

第三章 居民的基本權利和義務

第二十四條 香港特別行政區居民，簡稱香港居民，包括永久性居民和非永久性居民。

香港特別行政區永久性居民為：

- (一) 在香港特別行政區成立以前或以後在香港出生的中國公民；
- (二) 在香港特別行政區成立以前或以後在香港通常居住連續七年以上的中國公民；
- (三) 第(一)、(二)兩項所列居民在香港以外所生的中國籍子女；
- (四) 在香港特別行政區成立以前或以後持有效旅行證件進入香港、在香港通常居住連續七年以上並以香港為永久居住地的非中國籍的人；
- (五) 在香港特別行政區成立以前或以後第(四)項所列居民在香港所生的未滿二十一週歲的子女；
- (六) 第(一)至(五)項所列居民以外在香港特別行政區成立以前只在香港有居留權的人。

以上居民在香港特別行政區享有居留權和有資格依照香港特別行政區法律取得載明其居留權的永久性居民身份證。

香港特別行政區非永久性居民為：有資格依照香港特別行政區法律取得香港居民身份證，但沒有居留權的人。

第二十五條 香港居民在法律面前一律平等。

Chapter III: Fundamental Rights and Duties of the Residents

Article 24 Residents of the Hong Kong Special Administrative Region ('Hong Kong residents') shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);
- (4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;
- (5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and
- (6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

Article 25 All Hong Kong residents shall be equal before the law.

第一百條 香港特別行政區成立前在香港政府各部門，包括警察部門任職的公務人員均可留用，其年資予以保留，薪金、津貼、福利待遇和服務條件不低於原來的標準。

第一百零一條 香港特別行政區政府可任用原香港公務人員中的或持有香港特別行政區永久性居民身份證的英籍和其他外籍人士擔任政府部門的各級公務人員，但下列各職級的官員必須由在外國無居留權的香港特別行政區永久性居民中的中國公民擔任：各司司長、副司長，各局局長，廉政專員，審計署署長，警務處處長，入境事務處處長，海關關長。

香港特別行政區政府還可聘請英籍和其他外籍人士擔任政府部門的顧問，必要時並可從香港特別行政區以外聘請合格人員擔任政府部門的專門和技術職務。上述外籍人士只能以個人身份受聘，對香港特別行政區政府負責。

第一百零二條 對退休或符合規定離職的公務人員，包括香港特別行政區成立前退休或符合規定離職的公務人員，不論其所屬國籍或居住地點，香港特別行政區政府按不低於原來的標準向他們或其家屬支付應得的退休金、酬金、津貼和福利費。

第一百零三條 公務人員應根據其本人的資格、經驗和才能予以任用和提升，香港原有關於公務人員的招聘、僱用、考核、紀律、培訓和管理的制度，包括負責公務人員的任用、薪金、服務條件的專門機構，除有關給予外籍人員特權待遇的規定外，予以保留。

Article 100 Public servants serving in all Hong Kong government departments, including the police department, before the establishment of the Hong Kong Special Administrative Region, may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

Article 101 The Government of the Hong Kong Special Administrative Region may employ British and other foreign nationals previously serving in the public service in Hong Kong, or those holding permanent identity cards of the Region, to serve as public servants in government departments at all levels, but only Chinese citizens among permanent residents of the Region with no right of abode in any foreign country may fill the following posts: the 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.

The Government of the Hong Kong Special Administrative Region may also employ British and other foreign nationals as advisers to government departments and, when required, may recruit qualified candidates from outside the Region to fill professional and technical posts in government departments. These foreign nationals shall be employed only in their individual capacities and shall be accountable to the government of the Region.

Article 102 The Government of the Hong Kong Special Administrative Region shall pay to public servants who retire or who leave the service in compliance with regulations, including those who have retired or who have left the service in compliance with regulations before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 103 The appointment and promotion of public servants shall be on the basis of their qualifications, experience and ability. Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service, including special bodies for their appointment, pay and conditions of service, shall be maintained, except for any provisions for privileged treatment of foreign nationals.

