

Executive, Legislature and Judiciary

The head of the Hong Kong Special Administrative Region (HKSAR) and the Government of the HKSAR shall be the Chief Executive.

The Executive Council is an organ for assisting the Chief Executive in policy making.

The Legislative Council is the legislature of the HKSAR. It legislates, approves public expenditure and monitors the work of the Government.

The executive arm of the HKSAR Government is organised into the Government Secretariat and departments. Bureaux in the Government Secretariat formulate policies and initiate legislative proposals. Departments implement laws and policies and provide direct services to the community.

The HKSAR is vested with independent judicial power, including the power of final adjudication, in accordance with the Basic Law, the constitutional document of the HKSAR which came into effect upon its establishment on July 1, 1997. The Judiciary of the HKSAR is responsible for the administration of justice and adjudication of cases, free from any interference.

18 District Councils are established in the HKSAR to advise the Government on district administration and other affairs.

The systems practised in Hong Kong are prescribed by the Basic Law.

THE CHIEF EXECUTIVE

The Chief Executive shall be elected in accordance with the Basic Law by an Election Committee which is broadly representative, suited to the actual situation of the HKSAR, and represents the overall interests of society, and shall be appointed by the Central People's Government. The method for selecting the Chief Executive is prescribed in Annex I to the Basic Law. According to the Basic Law, the term of office of the Chief Executive shall be five years, and he or she may serve for not more than two consecutive terms.

Powers and Functions of the Chief Executive: As provided for in Article 48 of the Basic Law, the Chief Executive of the HKSAR shall exercise the following powers and functions:

- To lead the Government of the Region;
- To be responsible for the implementation of the Basic Law and other laws which, in accordance with this Law, apply in the HKSAR;

- To sign bills passed by the Legislative Council and to promulgate laws;
- To sign budgets passed by the Legislative Council and report the budgets and final accounts to the Central People's Government for the record;
- To decide on Government policies and to issue executive orders;
- To nominate and to report to the Central People's Government for appointment the following principal officials: Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise; and to recommend to the Central People's Government the removal of the above-mentioned officials;
- To appoint or remove judges of the courts at all levels in accordance with legal procedures;
- To appoint or remove holders of public office in accordance with legal procedures;
- To implement the directives issued by the Central People's Government in respect of the relevant matters provided for in the Basic Law;
- To conduct, on behalf of the Government of the HKSAR, external affairs and other affairs as authorized by the Central Authorities;
- To approve the introduction of motions regarding revenues or expenditure to the Legislative Council;
- To decide, in the light of security and vital public interests, whether Government officials or other personnel in charge of Government affairs should testify or give evidence before the Legislative Council or its committees;
- To pardon persons convicted of criminal offences or commute their penalties; and
- To handle petitions and complaints.

EXECUTIVE COUNCIL

Purview of the Executive Council: The Executive Council normally meets once a week. The Chief

Executive presides over its meetings. Under the Basic Law, the Chief Executive is required to consult the Executive Council before making important policy decisions, introducing bills into the Legislative Council, making subordinate legislation or dissolving the Legislative Council, except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies.

Members tender their advice individually, but the Council's conclusions are presented as collective decisions. If the Chief Executive does not accept a majority opinion of the Executive Council, he shall put the specific reasons on record.

Appointment and Removal of Executive Council

Members: Members of the Executive Council of the HKSAR are appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. At present, the membership of the Executive Council comprises the 21 Principal Officials under the Political Appointment System and 16 non-officials. Members' appointment or removal is decided by the Chief Executive.

Terms of Office of Executive Council Members:

Members hold office for a period no longer than the expiry of the term of office of the Chief Executive who appoints them.

IMPROVED ELECTORAL SYSTEM

The Improving Electoral System (Consolidated Amendments) Ordinance 2021 came into effect on May 31, 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 the Decision of the National People's Congress on Improving the Electoral System of the HKSAR and 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 on March 30, 2021.

