

Regulatory Framework for Opening, Operating and Closing a Business

Disclaimer: Any information rendered in this document is for general references only and should not be considered as legal advice. Users are strongly advised to seek independent legal advice if they are in doubt of their legal position.

Dispute Resolution

No.	Regulatory Framework	Link
Court Litigation		
<i>Time Standards</i>		
1.	Time period within which a final commercial judgment must be enforced	<ul style="list-style-type: none"> ➤ Section 4(4), Cap. 347 The Limitation Ordinance ➤ Rules 1 and 2 of Order 46 of the Rules, Cap. 4A The Rules of the High Court
2.	Time period within which the defendant must be served with a copy of the initial complaint in a commercial case	➤ Rule 8 of Order 6, Cap. 4A The Rules of the High Court
3.	Time period within which the defendant must file its statement of defense in a commercial case	➤ Rule 2(1) of Order 18 of the Rules, Cap. 4A The Rules of the High Court
<i>Procedural Certainty</i>		
4.	When a duly notified defendant fails to respond to a court summons or to appear in court, the judge may issue a default judgment	➤ Rule 1 of Order 13, Order 19 and Rule 1C(2) of Order 25, Cap. 4A The Rules of the High Court
5.	The enforcement agent is provided with the right to seize the debtor's monetary claims toward a third party	➤ Order 49, Cap. 4A The Rules of the High Court

No.	Regulatory Framework	Link
6.	The enforcement agent is provided with the right to seize the debtor's financial instruments, such as bonds and stocks	➤ Order 50 of the Rules, Cap. 4A The Rules of the High Court
7.	The enforcement agent is provided with the right to seize the debtor's electronic assets (for example, cryptocurrency)	➤ Order 45 of the Rules, Cap. 4A The Rules of the High Court
Foreign Judgments		
8.	The legal framework allows for recognizing and enforcing foreign judgments of countries with which no reciprocal agreements have been concluded	➤ Common law
9.	<p>The legal framework does not require legalization of foreign judgments in order to proceed with their recognition and enforcement</p> <p>For a foreign judgment to be enforced, it must be registered under the Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance or recognized under common law</p> <p>There are 15 designated countries under Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance, namely Australia, Bermuda, Brunei, India, Malaysia, New Zealand, Singapore, Sri Lanka, Belgium, France, Germany, Italy, Austria, the Netherlands and Israel. To register a judgment under Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance, the foreign judgment or a verified, certified or otherwise duly authenticated copy will be required. Under the common law regime, there are no specific requirements as to what documents must be provided, documents similar to an application under Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance should be provided</p>	<p>➤ Rule 3 of Order 71 and Rule 3 of Order 71A, Cap. 4A the Rules of High Court</p> <p>➤ Common law</p> <p>➤ Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance</p>

No.	Regulatory Framework	Link
10.	<p>The legal framework does not require that a security, bond, or deposit must be provided by a party who applies for the recognition and enforcement of a foreign judgment on the sole ground that such party is not domiciled or does not reside in your jurisdiction</p> <p>However, the Court may order the judgment creditor to give security for the costs of the application for registration of a foreign judgment and of any proceedings which may be brought to set aside the registration</p>	<p>➤ Rule 1 of Order 23, Rule 4 of Order 71 and Rule 4 of Order 71A, Cap. 4A The Rules of High Court</p>
<i>Gender Equality and Environmental Sustainability</i>		
11.	<p>The legal framework does not contain any restriction for a woman to become an arbitrator, or a mediator</p>	<p>➤ Cap. 609 Arbitration Ordinance</p> <p>➤ Cap. 620 Mediation Ordinance</p>
12.	<p>Women have the same rights as men in all stages of procedure in commercial litigation</p>	<p>➤ Articles 1 and 10 of Section 8, Cap. 383 Hong Kong Bill of Rights Ordinance</p>
13.	<p>The legal framework requires the government to collect from business entities information on their environmental impact and disclose it to the public (for example, in a public pollutant release)</p>	<p>➤ Cap. 499 Environmental Impact Assessment Ordinance</p>
Alternative Dispute Resolution		
<i>Acceptance of Arbitration</i>		
14.	<p>Arbitrating disputes involving rights over immoveable property (in rem) located within your jurisdiction is allowed</p>	<p>➤ Sections 19, 70(2) and 56(d), Cap. 609 Arbitration Ordinance</p>

