《憲法》及《基本法》

The Constitution and the Basic Law



中華人民共和國香港特別行政區政府 政制及內地事務局

Constitutional and Mainland Affairs Bureau The Government of the Hong Kong Special Administrative Region of the People's Republic of China





《中華人民共和國憲法》(《憲法》)和《中華人民共和國香港特別行政區基本法》(《基本法》)共同構成香港特別行政區的憲制基礎。《憲法》是國家的根本法、最高法,是國家的重要標誌和象徵,具有最高的法律地位、法律權威、法律效力。《憲法》是《基本法》的立法依據及效力來源,亦是香港特區的「根」和「源」。《憲法》為「一國兩制」在香港特區的實踐,提供了堅實的法理基礎和憲制依據,是香港社會保持長期繁榮穩定的關鍵及基石。

《基本法》是香港特別行政區的憲制性文件,是國家根據《憲法》的規定,由全國人民代表大會所制定,目的是規定香港特別行政區實行的制度,以保障國家對香港的基本方針政策,即是「一國兩制」、「港人治港」和高度自治的實施。

The Constitution of the People's Republic of China (the Constitution) and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) together form the constitutional basis of the Hong Kong Special Administrative Region (HKSAR). The Constitution is the fundamental and supreme law of the state. As an important symbol and sign of the nation, it has the highest legal status, legal authority, as well as legal effect. The Constitution gives the legislative backing and source of power for the Basic Law and is the "root" and "origin" of the HKSAR. It provides a solid legal basis and constitutional framework to the implementation of "one country, two systems" in HKSAR, thus playing a key and fundamental role in maintaining our long-term prosperity and stability.

The Basic Law is the constitutional document for the HKSAR, enacted by the National People's Congress (NPC) in accordance with the Constitution. The Basic Law prescribes the systems to be practised in the HKSAR, in order to ensure the implementation of the basic policies of the People's Republic of China (PRC) regarding Hong Kong, i.e., "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy.



《基本法》的誕生

THE BIRTH OF THE BASIC LAW

香港自古以來就是中國的領土,1840年鴉片戰爭以後被英國佔領。1984年 12月19日,中英兩國政府簽署了關於香港問題的聯合聲明,確認中華人民共 和國政府於1997年7月1日恢復對香港行使主權,從而實現了長期以來中國 人民收回香港的共同願望。

為了維護國家的統一和領土完整,保持香港的繁榮和穩定,並考慮到香港的歷史和現實情況,國家決定,在對香港恢復行使主權時,根據《憲法》第三十一條的規定,設立香港特別行政區,並按照「一個國家,兩種制度」的方針,不在香港實行社會主義的制度和政策。

根據《憲法》,全國人民代表大會特制定《基本法》,規定香港特別行政區實行的制度,以保障國家對香港的基本方針政策的實施。

Hong Kong has been part of the territory of China since ancient times; it was occupied by Britain after the Opium War in 1840. On 19 December 1984, the Chinese and British Governments signed the Joint Declaration on the Question of Hong Kong, affirming that the Government of the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997, thus fulfilling the long-cherished common aspiration of the Chinese people for the recovery of Hong Kong.

Upholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the PRC has decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a HKSAR will be established in accordance with the provisions of Article 31 of the Constitution and that under the principle of "one country, two systems", the socialist system and policies will not be practised in Hong Kong.



1984年12月19日中英《聯合聲明》在北京簽署。 Signing of the Sino-British Joint Declaration in Beijing on 19 December 1984.

In accordance with the Constitution, the NPC hereby enacts the Basic Law, prescribing the systems to be practised in the HKSAR, in order to ensure the implementation of the basic policies of the PRC regarding Hong Kong.

《基本法》的誕生(續)

THE BIRTH OF THE BASIC LAW (CONT'D)

中華人民共和國第七屆全國人民代表大會第三次會議於1990年4月4日通過《基本法》,以及香港特別行政區區旅、區徽的華人民共和國主席令第二十六號》,正式頒布《基本法》。

1997年7月1日,《基本法》正式 實施。《基本法》是全國性法律 ,適用於全國,包括香港特別行 政區。

The Basic Law, together with the designs of the regional flag and regional emblem of the HKSAR, was formally adopted at the Third Session of the Seventh NPC of the PRC on 4 April 1990. On the same day, the PRC issued the "No. 26 Decree of the President of the People's Republic of China" and promulgated the Basic Law.

The Basic Law came into effect on 1 July 1997. The Basic Law is a national law applicable to the whole nation, including the HKSAR.



