
National Anthem Bill

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A BILL

To

Provide for the playing and singing of the national anthem, for the protection of the national anthem, and for the promotion of the national anthem, in Hong Kong; and for incidental matters.

Preamble

WHEREAS—

- (1) the national anthem of the People's Republic of China is a symbol and sign of the People's Republic of China;
- (2) all individuals and organizations should respect the national anthem, preserve the dignity of the national anthem, and play and sing the national anthem on appropriate occasions; and
- (3) an Ordinance is to be enacted to preserve the dignity of the national anthem, to regulate the playing and singing, the broadcast and the use of the national anthem, to enhance citizen awareness of the People's Republic of China, and to promote patriotism:

NOW, THEREFORE, it is enacted by the Legislative Council as follows—

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the National Anthem Ordinance.

2. Interpretation

(1) In this Ordinance—

national anthem (國歌) means “March of the Volunteers” (a translation of 《義勇軍進行曲》), the national anthem of the People’s Republic of China under the Constitution of the People’s Republic of China;

national flag (國旗) has the same meaning as in the National Flag and National Emblem Ordinance (116 of 1997).

(2) In this Ordinance, a reference to the lyrics, and the score, of the national anthem is a reference to—

- (a) the lyrics, and the score, set out in the stave notation of the national anthem in Schedule 1; or
- (b) the lyrics, and the score, set out in the numbered musical notation of the national anthem in Schedule 2.

(3) In this Ordinance, except in section 5, a reference to playing and singing the national anthem includes—

- (a) singing the national anthem;
 - (b) playing the national anthem on musical instruments; and
 - (c) playing a recording of the national anthem.
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Part 2

Playing and Singing of National Anthem

3. Standard for playing and singing

The national anthem must be played and sung in a way that is in keeping with its dignity.

4. Etiquette for playing and singing

(1) This section applies in relation to an occasion on which the national anthem is played and sung.

(2) While the national anthem is being played and sung, the etiquette to be followed by the persons who take part in or attend the occasion is—

(a) to stand solemnly and deport themselves with dignity; and

(b) to not behave in a way disrespectful to the national anthem.

5. Occasions on which national anthem must be played and sung

(1) On each occasion set out in Schedule 3, the national anthem must be played and sung.

(2) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 3.

(3) In this section, a reference to the national anthem being played and sung is a reference to the national anthem being played on musical instruments in accordance with the standard score, or an official recording of the national anthem being played, for the singing of the national anthem.

(4) In this section—

official recording (官方錄音), in relation to the national anthem, means a recording of the national anthem provided for the purposes of this section on a website of the Government;

standard score (標準曲譜), in relation to the national anthem, means a score of the national anthem provided for the purposes of this section on a website of the Government.

Part 3

Protection of National Anthem

6. Offence of misuse of national anthem

- (1) The national anthem, or the lyrics or score of the national anthem, must not be used—
 - (a) in a trade mark or commercial advertisement;
 - (b) at a private funeral event; or
 - (c) on an occasion, at a place, or for a purpose, prescribed under subsection (5).
- (2) The national anthem must not be used as background music in a public place.
- (3) A person commits an offence if the person, without reasonable excuse, uses the national anthem, or the lyrics or score of the national anthem, in contravention of subsection (1) or (2).
- (4) A person who commits an offence under subsection (3) is liable on conviction—
 - (a) for a contravention of subsection (1)(a)—to a fine at level 5; or
 - (b) otherwise—to a fine at level 2.
- (5) The Chief Executive in Council may, by notice published in the Gazette, prescribe an occasion, place or purpose, for the purposes of subsection (1)(c).
- (6) In this section—

public place (公眾場所) means a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or otherwise.

7. Offence of insulting behaviour

- (1) A person commits an offence if, with intent to insult the national anthem, the person publicly and intentionally—
 - (a) alters the lyrics or score of the national anthem; or
 - (b) plays and sings the national anthem in a distorted or disrespectful way.
- (2) A person commits an offence if the person publicly and intentionally insults the national anthem in any way.
- (3) A person commits an offence if, with intent to insult the national anthem, the person intentionally publishes—
 - (a) altered lyrics or an altered score of the national anthem; or
 - (b) the national anthem played and sung in a distorted or disrespectful way.
- (4) A person commits an offence if, with intent to insult the national anthem, the person intentionally publishes the insulting in any way of the national anthem.
- (5) Except as provided under subsection (3) or (4), a person does not commit an offence under this section by publishing—
 - (a) altered lyrics or an altered score of the national anthem;
 - (b) the national anthem played and sung in a distorted or disrespectful way; or
 - (c) the insulting in any way of the national anthem.
- (6) A person who commits an offence under this section is liable on conviction to a fine at level 5 and to imprisonment for 3 years.

