

LEGISLATIVE COUNCIL BRIEF

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

MAINLAND JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS (RECIPROCAL ENFORCEMENT) RULES

MAINLAND JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS (RECIPROCAL ENFORCEMENT) ORDINANCE (COMMENCEMENT) NOTICE

INTRODUCTION

For the purpose of implementing the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Chapter 645) (“**Ordinance**”) –

_____ (a) the Chief Judge of the High Court made the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules (“**Rules**”) (at **Annex A**) under section 35 of the Ordinance; and

_____ (b) the Secretary for Justice made the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Commencement) Notice (“**Commencement Notice**”) (at **Annex B**) under section 1(2) of the Ordinance.

2. The Rules and the Commencement Notice are subject to negative vetting by the Legislative Council (“**LegCo**”).

BACKGROUND AND JUSTIFICATIONS

3. The Government of the Hong Kong Special Administrative Region and the Supreme People's Court (“SPC”) signed the arrangement titled 《關於內地與香港特別行政區法院相互認可和執行民商事案件判決的安排》 (“Arrangement”) on 18 January 2019.¹ The Arrangement will be implemented in the Mainland by way of judicial interpretation to be promulgated by the SPC.

4. In Hong Kong, the Arrangement will be implemented by the Ordinance passed by the LegCo on 26 October 2022. The Ordinance provides for mechanisms in respect of –

- (a) the registration in Hong Kong of Mainland Judgments in civil or commercial matters; and
- (b) the application to Hong Kong courts for certified copies of and certificates for Hong Kong Judgments in civil or commercial matters to facilitate parties in seeking recognition and enforcement of the Judgments in the Mainland.

5. It is necessary to make the Rules to complement the operation of the mechanisms established under the Ordinance. Under section 35 of the Ordinance, the Chief Judge of the High Court may make rules to provide for the practice and procedure relating to applications under the Ordinance and the execution of registered judgments, to prescribe the fees payable under the Ordinance and to provide generally for the better carrying out of the purposes and provisions of the Ordinance.

6. According to Article 29 of the Arrangement, following the preparation of the judicial interpretation by the SPC and the completion of the relevant procedures in Hong Kong, both sides shall announce a date on which the Arrangement would commence. The Arrangement will apply to judgments

¹ The English translation of the title of the Arrangement is “*Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region*”.

made on or after the commencement date of the Arrangement. The Government and the SPC have now agreed that the Arrangement shall take effect in Hong Kong and the Mainland simultaneously on 29 January 2024. We propose that the Ordinance and the Rules come into operation on the same day as the Arrangement.

THE PROPOSALS

(a) *The Rules*

7. The key provisions of the Rules are set out as follows –

- (a) Rule 1 provides that the Rules come into operation on the day on which the Ordinance comes into operation;
- (b) Part 2 of the Rules (rules 4 to 17) provides for matters relating to applications for the registration in Hong Kong of Mainland Judgments given in civil or commercial matters. Division 1 provides for registration applications to be made *ex parte* only. Division 2 sets out the information and documents required to be stated in and exhibited to the affidavit in support of a registration application. Division 3 provides that the court may order the applicant of a registration application to give security for costs. Division 4 provides for matters relating to registration, including registration orders, register of registered judgments and notices of registration. Division 5 provides for matters relating to setting aside applications;
- (c) Part 3 of the Rules (rules 18 to 19) provides for matters relating to the execution of registered judgments in Hong Kong;
- (d) Part 4 of the Rules (rules 20 to 23) provides for matters relating to applications for certified copies of Hong Kong Judgments given in civil or commercial matters and the issue of the relevant certificates; and

- (e) Part 5 of the Rules (rules 24 to 27) prescribes the fees payable in respect of applications made under sections 10 or 33 of the Ordinance and provides for related matters.²

(b) *The Commencement Notice*

8. Pursuant to section 1(2) of the Ordinance, the Ordinance comes into operation on a day to be appointed by the Secretary for Justice by notice published in the Gazette. The Secretary for Justice made the Commencement Notice to appoint 29 January 2024 as the day on which the Ordinance comes into operation.

