



Overview of the “Mainland Judgments in the Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance” (Cap.639)

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Introduction

Following the enactment of the “Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance” (Cap.639 of the Laws of Hong Kong) (“**Ordinance**”) in February 2022, the Hong Kong court may recognise and enforce the matrimonial or family cases of the Mainland judgments as listed out in Annex A hereto.

The legislative intent of the Ordinance is to reduce the need for litigants to re-litigate cases between the Mainland and the Hong Kong courts respectively and promote judicial effectiveness under “One Country, Two Systems”.

The Ordinance consists of twofold judicial mechanisms, namely “reciprocal recognition” and “reciprocal enforcement” and provides for the rules of operation thereof.

Registration Application

Registration in Hong Kong of Mainland judgments given in matrimonial or family case is commenced by an *ex-parte* registration application for one or more specified orders listed out in Annex B hereto (“**Specified Order**”) and supported by an affidavit evidence as well as a registration fee of HK\$1,045 to the District Court provided that the Specified Order is made on or after 15 February 2022. Some registrations of the Specified Order are subject to additional information required and requirements. Below is a non-exhaustive list of additional information required and requirements.

Additional Information and Requirements for Registration Application

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| Care-related Orders | <ul style="list-style-type: none"> • compliance or non-compliance with the order; • the date of the first non-compliance (if any); • enforcement action taken (if any); and/or • if the application is made after 2 years of the first non-compliance, specific permission from the District Court is required. |
| Maintenance-related Orders with non-periodical payment or performance | <ul style="list-style-type: none"> • enforcement action taken (if any); • the particulars of asset of the person subject to enforcement and the financial status of that person; • the effective date of the order or the performance date as specified in the order; • the amount unpaid or the particulars of the unperformed act; and/or • if the application is made after 2 years of the non-compliance, specific permission from the District Court is required. |
| Maintenance-related Orders with periodical payment or performance | <ul style="list-style-type: none"> • enforcement action taken (if any); • the particulars of assets of the person subject to the enforcement and the financial status of that person; • each payment due date or due date for each act required to be performed; |

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| | <ul style="list-style-type: none"> the amount unpaid or the particulars of non-performance; and/or if the application is made after 2 years of the due date or non-performance, specific permission from the District Court is required. |
| Mainland Judgment with absent party | <ul style="list-style-type: none"> documentary proof of summoning the absent party; the Judgment showing that the absent party was so summoned; and/or the absent party is the applicant. |

Included and Excluded Sum under the Registration

| Included Sums | Excluded Sums |
|--|---|
| Interest due under the Specified Order up to registration | Taxes or other charges of a like nature |
| Costs duly certified by the original Mainland court | |
| Fine or charge payable under the Specified Order | Fine or other penalty except for fine or charge payable under the Specified Order |
| Reasonable costs of, or incidental to, the registration of the Specified Order | |

Registration Orders

Where the District Court is satisfied that all thresholds for registration are met, the Specified Order may be registered (“**Registration Order**”).

Thereafter, the applicant must serve a notice of registration of the Specified Order on the parties concerned.

Setting Aside the Registration Application

Any party to the Specified Order may apply to set aside the registration of the Specified Order within the period specified by the District Court or the Court of First Instance (if the case is transferred to the Court of the First Instance) when making the Registration Order.

Effects of Registration

In case of care-related orders and maintenance-related orders, the Registration Order may be enforced in Hong Kong as if it were an order originally made by the Hong Kong Courts on the day of registration; or, in case of a status-related order, it is recognised as valid in Hong Kong after the time as specified by the Hong Kong Courts.

Effects of Recognition

A party to a divorce specified in a Mainland divorce certificate (“**Certificate**”) issued on or after 15 February 2022 may apply to the District Court for an order recognizing the Certificate as valid in Hong Kong by payment of an application fee of HK\$1,045.

The other party specified in the Certificate may apply to set aside the recognition order within the time as ordered by the District Court.

Annex A

A “matrimonial or family case of Mainland judgment” means the judgment in relation to:-

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

Annex B

“Specified Order” means:-

Care-related Order

1. Custody of a person aged under 18;
2. Custody of a person aged 18 or above with no ability of independence to live;
3. Guardianship of a person aged under 18;
4. Right of access in relation to a person aged under 18; or
5. Protection of a person from violence in a domestic relationship.

Status-related Order

1. Divorce;
2. Declaration of invalid marriage;
3. Annulment of a marriage; or
4. Parentage of a person.

Maintenance-related Order

1. Maintenance of a person aged under 18;
2. Maintenance of a person aged 18 or above with no ability of independence to live;
3. Spousal maintenance;
4. Division of property; or
5. Declaration of ownership of the property.