1990年4月4日,七屆全國人大三次 會議以2660票贊成通過《中華人民共 和國香港特別行政區基本法》。

The "Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" was adopted by 2 660 votes at the Third Session of the Seventh NPC on 4 April 1990.



《基本法》的内容

THE CONTENTS OF THE BASIC L'AW

- (a) 序言; Preamble;
- (b) 《基本法》正文,共九個章節,一百六十條; the text of the Basic Law, comprising a total of 160 articles in nine chapters;

附件一, 訂明香港特別行政區行政長官的產生辦法;

(c) Annex I, setting out the method for the selection of the Chief Executive of the HKSAR:

附件二,訂明香港特別行政區立法會的產生辦法和表決程序;以及

- (d) Annex II, setting out the method for the formation of the Legislative Council of the HKSAR and its voting procedures; and
- (e) 附件三,列明在香港特別行政區實施的全國性法律。 Annex III, setting out the national laws to be applied in the HKSAR.



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《中華人民共和國香港特別行政區基本法(草案)徵求意見稿》於1988年4月29日在香港900多處地方派發。圖為香港市民和基本法(草案)徵求意見稿。

A member of the public took a copy the "Draft Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (for Solicitation of Opinions)" at the office of the Basic Law Consultative Committee. The document was distributed at over 900 locations in Hong Kong on 29 April 1988.



《基本法》 THE BASIC LAW

《基本法》規定香港特別行政區實行的制度,以保障國家對香港 的基本方針政策的實施,重點包括:

The Basic Law prescribes the system to be practised in the HKSAR, in order to ensure the implementation of the basic policies of the PRC regarding Hong Kong. Some key points include:

The Basic Law provides that the socialist system and policies shall not be practised in the HKSAR, and the previous capitalist system and way of life sha remain unchanged for 50 years.

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全國人民代表大會授權香港特別行政區依照《基本法》的規定實行高度 自治,享有行政管理權、立法權、獨立的司法權和終審權。香港特別行 政區的終審權屬於香港特別行政區終審法院。終審法院可根據需要邀請 其他普通法適用地區的法官參加審判。

The NPC authorises the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law. The power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal of the HKSAR, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal



《基本法》(續)

THE BASIC L'AW (CONT'D)

看港原有法律*,除同《基本法》相抵 體或經香港特別行政區立法機關作出 修改者外,予以保留。《基本法》訂 明香港特別行政區企業立司主管刑事檢 察工作,不受任何干涉。香港特別行 政區各級法院是香港特別行政區的電 法機關,行使香港特別行政區的審判



權。香港特別行政區法院獨立進行審判,不受

任何干涉,司法人員履行審判職責的行為不受法律追究。

The laws* previously in force in Hong Kong shall be maintained, except for any that contravene the Basic Law, and subject to any amendment by the legislature of the HKSAR. Under the Basic Law, the Department of Justice of the HKSAR shall control criminal prosecutions, free from any interference. The courts of the HKSAR at all levels shall be the judiciary of the Region and exercise judicial power independently, free from interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.

4 - 香港特別行政區行政長官由年滿四十周歲,在香港通常居住連續滿二十 - 年並在外國無民の連め系港株別行政原乳力性民民中的中國公民擔任。

The Chief Executive of the HKSAR shall be a Chinese citizen of not less than 40 years of age who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

→ 本港特別行政區的主要官員由在香港通常居住連續滿十五年並在外國無 - 居留權的香港特別行政區永久性居民中的中國公民擔任。

The principal officials of the HKSAR shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years.

The Legislative Council of the HKSAR shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country Permanent residents of the Region who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members of the Legislative Council of the Region, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council

^{*}即普通法、衡平法、條例、附屬立法和習慣法

^{*}That is, the common law, rules of equity, ordinances, subordinate legislation and customary law

《基本法》(續)

THE BASIC L'AW (CONT'D)

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香港特別行政區可在經濟、貿易、金融、航運、通訊、旅遊、文化、體育等領域以「中國香港」的名義,單獨地同世界各國、各地區及有關國際組織保持和發展關係,簽訂和履行有關協議。

The HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields including the economic, trade, financial and monetary, shipping, communications tourism, cultural and sports fields.

