

Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645)

Frequently Asked Questions

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(I) Scope of the Ordinance

- 1. Does the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645) (the “Ordinance”) apply to any judgment given in a civil or commercial case by the Mainland and Hong Kong courts at any time?**

The Ordinance has no retrospective effect. The Ordinance only applies to judgments given by the Mainland and Hong Kong courts in civil or commercial cases on or after 29 January 2024.

- 2. Does the Ordinance cover judgments given by the Mainland and Hong Kong courts only in civil proceedings?**

No. The Ordinance covers also criminal proceedings under the Mainland and Hong Kong laws which contain an order for the payment of a sum of money in respect of compensation or damages by a party to the proceedings.

- 3. What kind of Mainland and Hong Kong Judgment given in a civil or commercial case is registrable under the Ordinance?**

Not all judgments given in a civil or commercial case are registrable under the Ordinance. Before initiating an application, you should consult independent legal advice on whether the relevant judgment is registrable under the Ordinance.

In accordance with section 5 of the Ordinance, certain Mainland Judgment and Hong Kong Judgment cannot be registered under the Ordinance if the judgment is given in respect of —

- (a) **an excluded matrimonial or family case** (such as divorce, custody or maintenance of a child, etc.)¹;
- (b) a matter relating to the succession to, or the administration or distribution of, an **estate**;
- (c) **an excluded intellectual property case** (such as tortious disputes over infringements of invention patents or utility model patents, etc.)²;
- (d) a matter relating to **marine** pollution, the limitation of liability for a maritime claim, general average, an emergency towage or salvage, a maritime lien or the carriage of passengers by sea;
- (e) a matter relating to a **specified corporate process** ³ or the **bankruptcy** of a natural person;
- (f) **specified election proceedings**⁴;
- (g) proceedings for a declaration of the **disappearance or death of a natural person**;
- (h) proceedings for a determination as to whether a natural person is a person with no or limited **legal capacity** for performing civil acts;
- (i) proceedings for the confirmation of the validity of an arbitration agreement or for an order to set aside an arbitral award;
- (j) proceedings for the recognition or enforcement of a judgment given by a court in a place outside the Mainland (for a Mainland Judgment) or a court in a place outside Hong Kong (for a Hong Kong Judgment);
- (k) proceedings for the recognition or enforcement of an **arbitral award** made by an arbitral tribunal in an arbitration for which the place of arbitration was not in the Mainland (for a Mainland Judgment) or the place of arbitration was not in Hong Kong (for a Hong Kong Judgment);
- (l) judgment given pursuant to **choice of court agreement** made before 29 January 2024⁵.

(II) Applying for registration in Hong Kong of Mainland Judgments in civil or commercial matters

¹ Please find supplementary provisions on excluded matrimonial or family cases under section 6 of the Ordinance. Subject to independent legal advice obtained in individual case, such judgments may be registrable under the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639).

² Please find supplementary provisions on excluded intellectual property cases under section 7 of the Ordinance.

³ For definition of “specified corporate process”, please refer to section 5(2) of the Ordinance.

⁴ For definition of “specified election proceedings”, please refer to section 5(2) of the Ordinance.

⁵ Subject to independent legal advice obtained in individual case, the Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap. 597) shall continue to apply to these judgments.

4. How do I make an application for registration in Hong Kong of a Mainland Judgment given in a civil or commercial case? What do I need to submit when making such application?

A registration application must be made *ex parte* to the Court of First Instance of the High Court by originating summons. The application must be supported by an affidavit containing such information and exhibiting such documents (including a sealed copy of the Mainland Judgment, a certificate issued by the original Mainland court certifying that the Judgment is a Mainland Judgment in a civil or commercial matter that is effective in the Mainland, etc.) as required by rule 4 of the [Mainland Judgments in Civil and Commercial Matters \(Reciprocal Enforcement\) Rules \(Cap. 645A\)](#) (the “Rules”).

The application must also be accompanied by the prescribed fee (currently, the amount is \$1,045; for details, please see Part 5 of and the Schedule to the Rules).

5. Can I make a registration application in relation to any Mainland Judgment in civil or commercial matters and at any time?

Registration applications may only be made in relation to Mainland Judgments which are given in civil or commercial matters on or after 29 January 2024, which are not excluded judgments and are effective in the Mainland. For what constitutes an “excluded judgment” and “effective Mainland Judgment”, please see FAQs 3 and 6 respectively.

Further, the registration application can only be made if a default in complying with the Mainland Judgment’s requirement occurred (such as a failure to pay a sum of money or perform an act) within 2 years before the date of the application.

