaration, and all officers who had assumed duty made the declaration.

As regards the arrangements for civil servants who joined the HKSAR Government before July 1 this year to take the oath or make the declaration, the CSB has carried out consultation in accordance with the established mechanism, gathered views and studied the matter. Having considered the views collected, we have decided that the requirement for all serving civil servants to take the oath or make the declaration should be implemented in one go, instead of by phases as proposed earlier. We are near completion in finalising the relevant arrangements to be implemented. As the content of the oath/declaration has consistently been the duty and responsibility of civil servants, the failure of a serving civil servant to make the declaration or take the oath would cast doubt on whether he/she is willing to take up the basic duty and responsibility required of a civil servant, and this will definitely have implications on his/her promotion prospects. The management may also have doubt on the suitability of the officer concerned to continue discharging his/her official duties. We are in the course of seeking legal advice to clarify and ascertain the follow-up actions that should be taken by the management in cases where serving civil servants fail to make the declaration or take the oath. The CSB will communicate with the major civil service unions on the matter shortly in accordance with the established mechanism, and will make an announcement as soon as possible.