LEGISLATIVE TIMETABLE

9. The legislative timetable for the Rules and the Commencement Notice is as follows –

(a) Publication in the Gazette	10 November 2023
(b) Tabling before the LegCo (for negative vetting)	15 November 2023
(c) Commencement of the Ordinance and the Rules	29 January 2024

IMPLICATIONS OF THE PROPOSAL

10. The Rules and the Commencement Notice are in conformity with the Basic Law, including the provisions concerning human rights, and will not affect

² Section 10(2) of the Ordinance provides that a registration application made in relation to a Mainland Judgment given in a civil or commercial matter must be accompanied by the prescribed fee.

Section 33(2) of the Ordinance provides that an application for a certified copy of a Hong Kong Judgment given in a civil or commercial matter must be accompanied by the prescribed fee.

the binding effect of the Ordinance. They have no environmental, family or gender implications, and no sustainability implications other than the economic implications.

11. As regards economic implications, the Ordinance and the Rules establish a more comprehensive mechanism for reciprocal enforcement of judgments (“**REJ**”) in civil and commercial matters between Hong Kong and the Mainland, thereby reducing the need for re-litigation of the same disputes in both places and offering better protection to the parties’ interests. They would enhance certainty and predictability of the cross-boundary enforceability of judgments in civil and commercial matters between the two places, and reduce the risks, legal costs, and time usually associated with the cross-boundary enforcement of such judgments. This would in turn improve the environment for cross-boundary trade and investment.

12. Further, the breakthrough in expressly including judgments on certain intellectual property rights makes Hong Kong the first jurisdiction to have an REJ arrangement with the Mainland with such a wide coverage. This would help consolidate Hong Kong’s status as a regional intellectual property trading centre as well as a regional centre for international legal and dispute resolution services as outlined in the 14th Five-Year Plan for National Economic and Social Development.

13. As regards financial and manpower resources implications, it is difficult to estimate the number of Mainland judgments that parties would seek to recognise and enforce in Hong Kong pursuant to the Ordinance and the Rules at this stage. Whether a judgment creditor would seek enforcement of a Mainland judgment in Hong Kong depends on a number of factors, including whether the judgment debtor voluntarily complies with the Mainland judgment (partially or otherwise) and whether the judgment debtor has assets which could be subject to execution in Hong Kong. At times, the method of execution chosen by a judgment creditor could be a commercial decision.

14. The implementation of the Ordinance and the Rules may also result in

additional work for the Judiciary. The Government and the Judiciary would closely monitor the need for additional resources required for implementing the Ordinance and the Rules. If additional financial and manpower resources are required, they would be sought with justifications in accordance with the established mechanism.

PUBLIC CONSULTATION

15. Between December 2021 and January 2022, the Government conducted a public consultation to invite views on the draft Rules alongside the draft Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill (“**Bill**”) from the community, including the legal sector, business communities and other interested parties. The Government also held meetings with some stakeholders to discuss the issues set out in the consultation paper. Most respondents indicated support for the implementation of the Arrangement through the draft Bill and the draft Rules.

16. On 28 March 2022, the Government briefed the LegCo Panel on Administration of Justice and Legal Services on the draft Bill and the draft Rules. Overall, members expressed support for both the draft Bill and the draft Rules.

17. In November 2023, the Government wrote to The Law Society of Hong Kong and the Hong Kong Bar Association, informing them of the changes made to the draft Rules as well as the proposed commencement date. The two professional bodies did not raise any comment.

PUBLICITY

18. Upon the publication of the Rules and the Commencement Notice in the Gazette, a press release will be issued and a spokesperson will be available for answering media enquiries.

19. We will also launch publicity programmes to familiarise the legal practitioners and the general public with the mechanisms established under the Ordinance. Such publicity programmes may include a seminar to be co-organised with the SPC, a dedicated webpage to be set up on the departmental website as well as distribution of promotional leaflets.

ENQUIRIES

20. Enquiries on this brief can be addressed to Ms Agnes LIU, Senior Assistant Solicitor General (Policy Affairs) 1 (Acting), at 3918 4018.