第八章 本法的解釋和修改

第一百五十八條 本法的解釋權屬於全國人民代表大會常務委員會。

全國人民代表大會常務委員會授權香港特別行政區法院在審理案件時對本法關於香港特別行政區自治範圍內的條款自行解釋。

香港特別行政區法院在審理案件時對本法的其他條款也可解釋。但如香港特別行政區法院在審理案件時需要對本法關於中央人民政府管理的事務或中央和香港特別行政區關係的條款進行解釋，而該條款的解釋又影響到案件的判決，在對該案件作出不可上訴的終局判決前，應由香港特別行政區終審法院請全國人民代表大會常務委員會對有關條款作出解釋。如全國人民代表大會常務委員會作出解釋，香港特別行政區法院在引用該條款時，應以全國人民代表大會常務委員會的解釋為準。但在此以前作出的判決不受影響。

全國人民代表大會常務委員會在對本法進行解釋前，徵詢其所屬的香港特別行政區基本法委員會的意見。

第一百五十九條 本法的修改權屬於全國人民代表大會。

本法的修改提案權屬於全國人民代表大會常務委員會、國務院和香港特別行政區。香港特別行政區的修改議案，須經香港特別行政區的全國人民代表大會代表三分之二多數、香港特別行政區立法會全體議員三分之二多數和香港特別行政區行政長官同意後，交由香港特別行政區出席全國人民代表大會的代表團向全國人民代表大會提出。

Chapter VIII: Interpretation and Amendment of the Basic Law

Article 158 The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

The Standing Committee of the National People's Congress shall authorize the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of this Law which are within the limits of the autonomy of the Region.

The courts of the Hong Kong Special Administrative Region may also interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress through the Court of Final Appeal of the Region. When the Standing Committee makes an interpretation of the provisions concerned, the courts of the Region, in applying those provisions, shall follow the interpretation of the Standing Committee. However, judgments previously rendered shall not be affected.

The Standing Committee of the National People's Congress shall consult its Committee for the Basic Law of the Hong Kong Special Administrative Region before giving an interpretation of this Law.

Article 159 The power of amendment of this Law shall be vested in the National People's Congress.

The power to propose bills for amendments to this Law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region. Amendment bills from the Hong Kong Special Administrative Region shall be submitted to the National People's Congress by the delegation of the Region to the National People's Congress after obtaining the consent of two-thirds of the deputies of the Region to the National People's Congress, two-thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region.

根據《第六屆全國人民代表大會第三次會議關於成立中華人民共和國香港特別行政區基本法起草委員會的決定》，第六屆全國人大常委會第十一次會議任命了起草委員。1985年7月1日，起草委員會正式成立並開始工作。在制定了工作規劃，確定了基本法結構之後，起草委員會設立了五個由內地和香港委員共同組成的專題小組，即中央和香港特別行政區的關係專題小組，居民的基本權利和義務專題小組，政治體制專題小組，經濟專題小組，教育、科學、技術、文化、體育和宗教專題小組，負責具體起草工作。在各專題小組完成條文的初稿之後，成立了總體工作小組，從總體上對條文進行調整和修改。1988年4月，起草委員會第七次全體會議公布了《中華人民共和國香港特別行政區基本法(草案)》徵求意見稿，用五個月的時間在香港和內地各省、自治區、直轄市及有關部門廣泛徵求了意見，並在這個基礎上對草案徵求意見稿作了一百多處修改。1989年1月，起草委員會第八次全體會議採取無記名投票方式，對準備提交全國人大常委會的基本法(草案)以及附件和有關文件逐條逐件地進行了表決，除草案第十九條外，所有條文、附件和有關文件均以全體委員三分之二多數贊成獲得通過。

In accordance with "The Decision of the Third Session of the Sixth National People's Congress on the Establishment of the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China", at its 11th session the Standing Committee of the Sixth National People's Congress appointed the members of the Hong Kong Basic Law Drafting Committee. On July 1, 1985, the Drafting Committee was officially established and began its work. After mapping out its work plans and deciding upon the structure of the Basic Law, the Drafting Committee set up five special groups consisting of committee members from both the mainland and Hong Kong. The five groups, namely, the Special Group Concerned with the Relationship between the Central Authorities and the Hong Kong Special Administrative Region; the Special Group Concerned with Fundamental Rights and Duties of Residents; the Special Group Concerned with the Political Structure; the Special Group Concerned with the Economy; and the Special Group Concerned with Education, Science, Technology, Culture, Sports and Religion, were responsible for the drafting work. After these special groups worked out their first draft of provisions of the Basic Law, the General Working Group was set up to make overall adjustment and revision of the draft provisions. In April 1988, the seventh plenary session of the Hong Kong Basic Law Drafting Committee issued "The Draft Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China for Solicitation of Opinions". In the next five months, the Committee widely collected opinions from Hong Kong and the provinces, autonomous regions, municipalities directly under the Central Government and relevant departments on the mainland and, based on the collected opinions, the Committee made more than 100 revisions in the draft version. In January 1989, at its eighth plenary session, the Drafting Committee voted by secret ballot on the draft Hong Kong Basic Law and its annexes and related documents to be submitted to the Standing Committee of the National People's Congress, article by article and document by document. Except for Article 19 in the draft Basic Law, all other provisions, annexes and related documents were adopted by a two-thirds majority.