LEGISLATIVE COUNCIL

According to the Basic Law, the Legislative Council of the HKSAR shall be constituted by election. The composition of the first to seventh terms of the Legislative Council is as follows:

<u>Membership</u>	<u>First term</u>	<u>Second term</u>	<u>Third & fourth terms</u>	<u>Fifth & sixth terms</u>	<u>Seventh term</u>
	(1998 - 2000)	(2000-2004)	(2004-2008 and	(2012-2016	(2022-2025)

	2008-2012)	and 2016-2021)			
(a) Returned by geographical constituencies through direct elections	20	24	30	35	20
(b) Returned by functional constituencies	30	30	30	35	30
(c) Returned by Election Committee	10	6	—	—	40
Total	60	60	60	70	90

Powers and functions of the Legislative Council: As provided for in Article 73 of the Basic Law, the Legislative Council of the HKSAR exercises the following powers and functions:

- To enact, amend or repeal laws in accordance with the provisions of the Basic Law and legal procedures;
- To examine and approve budgets introduced by the Government;
- To approve taxation and public expenditure;
- To receive and debate the policy addresses of the Chief Executive;
- To raise questions on the work of the Government;
- To debate any issue concerning public interests;
- To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
- To receive and handle complaints from Hong Kong residents;
- If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the council. If the committee considers the evidence sufficient to substantiate such charges, the council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and
- To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

Enacting Laws: The Government is primarily responsible for proposing new legislation or amendments to existing legislation, in the form of bills which are considered by the Legislative Council for enactment.

Subject to certain conditions, Legislative Council members may introduce bills into the Council. A bill must go through the three-reading procedure in the Legislative Council before it becomes a law.

Approving Public Expenditure: The preparation of the estimates of the Government's revenue and expenditure for the upcoming financial year is the responsibility of the Financial Secretary while the approval of the Government budget rests with the Legislative Council. The Financial Secretary introduces into the Legislative Council, usually in February each year, the Appropriation Bill and the Government's Estimates of Expenditure for scrutiny by the council. The expenditure proposals need the examination and approval by the council before they can be implemented.

During a financial year, the Financial Secretary may propose to the Finance Committee of the Legislative Council changes to the approved Estimates of Expenditure. These proposals are considered at regular meetings of the Finance Committee.

Monitoring the Government's work: Legislative Council members monitor the work of the Government through raising questions or moving motions for debate at council meetings. Members may address questions to the Government on its work, either to seek information or ask for official action with regard to a particular matter. They may also debate motions with no legislative effect to express their views on issues concerning public interests or call on the Government to take certain actions.

Following the Chief Executive's delivery of Policy Address, Legislative Council members will have the opportunity to put forward their comments in the Motion of Thanks debate. This debate usually takes place not less than 14 days after the Chief Executive delivers his Policy Address, to be followed by the Government's response.

Meetings of the Legislative Council: The council normally meets every Wednesday at 11am in the Chamber of the Legislative Council Complex to conduct its business, while in session. The main items of business dealt with at a council meeting include questions, statements, bills, motions with legislative effect and motions with no legislative effect.

All council meetings are open to the public and broadcast live on Webcast of the Legislative Council website (www.legco.gov.hk). Members and public officers may address the council in Cantonese, English or Putonghua, with simultaneous interpretation and sign language interpretation provided. The proceedings are recorded verbatim in the *Official Record of Proceedings of the Legislative Council*.

Committee System: Legislative Council members perform the important functions of scrutinising bills, approving public expenditure and monitoring the Government's performance through a committee system.

The Legislative Council has three standing committees: the Finance Committee, the Public Accounts Committee and the Committee on Members' Interests. There are also the House Committee, 18 panels, and bills committees formed by the House Committee, as the need arises, to study legislative proposals.

