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# Regional Flag and Regional Emblem (Amendment) Bill 2023

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# A BILL

## To

Amend the Regional Flag and Regional Emblem Ordinance to regulate the use of the regional flag and regional emblem and to provide for their protection and promotion; and to provide for incidental matters.

Enacted by the Legislative Council.

### **Part 1**

#### **Preliminary**

**1. Short title**

This Ordinance may be cited as the Regional Flag and Regional Emblem (Amendment) Ordinance 2023.

**2. Enactments amended**

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

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## Part 2

### Amendments to Regional Flag and Regional Emblem Ordinance (117 of 1997)

#### 3. Long title amended

The long title—

**Repeal**

“emblem”

**Substitute**

“emblem, for the promotion of the regional flag and regional emblem”.

#### 4. Preamble added

Before section 1—

**Add**

**“Preamble**

**WHEREAS—**

- (1) the regional flag and regional emblem of the Hong Kong Special Administrative Region are a symbol and sign of the Hong Kong Special Administrative Region;
- (2) all individuals and organizations should respect and cherish the regional flag and regional emblem, and use the regional flag and its design on appropriate occasions; and

- (3) this Ordinance is enacted to preserve the dignity of the regional flag and regional emblem, and to regulate the use of the regional flag and regional emblem:”.

**5. Section 2 amended (interpretation)**

- (1) Section 2(1), Chinese text, definition of 區徽—

**Repeal**

“徽。”

**Substitute**

“徽；”.

- (2) Section 2(1)—

**Add in alphabetical order**

“*national emblem* (國徽) has the meaning given by section 2(1) of the National Flag and National Emblem Ordinance (116 of 1997);

*national flag* (國旗) has the meaning given by section 2(1) of the National Flag and National Emblem Ordinance (116 of 1997);”.

**6. Section 3 amended (use of regional flag and regional emblem)**

- (1) Section 3, heading, after “**emblem**”—

**Add**

“**etc.**”.

- (2) Section 3(1), before “places”—

**Add**

“other”.

- (3) Section 3—

**Repeal subsection (2).**

- (4) Before section 3(3)—

**Add**

“(2A) The Chief Executive may stipulate the organizations that must use the design of the regional emblem in a prominent position on the home page of their websites.

(2B) The Chief Executive may make stipulations in relation to the recovery and disposal of regional flags and regional emblems.”.

- (5) Section 3(3)—

**Repeal**

everything after “Schedule 4”

**Substitute**

“specifies—

- (a) the conditions under which the regional flag is flown at half staff;
- (b) the priority of the national flag when displayed with the regional flag;
- (c) the priority of the national emblem when hung with the regional emblem; and
- (d) the raising and lowering of the regional flag.”.

**7. Section 4 amended (damaged regional flag and regional emblem not to be used)**

- (1) Section 4, heading—

**Repeal**

“**Damaged regional flag and regional emblem not to be used**”

**Substitute**

**“Regional flag and regional emblem not to be used inappropriately etc.”.**

(2) Section 4—

**Renumber the section as section 4(1).**

(3) After section 4(1)—

**Add**

“(2) A regional flag or a regional emblem must not be displayed upside down, and must not be displayed or used in any way that undermines the dignity of the regional flag or the regional emblem.

(3) A regional flag or a regional emblem must not be discarded at will.

(4) A regional flag or a regional emblem that is damaged, defiled, faded or substandard must be recovered or disposed of in the manner stipulated by the Chief Executive.

(5) After an event in which regional flags or regional emblems are used, the organizer must, in the manner stipulated by the Chief Executive, recover or dispose of the regional flags or regional emblems used on the site of the event.”.

**8. Section 4A added**

After section 4—

**Add**



**“4A. Etiquette for taking part in or attending ceremony in which regional flag is raised**

For any ceremony in which the regional flag is raised, when the regional flag is being raised, the etiquette to be followed by the persons who take part in or attend the ceremony is—

- (a) to stand solemnly facing the regional flag;
- (b) to look at the regional flag with respectful attention or to salute the regional flag in an appropriate manner (as the case requires); and
- (c) to not behave in a way that undermines the dignity of the regional flag.”.

**9. Section 5 amended (manufacture of regional flag and regional emblem regulated)**

Section 5(4), Chinese text, before “政府”—

**Add**

“特區”.

**10. Section 6 amended (prohibition on certain uses of the regional flag and regional emblem)**

(1) Section 6(1)—

**Repeal paragraph (a)**

**Substitute**

“(a) trademarks, registered designs or commercial advertisements; or”.

(2) After section 6(1)—

**Add**

“(1A) Except with the prior approval of the Chief Executive, the regional flag, the regional emblem or their designs must not be displayed or used in funeral activities.”.

(3) Section 6(2)—

**Repeal**

“subsection (1) commits”

**Substitute**

“subsection (1) or (1A) commits”.

(4) Section 6(2)(b)—

**Repeal**

“subsection (1)(b),”

**Substitute**

“subsection (1)(b) or (1A),”.