Department of Justice

8 November 2023

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**Mainland Judgments in Civil and Commercial Matters
(Reciprocal Enforcement) Rules**

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Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules

(Made by the Chief Judge under section 35 of the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645))

Part 1

Preliminary

1. Commencement

These Rules come into operation on the day on which the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645) comes into operation.

2. Interpretation

In these Rules—

identity card (身分證) has the meaning given by section 1A(1) of the Registration of Persons Ordinance (Cap. 177);

proof of identity (身分識別文件), in relation to a person, means—

- (a) the person's identity card; or
- (b) if the person is not a holder of an identity card, an identification document of the person notarized or otherwise duly authenticated in accordance with the law of the place in which the document was issued;

setting aside application (尋求作廢申請) means an application under section 20 of the Ordinance.

3. Application of Rules of High Court to proceedings under Ordinance

Except as provided by these Rules, the practice and procedure under the Rules of the High Court (Cap. 4 sub. leg. A) apply, with necessary modifications, in relation to all proceedings under the Ordinance before the Court.

Part 2

Registration of Mainland Judgments in Civil or Commercial Matters

Division 1—Registration Applications

4. Registration applications

- (1) A registration application must be made ex parte to the Court by originating summons in Form No. 11 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).
- (2) A registration application must be supported by an affidavit made in compliance with Division 2.

Division 2—Affidavits in Support

5. Affidavits for all registration applications: particulars of parties and Mainland Judgments

- (1) An affidavit in support of a registration application made in relation to a Mainland Judgment in a civil or commercial matter, or any part of such a Judgment, must exhibit the following documents—
 - (a) if the applicant is a natural person—a copy of the applicant's proof of identity;
 - (b) if the applicant is a body of persons incorporated, formed or established under the law of Hong Kong—
 - (i) a verified or certified or otherwise duly authenticated copy of its certificate of incorporation or any other similar document; and

- (ii) a copy of the proof of identity of 1 director or authorized representative of the applicant; or
- (c) if the applicant is a body of persons incorporated, formed or established under the law of a place outside Hong Kong—
 - (i) a verified or certified or otherwise duly authenticated copy of a document stating that the body was incorporated, formed or established in accordance with the law of that place; and
 - (ii) a copy of the proof of identity of 1 director or authorized representative of the applicant.
- (2) The affidavit must also exhibit the following documents—
 - (a) a copy of the Judgment duly sealed by the original Mainland court; and
 - (b) 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.
- (3) The deponent must state in the affidavit, to the best of the deponent's information or belief, the following particulars in relation to the applicant and each of the other parties to the original proceedings for the Judgment—
 - (a) if the applicant or the party is a natural person—
 - (i) the name;
 - (ii) the usual or last known address;
 - (iii) the number of the identity card or, if the applicant or the party is not a holder of an identity card, the type and number of any other identification document; and

- (iv) a means of contact; or
 - (b) if the applicant or the party is a body of persons—
 - (i) the name;
 - (ii) the usual or last known place of business; and
 - (iii) the following particulars of 1 director or authorized representative of the applicant or the party—
 - (A) the name, the position and the usual or last known address;
 - (B) the number of the identity card or, if the director or the authorized representative is not a holder of an identity card, the type and number of any other identification document; and
 - (C) a means of contact.
 - (4) The deponent must also state in the affidavit, to the best of the deponent's information or belief—
 - (a) that the Judgment is a Mainland Judgment in a civil or commercial matter; and
 - (b) that, at the date of the application, the Judgment is effective in the Mainland.
- 6. Affidavits for all registration applications: other particulars**
- (1) The deponent of an affidavit in support of a registration application made in relation to a Mainland Judgment in a civil or commercial matter, or any part of such a Judgment, must also state in the affidavit—
 - (a) that, to the best of the deponent's information or belief, the Judgment or part requires the payment of a sum of

