

Family Procedure Bill

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A BILL

To

Amend and consolidate the law relating to the courts' jurisdiction, powers, practice and procedure in family matters; to establish the Family Procedure Rules Committee for making a consolidated set of family procedure rules; and to make related amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Family Procedure Ordinance.
- (2) Subject to subsection (3), this Ordinance comes into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.
- (3) The following provisions come into operation on the day on which this Ordinance is published in the Gazette—

- (a) sections 1, 2, 3(1) (except paragraph (e)), (2) and (4) and 15;
- (b) Part 4;
- (c) section 28 (in so far as it relates to section 76 of the Schedule);
- (d) section 76 of the Schedule.

2. Interpretation

(1) In this Ordinance—

CFI means the Court of First Instance;

CFI Judge (原訟法庭法官) means—

- (a) the Chief Judge;
- (b) a judge, recorder or deputy judge mentioned in section 4(1) of the High Court Ordinance (Cap. 4);
or
- (c) a Justice of Appeal acting as a judge of the CFI under section 4(2) of the High Court Ordinance (Cap. 4);

child (未成年人) means a person under 18 years of age;

court (法庭) means the CFI or the Family Court;

Family Court (家事法庭) means a division of the District Court assigned by the Chief Justice to deal with family proceedings;

Family Judge (家事法官) means a judge, as defined by section 2 of the District Court Ordinance (Cap. 336), who sits in the Family Court;

family proceeding (家事法律程序)—see section 3;

financial order (財務命令)—see section 4;

High Court Judge (高等法院法官) means—

- (a) a CFI Judge; or
- (b) a Justice of Appeal of the Court of Appeal;

inherent jurisdiction (固有司法管轄權) means the CFI's power to make an order, or determine an issue, in respect of a child (including in a wardship proceeding) to ensure that the child is protected and properly taken care of, where it would be just and equitable to do so unless restricted by an enactment or case law;

inherent jurisdiction proceeding (固有司法管轄權法律程序) means a proceeding started in the CFI under its inherent jurisdiction;

judge (法官) means a CFI Judge or a Family Judge;

Master (聆案官)—

- (a) in relation to a family proceeding in the High Court, means a Master of the High Court; and
- (b) in relation to a family proceeding in the Family Court, means a Master of the District Court;

Master of the District Court (區域法院聆案官) means a Master within the meaning of sections 14, 14A and 14B of the District Court Ordinance (Cap. 336);

Master of the High Court (高等法院聆案官) means a Master as defined by section 2 of the High Court Ordinance (Cap. 4);

matrimonial cause (婚姻訴訟) means a proceeding for any of the following matters—

- (a) divorce;
- (b) nullity of marriage;
- (c) judicial separation;
- (d) presumption of death and dissolution of marriage;

Practice Direction (實務指示) means a direction made under section 22 by—

- (a) the Chief Justice; or
- (b) a High Court Judge designated by the Chief Justice under section 22(2);

prescribed (訂明) means prescribed by the Rules;

Registrar (司法常務官)—

- (a) in relation to a family proceeding in the High Court, means the Registrar of the High Court; and
- (b) in relation to a family proceeding in the Family Court, means the Registrar of the District Court;

Registrar of the District Court (區域法院司法常務官) means the Registrar as defined by section 2 of the District Court Ordinance (Cap. 336);

Registrar of the High Court (高等法院司法常務官) means the Registrar as defined by section 2 of the High Court Ordinance (Cap. 4);

Rules (《規則》) means the rules made by the Rules Committee under Part 4;

Rules Committee (規則委員會) means the Family Procedure Rules Committee established by section 24.

(2) In this Ordinance—

- (a) a reference to a proceeding being started has the same meaning as the proceeding being commenced or instituted even though the words “commenced”, “instituted” or similar expressions are used in relation to such a proceeding in another Ordinance; and

- (b) a reference to a permission of a court to do an act has the same meaning as the leave of the court to do the act even though the word “leave” is used in relation to such an act in another Ordinance.

3. **Meaning of *family proceeding***

- (1) A family proceeding is—
 - (a) an inherent jurisdiction proceeding;
 - (b) a matrimonial cause;
 - (c) a proceeding other than a matrimonial cause started under the Matrimonial Causes Ordinance (Cap. 179);
 - (d) a proceeding started under—
 - (i) an Ordinance specified in subsection (2); or
 - (ii) any subsidiary legislation made under the Ordinance; or
 - (e) a proceeding started under any repealed legislation.
- (2) For subsection (1)(d)(i), the following Ordinances are specified—
 - (a) the Guardianship of Minors Ordinance (Cap. 13);
 - (b) the Separation and Maintenance Orders Ordinance (Cap. 16);
 - (c) the Marriage Reform Ordinance (Cap. 178);
 - (d) the Marriage Ordinance (Cap. 181);
 - (e) the Married Persons Status Ordinance (Cap. 182);
 - (f) the Legitimacy Ordinance (Cap. 184);
 - (g) the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188);
 - (h) the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189);

- (i) the Matrimonial Proceedings and Property Ordinance (Cap. 192);
- (j) the Adoption Ordinance (Cap. 290);
- (k) the Parent and Child Ordinance (Cap. 429);
- (l) the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481);
- (m) the Child Abduction and Custody Ordinance (Cap. 512);
- (n) the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639).