8

香港居民享有的自由包括言論、新聞、出版的自由;結社、集會、遊行、示威的自由;通訊、宗教信仰、婚姻的自由;組織和參加工會、罷工的權利和自由。《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》和國際勞工公約適用於香港的有關規定繼續有效,通過香港特別行政區的法律予以實施。

Hong Kong residents shall have, among other things, freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; freedom of communication, of religious belief and of marriage, and the right and freedom to form and join trade unions, and to strike. The provision of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

9

香港特別行政區保持自由港地位、為單獨的關稅地區以及保持國際金融中心的地位。香港特別行政區繼續開放外匯、黃金、證券、期貨等市場,並保障資金的流動和進出自由。港幣的發行權屬於香港特別行政區政府。中央人民政府不在香港特別行政區灣稅。

The HKSAR shall maintain the status of a free port, shall be a separate customs territory and shall maintain the status of Hong Kong as an international financial center. Markets for foreign exchange, gold, securities, futures and the like shall continue. The HKSAR Government shall safeguard the free flow of capital within, into and out of the Region. The authority to issue Hong Kong currency shall be vested in the Government of the HKSAR. The Central People's Government (CPG) shall not levy taxes in the HKSAR.

張家朗與何詩蓓以「中國香港」名義參加東京 2020奧運會。

Edgar Cheung and Siobhan Haughey participated in the Tokyo 2020 Olympic Games using the name "Hong Kong, China".



(以上照片由港協暨奥委會提供) (Courtesy of the Sports Federation & Olympic Committee of Hong Kong, China)

中央和香港特別行政區的關係

RELATIONSHIP BETWEEN THE CENTRAL AUTHORITIES AND THE HKSAR

《基本法》第一條:香港特別行政區是中華人民共和國不可分離的部分。 Article 1 of the Basic Law: The HKSAR is an inalienable part of the PRC.

《基本法》第二條:全國人民代表大會授權香港特別行政區依照《基本法》的規定,實行高度自治,享有行政管理權、立法權、獨立的司法權和終審權。

Article 2 of the Basic Law: The NPC authorises the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law.

《基本法》第十二條:香港特別行政區是中華人民共和國的一個享有高度自治權的地方行政區域,直轄於中央人民政府。

Article 12 of the Basic Law: The HKSAR shall be a local administrative region of the PRC, which shall enjoy a high degree of autonomy and come directly under the CPG.

作為中華人民共和國不可分離的部分,香港特別行政區有憲制責任維護國家主權、安全和發展利益。全國人民代表大會常務委員會於2020年6月30日通過將《中華人民共和國香港特別行政區維護國家安全法》(《香港國安法》)列入《基本法》附件三,作為在香港特別行政區實施的全國性法律。同日《香港國安法》由香港特別行政區在香港公布實施。

《香港國安法》清楚列出所規定的四類危害國家安全的罪行,即分裂國家、顛覆國家政權、恐怖活動、以及勾結外國或者境外勢力危害國家安全。與此同時,《香港國安法》有助完善「一國兩制」制度體系,維護香港長期繁榮穩定,保障香港居民合法權益。

The HKSAR, being an inalienable part of the PRC, bears the constitutional responsibility to safeguard the nation's sovereignty, security and development interests. On 30 June 2020, the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the Hong Kong National Security Law) was passed by the Standing Committee of the NPC and was listed under Annex III of the Basic Law as national law to be applied in the HKSAR. The Hong Kong National Security Law was promulgated for implementation in Hong Kong by the HKSAR on the same day.

The Hong Kong National Security Law has clearly stipulated four categories of offences that endanger national security, namely secession, subversion of state power, terrorist activities, and collusion with a foreign country or with external elements to endanger national security. At the same time, the Hong Kong National Security Law helps improve the "one country, two systems" regime, safeguard the long-term prosperity and stability of Hong Kong, and safeguard the legitimate rights and interests of Hong Kong residents.

香港特別行政區可使用區旗和區徽

REGIONAL FLAG AND REGIONAL EMBLEM OF THE HKSAR



《基本法》第十條訂明,香港特別行政區除 懸掛中華人民共和國國旗和國徽外,還可使 用香港特別行政區區旗和區徽。

Article 10 of the Basic Law prescribes that apart from displaying the national flag and national emblem of the PRC, the HKSAR may also use a regional flag and regional emblem.

中央和香港特別行政區的關係

REL'ATIONSHIP BETWEEN THE CENTRAL' AUTHORITIES AND THE HKSAR

國防和駐軍

DEFENCE AND THE GARRISON

《基本法》第十四條:中央人民政府負責管理香港特別行政區的防務。

中央人民政府派駐香港特別行政區 負責防務的軍隊不干預香港特別行 政區的地方事務。駐軍人員除須遵 守全國性的法律外,還須遵守香港 特別行政區的法律。駐軍費用由中 央人民政府負擔。



● 慶祝香港回歸祖國26周年駐香港部隊 組織「七一」軍營開放活動 Open day by Hong Kong Garrison in celebration of 26th anniversary of the establishment of HKSAR

Article 14 of the Basic Law: The CPG shall be responsible for the defence of the HKSAR.