- (7) Proceedings may only be commenced for an offence under this section before whichever is the earlier of the following—
- (a) the end of the period of 1 year after the date on which the offence is discovered by, or comes to the notice of, the Commissioner of Police;
 - (b) the end of the period of 2 years after the date on which the offence is committed.

(8) In this section—

insult (侮辱), in relation to the national anthem, means to undermine the dignity of the national anthem as a symbol and sign of the People's Republic of China;

publish (發布) includes—

- (a) to communicate to the public in any form, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material; and
- (b) to distribute, disseminate or make available to the public.

8. Music, words or score to be regarded as national anthem, or its lyrics or its score

For the purposes of this Part—

- (a) a piece of music (whether or not including words intended to be sung or spoken with the music) is to be regarded as the national anthem if the piece of music so closely resembles the national anthem as to lead to the reasonable belief that the piece of music is the national anthem or a part of the national anthem;

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- (b) words (whether or not in writing) are to be regarded as the lyrics of the national anthem if the words so closely resemble the lyrics of the national anthem as to lead to the reasonable belief that the words are the lyrics of the national anthem or a part of the lyrics; and
 - (c) a score is to be regarded as the score of the national anthem if the score so closely resembles the score of the national anthem as to lead to the reasonable belief that the score is the score of the national anthem or a part of the score of the national anthem.
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Part 4

Promotion of National Anthem

9. Inclusion in primary and secondary education

- (1) The Secretary for Education must give directions for the inclusion of the national anthem in primary education and in secondary education—
 - (a) to enable the students to learn to sing the national anthem; and
 - (b) to educate the students—
 - (i) on the history and spirit of the national anthem; and
 - (ii) on the etiquette for playing and singing the national anthem.
- (2) In this section—

primary education (小學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279);

secondary education (中學教育) has the meaning given by section 3(1) of the Education Ordinance (Cap. 279).

10. Inclusion in sound broadcasting and domestic television programme services

- (1) This section applies if, under the terms and conditions of a broadcasting licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service.

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- (2) By a determination or direction that has been made in relation to the broadcasting licence, the licensee may be required to broadcast the national anthem by an announcement in the public interest, or material in the public interest, in the licensed service.
- (3) The Communications Authority must make a determination or direction in relation to the broadcasting licence, requiring the licensee to broadcast the national anthem by an announcement in the public interest, or material in the public interest, in the licensed service on each date that is or may be stipulated under subsection (4).
- (4) The Chief Executive may stipulate a date for the purposes of subsection (3).
- (5) A stipulation under subsection (4)—
- (a) must be published in the Gazette as soon as practicable after it is made; and
 - (b) is not subsidiary legislation.
- (6) In this section—
- broadcasting licence*** (廣播牌照) means—
- (a) a licence granted under section 13C(2) of the Telecommunications Ordinance (Cap. 106), or such a licence renewed under section 13E(2) of that Ordinance; or
 - (b) a licence granted under sections 8(1) and 10(1) of the Broadcasting Ordinance (Cap. 562), or such a licence extended or renewed under section 11(1) of that Ordinance;
- Communications Authority*** (通訊事務管理局) means the Communications Authority established by section 3 of the Communications Authority Ordinance (Cap. 616).
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Part 5

Supplementary Provisions

11. Application of laws of Hong Kong

- (1) Offences in relation to the national anthem in Hong Kong are investigated, and persons are prosecuted, according to the laws of Hong Kong.
- (2) If there are inconsistencies between this Ordinance and the National Anthem Law, this Ordinance is to be interpreted and applied as a special application or adaptation of the National Anthem Law.
- (3) In this section—

National Anthem Law (《國歌法》) means the Law of the People's Republic of China on National Anthem, adopted at the 29th Meeting of the Standing Committee of the Twelfth National People's Congress on 1 September 2017.

