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# 全国人民代表大会常务委员会关于《中华人民共和国香港特别行政区基本法》第一百零四条的解释

# Interpretation of the Standing Committee of the National People's Congress on Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

全国人民代表大会常务委员会关于《中华人民共和国香港特别行政区基本法》第一百零四条的解释

Interpretation of the Standing Committee of the National People's Congress on Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

（2016年11月7日第十二届全国人民代表大会常务委员会第二十四次会议通过)

(Adopted at the 24th Session of the Standing Committee of the 12th National People's Congress on 7 November 2016)

第十二届全国人民代表大会常务委员会第二十四次会议审议了委员长会议提请审议《全国人民代表大会常务委员会关于<中华人民共和国香港特别行政区基本法>第一百零四条的解释(草案)》的议案。经征询全国人民代表大会常务委员会香港特别行政区基本法委员会的意见，全国人民代表大会常务委员会决定，根据《中华人民共和国宪法》第六十七条第四项和《中华人民共和国香港特别行政区基本法》第一百五十八条第一款的规定，对《中华人民共和国香港特别行政区基本法》第一百零四条“香港特别行政区行政长官、主要官员、行政会议成员、立法会议员、各级法院法官和其他司法人员在就职时必须依法宣誓拥护中华人民共和国香港特别行政区基本法，效忠中华人民共和国香港特别行政区”的规定，作如下解释：

The motion from the Council of Chairmen regarding the deliberation of the Interpretation by the Standing Committee of the National People's Congress of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft) was deliberated at the 24th Session of the Standing Committee of the 12th National People's Congress. Having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has made, under Article 67 (4) of the Constitution of the People's Republic of China and Article 158 (1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation on the provisions of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China" as follows:

一、《中华人民共和国香港特别行政区基本法》第一百零四条规定的“拥护中华人民共和国香港特别行政区基本法，效忠中华人民共和国香港特别行政区”，既是该条规定的宣誓必须包含的法定内容，也是参选或者出任该条所列公职的法定要求和条件。

I. "To uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and to swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China" as provided for in Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, are not only the statutory content which must be included in the oath prescribed in the said Article, but also the statutory requirements and preconditions for standing for election in respect of or taking up the public office specified in the said Article.

二、《中华人民共和国香港特别行政区基本法》第一百零四条规定相关公职人员“就职时必须依法宣誓”，具有以下含义：

II、 The provisions in Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China that "When assuming office, the relevant public officers must, in accordance with law, take oath" have the following meanings:

(一)宣誓是该条所列公职人员就职的法定条件和必经程序。未进行合法有效宣誓或者拒绝宣誓，不得就任相应公职，不得行使相应职权和享受相应待遇。

(I) Oath taking is the statutory condition and required procedure for public officers specified in the Article to assume office. No public office shall be assumed, no corresponding functions and powers shall be exercised, and no corresponding entitlements shall be enjoyed by anyone who fails to lawfully and validly take the oath or who declines to take the oath.

(二)宣誓必须符合法定的形式和内容要求。宣誓人必须真诚、庄重地进行宣誓，必须准确、完整、庄重地宣读包括“拥护中华人民共和国香港特别行政区基本法，效忠中华人民共和国香港特别行政区”内容的法定誓言。

(II) The taking of an oath must conform to the statutory requirements on form and content. An oath taker must take the oath in a sincere and solemn manner, and must accurately, completely and solemnly read out the oath prescribed by law, the content of which includes "will uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China".

(三)宣誓人拒绝宣誓，即丧失就任该条所列相应公职的资格。宣誓人故意宣读与法定誓言不一致的誓言或者以任何不真诚、不庄重的方式宣誓，也属于拒绝宣誓，所作宣誓无效，宣誓人即丧失就任该条所列相应公职的资格。

(III) An oath taker is disqualified forthwith from assuming the public office specified in the Article if he or she declines to take the oath. An oath taker who intentionally reads out words which do not accord with the oath prescribed by law or takes the oath in a manner which is not sincere or not solemn is also a refusal of taking the oath and is null and void, and the oath taker is disqualified from taking the appropriate public office specified in the Article.

(四)宣誓必须在法律规定的监誓人面前进行。监誓人负有确保宣誓合法进行的责任，对符合本解释和香港特别行政区法律规定的宣誓，应确定为有效宣誓；对不符合本解释和香港特别行政区法律规定的宣誓，应确定为无效宣誓，并不得重新安排宣誓。

(IV) The oath must be taken before the person authorized by law to administer the oath. The oath taker has the duty to ensure that the oath is taken lawfully. He or she shall determine that an oath taken in compliance with this Interpretation and the laws of the Hong Kong Special Administrative Region is valid, that an oath taken not in compliance with this Interpretation and the laws of the Hong Kong Special Administrative Region is invalid and may not reschedule the oath.

三、《中华人民共和国香港特别行政区基本法》第一百零四条所规定的宣誓，是该条所列公职人员对中华人民共和国及其香港特别行政区作出的法律承诺，具有法律约束力。宣誓人必须真诚信奉并严格遵守法定誓言。宣誓人作虚假宣誓或者在宣誓之后从事违反誓言行为的，依法承担法律责任。

III、 The taking of the oath stipulated by Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China is a legal commitment made by the public officers specified in the Article to the People's Republic of China and its Hong Kong Special Administrative Region, and is legally binding. The oath taker must believe in and strictly observe the statutory oath. An oath taker who makes a false oath, or, after taking the oath, breaches the oath, shall bear legal liability according to law.

现予公告。

It is hereby announced.