

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
<i>Procedural certainty</i>		
1.	The legal framework provides for a 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
2.	The legal framework provides for a time period within which the defendant must file its statement of defense in a commercial case	➤ Rule 2(1) of Order 18, Cap. 4A The Rules of the High Court
3.	The legal framework provides for a time frame within which the judge must submit a complete written judgment after all hearings have been held	➤ Part B1 of Practice Direction 36
4.	The legal framework provides for holding a pre-trial hearing in commercial cases	➤ Section H of Practice Direction 5.2 ➤ Section D of Practice Direction SL1.1
5.	The legal framework provides that when a duly notified defendant fails to respond to a court summons or to appear in court, the judge may outright issue a judgment in favor of the plaintiff (default judgment)	➤ Rule 1 of Order 13, Order 19 and Rule 1C(2) of Order 25, Cap. 4A The Rules of the High Court

No.	Regulatory Framework	Link
6.	The legal framework allows for using apostille in the process of recognition and enforcement of a foreign judgment	<ul style="list-style-type: none"> ➤ Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents ➤ China (Hong Kong SAR) - Competent Authorities (Art. 6) ➤ Multilateral Agreements
7.	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	<ul style="list-style-type: none"> ➤ Section 5, Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance ➤ Section 23, Cap. 597 Mainland Judgments (Reciprocal Enforcement) Ordinance ➤ Rule 1 of Order 23, Rule 4 of Order 71 and Rule 4 of Order 71A, Cap. 4A The Rules of the High Court
8.	The legal framework does not allow the court to deny recognition and enforcement of a foreign judgment on the grounds of error of law or error of fact, i.e., authorize it to review a foreign judgment on the merits (“révision au fond”)	<ul style="list-style-type: none"> ➤ Section 6, Cap. 319 Foreign Judgments (Reciprocal Enforcement) Ordinance
9.	The legal framework provides the enforcement agent with the right to seize the debtor’s monetary claims toward a third party	<ul style="list-style-type: none"> ➤ Order 49, Cap. 4A The Rules of the High Court
10.	The legal framework provides the enforcement agent with the right to seize the debtor’s financial instruments, such as bonds and stocks	<ul style="list-style-type: none"> ➤ Order 50, Cap. 4A The Rules of the High Court
11.	The legal framework provides the enforcement agent with the right to seize the debtor’s electronic assets (for example, cryptocurrency)	<ul style="list-style-type: none"> ➤ Order 45, Cap. 4A The Rules of the High Court
12.	The legal framework imposes on business entities an obligation to consider the impact of their operations on the environment	<ul style="list-style-type: none"> ➤ Laws & Regulations

No.	Regulatory Framework	Link
<i>Judicial integrity</i>		
13.	According to the legal framework, women have the same rights as men in all stages of procedure in commercial litigation	➤ Articles 1 and 10 of Section 8, Cap. 383 Hong Kong Bill of Rights Ordinance
<i>Legal Safeguards in arbitration</i>		
14.	The legal framework allows the parties to freely select arbitrators regardless of their nationality and profession (that is, not only lawyers)	➤ Sections 24(1) and 63, Cap. 609 Arbitration Ordinance
15.	The legal framework allows the parties 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 specific bar association	➤ Section 63, Cap. 609 Arbitration Ordinance
16.	The legal framework allows privately owned business entities to arbitrate commercial disputes with public bodies and state-owned enterprises	➤ Section 6, Cap. 609 Arbitration Ordinance
17.	The legal framework explicitly allows the provision of third-party funding in arbitration	➤ Part 10A, Sections 98E, 98K and 98L, Cap. 609 Arbitration Ordinance
18.	The legal framework imposes on arbitrators a duty of disclosure of any circumstances impacting their impartiality or independence, either before or after their appointment to the arbitral tribunal	➤ Sections 25 and 33(4), Cap. 609 Arbitration Ordinance
19.	The legal framework allows parties to challenge an arbitrator if circumstances exist that may impact the arbitrator's independence or impartiality	➤ Section 25, Cap. 609 Arbitration Ordinance