(3) In subsection (1)(e)—

repealed legislation (被廢除法例) means any of the following subsidiary legislation repealed by the Schedule—

- (a) the Attachment of Income Order Rules (Cap. 13 sub. leg. A);
 - (b) the Matrimonial Causes Rules (Cap. 179 sub. leg. A);
 - (c) the Maintenance Orders (Reciprocal Enforcement) Rules (Cap. 188 sub. leg. A);
 - (d) the Domestic and Cohabitation Relationships Violence Rules (Cap. 189 sub. leg. A);
 - (e) the Adoption Rules (Cap. 290 sub. leg. A);
 - (f) the Convention Adoption Rules (Cap. 290 sub. leg. D);
 - (g) the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Rules (Cap. 639 sub. leg. A).
- (4) To avoid doubt, a family proceeding includes any subsequent action or application brought to vary, discharge, suspend, rescind or set aside an order made by

the court in a family proceeding or revive such an order, where no error of the court is alleged in relation to the making of the order.

4. Meaning of *financial order*

- (1) A financial order—
 - (a) is an order made under a provision specified in subsection (2); and
 - (b) includes an order that varies, discharges, suspends, rescinds or sets aside such an order, or revives such an order that has been suspended.
- (2) For subsection (1)(a), the following provisions are specified—
 - (a) section 10(2), 11(1)(b), 12(b) or 13(2), (3) or (4) of the Guardianship of Minors Ordinance (Cap. 13);
 - (b) section 5(1)(c), (d) or (e), 7 or 9 of the Separation and Maintenance Orders Ordinance (Cap. 16);
 - (c) section 17A of the Matrimonial Causes Ordinance (Cap. 179);
 - (d) section 6 of the Married Persons Status Ordinance (Cap. 182);
 - (e) section 5, 6 or 10 of the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188);
 - (f) section 3, 4, 5, 6, 6A, 8, 11, 13, 15, 16, 17 or 23 or Part IIA of the Matrimonial Proceedings and Property Ordinance (Cap. 192) (except section 29AC of that Ordinance concerning the leave of the CFI or the Family Court being required for applications for financial relief);
 - (g) section 4, 7, 8, 9 or 12 of the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481).

5. Application of this Ordinance

- (1) This Ordinance applies to every family proceeding, whether it is in the High Court or the Family Court.
 - (2) To avoid doubt, unless otherwise provided by this Ordinance, this Ordinance applies to a family proceeding that was started in, or transferred or retransferred to, the High Court or the Family Court before the commencement date of this section.
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Part 2

Jurisdiction and Powers of Courts in Family Proceedings

6. Matters within CFI's exclusive jurisdiction

- (1) Subject to section 7(2), the CFI has exclusive jurisdiction over the family proceedings for the following matters—
 - (a) an application for interim relief under section 21M of the High Court Ordinance (Cap. 4);
 - (b) an application to obtain consent of the CFI to the marriage of a ward of court under section 14(2) of the Marriage Ordinance (Cap. 181);
 - (c) an appeal against the decision of the Registrar (as defined by section 2 of the Marriage Ordinance (Cap. 181)) (*Registrar of Marriages*) on a person's right to forbid a certificate of the Registrar of Marriages being issued under section 18 of that Ordinance;
 - (d) an application under Part 5 of the Adoption Ordinance (Cap. 290) in relation to an adoption to which the Convention (as defined by section 20A of that Ordinance) applies;
 - (e) an application under section 23B of the Adoption Ordinance (Cap. 290) by the Director of Social Welfare for an order passing care and control of an infant (as defined by section 2 of that Ordinance) with a view to the adoption of the infant by a person not residing in Hong Kong;
 - (f) an application under Part 2 of the Child Abduction and Custody Ordinance (Cap. 512).

- (2) Subject to section 7(2), the CFI also has exclusive jurisdiction over an application for an order that may be made under the CFI's inherent jurisdiction, including an application to make a child a ward of court.

7. Matters within Family Court's jurisdiction

- (1) Unless otherwise provided by an enactment, the Family Court has jurisdiction over all family proceedings.
- (2) The Family Court has jurisdiction over a family proceeding (or an application in an inherent jurisdiction proceeding) that falls within the CFI's exclusive jurisdiction if—
 - (a) for a family proceeding—the proceeding is transferred by the CFI to the Family Court under section 8(3); or
 - (b) for an application—the application is transferred by the CFI to the Family Court under section 9(2).
- (3) The Family Court has jurisdiction over a family proceeding even if the amount claimed in the proceeding is more than the limit of the District Court's jurisdiction under the District Court Ordinance (Cap. 336).
- (4) The Family Court has jurisdiction to make an order concerning interest in or related to land in a family proceeding even if the annual rent or the rateable value of the land, ascertained under the Rating Ordinance (Cap. 116), is more than the limit of the District Court's jurisdiction under the District Court Ordinance (Cap. 336).

