

Instrument:	A401	NATIONAL FLAG AND NATIONAL EMBLEM ORDINANCE	Gazette Number	Version Date
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		Long title	116 of 1997	01/07/1997
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Remarks:

This instrument was not given a chapter number in the Loose-leaf edition of the Laws of Hong Kong. An unofficial reference number, however, is assigned to this instrument in BLIS for identification purposes. This also enables users to carry out a search in relation to this instrument by reference to the unofficial reference number.

To provide for the use and protection of the national flag and national emblem in the Hong Kong Special Administrative Region and for incidental matters.

[1 July 1997]

(Originally 116 of 1997)

Section:	1	Short title	116 of 1997	01/07/1997
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- (1) This Ordinance may be cited as the National Flag and National Emblem Ordinance.
- (2) (Omitted as spent)

Section:	2	Interpretation	116 of 1997	01/07/1997
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(1) In this Ordinance, unless the context otherwise requires-  
"national emblem" (國徽) means the national emblem of the People's Republic of China adopted by the Eighth Session of the Central People's Government Committee on 28 June 1950;

"national flag" (國旗) means the national flag of the People's Republic of China adopted by resolution of the First Plenary Session of the Chinese People's Political Consultative Conference on 27 September 1949;

"specifications" (規格) means the relevant specifications for the national flag or the national emblem set out in Schedules 1 and 2.

- (2) The specifications for the national flag are set out in Schedule 1.
- (3) The specifications for the national emblem are set out in Schedule 2.

Section:	3	Use of national flag and national emblem	116 of 1997	01/07/1997
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(1) The national flag or the national emblem or both must be displayed at main Government buildings.

(2) The Chief Executive may stipulate the organizations which must display or use the national flag and the national emblem, and the other places at which, the occasions on which, the manner in which and the conditions under which, the national flag and the national emblem must be displayed or used. The Chief Executive may also authorize, restrict or prohibit the display or use of the national flag, the national emblem or their designs in the stipulation.

(3) The Chief Executive may stipulate the organizations that must include the design of the national emblem in their seals. The Chief Executive may stipulate other uses to which the national emblem may be applied.

(4) Schedule 3 specifies the conditions under which the national flag is flown at half staff, the priority of the national flag and the raising and lowering of the national flag.

Section:	4	Damaged national flag and national emblem not to be used	116 of 1997	01/07/1997
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A national flag or a national emblem which is damaged, defiled, faded or substandard must not be displayed or used.

Section:	5	Manufacture of national flag and national emblem regulated	116 of 1997	01/07/1997
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(1) The national flag for flying and the national emblem for hanging may be manufactured in the Hong Kong Special Administrative Region only by enterprises designated by the Central People's Government.

(2) The national flag must be manufactured in accordance with the specifications set out in Schedule 1.

(3) The national emblem must be manufactured in accordance with the specifications set out in Schedule 2. The display or use of the national emblem in unusual dimensions is subject to the prior approval of the Central People's Government.

(4) If a person manufactures a national flag or national emblem other than in accordance with this section, the Secretary of Justice may apply to the District Court-

- (a) for an injunction to prohibit the unauthorized manufacture or manufacture of the flag or emblem that does not meet the specifications; and
- (b) for an order of forfeiture of the flag, emblem and other materials used in the manufacture of the flag or emblem.

(5) If the District Court is satisfied that the application is well founded, it may grant the injunction and order that the flag, emblem and other materials used in the manufacture of the flag or emblem be forfeited to the Government.

Section:	6	Prohibition on certain uses of national flag and national emblem	116 of 1997	01/07/1997
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(1) The national flag or its design must not be displayed or used in-

- (a) trademarks or advertisements;
- (b) private funeral activities; or
- (c) other occasions on which or places at which the display or use of the national flag or its design is restricted or prohibited under a stipulation made by the Chief Executive.

(2) The national emblem or its design must not be displayed or used in-

- (a) trademarks or advertisements;
- (b) furnishings or ornaments in everyday life;
- (c) private activities of celebration or condolence; or
- (d) other occasions on which or places at which the display or use of the national emblem or its design is restricted or prohibited under a stipulation made by the Chief Executive.

(3) A person who without lawful authority or reasonable excuse displays or uses the national flag, national emblem or the design of the national flag or of the national emblem contrary to subsection (1) or (2) commits an offence and is liable on summary conviction-

- (a) for an offence against subsection (1)(a) or (2)(a), to a fine at level 5; and
- (b) for an offence against subsection (1)(b) or (c) or (2)(b), (c) or (d), to a fine at level 2.

Section:	7	Protection of national flag and national emblem	116 of 1997	01/07/1997
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A person who desecrates the national flag or national emblem by publicly and wilfully burning, mutilating, scrawling on, defiling or trampling on it commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 3 years.

