

(Courtesy English Translation)

**Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments
in Matrimonial and Family Cases by the Courts of the Mainland
and of the Hong Kong Special Administrative Region**

In accordance with the provisions of Article 95 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, the Supreme People's Court and the Government of the Hong Kong Special Administrative Region (HKSAR), after consultation, hereby make the following arrangement for the recognition and enforcement of judgments in civil matrimonial and family cases:

Article 1 This Arrangement applies to cases where a party applies to a court of the HKSAR for the recognition and enforcement of a legally effective judgment made by a people's court of the Mainland in a civil matrimonial and family case, and where a party applies to a people's court of the Mainland for the recognition and enforcement of a legally effective judgment made by a court of the HKSAR in a civil matrimonial and family case.

Where a party applies to a court of the HKSAR for recognition of a divorce certificate issued by a civil affairs department in the Mainland, or applies to a people's court of the Mainland for recognition of an agreement or memorandum for dissolution of a marriage under Part V or Part VA of the Marriage Reform Ordinance (Chapter 178 of the Laws of Hong Kong), this Arrangement applies correspondingly by reference

Article 2 A legally effective judgment referred to in this Arrangement:

(1) in the case of the Mainland, means a judgment of the second instance, a judgment of the first instance from which no appeal is allowed according to law or no appeal has been filed by the expiry of the statutory time limit for appeal, as well as the above types of judgments given in accordance with the trial supervision procedure;

(2) in the case of the HKSAR, means a legally effective judgment given by the Court of Final Appeal, the Court of Appeal and the Court of First Instance of the High Court and

the District Court, including any order that may be varied after a judgment has taken effect in accordance with the law of the HKSAR.

For the purposes of the preceding paragraphs, a judgment includes, in the case of the Mainland, any judgment, ruling and conciliatory statement; and in the case of the HKSAR, includes any judgment, order, decree, allocatur and certificate of fixed costs, but excludes any judgment given by a court of another country or place which is recognised in the Mainland or the HKSAR under their respective law.

Article 3 A civil matrimonial and family case referred to in this Arrangement:

(1) in the case of the Mainland, means:

1. dispute over division of the property of parties to a marriage during the subsistence of the marriage;
2. dispute over divorce;
3. dispute over property after divorce;
4. dispute over invalidity of a marriage;
5. dispute over annulment of a marriage;
6. dispute over a matrimonial property agreement;
7. dispute over custody or maintenance of a child arising from cohabitation;
8. dispute over confirmation of parentage;
9. dispute over custody or maintenance of a child;
10. dispute over spousal maintenance;
11. dispute over confirmation of an adoptive relationship;
12. dispute over right of guardianship (limited to guardianship of a minor child);
13. dispute over right of access to a child;
14. application for an order for protection of a person.

- (2) in the case of the HKSAR, means:
1. a decree absolute of divorce granted under Part III of the Matrimonial Causes Ordinance (Chapter 179 of the Laws of Hong Kong);
 2. a decree absolute of nullity granted under Part IV of the Matrimonial Causes Ordinance (Chapter 179 of the Laws of Hong Kong);
 3. an order made under the Matrimonial Proceedings and Property Ordinance (Chapter 192 of the Laws of Hong Kong) for maintenance pending the determination of a suit;
 4. a maintenance order made under the Guardianship of Minors Ordinance (Chapter 13 of the Laws of Hong Kong), the Separation and Maintenance Orders Ordinance (Chapter 16 of the Laws of Hong Kong), or Part II or Part IIA of the Matrimonial Proceedings and Property Ordinance (Chapter 192 of the Laws of Hong Kong);
 5. an order for transfer or sale of property made under the Guardianship of Minors Ordinance (Chapter 13 of the Laws of Hong Kong), or Part II or Part IIA of the Matrimonial Proceedings and Property Ordinance (Chapter 192 of the Laws of Hong Kong);
 6. an order made under the Married Persons Status Ordinance (Chapter 182 of the Laws of Hong Kong) with respect to property ;
 7. an order made under the Matrimonial Proceedings and Property Ordinance (Chapter 192 of the Laws of Hong Kong) for the alteration of maintenance agreements during the lives of the parties;
 8. an adoption order made under the Adoption Ordinance (Chapter 290 of the Laws of Hong Kong);
 9. a declaration regarding the parentage, legitimacy or legitimation made under the Matrimonial Causes Ordinance (Chapter 179 of the Laws of Hong Kong), or the Parent and Child Ordinance (Chapter 429 of the Laws of Hong Kong);