- money, or the performance of an act, by a party to the original proceedings for the Judgment; and
- (b) if the Judgment or part requires the payment of more than one sum of money or the performance of more than one act—
 - (i) whether the application relates to all those sums of money or acts; and
 - (ii) if the application relates to only some, but not all, of those sums of money or acts—the sums of money or acts to which the application relates.
- (2) The deponent must also state in the affidavit, to the best of the deponent's information or belief—
- (a) that the applicant is entitled to enforce the Judgment or part in the Mainland;
 - (b) whether any action has been taken to enforce the Judgment or part and, if so, the details of the enforcement;
 - (c) whether proceedings are pending before a court in Hong Kong in respect of the same cause of action between the same parties; and
 - (d) that, if the Judgment or part were registered, the registration would not be, or be liable to be, set aside under section 22 of the Ordinance.
- (3) The deponent must also state in the affidavit, to the best of the deponent's information or belief—
- (a) any interest that, under the law of the Mainland, has become due under the Judgment or part up to the time of the registration;
 - (b) any costs duly certified by the original Mainland court; and

- (c) any fine or charge payable by a party to another party to the original proceedings for the Judgment for failing to comply with the Judgment or part within the time stipulated in the Judgment or part.
- (4) The affidavit must be accompanied by—
- (a) evidence relevant to the enforceability of the Judgment or part; and
 - (b) a statement of costs in respect of the application.
- (5) For an affidavit in which any interest, costs, fine or charge is stated under subrule (3)—
- (a) if the amount or rate of the interest, or amount or method of calculation of the costs, fine or charge, is not stated in the Judgment—the affidavit must be accompanied by evidence of the law of the Mainland under which the amount, rate or method is to be ascertained; and
 - (b) if the date on which the interest, costs, fine or charge has become due is not stated in the Judgment—the affidavit must be accompanied by evidence of the law of the Mainland under which the date is to be ascertained.
- 7. Affidavits for registration applications: Mainland Judgments given partly in respect of civil or commercial matters**
- (1) This rule applies if—
- (a) a Mainland Judgment is given in respect of different matters and some, but not all, of those matters are qualifying matters (within the meaning of section 3(3)(a) of the Ordinance); and
 - (b) a registration application is made for a registration order to register the Judgment to the extent that it relates to a qualifying matter.

- (2) The deponent of an affidavit in support of the application must also state in the affidavit, to the best of the deponent's information or belief, the part of the Judgment that is given in respect of a qualifying matter.

8. Affidavits for registration applications: Mainland Judgments prohibiting or restricting performance of acts

- (1) This rule applies if—
 - (a) a registration application is made in relation to a Mainland Judgment in a civil or commercial matter that prohibits or restricts the performance of an act; and
 - (b) the application relates to the prohibition or restriction.
- (2) The deponent of an affidavit in support of the application must also state in the affidavit, to the best of the deponent's information or belief—
 - (a) whether there has been a non-compliance with the prohibition or restriction; and
 - (b) the date on which the non-compliance first occurred.

9. Affidavits for registration applications: Mainland Judgments requiring sums of money or acts to be paid or performed (other than in stages)

- (1) This rule applies if—
 - (a) either—
 - (i) a registration application is made in relation to a Mainland Judgment in a civil or commercial matter that requires the payment of a sum of money; or
 - (ii) a registration application is made in relation to a Mainland Judgment in a civil or commercial matter that requires the performance of an act, and the

requirement is not a prohibition, or a restriction, on the performance of an act;

- (b) the Judgment does not require the sum of money or act to be paid or performed in stages; and
 - (c) the application relates to the sum of money or act.
- (2) The deponent of an affidavit in support of the application must also state in the affidavit, to the best of the deponent's information or belief—
 - (a) the details of the property of the person against whom the Judgment is enforceable under the law of the Mainland and the financial status of the person (as the case requires);
 - (b) whether the Judgment specifies a date by which the sum of money is to be paid, or the act is to be performed, and—
 - (i) if so—the date so specified; or
 - (ii) if not—the date on which the Judgment becomes effective; and
 - (c) the following (as the case requires)—
 - (i) the amount of money that remains unpaid as at the date of the application;
 - (ii) the act that remains unperformed as at the date of the application.