Section:	8	Copy of national flag or national emblem	116 of 1997	01/07/1997
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A copy of the national flag or national emblem that is not an exact copy but that so closely resembles the national flag or national emblem as to lead to the belief that the copy in question is the national flag or national emblem is taken to be the national flag or national emblem for the purposes of this Ordinance.

Section:	9	Application of regional laws	116 of 1997	01/07/1997
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(1) Offences in relation to the national flag and the national emblem in the Hong Kong Special Administrative Region are investigated and persons are prosecuted according to the laws in force in the Hong Kong Special

Administrative Region.

(2) If there are inconsistencies between this Ordinance and a national law promulgated under Annex III of the Basic Law, this Ordinance is to be interpreted and applied as a special application or adaptation of the national law.

Section:	10	Stipulations not subsidiary legislation	116 of 1997	01/07/1997
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A stipulation made by the Chief Executive under this Ordinance is not subsidiary legislation. The stipulation must be published in the Gazette as soon as is reasonably practicable after it is made.

Schedule:	1	SPECIFICATIONS FOR THE NATIONAL FLAG OF THE PEOPLE'S REPUBLIC OF CHINA	116 of 1997	01/07/1997
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[sections 2 & 5]

The shape and colour of either side of the national flag shall be identical, whereas the five stars on both sides of the flag shall be opposite to each other. For the sake of convenience, these specifications shall take the circumstances where the staff is on the left as the basis for illustration. Where the staff is on the right, the word "left" used in these specifications shall all be changed to "right", while the word "right" referring to direction shall all be changed to "left".

(1) The face of the flag shall be red and rectangular; the proportions of its length and height shall be 3 to 2. The upper left of the face of the flag shall be studded with five yellow five-pointed stars. One of the stars shall be bigger than the others, with its circumscribed diameter being 3/10ths of the height of the flag, and shall be placed in the left; the four other stars shall be smaller, with their circumscribed diameter being 1/10th of the height of the flag, encircling the big star on its right in the shape of an arc. The cover of the staff shall be white.

(2) The five stars shall be positioned and drawn as follows:

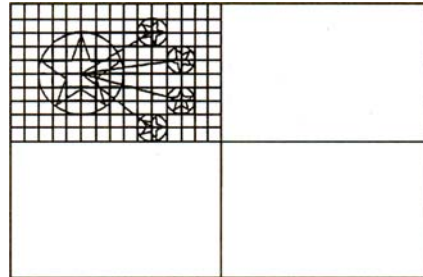
a. To determine the position of the five stars, the face of the flag shall be first folded both ways to form four equal rectangles; then the rectangle on the upper left shall be vertically divided into 10 equal sections and horizontally divided into 15.

b. The central point of the big five-pointed star shall be at a point in the rectangle where the 5th line from above (or the 5th line from below), and the 5th line from the left (or the 10th line from the right) meet. The method of drawing shall be: taking this point as the centre and the length of three such equals as the radius to make a circle. On the circumference of this circle, five points with equal distances from each other shall be determined, one of the points must be in the right above position of the circle. Then connect each of the five points with every other point to form a straight line respectively. The outline formed by these five straight lines shall be the required big five-pointed star. An angle of the five-pointed star shall point in the right above direction.

c. The centres of the four small five-pointed stars shall be as follows: the first shall be at a point, in the rectangle, where the 2nd line from above (or the 8th line from below), and the 10th line from the left (or the 5th line from the right) meet; the second shall be at a point where the 4th line from above (or the 6th line from below), and the 12th line from the left (or the 3rd line from the right) meet; the third shall be at a point where the 7th line from above (or the 3rd line from below), and the 12th line from the left (or the 3rd line from the right) meet; the fourth shall be at a point where the 9th line from above (or the 1st line from below), and the 10th line from the left (or the 5th line from the right) meet. The method for drawing shall be: taking each of the above four points as the centre and the length of one such equal as the radius to make four circles. On each circle, five points with equal distances from each other shall be determined. One of such points must be on the line linking the centre of the circle with the centre of the big five-pointed star. Then the same methods used in forming the big five-pointed star shall be used to form the small five-pointed stars. The four small five-pointed stars shall respectively have an angle pointing right at the centre of the big five-pointed star.

(3) The measurement in common use for the national flag, from which people from various circles may choose at their discretion shall be as follows:

- a. 288 cm in length, 192 cm in height;
- b. 240 cm in length, 160 cm in height;
- c. 192 cm in length, 128 cm in height;
- d. 144 cm in length, 96 cm in height;
- e. 96 cm in length, 64 cm in height.



Design for making the national flag

Schedule:	2	SPECIFICATIONS FOR THE NATIONAL EMBLEM OF THE PEOPLE'S REPUBLIC OF CHINA	116 of 1997	01/07/1997
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[sections 2 & 5]



The People's Republic of China's National Emblem

The national emblem consists of a national flag, Tian'anmen, a cogwheel and wheat and rice stems and heads, symbolizing the birth of New China under people's democratic dictatorship which is led by the working class and based on the alliance of workers and peasants through the Chinese people's new-democratic revolutionary struggle ever since the May 4th Movement.