No.	Regulatory Framework	Link
15.	Arbitrating corporate disputes (for example, decisions of executive bodies, shareholder arrangements, etc.) is allowed	➤ Section 19, Cap. 609 Arbitration Ordinance
16.	Arbitrating intellectual property disputes (for example, involving patents, copyrights, trademarks, etc.) is allowed, as long as they do not affect third party rights	➤ Section 103D, Cap. 609 Arbitration Ordinance
17.	Privately owned business entities is allowed to arbitrate commercial disputes with public bodies and state-owned enterprises	➤ Section 6, Cap. 609 Arbitration Ordinance
18.	The parties are allowed to select arbitrators regardless of their nationality, professional qualifications, and gender, both in domestic and international arbitration	➤ Sections 24(1) and 63, Cap. 609 Arbitration Ordinance
19.	The parties are allowed to freely choose either an arbitral institution or ad hoc arbitration to administer their case, both in domestic and international arbitration	➤ Sections 3 and 13, Cap. 609 Arbitration Ordinance
20.	The parties are allowed to freely select a legal counsel to represent them in arbitration regardless of the counsel's nationality, professional qualifications, admission to courts or membership in professional organizations (for example, a bar association), both in domestic and international arbitration	➤ Section 63, Cap. 609 Arbitration Ordinance
Key Elements of Arbitration		
21.	Arbitrators' duty of disclosure of any circumstances impacting their impartiality or independence, either before or after their appointment to the arbitral tribunal, both in domestic and international arbitration	➤ Sections 25 and 33(4), Cap. 609 Arbitration Ordinance

No.	Regulatory Framework	Link
22.	Parties are allowed to challenge an arbitrator if circumstances exist that may impact the arbitrator's independence or impartiality, both in domestic and international arbitration	➤ Section 25, Cap. 609 Arbitration Ordinance
23.	The legal framework incorporates the principle of kompetenz-kompetenz, which, on the one hand, recognizes the power of arbitrators to determine their own jurisdiction under the arbitration agreement and, on the other hand, requires the courts to defer to the arbitral tribunal over disputes relating to jurisdiction unless the underlying agreement is prima facie null and void, both in domestic and international arbitration	➤ Section 34, Cap. 609 Arbitration Ordinance
24.	Courts are allowed to order interim measures in support of arbitration, both in domestic and international arbitration	➤ Section 45, Cap. 609 Arbitration Ordinance
25.	Courts are allowed to order the production of documents or the appearance of witnesses in support of arbitration, both in domestic and international arbitration	➤ Section 55(2), Cap. 609 Arbitration Ordinance
26.	The legal framework does not provide that a domestic arbitral award is subject to appeal to a local court or review by an administrative agency (that is, an appeal against the award on the merits, different from the action to set aside, annul or vacate the award on the grounds of procedural irregularity or jurisdictional error)	➤ Section 5 of Schedule 2 and Section 99, Cap. 609 Arbitration Ordinance

No.	Regulatory Framework	Link
<i>Recognition and Enforcement of Arbitral Awards</i>		
27.	Courts may recognize as binding and enforce interim awards, both in domestic and international arbitration	➤ Sections 35, 61, 71, 84, 87, 92 and 98A, Cap. 609 Arbitration Ordinance
28.	Courts may recognize as binding and enforce partial awards, both in domestic and international arbitration	➤ Sections 71, 84, 87, 92 and 98A , Cap. 609 Arbitration Ordinance
29.	The legal framework does not allow the court to set aside, annul or vacate a domestic arbitral award on the grounds of error of law or error of fact, i.e., authorize it to review a domestic arbitral award on the merits (“révision au fond”)	➤ Section 5 of Schedule 2 and section 81, 99, Cap. 609 Arbitration Ordinance
30.	The legal framework does not allow the court to deny recognition and enforcement of a foreign arbitral award on the grounds of error of law or error of fact, i.e., authorize it to review a foreign arbitral award on the merits (“révision au fond”)	➤ Sections 86, 89, 95 and 98D, Cap. 609 Arbitration Ordinance
<i>Mediation</i>		
31.	Unless otherwise agreed by the parties, the mediator shall not serve as an arbitrator in respect of a dispute that was or is the subject of the mediation proceedings or another dispute that has arisen from the same or related contract or legal relationship	➤ Section 33, Cap. 609 Arbitration Ordinance
32.	Parties to mediation proceedings, the mediator and any involved third person are precluded from relying on evidence or testimony provided during the mediation proceedings in arbitration, court litigation, or other types of dispute resolution	➤ Sections 8-10, Cap. 620 Mediation Ordinance

