

Views sought on proposed arrangement on reciprocal recognition and enforcement of judgments in civil and commercial matters between Hong Kong and the Mainland

The Department of Justice (DoJ) today (July 31) issued a consultation paper on the proposed arrangement between Hong Kong and the Mainland on reciprocal recognition and enforcement of judgments in civil and commercial matters (Proposed Arrangement). Members of the community, including the legal profession, business organisations and other interested parties, are invited to submit their views on the Proposed Arrangement on or before September 24.

A spokesman for the DoJ said, "The Proposed Arrangement seeks to provide a mechanism for reciprocal recognition and enforcement of judgments (REJ) between the two places in a wider range of civil and commercial matters, reducing the need for re-litigation and offering better protection to the parties' rights."

Hong Kong has so far concluded five arrangements with the Mainland concerning various aspects of mutual legal assistance in civil and commercial matters. Two of these arrangements provide for REJ between the two places in civil and commercial matters.

The first REJ arrangement, signed in 2006, applies to money judgments made by the courts of either side where the parties to a commercial contract have agreed in writing that the court of one side will have exclusive jurisdiction to determine a dispute arising from that contract (Choice of Court Arrangement). The second arrangement, signed last year, provides for REJ in matrimonial or family matters (Matrimonial Arrangement).

Given the specific scope of application of these two Arrangements, they are not able to fully address the need for a comprehensive REJ mechanism arising from the increasingly close interaction and co-operation between the two places in terms of trade and economic activities as well as social interactions. The Proposed Arrangement will provide a more comprehensive legal framework for REJ with the Mainland covering civil and commercial judgments beyond the scope of application of the Choice of Court Arrangement and the Matrimonial Arrangement.

The Proposed Arrangement will set out the scope of application, requirements for reciprocal recognition and enforcement, grounds for refusal and the relevant procedural matters. The DoJ invites views and comments on various aspects of the Proposed Arrangement as well as its relationship with the Choice of Court Arrangement.

All views should be submitted on or before September 24, 2018, to the China Law Unit of the Legal Policy Division of the DoJ by mail (5/F, East Wing, Justice Place, 18 Lower Albert Road, Central, Hong Kong), by fax (3918 4799) or by email (rej@doj.gov.hk).

The consultation paper can be accessed on the DoJ's website (www.doj.gov.hk/eng/public/2018ConsultationPaper_LPD.html).