10. Affidavits for registration applications: Mainland Judgments requiring sums of money or acts to be paid or performed in stages

- (1) This rule applies if—
 - (a) either—

- (i) a registration application is made in relation to a Mainland Judgment in a civil or commercial matter that requires the payment of a sum of money; or
 - (ii) a registration application is made in relation to a Mainland Judgment in a civil or commercial matter that requires the performance of an act, and the requirement is not a prohibition, or a restriction, on the performance of an act;
 - (b) the Judgment requires the sum of money or act to be paid or performed in stages; and
 - (c) the application relates to the sum of money or act.
- (2) The deponent of an affidavit in support of the application must also state in the affidavit, to the best of the deponent's information or belief—
- (a) the details of the property of the person against whom the Judgment is enforceable under the law of the Mainland and the financial status of the person (as the case requires);
 - (b) for each stage—
 - (i) the date under the Judgment by which a sum of money or an act is required to be paid or performed; and
 - (ii) the amount of money or the act required to be paid or performed; and
 - (c) the following (as the case requires)—
 - (i) if a sum of money required to be paid in a stage has not been paid or fully paid—the stage and the amount of money that remains unpaid, as at the date of the application, in that stage;

- (ii) if an act required to be performed in a stage has not been performed or fully performed—the stage and the act that remains unperformed, as at the date of the application, in that stage.

11. Affidavits for registration applications: Mainland Judgments given in absence of party at trial

- (1) This rule applies to an affidavit in support of a registration application made in relation to a Mainland Judgment in a civil or commercial matter given in the absence of a party at the trial concerned.
- (2) The deponent must also state in the affidavit, to the best of the deponent's information or belief, any one or more of the following matters—
 - (a) that the absent party was summoned to appear in the original Mainland court according to the law of the Mainland;
 - (b) that the Judgment states that the absent party was so summoned;
 - (c) that the absent party is the applicant.
- (3) If the affidavit states only the matter mentioned in subrule (2)(a), the affidavit must also exhibit documents showing that the absent party was so summoned according to the law of the Mainland.

12. Affidavits for registration applications: where Mainland Judgments were registered previously

- (1) This rule applies if—
 - (a) a registration application (*current application*) is made in relation to a Mainland Judgment in a civil or commercial matter; and

- (b) the Court has on a previous registration application made a registration order (*previous registration order*) for the registration of the Judgment or any part of the Judgment (*previous registered judgment*).
- (2) The deponent of an affidavit in support of the current application must also state in the affidavit, to the best of the deponent's information or belief—
 - (a) whether the registration of any previous registered judgment has been set aside under section 22 of the Ordinance;
 - (b) whether the current application is made in relation to any previous registered judgment the registration of which has been set aside under that section and, if so, the ground for setting aside the registration; and
 - (c) any other information relevant to the current application.
- (3) The affidavit must also exhibit a copy of—
 - (a) all previous registration orders; and
 - (b) all orders made under section 22 of the Ordinance for setting aside the registration of any previous registered judgment.

Division 3—Security for Costs

13. Security for costs

The Court may order the applicant of a registration application made in relation to a Mainland Judgment in a civil or commercial matter to give security for the costs of—

- (a) the registration application; and
- (b) any setting aside application in relation to the registration of the Judgment.

Division 4—Registration

14. Registration orders

- (1) A registration order for the registration of a Mainland Judgment in a civil or commercial matter, or any part of such a Judgment, made on a registration application must be drawn up by or on behalf of the applicant.
- (2) The registration order must specify the period within which a setting aside application may be made in relation to the registration.
- (3) The registration order must contain a notification to the effect that the period mentioned in subrule (2) may be extended under section 21(3) of the Ordinance.
- (4) The registration order must also contain a notification to the effect that an action to enforce the Judgment or part may be taken only after the expiry of the period within which a setting aside application may be made or after such an application has been finally disposed of.

15. Register of registered judgments

- (1) The Registrar of the High Court must keep in the Registry of the High Court a register of registered judgments.
- (2) The register must contain the particulars of any execution issued on a registered judgment.