Military forces stationed by the CPG in the HKSAR for defence shall not interfere in the local affairs of the Region. In addition to abiding by national laws, members of the garrison shall abide by the laws of the HKSAR. Expenditure for the garrison shall be borne by the CPG.

香港特別行政區和中央人民政府所屬各部門、各省、 自治區、直轄市的關係

RELATIONSHIP BETWEEN THE HKSAR AND DEPARTMENTS OF THE CPG, PROVINCES, AUTONOMOUS REGIONS AND MUNICIPALITIES DIRECTLY UNDER THE CENTRAL GOVERNMENT

《基本法》第二十二條:中央人民政府所屬各部門、各省、自治區、直轄市均 不得干預香港特別行政區根據《基本法》自行管理的事務。

中央各部門、各省、自治區、直轄市如需在香港特別行政區設立機構,須徵 得香港特別行政區政府同意並經中央人民政府批准;所設立的一切機構及其 人員均須遵守香港特別行政區的法律。

Article 22 of the Basic Law: No department of the CPG and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the HKSAR administers on its own in accordance with the Basic Law.

If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the HKSAR, they must obtain the consent of the government of the Region and the approval of the CPG; all offices set up and the personnel of these offices shall abide by the laws of the Region.



與内地合作

CO-OPERATION WITH THE MAINLAND

自回歸以來,在「一國兩制」及《基本法》的框架下,香港特別行政區政府 與中央人民政府相關部門加強了工作關係,並訂立了多項合作安排,涵蓋範 疇包括經質投資、跨界基建、文化藝術、海洋保育和保護知識產權等。

香港特別行政區積極推動地區合作,現時已經與北京、廣東、上海、深圳、福建、四川、湖北、重慶以及泛珠三角區域(包括內地九個省區、香港特別行政區及澳門特別行政區)設立區域合作機制。通過這些機制,香港特別行政區與內地進一步加深彼此之間的了解,從而推動兩地在經濟貿易、科技、旅遊及文化等多方面的合作。



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行政長官李家超於2023年7月7日在貴陽率 領香港特別行政區政府代表團參與2023年 泛珠三角區域合作行政首長聯席會議。

The Chief Executive, Mr John Lee, led a delegation of the HKSAR Government to attend the 2023 Pan-Pearl River Delta Regional Co-operation Chief Executive Joint Conference in Guiyang on 7 July 2023.

After Hong Kong's returning to the Motherland, under the framework of "one country, two systems" and the Basic Law, the HKSAR Government has strengthened its working relationship with relevant departments of the CPG and established a number of co-operation arrangements in areas such as trade and investment, cross-boundary infrastructure, culture and arts, marine conservation and the protection of intellectual property rights.

The HKSAR has been taking an active role in promoting regional co-operation, and has established regional co-operation mechanisms with Beijing, Guangdong, Shanghai, Shenzhen, Fujian, Sichuan, Hubei, Chongqing and the Pan-Pearl River Delta region (covering nine Mainland provinces/region, the HKSAR and the Macao Special Administrative Region). Through these mechanisms, mutual understanding between the HKSAR and the Mainland is further enhanced, promoting co-operation in areas such as economy and trade, technology, tourism and culture.



《基本法》推動本港穩步發展

BASIC LAW FACILITATING DEVELOPMENT OF HONG KONG



《基本法》第一百零九條訂明,香港特別行政區政府提供適當的經濟和法律環境,以保持香港的國際金融中心地位。 《基本法》第一百零五至一百一十九條 就香港特別行政區的財政 (障。第一百二十五一百三十五條就處理有關香港特別 行政區的土地契約、航運和民用航空的各種事宜提供依據。



Article 109 of the Basic Law stipulates that the HKSAR Government shall provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre. Articles 105 to 119 of the Basic Law set out clearly the guiding principles governing public finance, monetary affairs, trade, industry and commerce of the HKSAR. Articles 120 to 135 of the Basic Law provide a basis for dealing with various matters relating to land leases, shipping and civil aviation of the HKSAR.