Part 6

Consequential Amendments

Division 1—Enactments Amended

12. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendments to Trade Marks Ordinance (Cap. 559)

13. Section 11 amended (absolute grounds for refusal of registration)

(1) After section 11(6)(a)—

Add

“(ab) the national anthem;”.

(2) Section 11(9), Chinese text, definition of 國旗 and 國徽—

Repeal the full stop

Substitute a semicolon.

(3) Section 11(9)—

Add in alphabetical order

“*national anthem* (國歌) means the national anthem and its lyrics and score within the meaning of the National Anthem Ordinance (of 2019) as extended by section 8 of that Ordinance;”.

**Division 3—Amendment to Legislation Publication
Ordinance (Cap. 614)**

14. Section 4 amended (contents of database)

After section 4(1)(a)(v)—

Add

“(vi) the National Anthem Ordinance (of 2019);”.

Schedule 1

[s. 2]

Stave Notation of National Anthem

National Anthem of the People's Republic of China

(March of the Volunteers (a translation of 《義勇軍進行曲》))

Lyrics by Tian Han

Composed by Nie Er

March Tempo

起

來! 不願做奴隸的人們! 把我們的血肉,

築成我們新的長城! 中華民族

到了最危險的時候, 每個人被逼迫着發出

最後的吼聲。起來! 起來! 起來!

我們萬眾一心, 冒着敵人的炮火前進!

冒着敵人的炮火前進! 前進! 前進! 進!

Schedule 2

[s. 2]

Numbered Musical Notation of National Anthem

National Anthem of the People's Republic of China

(March of the Volunteers (a translation of 《義勇軍進行曲》))

1 = G $\frac{2}{4}$ Lyrics by Tian Han
Composed by Nie Er
March Tempo

(1. 3 5 5 | 6 5 | 3. 1 5 5 5 | 3 1 | 5 5 5 5 5 5 | 1) 0 5 |
 起

1. 1 | 1. 1 5 6 7 | 1 1 | 0 3 1 2 3 | 5 5 |
 來! 不 願 做 奴 隸 的 人 們! 把 我 們 的 血 肉,

3. 3 1. 3 | 5. 3 2 | 2 - | 6 5 | 2 3 |
 築 成 我 們 新 的 長 城! 中 華 民 族

> >
 5 3 0 5 | 3 2 3 1 | 3 0 | 5. 6 1 1 | 3. 3 5 5 |
 到 了 最 危 險 的 時 候, 每 個 人 被 迫 着 發 出

2 2 2 6 | 2. 5 | 1. 1 | 3. 3 | 5 - |
 最 後 的 吼 聲。 起 來! 起 來! 起 來!

1. 3 5 5 | 6 5 | 3. 1 5 5 5 | 3 0 1 0 | 5 1 |
 我 們 萬 眾 一 心, 冒 着 敵 人 的 炮 火 前 進!

3. 1 5 5 5 | 3 0 1 0 | 5 1 | 5 1 | 5 1 | 1 0 ||
 冒 着 敵 人 的 炮 火 前 進! 前 進! 前 進! 進!

Schedule 3

[s. 5]

Occasions on which National Anthem must be Played and Sung

1. Oath-taking Ceremony—
 - (a) for taking the Oath of the Chief Executive under section 16A of the Oaths and Declarations Ordinance (Cap. 11);
 - (b) for taking the Oath of the Principal Officials under section 16B of that Ordinance;
 - (c) for taking the Judicial Oath under section 17 of that Ordinance;
 - (d) for taking the Oath of Fidelity and the Executive Council Oath under section 18 of that Ordinance; or
 - (e) for taking the Legislative Council Oath under section 19 of that Ordinance

2. A national flag raising ceremony, including—
 - (a) Flag Raising Ceremony held by the Government at Golden Bauhinia Square;
 - (b) Flag Raising Ceremony held by the Government to celebrate the Anniversary of the Founding of the People's Republic of China; and
 - (c) Flag Raising Ceremony held by the Government to celebrate the Anniversary of the Establishment of the Hong Kong Special Administrative Region of the People's Republic of China