No.	Regulatory Framework	Link
Court Litigation		
Judicial Integrity		
33.	A code of ethics for judges	➤ Guide to Judicial Conduct (2022)
Institutional Framework		
Streamlined Courts		
34.	There is a court or chamber of a court dedicated solely to hearing commercial cases at the first instance level	➤ Commercial List of the High Court Practice Direction SL1.1 Commercial List
35.	There is a small claims court and/or a fast-track procedure for small claims	➤ Small Claims Tribunal Cap. 338 Small Claims Tribunal Ordinance and its subsidiary legislation
36.	When a small claims court and/or a fast-track procedure for small claims is available, parties can self-represent themselves before it without an attorney	➤ The practices and procedures of the Small Claims Tribunal (a) Guide to Court Services (b) Cap. 338 Small Claims Tribunal Ordinance and its subsidiary legislation

Public Services that Facilitate Trade

[Including services provided by government bureaux and departments, and other public organisations]

Disclaimer: There are other digital public services that aim to facilitate business and compliance in Hong Kong. Please refer to the webpages of individual bureaux / departments / public organisations for details.

Dispute Resolution

No.	Public Services	Link
Alternative Dispute Resolution-Related Services		
Arbitration		
1.	There are domestic institutions that provides arbitration services with respect to commercial disputes, for both domestic and international arbitration	<ul style="list-style-type: none"> ➤ Hong Kong International Arbitration Centre ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center ➤ eBRAM International Online Dispute Resolution Centre
2.	The domestic arbitration institutions maintain an up-to-date publicly accessible roster of all qualified arbitrators, in which membership is not restricted based on such grounds as nationality, sex, residency, or belonging to a specific bar association, for both domestic and international arbitration	<ul style="list-style-type: none"> ➤ Hong Kong International Arbitration Centre ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center ➤ eBRAM

No.	Public Services	Link
3.	In commercial arbitration, parties can file, view, and download all submitted documents in an arbitration proceeding through a secure online platform of a domestic arbitration institution(s) in both domestic and international arbitration	<ul style="list-style-type: none"> ➤ Hong Kong International Arbitration Centre ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center ➤ eBRAM
4.	In commercial arbitration, virtual conferences and hearings can be securely held through an online platform or via videoconferencing, in both domestic and international arbitration	<ul style="list-style-type: none"> ➤ HKIAC Hong Kong International Arbitration Centre (Zoom, Webex, Blue Jeans, Microsoft Teams) ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center (Zoom is also used) ➤ eBRAM
5.	In commercial arbitration, an arbitral award can be securely signed electronically by all involved arbitrators, in both domestic and international arbitration	<ul style="list-style-type: none"> ➤ Hong Kong International Arbitration Centre (PDF signatures / DocuSign) ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center (as per arbitrators' preference) ➤ eBRAM

No.	Public Services	Link
6.	The domestic arbitration institution, or other relevant body, publish statistics on the number of commercial cases by category resolved through arbitration on biannual basis, in both domestic and international arbitration	➤ Hong Kong International Arbitration Centre
7.	The domestic arbitration institutions, or other relevant body, publish statistics on the time it takes to resolve different categories of commercial cases through arbitration, at least once a year, in both domestic and international arbitration	➤ Hong Kong International Arbitration Centre ➤ China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center
8.	The domestic arbitration institution, or other relevant body, regularly publish summaries of commercial arbitral awards, access to which is free of charge, in both domestic and international arbitration	➤ Hong Kong International Arbitration Centre
9.	The domestic arbitration institution, or other relevant body, publish statistics on the number of arbitrators disaggregated by sex, at least once a year, in both domestic and international arbitration	➤ Hong Kong International Arbitration Centre
Mediation		
10.	There are domestic institutions that provides mediation services with respect to commercial disputes for both court-annexed mediation and private mediation	For private mediation [Non-exhaustive]: ➤ Hong Kong Mediation Council and Hong Kong Mediation Centre

