

Court rules and commencement notice related to Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance gazetted

The Government today (November 10) published in the Gazette the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Rules and Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Commencement) Notice. The Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance (Cap. 645) and the Rules will come into operation on January 29, 2024.

The Ordinance, which seeks to implement the 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 in Hong Kong, establishes mechanisms in Hong Kong in respect of the registration in Hong Kong of Mainland Judgments in civil or commercial matters and 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 on the Mainland. On the Mainland, the Arrangement will be implemented by way of judicial interpretation to be promulgated by the Supreme People's Court (SPC).

The Government and the SPC have agreed for the Arrangement to come into operation on January 29, 2024. The Secretary for Justice, under section 1(2) of the Ordinance, appointed January 29, 2024, as the day on which the Ordinance comes into operation.

To complement the operation of the mechanisms established under the Ordinance, the Chief Judge of the High Court made the Rules under section 35 of the Ordinance. The provisions of the Rules cover matters including practice and procedure relating to applications under the Ordinance and the execution of registered judgments and the fees payable under the Ordinance.

A spokesman for the Department of Justice (DoJ) said, "The implementation of the Ordinance and the Rules establishes 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.

"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 National 14th Five-Year Plan."

The DoJ conducted a public consultation on the draft Rules with the relevant draft Bill between December 2021 and January 2022, and in this connection held meetings with some stakeholders. The majority of responses received were supportive of the draft Rules. The DoJ then also consulted the Legislative Council Panel on Administration of Justice and Legal Services and its members expressed support for the draft Rules.

With a view to familiarising legal practitioners and the general public with the mechanisms established under the Ordinance and the Rules, the Government is planning to launch publicity programmes, which include a seminar to be co-organised with the SPC on the commencement day (January 29, 2024) at the Hong Kong Convention and Exhibition Centre, a dedicated webpage to be set up on the DoJ's departmental website as well as distribution of promotional leaflets.

The Rules and the Commencement Notice will be tabled before the Legislative Council next Wednesday (November 15) and be subject to negative vetting.