16. Notices of registration

- (1) A notice of registration of a Mainland Judgment in a civil or commercial matter, or any part of such a Judgment, required to be served under section 13(3)(b) of the Ordinance by a person (*applicant*) on another person (*recipient*) must be served—
 - (a) if the recipient is a natural person—

- (i) by delivering it to the recipient personally; or
 - (ii) by sending it by registered post addressed to the recipient at the usual or last known address of the recipient;
 - (b) if the recipient is a body of persons—
 - (i) by delivering it to an officer of the recipient personally; or
 - (ii) by sending it by registered post addressed to the recipient to the registered or principal office of the recipient; or
 - (c) in any other way directed by the Court.
- (2) Service of the notice out of jurisdiction is permissible without leave, and Order 11, rules 5, 5A, 6, 8 and 8A of the Rules of the High Court (Cap. 4 sub. leg. A) apply in relation to the notice as if the notice were a writ.
- (3) The notice must set out—
- (a) the full particulars of the registration order and of the Judgment or part;
 - (b) the applicant's name and address for service, which may be the address of the applicant's solicitor or agent for the purpose;
 - (c) the right of the recipient to apply under section 20 of the Ordinance to have the registration set aside; and
 - (d) the period within which a setting aside application may be made.
- (4) The notice must contain a notification to the effect that the period mentioned in subrule (3)(d) may be extended under section 21(3) of the Ordinance.

- (5) The notice must also contain a notification to the effect that an action to enforce the Judgment or part may be taken only after the expiry of the period within which a setting aside application may be made or after such an application has been finally disposed of.

Division 5—Setting Aside Registrations

17. Setting aside applications

- (1) A setting aside application in relation to the registration of a registered judgment, or any part of such a judgment, (*original registration*) must be made by summons supported by affidavit.
- (2) The Court may order any issue between the parties to be tried in any way in which an issue in an action may be ordered to be tried.
- (3) The Court may, either on its own initiative or on an application made by the person who made the registration application for the original registration, impose any terms (whether as to giving security or otherwise) the Court considers appropriate as a condition of the further conduct of the setting aside application if, having regard to all the circumstances of the case, the Court considers it just to do so.

Part 3

Execution of Registered Judgments

Note (with no legislative effect)—

Section 27 of the Ordinance provides that an action to enforce a registered judgment may be taken only after the expiry of the period within which a setting aside application may be made or after such an application has been finally disposed of.

18. Practice and procedure that apply to execution of registered judgments

Except as provided by this Part, the practice and procedure under the Rules of the High Court (Cap. 4 sub. leg. A) apply, with necessary modifications, in relation to proceedings for the execution of a registered judgment.

19. Issue of execution

- (1) A person wishing to issue execution on a registered judgment must produce to the Registrar of the High Court—
 - (a) an affidavit of service of the notice of registration of the judgment under rule 16;
 - (b) an affidavit mentioned in subrule (2); and
 - (c) any order made by the Court in relation to the judgment.
- (2) The affidavit must state—
 - (a) the registered judgment in relation to which the person wishes to issue execution;
 - (b) that, to the best of the deponent's information or belief, as at the date of the affidavit—
 - (i) the judgment is still effective in the Mainland; and

- (ii) the judgment has not been varied or revoked in the Mainland; and
- (c) to the best of the deponent's information or belief, as at the date of the affidavit—
 - (i) that the judgment has not been complied with; and
 - (ii) whether any action has been taken to enforce the judgment further to what has been stated in the affidavit in support of the registration application and, if so, the details of the enforcement.

Part 4

Certified Copies of and Certificates for Hong Kong Judgments

20. Interpretation of Part 4

In this Part—

Registrar (司法常務官)—

- (a) in relation to a Hong Kong Judgment given by the Court of Final Appeal—means the Registrar of the Court of Final Appeal;
- (b) in relation to a Hong Kong Judgment given by the Court of Appeal, Court of First Instance or Competition Tribunal—means the Registrar of the High Court; and
- (c) in relation to a Hong Kong Judgment given by the District Court, Lands Tribunal, Labour Tribunal or Small Claims Tribunal—means the Registrar of the District Court.