Finance Committee: The Finance Committee scrutinises and approves public expenditure proposals put forward by the Government. One of its roles is to scrutinise the annual Draft Estimates of Expenditure presented by the Financial Secretary to the Legislative Council together with the Appropriation Bill, which sets out the Government's annual expenditure proposals for the following financial year. There are two subcommittees under the Finance Committee: the Establishment Subcommittee and the Public Works Subcommittee.

Public Accounts Committee (PAC): The PAC considers reports of the Director of Audit on the Government's accounts and the results of value for money audits of the Government and other organisations which are within the purview of public audit. The committee may invite public officers and senior staff of public organisations to attend public hearings to give explanation, evidence or information, or any other person to assist it in relation to such explanation, evidence or information. Following public hearings, the PAC will compile a committee report listing its conclusions and recommendations and table the report at the council.

Committee on Members' Interests: The Committee on Members' Interests considers matters of ethics in relation to the members' conduct. It investigates complaints about members' registration and declaration of interests and their conduct concerning claims for the reimbursement of operating expenses or applications for advance of operating funds. The committee also examines arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests.

House Committee: The House Committee normally meets every Friday to consider matters relating to the work of the Legislative Council and prepare for council meetings. It may also form bills committees to scrutinise bills and appoint subcommittees to study subsidiary legislation in greater detail.

Bills Committees: A bills committee is tasked with considering the principles and general merits of the bill concerned, and may propose amendments to the bill. After completing its task, the bills committee notifies the House Committee in writing of its deliberations and reports further to the council. It is dissolved upon the passage of the bill concerned or as decided by the House Committee.

Panels: The Legislative Council has established 18 panels to deliberate on issues relating to specific policy areas. The panels give views on major legislative or

financial proposals before their formal introduction into the council or the Finance Committee, and examine important issues of wide public concern.

DISTRICT COUNCILS

To fully implement the principle of “patriots administering Hong Kong” and bring the District Councils back on track to fulfil their mission to serve the community, the Government introduced the District Councils (Amendment) Bill 2023 into the Legislative Council on May 31, 2023, to implement the proposed reform of the District Councils. The bill was passed by the Legislative Council on July 6, 2023, and the District Councils (Amendment) Ordinance 2023 came into effect on July 10, 2023.

The total number of seats in the reformed District Councils is 470, comprising appointed members, ex officio members, members of the District Council geographical constituencies and members of the District Committees constituencies. Hong Kong’s 18 districts are divided into 44 District Council geographical constituencies which return 88 members. In the newly established District Committees constituencies, 176 seats are elected by members of the district committees – such as Area Committees, District Fight Crime Committees and District Fire Safety Committees – who are registered as geographical constituency electors. A total of 179 members are appointed by the Chief Executive. There are 27 ex officio members, who are the chairmen of the Rural Committees.

The election for the seventh-term District Councils (2024-2027) was successfully held on December 10, 2023, with a total of 264 elected members. The Government subsequently announced the lists of 179 appointed members and 27 ex officio members on December 12, 2023. The seventh-term District Councils assumed office for a four-year term on January 1, 2024.

THE GOVERNMENT

The main administrative and executive functions of the Government are carried out by 15 policy bureaux in the Government Secretariat and 56 departments.

Under the Political Appointment System, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice, the three Deputy Secretaries of Department and the Directors of Bureau are the most senior officials within the Government. The Chief Secretary for Administration is the most senior among the three Secretaries of Department to deputise for the Chief Executive.

The Chief Secretary for Administration and the Financial Secretary together supervise the work of the 15 policy bureaux. The Chief Secretary for Administration plays a key role in ensuring harmonisation in policy formulation and implementation.

The Civil Service: The civil service supports the Chief Executive and the Government of the day in formulating, explaining and implementing policies. It serves the community in Government departments and other regulatory agencies by providing administrative support; delivering public services; enforcing the law; and

performing regulatory functions. It employed about 173 100 persons (excluding about 1 600 judges and judicial officers, Independent Commission Against Corruption officers and locally engaged staff working in the Hong Kong Economic and Trade Offices outside Hong Kong), representing about 4.6 per cent of Hong Kong’s labour force, as at March 31, 2024.