(5) After section 6(2)—

**Add**

“(3) In this section—

*registered design* (註冊外觀設計) has the meaning given by section 2(1) of the Registered Designs Ordinance (Cap. 522).”.

**11. Section 7 substituted**

Section 7—

**Repeal the section**

**Substitute**

**“7. Protection of regional flag and regional emblem**

- (1) A person commits an offence if the person publicly and intentionally desecrates the regional flag or regional emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (2) A person commits an offence if, with intent to desecrate the regional flag or regional emblem, the person intentionally publishes a desecration of the regional flag or regional emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (3) A person who commits an offence under this section is liable—
  - (a) on summary conviction to a fine at level 3 and to imprisonment for 1 year; and
  - (b) on conviction on indictment to a fine at level 5 and to imprisonment for 3 years.
- (4) Except as provided under subsection (2), a person does not commit an offence under this section by publishing a desecration of the regional flag or regional emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way.
- (5) Summary 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.

(6) In this section—

*desecrate* (侮辱), in relation to the regional flag or regional emblem, means to undermine the dignity of the regional flag or regional emblem as a symbol and sign of the Hong Kong Special Administrative Region;

*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.”.

## 12. Sections 7A and 7B added

After section 7—

### Add

#### “7A. Education in regional flag and regional emblem

- (1) The Secretary for Education must give directions for the inclusion of the regional flag and regional emblem in primary education and in secondary education to educate the students—
  - (a) on the symbolic significance of the regional flag and regional emblem;
  - (b) on the regulation of displaying and using the regional flag; and
  - (c) on the etiquette to be followed when a regional flag is raised in any ceremony.

(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).

**7B. 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.

(2) By a determination or direction that has been made in relation to the broadcasting licence, the licensee may be required to promote the regional flag, the regional emblem and their designs 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 promote the regional flag, the regional emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given under subsection (4).

(4) The Chief Executive may give directions on broadcasting arrangements for the purposes of subsection (3).

(5) A direction under subsection (4) 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).”.

**13. Section 8 amended (copy of the regional flag or the regional emblem)**

Section 8, before “belief”—

**Add**

“reasonable”.

**14. Schedule 1 amended (specifications for the regional flag of the Hong Kong Special Administrative Region of the People’s Republic of China)**

(1) Schedule 1, section I—

**Repeal**

“flag of the People’s Republic of China.”

**Substitute**

“flag.”.

- (2) Schedule 1, section II—

**Repeal**

everything after “If regional flags of”

**Substitute**

“nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size.

The size of the regional flag must be proportional to the staff, and be commensurate with the purpose of use, the surrounding buildings and the surrounding environment.”.

**15. Schedule 2 amended (specifications for the regional emblem of the Hong Kong Special Administrative Region of the People’s Republic of China)**

- (1) Schedule 2, section IV—

**Repeal**

“emblem of the People’s Republic of China.”

**Substitute**

“emblem.”.

- (2) Schedule 2, section V—

**Repeal**

everything after “If regional emblems of”

**Substitute**

“nonstandard sizes are required in special circumstances, they are to be of a scaled-up or a scaled-down size, and be commensurate with the purpose of use, the buildings where they are hung and the surrounding environment.”.

**16. Schedule 3 repealed (arrangements on the display and use of the regional flag and regional emblem)**

Schedule 3—

**Repeal the Schedule.**

**17. Schedule 4 amended (conditions for flying the regional flag at half staff)**

(1) Schedule 4, heading—

**Repeal**

**“the Regional Flag at Half Staff”**

**Substitute**

**“Regional Flag at Half Staff, Priority of National Flag and National Emblem and Raising and Lowering of Regional Flag”.**

(2) Schedule 4, under heading “Flying regional flag at half staff”, section 2—

**Repeal**

everything after “Executive”

**Substitute**

“that national memorial ceremonies are held or that serious natural calamities, public health emergencies or other unfortunate events have occurred and caused especially serious casualties.”.

(3) Schedule 4, under heading “Flying regional flag at half staff”, section 3—

**Repeal**

everything after “when”

**Substitute**



“serious natural calamities, public health emergencies or other unfortunate events have occurred and caused especially serious casualties.”.

- (4) Schedule 4, under heading “**Flying regional flag at half staff**”, after section 3—

**Add**

“4. If the national flag is flown at half staff under section 3(4)(a) of, and Schedule 3 to, the National Flag and National Emblem Ordinance (116 of 1997), the regional flag must also be flown at half staff.”.

- (5) At the end of Schedule 4—

**Add**

**“Priority of national flag when displayed with regional flag**

1. The national flag, when raised or carried in a procession with the regional flag, must be in front of the regional flag.
2. The national flag, when displayed with the regional flag, must be either at the centre, above the regional flag, or in a position of prominence.