No.	Public Services	Link
11.	The domestic mediation institutions maintain an up-to-date publicly accessible roster of all qualified mediators, in which membership is not restricted based on nationality, sex, residency, or belonging to a specific bar association for both court-annexed mediation and private mediation	For private mediation [Non-exhaustive]: <ul style="list-style-type: none"> ➤ Hong Kong Mediation Council ➤ Hong Kong Mediation Centre ➤ Hong Kong Mediation Accreditation Association Limited
12.	In commercial mediation, parties can file a request to mediate through a secure online platform of the domestic mediation institution or website of the mediator in private mediation	➤ eBRAM Platform
13.	In commercial mediation, virtual meetings between parties and the mediator can be securely held through an online platform or via videoconferencing in private mediation	➤ eBRAM Platform
14.	In commercial mediation, a mediation settlement agreement can be securely signed electronically by all parties and the mediator in private mediation	➤ eBRAM Platform
Digitalization		
<i>Electronic Filing And Service</i>		
15.	The initial complaint together with all its attachments can be filed electronically through a court's platform or an electronic case management system (ECMS)	➤ Integrated Court Case Management System

No.	Public Services	Link
16.	The court's summons and the plaintiff's initial complaint can be served on the defendant electronically (including via email or an Electronic Case Management System (ECMS)) before the first hearing	➤ The electronic means is to be agreed between parties <u>Part E "Sending a document by a party to another party" under the e-Practice Direction 1 – The Use of Electronic Technology in Civil Proceedings of the District Court</u>
17.	Parties can receive and send subsequent documents, as well as file motions (for example, to request an injunction or reschedule a hearing) through a court's platform or an ECMS while a case is under consideration	➤ Integrated Court Case Management System
18.	When requested by a party, judges handling commercial cases can issue a court decision (for example, order, ruling, judgment, etc.) in an electronic format, which would have the same validity and status as a paper document for the purpose of its enforcement	➤ Integrated Court Case Management System
19.	A party can communicate with the court through electronic means, that is to send questions and receive notifications related to its case (for example, to inquire about a new court hearing or receive updates on additional submissions)	➤ Integrated Court Case Management System
20.	A party can communicate with the enforcement agent through electronic means, which includes receiving and submitting documents	➤ Integrated Court Case Management System
Digital Proceedings		
21.	The software used in online court conferences and hearings in a commercial case when requested by a party in all matters	➤ Browser Based Virtual Contact File system – JITS! ➤ Browser Based Virtual Contact File system – PEXIP
22.	All court fees can be paid electronically, that is via a court's platform, ECMS, or online banking	➤ Integrated Court Case Management System
23.	A party can track the status of its commercial case online (for example, through a court's platform or ECMS)	➤ Integrated Court Case Management System
24.	The court schedule of all hearings is available online	➤ Court Diary

No.	Public Services	Link
Transparency		
<i>Openness Of Courts</i>		
25.	All legal instruments (laws, regulations, directives, orders, etc.) are published in a searchable database that allows the public to study their latest versions free of charge	<ul style="list-style-type: none"> ➤ Hong Kong e-Legislation ➤ Judgments ➤ Practice Directions
26.	In-person court hearings of commercial cases are open to the general public, with no arbitrary restrictions being applied in practice (for example, denying access on the ground that the court room is full without providing an online alternative)	<ul style="list-style-type: none"> ➤ Practice Direction SL1.1 Commercial List ➤ Practice Direction 25.1 Chambers Hearings in Civil Proceedings in the High Court, the District Court and the Lands Tribunal
27.	All commercial judgments at the supreme and appellate court levels are published in a searchable database that allows the public to study them free of charge	<ul style="list-style-type: none"> ➤ Judgments
28.	All commercial judgments at the first instance level are published in a searchable database that allows the public to study them free of charge	<ul style="list-style-type: none"> ➤ Legal Reference System - Judgments
<i>Production of Key Statistics</i>		
29.	The judiciary, or other relevant body, publishes statistics on the number of judges disaggregated by individual court and by level of court (for example, first instance, appellate, supreme), at least once a year	<ul style="list-style-type: none"> ➤ Judiciary Fact Sheet ➤ Report on Judicial Remuneration Review 2023 (Table 1 on page 10)