All civil servants are required to declare that they will 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. The Civil Service Code, updated in 2024, stipulates the constitutional roles and responsibilities of civil servants as members of the executive authorities, and the core values and standards of conduct that civil servants should uphold.

In accordance with the Basic Law, civil service appointed on or after July 1, 1997, must be HKSAR permanent residents, save for certain specified exceptions.

LEGAL SYSTEM

Criminal Prosecutions: The Secretary for Justice, who heads the Department of Justice, is responsible for and has control over all criminal prosecutions in Hong Kong. He and his prosecutors decide whether prosecution should be instituted in particular cases, and conduct prosecutions and criminal appeals on behalf of the HKSAR.

Prosecutors play no part in the investigation of criminal offences, which is the responsibility of law enforcement agencies. Where necessary, cases will be referred to the Department of Justice for legal advice upon completion of investigations. Prosecutors will then, in accordance with the Prosecution Code, consider whether there is sufficient evidence to justify instituting or continuing prosecution, and whether the public interest requires that the prosecution proceed. In making prosecutorial decisions, the Secretary for Justice acts independently of the Government and the courts, exercising his function as guardian of the public interest. In this regard, prosecutorial independence is constitutionally guaranteed by Article 63 of the Basic Law, which provides that the Department of Justice of the HKSAR shall control criminal prosecutions, free from any interference.

The Secretary for Justice and his prosecutors do not themselves advise on every prosecution. Some prosecutions of relatively minor offences heard before magistrates are often dealt with by law enforcement agencies in accordance with settled guidelines issued under the authority of the Secretary for Justice and without individual reference to the Department of Justice. The Secretary for Justice does, however, supervise prosecutions generally and, by way of specific delegation, handle all cases which the law provides may only be prosecuted with his consent.

Organisation of the Judiciary: The courts of justice in Hong Kong comprise the Court of Final Appeal, the High Court (comprising the Court of Appeal and the Court of First Instance), the Competition Tribunal, the District Court (which includes the Family Court), the Lands Tribunal, the Magistrates' Courts (which include the Juvenile Court), the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal.

The Chief Justice of the Court of Final Appeal is the head of the Judiciary. He is assisted in his administrative duties by the Judiciary Administrator.

Powers and Duties of the Judiciary: As prescribed in the Basic Law, the HKSAR shall be vested with independent judicial power, including the power of final adjudication. The Judiciary is responsible for the administration of justice in Hong Kong. It hears all prosecutions and civil disputes, including disputes between individuals and the Government.

Independent Trial: The Basic Law states in express terms that the courts of the HKSAR shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions. Judges and judicial officers are appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, members of the legal profession and eminent persons from other sectors. Judges are chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. As reflected in their Judicial Oath that all judges are required to take, in exercising their judicial power, judges are constitutionally required to handle and determine cases strictly in accordance with the law and legal principles. This constitutional duty applies to all judges and to all cases which they are required to handle, regardless of the cases' nature, complexity or controversy.

Jury System: Unless the law stipulates otherwise, serious criminal cases such as murder, manslaughter, rape, armed robbery and substantial drug trafficking offences are tried by a judge in the Court of First Instance of the High Court sitting with a jury of seven or, when the judge so orders, a jury of nine. It is the jury which decides whether the accused is guilty or not guilty and a majority vote is required. The size of the majority required varies according to the situation as stipulated in the Jury Ordinance. In some civil cases, a party may apply to the court to have issues of fact tried by a jury.

If a coroner decides to hold an inquest with a jury, a jury of five will be empanelled. In certain defined circumstances, an inquest with a jury is mandatory. In a death inquest, the jury decides the cause of and the circumstances connected with a death.