**Priority of national emblem when hung with regional emblem**

1. The national emblem, when hung with the regional emblem, must be in a position of prominence.

### **Raising and lowering regional flag**

1. The regional flag, when hoisted or lowered from a vertical staff, must be hoisted or lowered slowly. When hoisted, the regional flag must reach the peak of the staff; when lowered, it may not touch the ground.
  2. The regional flag, when flown at half staff, must be first hoisted to the peak of the staff and then lowered to a point where the distance between the top of the flag and the peak of the staff is one third of the length of the staff; the flag, when lowered, must be again hoisted to the peak before it is lowered.
  3. If the regional flag is displayed pursuant to section 3(1), the regional flag must, as far as practicable, be raised in the morning and lowered in the evening.
  4. Despite any other provision of this Ordinance, the display of the regional flag may be dispensed with in case of inclement weather.”.
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## Part 3

### Amendments to Registered Designs Ordinance (Cap. 522)

18. **Section 8A amended (designs with national flag or national emblem are not registrable)**

- (1) Section 8A, heading—

**Repeal**

“flag or national”

**Substitute**

“flag, national emblem, regional flag or regional”.

- (2) Section 8A(1), before “emblem”—

**Add**

“emblem, the regional flag, the regional”.

- (3) Section 8A(2), English text, definition of *national flag*—

**Repeal the full stop**

**Substitute a semicolon.**

- (4) Section 8A(2)—

**Add in alphabetical order**

“*regional emblem* (區徽) has the meaning given by section 2(1) of the Regional Flag and Regional Emblem Ordinance (117 of 1997);

*regional flag* (區旗) has the meaning given by section 2(1) of the Regional Flag and Regional Emblem Ordinance (117 of 1997).”.

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## Explanatory Memorandum

The objects of this Bill are—

- (a) to amend the Regional Flag and Regional Emblem Ordinance (117 of 1997) (*Ordinance*) to regulate the use of the regional flag and regional emblem and to provide for their protection and promotion; and
  - (b) to provide for incidental matters.
2. Clause 1 sets out the short title.
  3. Clause 3 updates the long title of the Ordinance in light of the amendments to the other parts of the Ordinance.
  4. Clause 4 adds a preamble to the Ordinance to explain the objects of the Ordinance.
  5. Clause 5 amends section 2 of the Ordinance to add the definitions of *national flag* and *national emblem*.
  6. Clause 6 adds new subsections to section 3 of the Ordinance to deal with the use of the design of the regional emblem on websites and the recovery and disposal of regional flags and regional emblems.
  7. Clause 7 adds new subsections to section 4 of the Ordinance to provide that the regional flag and regional emblem must not be used or disposed of inappropriately.
  8. Clause 8 adds a new section 4A to the Ordinance to provide for the etiquette for taking part in or attending a ceremony in which the regional flag is raised.

9. Clause 9 makes a minor amendment to section 5 of the Ordinance.
10. Clause 10 amends section 6 of the Ordinance—
  - (a) to prohibit the display or use of the regional flag, the regional emblem or their designs in registered designs or commercial advertisements; and
  - (b) to prohibit the display or use of the regional flag, the regional emblem or their designs in funeral activities without the prior approval of the Chief Executive.
11. Clause 11 replaces section 7 of the Ordinance with a new one. The new section 7 prohibits a person from publicly and intentionally desecrating the regional flag or regional emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image or in any other way. It further prohibits a person from intentionally publishing a desecration of the regional flag or regional emblem by burning, mutilating, scrawling on, defiling or trampling on it or its image, or in any other way, with intent to desecrate the regional flag or regional emblem. The new section 7(6) contains the definitions of *desecrate* and *publish* for the purposes of the prohibitions. A contravention of any of the prohibitions is an offence.
12. Clause 12 adds new sections 7A and 7B to the Ordinance. The new section 7A requires the Secretary for Education to give directions for the inclusion of the regional flag and regional emblem in primary education and in secondary education.
13. The new section 7B 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 promote the regional flag, the regional emblem and their designs by an announcement in the public interest, 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 promote the regional flag, the regional emblem and their designs by an announcement in the public interest, or material in the public interest, in the licensed service in accordance with any direction on broadcasting arrangements that is or may be given by the Chief Executive.

14. Clause 13 makes a minor amendment to section 8 of the Ordinance.
15. Clauses 14 and 15 respectively amend Schedules 1 and 2 to the Ordinance to elaborate further on the specifications for the size of regional flags and regional emblems.
16. Clause 16 repeals Schedule 3 to the Ordinance.
17. Clause 17 amends Schedule 4 to the Ordinance to provide for—
  - (a) the conditions for flying the regional flag at half staff;
  - (b) the priority of the national flag when displayed with the regional flag;
  - (c) the priority of the national emblem when hung with the regional emblem; and
  - (d) the raising and lowering of the regional flag.

Regional Flag and Regional Emblem (Amendment) Bill 2023

Explanatory Memorandum

Paragraph 18

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18. Clause 18 amends section 8A of the Registered Designs Ordinance (Cap. 522) to provide that a design is not registrable if it consists of or contains the regional flag, the regional emblem or their designs.