1. Two bunches of wheat and rice form a round ring. A cogwheel is placed where the wheat and rice stems cross at the base. Red ribbon forms a knot in the centre of the cogwheel. The red ribbon coils up the wheat and rice on the left and right of the cogwheel and hangs down, dividing the cogwheel into an upper and a lower part.

2. If a vertical straight line is drawn in the centre of the design, the left and right parts are completely symmetrical.

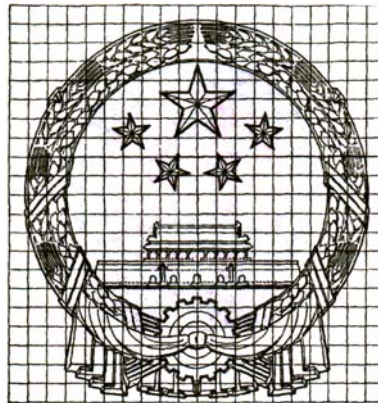
3. The positions and measurements of the various parts of the design may be enlarged or reduced to the scale of the squared ink line sketch.

4. If a relief sculpture is made, the height of the various parts may be magnified or lessened to the scale of the sectional drawing.

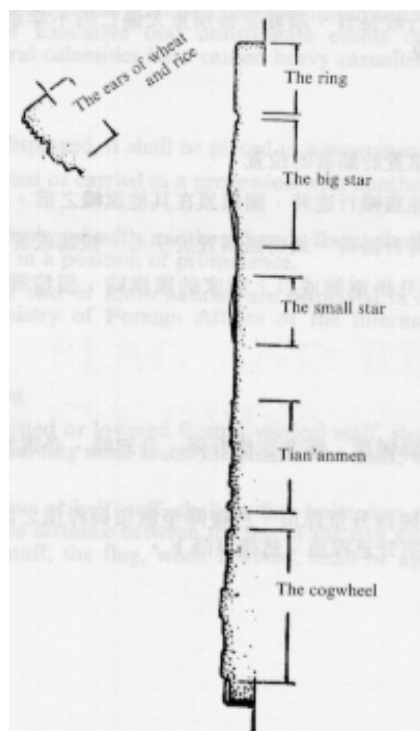
5. The national emblem is in red and gold: the wheat and rice, the five stars, Tian'anmen and the cogwheel are

in gold, the base of the part within the round ring and the hanging ribbon are in red; the red is pure red (the same as the national flag); the gold is pure gold (light and bright).

6. The diameters of the usual dimensions of the national emblem for display or use are as follows:
- (a) 100 cm
  - (b) 80 cm
  - (c) 60 cm.



The squared ink line sketch of the People's Republic of China's national emblem



The sectional drawing of the People's Republic of China's national emblem

Schedule:	3	CONDITIONS FOR FLYING THE NATIONAL FLAG AT HALF STAFF, THE PRIORITY OF THE NATIONAL FLAG AND THE RAISING AND LOWERING OF THE NATIONAL FLAG	116 of 1997	01/07/1997
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[section 3]

Flying national flag at half staff

1. The national flag must be lowered to the half staff as a token of mourning when the following persons pass away-
  - (a) President of the People's Republic of China, Chairman of the Standing Committee of the National People's Congress, Premier of the State Council and Chairman of the Central Military Commission.
  - (b) Chairman of the National Committee of the Chinese People's Political Consultative Conference.
  - (c) Persons who have made outstanding contributions to the People's Republic of China as the Central People's Government advises the Chief Executive.
  - (d) Persons who have made outstanding contributions to world peace or the cause of human progress as the Central People's Government advises the Chief Executive.
2. The national flag may be flown at half staff as a token of mourning when the Central People's Government advises the Chief Executive that unfortunate events causing especially serious casualties occur or serious natural calamities have caused heavy casualties.

#### Priority of national flag

1. When the national flag is displayed, it shall be placed in a prominent position.
2. The national flag, when raised or carried in a procession with another flag or flags, shall be in front of the other flag or flags.
3. The national flag, when displayed with another flag or flags, shall be either at the centre, above the other flag or flags, or in a position of prominence.
4. When the national flags of two or more nations are displayed in foreign affairs activities, relevant provisions of the Ministry of Foreign Affairs or the international practice shall be followed.

#### Raising and lowering national flag

1. The national flag, when hoisted or lowered from a vertical staff, shall be hoisted or lowered slowly. When hoisted, the national flag must reach the peak of the staff; when lowered, it may not touch the ground.
2. The national flag, when flown at half staff, shall 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, shall be again hoisted to the peak before it is lowered.