21. Applications for certified copies of Hong Kong Judgments

- (1) An application under section 33(1) of the Ordinance for a certified copy of a Hong Kong Judgment in a civil or commercial matter given by a specified Hong Kong court must be made *ex parte* on affidavit to that specified Hong Kong court.
- (2) The affidavit must—
 - (a) state the particulars of the original proceedings for the Judgment;
 - (b) state that the Judgment is a Hong Kong Judgment in a civil or commercial matter and is effective in Hong Kong;

- (c) if the Judgment prohibits or restricts the performance of an act, state—
 - (i) whether there has been a non-compliance with the prohibition or restriction; and
 - (ii) the date on which the non-compliance first occurred;
- (d) if the Judgment requires the payment of a sum of money or the performance of an act (other than a sum of money or an act required to be paid or performed in stages), and the requirement is not a prohibition, or a restriction, on the performance of an act, state—
 - (i) the date under the Judgment by which the sum of money is to be paid, or the act is to be performed; and
 - (ii) the following (as the case requires)—
 - (A) the amount of money that remains unpaid as at the date of the application;
 - (B) the act that remains unperformed as at the date of the application;
- (e) if the Judgment requires a sum of money or an act to be paid or performed in stages, and the requirement is not a prohibition, or a restriction, on the performance of an act, state—
 - (i) for each stage—
 - (A) the date under the Judgment by which a sum of money or an act is required to be paid or performed; and
 - (B) the amount of money or the act required to be paid or performed; and
 - (ii) the following (as the case requires)—

- (A) if a sum of money required to be paid in a stage has not been paid or fully paid—the stage and the amount of money that remains unpaid, as at the date of the application, in that stage;
- (B) if an act required to be performed in a stage has not been performed or fully performed—the stage and the act that remains unperformed, as at the date of the application, in that stage;
- (f) state whether, in the original proceedings for the Judgment, any objection was raised in respect of the exercise of jurisdiction over the proceedings by the specified Hong Kong court giving the Judgment and, if so, the grounds for the objection;
- (g) state whether any action has been taken to enforce the Judgment and, if so, the details of the enforcement;
- (h) state that the Judgment is not subject to any stay of execution;
- (i) state—
 - (i) that the time limit for review or appeal against the Judgment has expired or, if the time limit has not expired, the date on which it will expire; and
 - (ii) whether any notice of appeal against the Judgment has been entered; and
- (j) if applicable, state the rate at which the Judgment carries interest (if any).

22. Certified copies of Hong Kong Judgments

- (1) This rule applies if, on an application mentioned in rule 21, a specified Hong Kong court issues a certified copy under section

- 34(1) of the Ordinance in respect of a Hong Kong Judgment in a civil or commercial matter.
- (2) The certified copy must—
 - (a) be an office copy sealed with the seal of—
 - (i) for a Hong Kong Judgment given by the Court of Appeal or Court of First Instance—the High Court; or
 - (ii) for a Hong Kong Judgment given by any other specified Hong Kong court—the specified Hong Kong court; and
 - (b) be endorsed with a certificate signed by the Registrar certifying that the copy is—
 - (i) a true copy of a Hong Kong Judgment obtained in the specified Hong Kong court by which the Judgment was given; and
 - (ii) issued under section 34(1) of the Ordinance.

23. Certificates for Hong Kong Judgments

- (1) This rule applies if, on an application mentioned in rule 21, a specified Hong Kong court issues a certificate under section 34(2) of the Ordinance in respect of a Hong Kong Judgment in a civil or commercial matter.
- (2) The following documents must be annexed to the certificate—
 - (a) a copy of the writ, originating summons or other process by which the proceedings were begun (*originating process*); and
 - (b) a copy of the reasoned Judgment (if any).
- (3) The certificate must—

- (a) state that the Judgment is a Hong Kong Judgment in a civil or commercial matter and is effective in Hong Kong;
- (b) state whether any pleading or statement of case in the nature of pleading was served;
- (c) state either—
 - (i) the way in which the originating process was served on the other party or parties to the original proceedings for the Judgment; or
 - (ii) that the other party or all other parties acknowledged service of the originating process;
- (d) if the Judgment prohibits or restricts the performance of an act, state—
 - (i) whether there has been a non-compliance with the prohibition or restriction; and
 - (ii) the date on which the non-compliance first occurred;
- (e) if the Judgment requires the payment of a sum of money or the performance of an act (other than a sum of money or an act required to be paid or performed in stages), and the requirement is not a prohibition, or a restriction, on the performance of an act—state the amount of money that remains unpaid, or the act that remains unperformed, as at the date of the application, as stated in an affidavit made in compliance with rule 21(2)(d);
- (f) if the Judgment requires a sum of money or an act to be paid or performed in stages, and the requirement is not a prohibition, or a restriction, on the performance of an act—state the amount of money that remains unpaid, or the act that remains unperformed, in each stage as at the date of the application, as stated in an affidavit made in compliance with rule 21(2)(e);

