

Public consultation on Basic Law

Article 23 legislation commences

The Security Bureau today (January 30) commenced the public consultation on the Basic Law Article 23 legislation and invites public views in this regard. The consultation period will end on February 28, 2024.

"The Hong Kong Special Administrative Region (HKSAR) has a constitutional duty, as well as a genuine practical need, to legislate for Article 23 of the Basic Law. The HKSAR has gone through the painful experience of having our national security seriously threatened, especially the intolerable Hong Kong version of the 'colour revolution' in 2019. The HKSAR Government must complete the legislative exercise as early as possible to plug the national security loopholes. Other than the need to legislate for prohibiting acts and activities endangering national security, the HKSAR is also duty-bound to fully implement its constitutional duty and obligations under 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 the Hong Kong National Security Law, with a view to improving the legal system and enforcement mechanisms for safeguarding national security in the HKSAR," a spokesman for the Security Bureau said.

It is proposed in the consultation paper that a new Safeguarding National Security Ordinance be enacted to comprehensively address the national security risks at present and those that may emerge in the future in the HKSAR. There are nine chapters in the consultation paper, covering:

(i) the constitutional duty of the HKSAR in safeguarding national security, the national security risks faced and the necessity of the legislation, as well as the relevant legislative principles, considerations and methodology for studies (Chapters 1 and 2);

(ii) recommendations concerning offences put forward (Chapters 3 to 7), which cover five major types of acts and activities endangering national security. Moreover, some new offences are proposed to effectively prevent, suppress and impose punishment for various types of acts and activities endangering national security, which include:

- (1) treason and related acts (Chapter 3);
- (2) insurrection, incitement to mutiny and disaffection, and acts with seditious intention (Chapter 4);
- (3) theft of state secrets and espionage (Chapter 5);
- (4) sabotage endangering national security and related activities (Chapter 6); and
- (5) external interference and organisations engaging in activities endangering national security (Chapter 7);

(iii) proposal to provide proportionate extra-territorial effect for some of

the above-mentioned offences (Chapter 8);
and

(iv) other matters relating to improving the legal system and enforcement mechanisms for safeguarding national security, including the shortcomings and inadequacies revealed by the experience in handling cases concerning national security, and invite public views in this regard (Chapter 9).

"Safeguarding national security is fundamentally consistent with the protection of human rights and freedoms. Enacting legislation for safeguarding national security on Article 23 of the Basic Law is ultimately for better safeguarding the fundamental rights and freedoms of HKSAR residents and other persons in the HKSAR and ensuring the property and investments in the HKSAR are protected by law. The relevant provisions of the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have been fully and prudently taken into consideration by the HKSAR Government when devising the proposals in the consultation paper," the spokesman emphasised.

"National security risks exist every day. We must grasp the opportunity and enact legislation as soon as possible to cope with constantly arising national security risks and threats, after which the HKSAR can focus its efforts on creating a vibrant economy for a caring community and strive for development," the spokesman reiterated.

Members of the public may send comments by email to BL_23@sb.gov.hk, fax to 2868 5074, or mail to the Security Bureau, 10/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong, on or before February 28, 2024. An electronic copy of the consultation paper and the pamphlet concerned have been uploaded to the thematic website of the Security Bureau (www.sb.gov.hk/eng/bl23/consultation.html). Members of the public in need of printed versions may also obtain copies from district offices.