6. What is an “effective Mainland Judgment”?

As defined under section 2(1) of the Ordinance, “Mainland Judgment” means a judgment, ruling, conciliatory statement or order of payment given or made by a court in the Mainland, but does **not** include a ruling given in respect of an **interim measure**.

Further, section 8 of the Ordinance provides that a Mainland Judgment is **effective** if:

- (a) it is enforceable in the Mainland; and
- (b) it is—
 - (i) it is a Mainland Judgment given by the Supreme People’s Court;
 - (ii) it is a Mainland Judgment of the second instance given by a High People’s Court or an Intermediate People’s Court; or

- (iii) it is a Mainland Judgment of the first instance given by a High People's Court, an Intermediate People's Court or a Primary People's Court, and—
 - (A) no appeal is allowed from the Judgment according to the law of the Mainland; or
 - (B) the time limit for appeal in respect of the Judgment has expired according to the law of the Mainland and no appeal has been filed.

Section 8(2) of the Ordinance provides that a Mainland Judgment mentioned in section 8(1)(b)(i), (ii) or (iii) includes a Mainland Judgment given according to the trial supervision procedure of the Mainland.

7. If, at the time when I make a registration application in relation to a Mainland Judgment given in a civil or commercial case, there are proceedings pending before an adjudicating court in Hong Kong in respect of the same cause of action on which the Mainland Judgment was given and between the same parties, what should I do?

According to section 29(2)-(4) of the Ordinance, you must notify the adjudicating court of the registration application as soon as the application is made. On receiving the notification, the adjudicating court must order that the pending Hong Kong proceedings be stayed until the adjudicating court makes an order for the pending Hong Kong proceedings to be resumed or terminated.

8. Following on FAQ 7, when will the court make an order for the pending Hong Kong proceedings to be resumed or terminated?

In accordance with section 29(5) of the Ordinance, the adjudicating court may make an order for the pending Hong Kong proceedings to be resumed or terminated only if —

- the registration application has been finally disposed of; and
- if a registration order to register the Judgment or part is made, the time limit for applying to set aside the registration has expired, or any setting aside application, if made, has been finally disposed of.

9. I am a party to a Mainland Judgment given in a civil or commercial case. If a registration application in relation to that Judgment is pending, or the Judgment or part is registered, can I commence proceedings in Hong Kong in respect of the same cause of action on which the Judgment was given?

According to section 30(2) of the Ordinance, you may **not** bring new proceedings in Hong Kong in respect of the same cause of action on which the Judgment or part was given.

That said, if the registration of the Judgment or part has been set aside, you will not be prevented from bringing new proceedings in a court in Hong Kong in accordance with section 30(3) of the Ordinance.

10. Apart from applying for registration under the Ordinance, are there alternative methods by which I can seek assistance from the Hong Kong courts in enforcing Mainland Judgments given in civil or commercial cases?

In accordance with section 31 of the Ordinance, a court in Hong Kong may not entertain any proceedings for the recovery of a sum of money required to be paid or the execution of any other relief ordered under a Mainland Judgment in a civil or commercial matter that is given on or after 29 January 2024 and that is effective in the Mainland, other than—

- (a) proceedings for registration under section 13(1) of the Ordinance; or
- (b) proceedings for the execution of a registered judgment.

11. What are the effects of a registered Mainland Judgment?

Section 26 of the Ordinance provides that a registered Mainland Judgment may be enforced in Hong Kong as if it were a judgment originally given by the Court of First Instance of the High Court, the Court had jurisdiction to give it and it were given on the day of registration of the judgment.

However, according to section 27 of the Ordinance, an action to enforce a registered judgment may be taken only after the expiry of the period within which an application for setting aside the registration of the judgment may be made or after any setting aside application, if made, has been finally disposed of.

12. If the Hong Kong court makes a registration order to register a Mainland Judgment given in a civil or commercial case, what follow up actions should the applicant take to notify the other parties to that Mainland Judgment?

Section 13 of the Ordinance provides that the applicant must serve a notice of registration of the Judgment or part on all persons, so far as known to the applicant, against whom the Judgment or part may be enforced. Please see rule 16 of the Rules for the methods of service of the notice of registration.

(III) Setting aside the registration of Mainland Judgments in civil or commercial matters

13. I am a party to a Mainland Judgment given in a civil or commercial case. I have been notified that the Mainland Judgment has been registered in Hong Kong. If I am not satisfied with the registered judgment, when can I make an application to set aside the registration?

Section 21 of the Ordinance provides that an application to set aside the registration of a registered judgment, or any part of such a judgment, may be made within 14 days after the date on which a notice of registration is served on you.

