

A BILL

To

Amend the Arbitration Ordinance to give effect to the Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region made between the Supreme People's Court of the People's Republic of China and the Government of the Hong Kong Special Administrative Region and to make minor textual amendments; and to update the Arbitration (Parties to New York Convention) Order.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Arbitration (Amendment) Ordinance 2021.

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- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
 - (3) Part 2 comes into operation on a day to be appointed by the Secretary for Justice by notice published in the Gazette.
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Part 2

Amendments to Arbitration Ordinance

2. Arbitration Ordinance amended

The Arbitration Ordinance (Cap. 609) is amended as set out in sections 3, 4 and 5.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of *Mainland award*—

Repeal

“in the Mainland by a recognized Mainland arbitral authority”.

(2) Section 2(1)—

Repeal the definitions of *recognized Mainland arbitral authority* and *the Mainland*.

(3) Section 2(1)—

Add in alphabetical order

“*Mainland* (內地) means the part of China other than Hong Kong, Macao and Taiwan;”.

4. Section 93 repealed (restrictions on enforcement of Mainland awards)

Section 93—

Repeal the section.

5. Section 97 repealed (publication of list of recognized Mainland arbitral authorities)

Section 97—

Repeal the section.

Part 3

Amendment to Arbitration (Parties to New York Convention) Order

- 6. Arbitration (Parties to New York Convention) Order amended**
The Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) is amended as set out in section 7.

 - 7. Schedule amended**
The Schedule—
Add in alphabetical order
“Ethiopia
Palau
Sierra Leone
Tonga”.
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Explanatory Memorandum

The main object of this Bill is to amend the Arbitration Ordinance (Cap. 609) (*principal Ordinance*) to give effect to the Supplemental Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region made between the Supreme People's Court of the People's Republic of China and the Government of the Hong Kong Special Administrative Region on 27 November 2020.

2. Clause 3 amends the definition of *Mainland award*, and repeals the definition of *recognized Mainland arbitral authority*, in section 2 of the principal Ordinance, and clause 5 repeals section 97 of the principal Ordinance. The effect is that as long as an arbitral award is made in accordance with the Arbitration Law of the People's Republic of China, it may be enforced under the principal Ordinance regardless of whether it is made by an arbitral authority specified in a list published under section 97 of the principal Ordinance. The need to publish such a list is accordingly dispensed with.
3. Clause 4 repeals section 93 of the principal Ordinance to remove the restriction under that section on the enforcement of Mainland awards. The effect is that a Mainland award may be enforced in Hong Kong even if a concurrent application is made on the Mainland for enforcement of the award.
4. Apart from the above, the Bill also—
 - (a) makes minor textual amendments concerning the definition of *the Mainland* in section 2 of the principal Ordinance (see clause 3); and

- (b) adds to the Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) 4 new parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York in 1958 (see clause 7).