10. an order in relation to custody made under the Guardianship of Minors Ordinance (Chapter 13 of the Laws of Hong Kong), the Separation and Maintenance Orders Ordinance (Chapter 16 of the Laws of Hong Kong), or the Matrimonial Proceedings and Property Ordinance (Chapter 192 of the Laws of Hong Kong);
11. a custody order made in respect of a minor child who has been made a ward of court;
12. a non-molestation, ouster or re-entry order made under the Domestic and Cohabitation Relationships Violence Ordinance (Chapter 189 of the Laws of Hong Kong) and an order made under the Domestic and Cohabitation Relationships Violence Ordinance varying or suspending the execution of a custody or access order made in respect of a minor child.

Article 4 An application for recognition and enforcement of a judgment stipulated in this Arrangement:

(1) in the case of the Mainland, shall be filed with an Intermediate People's Court of the applicant's or the respondent's place of residence or habitual residence, or the place where the property of the respondent is located.

(2) in the case of the HKSAR, shall be filed with the District court.

An applicant shall apply to a people's court of the Mainland which meets the requirement in sub-paragraph (1) of the preceding paragraph. If an application is made to two or more people's courts having jurisdiction, the people's court which accepts the case first shall exercise jurisdiction.

Article 5 An applicant applying for recognition and enforcement of a judgment stipulated in Article 1(1) of this Arrangement shall submit the following documents:

(1) an application;

(2) a copy of the legally effective judgment affixed with the seal of the court which gave the judgment;

(3) a certificate issued by the court which gave the legally effective judgment certifying the judgment to be a legally effective judgment in a civil matrimonial and family case under this Arrangement;

(4) where the judgment is a default judgment, a document certifying that the party concerned has been lawfully summoned, unless the judgment expressly states the same, or the absent party is the party applying for recognition and enforcement;

(5) a notarised copy of the identity card.

An applicant applying for recognition and enforcement of a divorce certificate or an agreement or memorandum stipulated in Article 1(2) of this Arrangement shall submit the following documents:

(1) an application;

(2) a notarised copy of the divorce certificate, or a notarised copy of the agreement or memorandum;

(3) a notarised copy of the identify card.

Where a document submitted to a people's court of the Mainland is not in the Chinese language, the applicant shall submit an accurate Chinese translation.

Article 6 An application shall specify the following:

(1) particulars of the parties, including the name, address, particulars of identity documents, means of contact, etc.;

(2) details of the request and justifications for the application, and in the case of an application for enforcement, also the status and location of the property of the respondent;

(3) whether an application has been made for enforcement of the judgment in any other court, and the status of its enforcement.

Article 7 The time limit, procedures and manner for making an application for recognition and enforcement of a judgment shall be governed by the law of the requested place.

Article 8 The court shall examine the application for recognition and enforcement as soon as possible and make a decision or order.

Article 9 With respect to an application for recognition and enforcement of a judgment, the court shall refuse to recognise and enforce a judgment if, having examined the evidence adduced by the respondent to show any of the following, it is satisfied that:

(1) the respondent was not lawfully summoned in accordance with the law of the place of the original court; or although the respondent was lawfully summoned, the respondent was not given a reasonable opportunity to make representations or defend the respondent's case;

(2) the judgment was obtained by fraud;

(3) the judgment was rendered in an action which was accepted by a court of the requesting place after a court of the requested place has already accepted an action on the same dispute;

(4) a court of the requested place has rendered a judgment on the same dispute, or has recognised and enforced a judgment on the same dispute given by a court of another country or place.

Where a people's court of the Mainland considers that the recognition and enforcement of a judgment given by a court of the HKSAR is manifestly contrary to the basic principles of the law of the Mainland or the social and public interests of the Mainland, or where a court of the HKSAR considers that the recognition and enforcement of a judgment given by a

people's court of the Mainland is manifestly contrary to the basic principles of the law of the HKSAR or the public policy of the HKSAR, the judgment shall not be recognised or enforced.

