

《判決（強制執行措施）條例》 (第9章)

Judgments (Facilities for Enforcement) Ordinance (Cap. 9)

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尚未實施的條文 / 修訂 —

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制定史

本為 1921 年第 32 號（第 9 章，1950 年版）—— 1939 年第 33 號，1950 年第 24 號，1950 年第 37 號，1964 年編正版，1975 年第 92 號，1985 年第 37 號，1995 年第 (C)10 號法律公告（中文真確本），2019 年第 4 號編輯修訂紀錄

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《判決（強制執行措施）條例》

（第 9 章）

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Judgments (Facilities for Enforcement) Ordinance

(Cap. 9)

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本條例旨在利便在香港及英聯邦其他地方交互強制執行判決及裁定。

[1921年12月30日]

(格式變更——2019年第4號編輯修訂紀錄)

1. 簡稱

本條例可引稱為《判決(強制執行措施)條例》。

2. 釋義

(1) 在本條例中，除文意另有所指外——

判決 (judgment) 指在任何民事法律程序中，法院所作出或發出的判決或命令，而該判決或命令規定須繳付一筆款項；如仲裁法律程序中的裁定，依據在作出裁定當地生效的法律已成為可予強制執行的，而強制執行方式一如該地方的法院所作判決的強制執行方式一樣，則**判決**一詞亦包括該項裁定在內，但該詞不包括根據《外地判決(限制承認及強制執行)條例》(第46章)而不能在香港獲得承認或強制執行的判決；(由1939年第33號修訂；由1940年A840號政府公告補充附表修訂；由1985年第37號第6條修訂)

判定債務人 (judgment debtor) 指判決中被判敗訴的人；如判決在作出判決的地方可針對某人強制執行，則**判定債務人**一詞亦包括該人在內；

判定債權人 (judgment creditor) 指取得判決的人，包括該人的繼承人及承讓人；

原訟法院 (original court)，就任何判決而言，指作出該判決的法院。

To facilitate the reciprocal enforcement of judgments and awards in the Colony of Hong Kong and other parts of the Commonwealth.

[30 December 1921]

(Format changes—E.R. 4 of 2019)

1. Short title

This Ordinance may be cited as the Judgments (Facilities for Enforcement) Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

judgment (判決) means any judgment or order given or made by a court in any civil proceedings, whereby any sum of money is made payable and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, but does not include a judgment which by virtue of the Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance (Cap. 46) cannot be recognized or enforced in Hong Kong; (Amended 33 of 1939; G.N.A. 840 of 1940 Supp. Schedule; 37 of 1985 s. 6)

judgment creditor (判定債權人) means the person by whom the judgment was obtained and includes the successors and assigns of that person;

judgment debtor (判定債務人) means the person against whom the judgment is given and includes any person against whom the judgment is enforceable in the place where it was given;

- (2) 除法院規則另有規定外，本條例授予最高法院的任何權力，均可由最高法院任何大法官行使。（由1950年第24號附表修訂）

[比照 1920 c. 81 s. 12 U.K.]

3. 在香港強制執行從聯合王國取得的判決

- (1) 凡任何判定債權人在聯合王國高級法院取得判決，可於判決日期後的12個月內，或於最高法院所許可的較長期間內，向最高法院申請將該判決在最高法院登記；最高法院在接獲任何該類申請後，視乎該案件的所有情況，如認為為公正及方便起見，判決應在香港強制執行，即可在符合本條條文的規定下，命令據此而登記該判決。
- (2) 在下列情況下，不得根據本條而命令將判決登記——
- (a) 原訟法院在沒有司法管轄權下行事；或
 - (b) 判定債務人並非在原訟法院司法管轄範圍內經營業務，亦並非通常居於該範圍內，而該人又沒有自願到該法院應訊，亦沒有接受該法院的司法管轄權管轄，或同意接受如此管轄；或
 - (c) 即使判定債務人通常居於原訟法院司法管轄範圍內，或在該範圍內經營業務，或同意接受該法院的司法管轄權管轄，但其作為有關法律程序的被告人，並未妥獲送達原訟法院的有關法律程序文件，亦沒有到該法院應訊；或
 - (d) 判決是以欺詐手段取得的；或
 - (e) 判定債務人使登記判決的法院信納就判決提出的上訴仍未了結，或判定債務人有權及有意就判決提出上訴；或
 - (f) 判決是就某項訴因作出的，而由於公共政策或其他類似的理由，該項訴因是不可能獲最高法院受理的。

original court (原訟法院) in relation to any judgment means the court by which the judgment was given.

- (2) Subject to rules of court, any of the powers conferred by this Ordinance on the Supreme Court may be exercised by any judge thereof. (Amended 24 of 1950 Schedule)

[cf. 1920 c. 81 s. 12 U.K.]