- (g) if, in the original proceedings for the Judgment, an objection was raised in respect of the exercise of jurisdiction over the proceedings by the specified Hong Kong court giving the Judgment—state the grounds for the objection;
 - (h) state the date on which the Judgment takes effect;
 - (i) state whether any action has been taken to enforce the Judgment and, if so, the details of the enforcement;
 - (j) state that the time limit for review or appeal against the Judgment has expired or, if the time limit has not expired, the date on which it will expire;
 - (k) state whether any notice of appeal against the Judgment has been entered;
 - (l) state the rate at which the Judgment carries interest (if any); and
 - (m) state any other particulars that may be necessary to give to the court in the Mainland in which it is sought to obtain execution of the Judgment.
- (4) The certificate must—
- (a) be signed by the Registrar; and
 - (b) be sealed with the seal of—
 - (i) for a Hong Kong Judgment given by the Court of Appeal or Court of First Instance—the High Court; or
 - (ii) for a Hong Kong Judgment given by any other specified Hong Kong court—the specified Hong Kong court.

Part 5

Fees

24. Interpretation of Part 5

In this Part—

application document (申請文件), in relation to an application specified in column 2 of the Schedule, means a document prepared for the purpose of the application.

25. Fees prescribed for purposes of Ordinance

The fee prescribed for an application specified in column 2 of the Schedule is the amount specified in column 3 of that Schedule opposite the application.

26. Method of payment of fees

The fee prescribed for an application specified in column 2 of the Schedule must be paid—

- (a) by means of an adhesive stamp; or
- (b) by causing the application document to be franked with the amount paid.

27. Reduction etc. of fees

- (1) The Registrar may reduce, remit or defer payment of a fee paid or payable for an application specified in column 2 of the Schedule as the Registrar considers appropriate in a particular case.
- (2) If the Registrar reduces, remits or defers payment of a fee under subrule (1), the Registrar must endorse on the application

document a note of the reduction, remission or deferment and the reason for doing so.

(3) In this rule—

Registrar (司法常務官)—

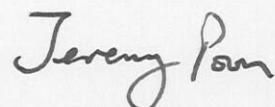
- (a) in relation to a registration application—means the Registrar of the High Court; and
- (b) in relation to an application under section 33(1) of the Ordinance for a certified copy of a Hong Kong Judgment—has the meaning given by rule 20.

Schedule

[rr. 24, 25, 26 & 27]

Fees

Column 1 Item	Column 2 Application	Column 3 Amount
1.	A registration application	\$1,045
2.	An application under section 33(1) of the Ordinance for a certified copy of a Hong Kong Judgment	\$125



Chief Judge

20th October 2023

Explanatory Note

The main purpose of these Rules is to provide for the practice and procedure relating to—

- (a) applications under the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645); and
 - (b) the execution of registered judgments (as defined by section 2(1) of that Ordinance).
2. Part 2 deals with matters relating to an application for the registration in Hong Kong of a Mainland Judgment in a civil or commercial matter.
 3. Part 3 deals with matters relating to the execution in Hong Kong of a registered judgment.
 4. Part 4 deals with matters relating to an application for a certified copy of a Hong Kong Judgment in a civil or commercial matter and for a certificate for the Judgment.
 5. Part 5 provides for matters relating to the fees payable for a registration application and an application for a certified copy of a Hong Kong Judgment in a civil or commercial matter.

Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement)
Ordinance (Commencement) Notice

1

**Mainland Judgments in Civil and Commercial Matters
(Reciprocal Enforcement) Ordinance (Commencement)
Notice**

Under section 1(2) of the Mainland Judgments in Civil and Commercial
Matters (Reciprocal Enforcement) Ordinance (Cap. 645), I appoint 29
January 2024 as the day on which the Ordinance comes into operation.



Secretary for Justice

30 October 2023