《基本法》第一百一十四至一百一十六條訂明,香港特別行政區為單獨的關稅 地區,保持自由港地位,實行自由貿易政策。《基本法》亦訂明香港特別行 政區可以「中國香港」的名義參加《關稅和貿易總協定》、關於國際紡織品 貿易安排等有關國際組織和國際貿易協定,包括優惠貿易安排。

為了在符合世界貿易組織規則的情況下,逐步實現貿易自由化和便利貿易和投資,內地和香港在2003年6月簽訂了《內地與香港關於建立更緊密經貿關係的安排》(CEPA)。CEPA有助香港在內地市場開拓更多商機,增加香港對外地投資者的吸引力。

Articles 114 to 116 of the Basic Law prescribes that the HKSAR shall be a separate customs territory. It shall maintain the status of a free port and pursue the policy of free trade. The Basic Law also provides that the HKSAR may, using the name "Hong Kong, China", participate in relevant international organizations and international trade agreements (including preferential trade arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles.

To progressively achieve liberalisation of trade and facilitate trade and investment in a manner consistent with the rules of World Trade Organization, the Mainland and Hong Kong signed the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) in June 2003. CEPA has helped Hong Kong to open up more business opportunities in the Mainland and has increased the attractiveness of Hong Kong to investors abroad.

參與國際事務

PARTICIPATION IN INTERNATIONAL AFFAIRS



《基本法》第十三條訂明,中央人民政府負責管理與香港特別行政區有關的外交事務。中華人民共和國外交部在香港設立機構處理外交事務。中央人民政府授權香港特別行政區依照《基本法》自行處理有關的對外事務。

回歸後,香港特別行政區繼續積極參與國際事務,充分顯示香港特別行政區享有高度自治,同時保持及鞏固作為一個國際金融、貿易大都會的地位。

Article 13 of the Basic Law prescribes that the CPG shall be responsible for the foreign affairs relating to the HKSAR. The Ministry of Foreign Affairs of the PRC shall establish an office in Hong Kong to deal with foreign affairs. The CPG authorises the HKSAR to conduct relevant external affairs on its own in accordance with the Basic Law.

After Hong Kong's returning to the Motherland, the HKSAR has continued to participate actively in the international arena, fully demonstrating a high degree of autonomy. At the same time, it has maintained and strengthened its position as an international financial and trading centre.



行政長官李家超(左三)於2023年2月7日在沙特阿拉伯利雅得與海灣阿拉伯國家 合作委員會秘書長賈西姆·布代維(右三)會面。

The Chief Executive, Mr John Lee (third left), meets with the Secretary-General of the Cooperation Council for the Arab States of the Gulf, Mr Jasem Mohamed Albudaiwi (third right), in Riyadh, Saudi Arabia on 7 February 2023.



參與國際事務

PARTICIPATION IN INTERNATIONAL AFFAIRS



國際會議 INTERNATIONAL CONFERENCES

《基本法》第一百五十二條:對以國家為單位參加的、同香港特別行政區有關的、適當領域的國際組織和國際會議,香港特別行政區政府可派遣代表作為中華人民共和國代表團的成員或以中央人民政府和上述有關國際組織或國際會議允許的身份參加,並以「中國香港」的名義發表意見。

此外,香港特別行政區可以「中國香港」的名義參加不以國家為單位參加的 國際組織和國際會議。

Article 152 of the Basic Law: representatives of the Government of the HKSAR may, as members of delegations of the PRC, participate in international organizations or conferences in appropriate fields limited to states and affecting the Region, or may attend in such other capacity as may be permitted by the CPG and the international organization or conference concerned, and may express their views, using the name "Hong Kong, China".

Moreover, the HKSAR may, using the name "Hong Kong, China", participate in international organizations and conferences not limited to states.



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財政司司長陳茂波於2023年1月在瑞士 達沃斯出席世界經濟論壇年會。圖示陳 茂波在由特區政府和香港交易所合辦、 香港機場管理局、香港金融管理局和港 穩四立支持的早餐會「在轉變世界中的 聯繫:香港的觀點|上致辭。

The Financial Secretary, Mr Paul Chan, attends the World Economic Forum Annual Meeting at Davos, Switzerland in January 2023. Photo shows Mr Chan giving a speech at a breakfast meeting "Hong Kong Perspectives: Connectivity in an Evolving World" co-organised by the HKSAR Government and the Hong Kong Exchanges and Clearing Limited, and supported by the Airport Authority Hong Kong, the Hong Kong Monetary Authority and MTR Corporation Limited.





市民如欲獲取更多有關《憲法》及《基本法》的資料,可到位於中環大會堂高座五樓的《基本法》圖書館閱覽(查詢:2921 2529)或瀏覽《基本法》網站:http://www.basiclaw.gov.hk。

More information on the Constitution and the Basic Law is available at the Basic Law Library, fifth floor of the City Hall High Block, Central (enquiries: 2921 2529) and the Basic Law website: http://www.basiclaw.gov.hk.