3. Enforcement in the Colony of judgments obtained in the United Kingdom

- (1) Where a judgment has been obtained in a superior court in the United Kingdom, the judgment creditor may apply to the Supreme Court at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the Supreme Court, to have the judgment registered in the Supreme Court, and on any such application the Supreme Court may, if in all the circumstances of the case it thinks it just and convenient that the judgment should be enforced in the Colony, and subject to the provisions of this section, order the judgment to be registered accordingly.
- (2) No judgment shall be ordered to be registered under this section if—
- (a) the original court acted without jurisdiction; or
 - (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or
 - (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business

- (3) 凡根據本條登記任何判決——
- (a) 由登記之日起，該判決即具效力，並可就其提起法律程序，猶如該判決原本是於登記之日在最高法院取得的一樣；
 - (b) 最高法院對該判決所具有的控制權及司法管轄權，與其對本身作出的類似判決所具有的一樣，但只以涉及根據本條執行判決為限；
 - (c) 登記該判決及附帶的合理費用(包括向原訟法院取得一份判決的經核證副本及申請登記的費用)，可予以追討，追討方式猶如該等費用是根據該判決須繳付的款項一樣。
- (4) 法院規則須訂定有關以下事宜的條文——(由1950年第24號附表修訂)
- (a) 將關於判決根據本條獲登記的通知書向判定債務人送達的事宜；及
 - (b) 使最高法院在接獲判定債務人的申請後，可按其認為適當的條款規限下，將根據本條作出的判決登記作廢；及
 - (c) 暫停執行根據本條登記的判決，直至判定債務人可申請將登記作廢的期限屆滿為止。
- (5) 凡在最高法院就可能根據本條命令登記的判決提出訴訟，原告人無權追討有關訴訟的任何訟費，除非先前曾根據本條登記該判決的申請遭拒絕，或最高法院另有命令，則屬例外。

[比照 1920 c. 81 s. 12 U.K.]

- within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
 - (e) the judgment debtor satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment; or
 - (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the Supreme Court.
- (3) Where a judgment is registered under this section—
- (a) the judgment shall, as from the date of registration, be of the same force and effect, and proceedings may be taken thereon, as if it had been a judgment originally obtained on the date of registration in the Supreme Court;
 - (b) the Supreme Court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section;
 - (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.
- (4) Rules of court shall provide— (Amended 24 of 1950 Schedule)
- (a) for service on the judgment debtor of notice of the registration of a judgment under this section; and
 - (b) for enabling the Supreme Court on an application by the judgment debtor to set aside the registration of a

4. 簽發在香港取得的判決的證明書

凡已針對某人在最高法院取得判決，則最高法院在接獲判定債權人的申請，及在判定債務人經證明是居於聯合王國後，須向判定債權人簽發一份該判決的經核證副本。

(由 1950 年第 24 號附表修訂)

[比照 1920 c. 81 s. 10 U.K.]

5. 法院規則

根據《最高法院條例》(第4章)而訂定的法院規則，可訂定條文以規管本條例所指的任何類別法律程序所涉及的常規及程序(包括收費率及證據)。

(由 1950 年第 24 號附表代替。由 1975 年第 92 號第 58 條修訂)

[比照 1920 c. 81 s. 11 U.K.]

6. 將本條例引伸而適用於某些其他判決

judgment under this section on such terms as the court thinks fit; and

- (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.
- (5) In any action brought in the Supreme Court on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the Supreme Court otherwise orders.

[cf. 1920 c. 81 s. 12 U.K.]

4. Issue of certificates of judgments obtained in the Colony

Where a judgment has been obtained in the Supreme Court against any person, the Supreme Court shall, on an application made by the judgment creditor and on proof that the judgment debtor is resident in the United Kingdom, issue to the judgment creditor a certified copy of the judgment.

(Amended 24 of 1950 Schedule)

[cf. 1920 c. 81 s. 10 U.K.]

5. Rules of Court

Provision may be made by rules of court under the Supreme Court Ordinance (Cap. 4), for regulating the practice and procedure, (including scales of fees and evidence), in respect of proceedings of any kind under this Ordinance.

(Replaced 24 of 1950 Schedule. Amended 92 of 1975 s. 58)

[cf. 1920 c. 81 s. 11 U.K.]

6. Extension of the Ordinance to certain other judgments

凡總督會同行政局信納，將本條例的利益引伸而適用於聯合王國以外任何英聯邦地方的高級法院所作出的判決，會確保該英聯邦地方對在該地方強制執行最高法院所作出的判決，給予實質的互惠待遇，總督會同行政局可藉命令宣布將在本條例引伸而適用於該地方高級法院取得的判決，一如本條例引伸而適用於在聯合王國高級法院取得的判決一樣，而在任何該等命令發出後，本條例即據此適用。*

(由 1950 年第 37 號附表代替)

[比照 1920 c. 81 ss. 11, 13 & 14 U.K.; 比照 1933 c. 13 s. 1 U.K.]

編輯附註：

* 請參閱第 9B 至 9K 章。

Where the Governor in Council is satisfied that, in the event of the benefits of this Ordinance being extended to judgments given in the superior courts of any part of the Commonwealth outside the United Kingdom, substantial reciprocity of treatment will be assured as respects the enforcement in that part of the Commonwealth of judgments given in the Supreme Court, he may by order declare that this Ordinance shall extend to judgments obtained in a superior court in that part of the Commonwealth, in the like manner as it extends to judgments obtained in a superior court in the United Kingdom, and on any such order being made this Ordinance shall apply accordingly.*

(Replaced 37 of 1950 Schedule)

[cf. 1920 c. 81 ss. 11, 13 & 14 U.K.; 1933 c. 13 s. 1 U.K.]

Editorial Note:

* See Cap. 9B to 9K.