However, the Court of First Instance of the High Court may, when making a registration order for a Mainland Judgment in a civil or commercial matter, or any part of such a Judgment, to be registered, specify a longer or shorter period within which an application for setting aside the registration may be made.

14. What are the grounds upon which the registration of a Mainland Judgment must be set aside?

According to section 22(1) of the Ordinance, the grounds are as follows:

- (a) a **provision in Division 1 or 2 has not been complied** with (for example, an excluded judgment, ineffective judgment etc.);
- (b) the **jurisdictional requirement**⁶ is not satisfied in respect of the original proceedings for the registered judgment;
- (c) the defendant to the original proceedings for the registered judgment was **not summoned** to appear in the original Mainland court according to the law of the Mainland, or the defendant was so summoned but was **not given a reasonable opportunity to make submissions** or defend the proceedings;
- (d) the registered judgment was obtained by **fraud**;
- (e) the original proceedings for the registered judgment were accepted by a court in the Mainland after proceedings in respect of the same cause of action between the same parties were started in a court in Hong Kong;
- (f) a court in Hong Kong has **given a judgment** on the same cause of action between the same parties;
- (g) a court in a place **outside Hong Kong has given a judgment** on the same cause of action between the same parties, and the judgment has already been recognized or enforced by a court in Hong Kong;

⁶ For definition of “jurisdictional requirement”, please refer to section 23 of the Ordinance.

- (h) an arbitral tribunal has made an **arbitral award** on the same cause of action between the same parties in an arbitration for which the place of arbitration was in Hong Kong;
- (i) an arbitral tribunal has made an **arbitral award** on the same cause of action between the same parties in an arbitration for which the place of arbitration was not in Hong Kong, and the award has already been recognized or enforced by a court in Hong Kong;
- (j) the enforcement of the registered judgment is **manifestly incompatible with the public policy of Hong Kong**; or
- (k) the registered judgment has been reversed or otherwise set aside pursuant to **an appeal or a retrial** mentioned in section 24(1) of the Ordinance.

15. If the Court of First Instance of the High Court has set aside the registration of a Mainland Judgment, can I make a new registration application in relation to the same Mainland Judgment?

Section 25(1) of the Ordinance provides that if the Court of First Instance of the High Court sets aside the registration of a registered judgment, or any part of such a judgment (“original registration”), the person who made the registration application for the original registration may **not** make a further registration application to register the judgment or part.

However, section 25(2) of the Ordinance provides an **exception** where a further registration application may be made in relation to the same Mainland Judgment if the original registration is set aside solely on the ground set out in section 22(1)(a) of the Ordinance (i.e. a provision in Division 1 or 2 has not been complied with).

You may seek independent legal advice on the application of the relevant provisions if in doubt.

(V) Application for certified copies of and certificates for Hong Kong Judgments given in civil or commercial matters

16. How can I apply for a certified copy of a Hong Kong Judgment given in a civil or commercial case?

An application for a certified copy of a Hong Kong Judgment in a civil or commercial matter must be made *ex parte* on affidavit to the Registrar of the Court of Final Appeal, the High Court or the District Court (depending on the court which gave the Judgment). For details, please refer to rule 20 of the Rules.

The application must also be accompanied by the prescribed fee (currently, the amount is \$125; for details, please see Part 5 of and the Schedule to the Rules).

17. Can I make an application in relation to any Hong Kong Judgment given in a civil or commercial case?

Applications for certified copy of judgments may only be made in relation to those Hong Kong Judgments which are given in civil or commercial cases on or after 29 January 2024, and which are effective in Hong Kong and are given by a specified Hong Kong Court.

As defined under section 2(1) of the Ordinance, “Hong Kong Judgment” means a judgment, order, decree, allocatur, or certificate of fixed costs, however described, given or made by a specified Hong Kong court, but does **not** include an order for **interim relief or an anti-suit injunction**.

A “specified Hong Kong court” is further defined under section 2(1) of the Ordinance as —

- (a) the Court of Final Appeal;
- (b) the Court of Appeal;
- (c) the Court of First Instance;
- (d) the Competition Tribunal;
- (e) the District Court;
- (f) the Lands Tribunal;
- (g) the Labour Tribunal; or
- (h) the Small Claims Tribunal.

18. If the relevant requirements are met, what documents will be issued to the applicant by the court?

The Registrar of the Court of Final Appeal, the High Court or the District Court (as the case may be) will issue to the applicant:

- a sealed certified copy of the relevant Hong Kong Judgment; and
- a certificate certifying that the Judgment is a Hong Kong Judgment in a civil or commercial matter and is effective in Hong Kong.

For details, please refer to section 34 of the Ordinance and rules 22-23 of the Rules.