3. National Day Reception held by the Government to celebrate the Anniversary of the Founding of the People's Republic of China
 4. Reception held by the Government to celebrate the Anniversary of the Establishment of the Hong Kong Special Administrative Region of the People's Republic of China
 5. Ceremony held by the Government to commemorate the victory day of Chinese people's war of resistance against Japanese aggression
 6. Ceremony held by the Government to commemorate those who died in the defence of Hong Kong
 7. Ceremony held by the Government on Nanjing Massacre National Memorial Day
 8. A major sporting event held by the Government
 9. Ceremonial Opening of the Legal Year
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Explanatory Memorandum

The objects of this Bill are to provide—

- (a) for the playing and singing of the national anthem;
- (b) for the protection of the national anthem;
- (c) for the promotion of the national anthem; and
- (d) for incidental matters.

2. The preamble sets out certain information to provide a context in which to understand the Bill. The Law of the People's Republic of China on National Anthem is listed in Annex III to the Basic Law. The Bill is to implement the Law of the People's Republic of China on National Anthem in Hong Kong.

Part 1—Preliminary (Clauses 1 and 2)

3. Clause 1 sets out the short title.
4. Clause 2 contains the definitions of *national anthem* and *national flag*. It also explains the meaning of a reference to the lyrics, and the score, of the national anthem, and a reference to playing and singing the national anthem.

Part 2—Playing and Singing of National Anthem (Clauses 3 to 5)

5. Clause 3 provides for the standard for playing and singing the national anthem.
6. Clause 4 provides for the etiquette to be followed by the persons who take part in or attend an occasion while the national anthem is being played and sung.

7. Clause 5 provides for the playing and singing of the national anthem on each occasion set out in Schedule 3.

Part 3—Protection of National Anthem (Clauses 6 to 8)

8. Clause 6 prohibits misuse of the national anthem or its lyrics or score. A contravention of the prohibition is an offence.
9. Clause 7 prohibits a person from publicly and intentionally altering the lyrics or score of the national anthem, and from so playing and singing the national anthem in a distorted or disrespectful way, with intent to insult the national anthem. This clause also prohibits a person from publicly and intentionally insulting the national anthem in any way. It further prohibits a person from intentionally publishing the altered lyrics or score, intentionally publishing the national anthem played and sung in a distorted or disrespectful way, or intentionally publishing the insulting in any way of the national anthem, with intent to insult the national anthem. Clause 7(8) contains the definitions of *insult* and *publish* for the purposes of the prohibitions. A contravention of any of the prohibitions is an offence.
10. Clause 8 provides that a piece of music, words or a score is to be regarded as the national anthem or its lyrics or score for the purposes of Part 3 if the piece of music, words or score so closely resembles the national anthem or its lyrics or score as to lead to the reasonable belief that the piece of music, words or score is the national anthem or its lyrics or score, or part of the national anthem or its lyrics or score.

Part 4—Promotion of National Anthem (Clauses 9 and 10)

11. Clause 9 requires the Secretary for Education to give directions for the inclusion of the national anthem in primary education and in secondary education.
12. Clause 10 applies if, under the terms and conditions of a sound broadcasting licence or domestic television licence, the licensee may be required by a determination or direction of the Communications Authority to broadcast announcements in the public interest, or to include material in the public interest, in the licensed service. By a determination or direction that has been made in relation to the licence, the licensee may be required to broadcast the national anthem by an announcement or material in the public interest in the licensed service. Moreover, the Communications Authority must make a determination or direction in relation to the licence, requiring the licensee to broadcast the national anthem by an announcement or material in the public interest in the licensed service on each date that is or may be stipulated by the Chief Executive.

Part 5—Supplementary Provisions (Clause 11)

13. Clause 11 provides that offences in relation to the national anthem in Hong Kong are investigated, and persons are prosecuted, according to the laws of Hong Kong. This clause also provides that if there are inconsistencies between the Ordinance and the Law of the People's Republic of China on National Anthem, the Ordinance is to be interpreted and applied as a special application or adaptation of that Law.

Part 6—Consequential Amendments

14. Clauses 13 and 14 contain consequential amendments.

Schedules

15. Schedule 1 sets out the lyrics and score of the national anthem in a stave notation.
16. Schedule 2 sets out the lyrics and score of the national anthem in a numbered musical notation.
17. Schedule 3 sets out the occasions on which the national anthem must be played and sung under clause 5.