Where an application for recognition and enforcement of a judgment concerns a minor child, in assessing and deciding whether to recognise and enforce a judgment in accordance with the preceding paragraph, the best interests of the minor child shall be fully considered.

Article 10 Where a court of the requested place cannot recognise and enforce a judgment in whole, it may recognise and enforce it in part.

Article 11 Where, in the case of a judgment given by a court of the HKSAR, a party has lodged an appeal, a people's court of the Mainland may, upon examination and verification of the above, suspend the recognition and enforcement proceedings. After the appeal, the recognition and enforcement proceedings shall be resumed if the original judgment is upheld in whole or in part, or terminated if the original judgment is reversed.

Where, in the case of a judgment given by a people's court of the Mainland, a decision of retrial has been made by a people's court of the Mainland, the court of the HKSAR may, upon examination and verification of the above, suspend the recognition and enforcement proceedings. After the retrial, the recognition and enforcement proceedings shall be resumed if the original judgment is upheld in whole or in part, or terminated if the original judgment is reversed upon retrial.

Article 12 For the purposes of this Arrangement, a judgment given by a people's court of the Mainland vesting a property in one party is deemed in the HKSAR to be an order for transfer of the property from one party to the other.

Article 13 Where the respondent has property in both the Mainland and the HKSAR which may be subject to enforcement, the applicant may file applications for enforcement with the courts of the two places respectively.

The total amount to be recovered from enforcing the judgment in the courts of the two places respectively shall not exceed the amount determined in the judgment. The court of

one place shall, at the request of the court of the other place, provide information on the status of the enforcement of the judgment.

Article 14 In respect of judgments for the award of property, the scope of reciprocal recognition and enforcement by the courts of the Mainland and of the HKSAR shall include the property awarded, the corresponding interest, payment for late compliance and costs, but shall not include taxes and penalties.

“Costs” referred to in the preceding paragraph, in the case of the HKSAR, means the costs taxed in an allocatur, allowed under a certificate of fixed costs, or the costs awarded under an order.

Article 15 Where any party is aggrieved by a decision or an order made by the court of the requested case on an application for recognition and enforcement of a judgment, the party may, in the case of the Mainland, apply to a people’s court at the next higher level for review within 10 days from the date of service of the decision or, in the case of the HKSAR, lodge an appeal according to its law.

Article 16 If in the course of adjudicating a civil matrimonial and family case, the court of one place receives an application brought by a party for recognition and enforcement of a judgment made by a court of the other place in respect of the same dispute, the application shall be accepted, and the action shall be suspended thereafter. The action shall be terminated or resumed depending on the ruling or order made in respect of the application for recognition and enforcement.

Article 17 In the course of examining an application for recognition and enforcement of a judgment, a party brings another action in respect of the same dispute, the action shall not be accepted, and any such action so accepted shall be dismissed.

If the judgment has been recognised and enforced by the court, another action brought by a party in respect of the same dispute shall not be accepted.

Where the recognition and enforcement of a judgment has been refused, the applicant shall not file another application for recognition and enforcement, but the applicant may bring an action regarding the same dispute before the court of the requested place.

Article 18 The court of the requested place may, before or after accepting any application for recognition and enforcement of a judgment, impose property preservation or mandatory measures in accordance with the law of the requested place.

Article 19 A party who applies for the recognition and enforcement of a judgment shall pay the fees in accordance with the laws and regulations on litigation fees of the requested place.

Article 20 This Arrangement shall apply to judgments made by the courts of the Mainland and of the HKSAR on or after the date of commencement of this Arrangement.

Article 21 Any problem arising from the implementation of this Arrangement or any amendment to be made to this Arrangement shall be resolved through consultation between the Supreme People's Court and the HKSAR Government.

Article 22 Following the promulgation of a judicial interpretation by the Supreme People's Court and the completion of the relevant internal procedures in the HKSAR, both sides shall announce a date on which this Arrangement shall commence.

This Arrangement is signed in duplicate in the HKSAR, this 20th day of June 2017.