No.	Regulatory Framework	Link
20.	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	➤ Section 34, Cap. 609 Arbitration Ordinance
21.	The legal framework allows courts to order interim measures in support of arbitration	➤ Section 45, Cap. 609 Arbitration Ordinance
22.	The legal framework allows courts to order the production of documents or the appearance of witnesses in support of arbitration	➤ Section 55(2), Cap. 609 Arbitration Ordinance
23.	The legal framework provides that courts may recognize as binding and enforce interim awards	➤ Sections 35, 61, 71, 84, 87, 92 and 98A, Cap. 609 Arbitration Ordinance
24.	The legal framework provides that courts may recognize as binding and enforce partial awards	➤ Sections 71, 84, 87, 92 and 98A, Cap. 609 Arbitration Ordinance
25.	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 81, Section 5 of Schedule 2 and Section 99, Cap. 609 Arbitration Ordinance
26.	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

No.	Regulatory Framework	Link
<i>Legal safeguards in mediation</i>		
27.	The legal framework allows the parties to freely select mediators regardless of their nationality and profession (that is, not only lawyers)	➤ Cap. 620 Mediation Ordinance does not prohibit the nationality and profession of the mediators
28.	The legal framework provides that, 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
29.	The legal framework precludes the parties to mediation proceedings, mediator and any involved third person from relying on or testifying regarding suggestions and statements made during the mediation proceedings in arbitration, court litigation, or other types of dispute resolution	➤ Sections 8-10, Cap. 620 Mediation Ordinance

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
<i>Public services for arbitration</i>		
1.	There is an established public agency or government unit tasked specifically with prevention and early resolution of investor-state disputes	➤ AALCO Hong Kong Regional Arbitration Centre
<i>Public services for arbitration</i>		
2.	In Hong Kong, domestic arbitration is available for resolving commercial disputes	➤ Hong Kong International Arbitration Centre
3.	In Hong Kong, international arbitration is available for resolving commercial disputes	➤ Hong Kong International Arbitration Centre
4.	In practice, the local arbitration institution provides for the emergency arbitration procedure	➤ Schedule 4, 2024 Administered Arbitration Rules
5.	In practice, the local arbitration institution provides for the early dismissal procedure	➤ Article 43, 2024 Administered Arbitration Rules

No.	Public Services	Link
6.	In practice, the local arbitration institution provides for the expedited (fast-track) procedure	➤ Article 42, 2024 Administered Arbitration Rules
7.	In practice, the local arbitration institution provides for consolidation of related arbitral proceedings and joinder of additional parties	➤ Articles 27-28, 2024 Administered Arbitration Rules
8.	The local arbitration institution maintains an up-to-date publicly accessible roster of all qualified arbitrators	➤ Panel & List of Arbitrators
9.	In commercial arbitration, parties can file, view, and download all submitted documents in an arbitration proceeding through a secure online platform of a local arbitration institution	➤ Case Connect
10.	In commercial arbitration, in practice, virtual conferences and hearings can be securely held through an online platform or via video conferencing	➤ Virtual Hearings
11.	In commercial arbitration, in practice, an arbitral award can be securely signed electronically by all involved arbitrators	➤ e-Signature Service
12.	The domestic arbitration institution(s), or other relevant body, publish statistics on the number of commercial cases resolved through arbitration, at least once a year	➤ Statistics
13.	The local arbitration institution, or other relevant body, publishes statistics on the time it takes to resolve commercial cases through arbitration, at least once a year	➤ Costs & Duration

No.	Public Services	Link
14.	The local arbitration institution(s), or other relevant body, regularly publishes summaries of commercial arbitral awards, access to which is public and free of charge	➤ Case Digest
15.	The local arbitration institution, or other relevant body, publishes statistics on the number of appointments of arbitrators disaggregated by sex, at least once a year	➤ Statistics
<i>Public services for mediation</i>		
16.	In Hong Kong, private mediation is available for resolving commercial disputes	➤ Hong Kong Mediation Council
17.	The local court or mediation institution maintains an up-to-date publicly accessible roster of all qualified mediators	➤ HKIAC Panel of Mediators ➤ Panel of Mediators
18.	In commercial mediation, in practice, parties can file a request to mediate electronically, either through a secure online platform or by email	➤ Online Mediation
19.	In commercial mediation, in practice, virtual meetings between parties and the mediator can be securely held through an online platform or via videoconferencing	➤ Online Mediation
20.	In commercial mediation, in practice, a mediation settlement agreement can be securely signed electronically by all parties and the mediator	➤ e-Signature Service

No.	Public Services	Link
21.	The local court or mediation institution, or other relevant body, publishes statistics on the number of appointments of mediators disaggregated by sex, at least once a year	➤ HKIAC Panel of Mediators