8. Transfer of proceedings between CFI and Family Court

- (1) This section applies in relation to every family proceeding (other than an inherent jurisdiction proceeding).

- (2) The Family Court may, on its own initiative or at the instigation of a party, transfer a family proceeding before it to the CFI either in whole or in part if, having regard to all the circumstances, the Family Court considers that the proceeding ought to be heard in the CFI.
- (3) The CFI may, on its own initiative or at the instigation of a party, transfer or retransfer a family proceeding before it to the Family Court, either in whole or in part—
 - (a) for the conduct of a financial dispute resolution hearing or a children dispute resolution hearing; or
 - (b) if, having regard to all the circumstances, the CFI considers that the proceeding ought to be heard in the Family Court.
- (4) If a family proceeding has been transferred from the CFI to the Family Court, the Family Court may not retransfer the proceeding back to the CFI unless—
 - (a) the Family Court is satisfied that there is a change in circumstances since the transfer from the CFI such that, having regard to all the circumstances, the Family Court considers that the proceeding ought to be heard in the CFI; or
 - (b) the Family Court is so directed by the CFI.
- (5) In considering whether a family proceeding should be transferred or retransferred from one court to another, the court must, if a child is involved, regard the best interests of the child as the paramount consideration.

9. Transfer of applications in CFI's inherent jurisdiction proceedings

- (1) This section applies only in relation to an inherent jurisdiction proceeding.

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- (2) The CFI may, on its own initiative or at the instigation of a party, transfer an application in an inherent jurisdiction proceeding before it to the Family Court either in whole or in part if—
 - (a) the nature of the issues of fact or law involved makes the application more suitable for hearing in the Family Court; and
 - (b) the application falls within the Family Court's jurisdiction.
 - (3) The Family Court may, on its own initiative or at the instigation of a party, retransfer the application back to the CFI if the Family Court is satisfied that there is a change in circumstances since the transfer from the CFI such that, having regard to the nature of the issues of fact or law involved, the Family Court considers that the application ought to be heard in the CFI.
 - (4) However, the Family Court must retransfer the application back to the CFI if—
 - (a) a decision is required as to whether the child involved should remain a ward of court;
 - (b) the Family Court has no jurisdiction in dealing with the matter in issue; or
 - (c) the Family Court is so directed by the CFI.
 - (5) In considering whether an application should be transferred or retransferred from one court to another, the court must, if a child is involved, regard the best interests of the child as the paramount consideration.

10. Determination of family proceedings started under other Ordinances

If the court exercises the jurisdiction under this Ordinance over a family proceeding started under another Ordinance, the court must make its determination in accordance with the provisions of that Ordinance and any subsidiary legislation made under that Ordinance.

11. Power to make declaration of beneficial ownership in favour of or against third party

- (1) In a family proceeding, the court has power to make a declaration of beneficial ownership in favour of or against a third party.
- (2) The court must, before making a declaration of beneficial ownership in favour of or against a third party, direct that the third party be joined as a party to the proceeding or that notice of the proceeding be served on the third party, unless it is not practicable to do so.

12. Finality of court order

Unless otherwise provided by an enactment, an order of the court in a family proceeding is final and conclusive between the parties.

13. Powers of judge

- (1) If an enactment or a Practice Direction provides for the court to perform a function in relation to a family proceeding, then unless otherwise provided by another enactment, the function may be performed—
 - (a) in relation to a proceeding in the CFI—by a CFI Judge; and

- (b) in relation to a proceeding in the Family Court—by a Family Judge.
- (2) A CFI Judge hearing a family proceeding has all the powers conferred on a judge of the CFI by the High Court Ordinance (Cap. 4) in relation to civil cases.
- (3) A Family Judge hearing a family proceeding has all the powers conferred on a judge of the District Court by the District Court Ordinance (Cap. 336) in relation to civil cases.

14. Power of judge in chambers

A judge may exercise in chambers the jurisdiction vested in the court in relation to family proceedings as provided by the Rules.

15. Jurisdiction, powers and duties of Registrar and Master

- (1) The Registrar may under the general or special directions of a judge hear and determine an application or matter in a family proceeding that may be heard and determined in chambers.
- (2) All the jurisdiction, powers and duties conferred on the Registrar in relation to family proceedings may be exercised and performed by a Master.
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Part 3

Practice and Procedure

16. Proceedings generally started in Family Court

Subject to section 17, a family proceeding for a matter must start in the Family Court unless—

- (a) the CFI has exclusive jurisdiction in the matter;
- (b) another enactment requires the proceeding to start in the CFI; or
- (c) there are exceptional circumstances.

17. Proceedings in original court for specific applications

An application in relation to an order or direction referred to in the following provisions must be made to the court that made the order or direction—

- (a) section 4(4), 10(4), 11(2), 12(c), 14(2) or 20B(10) of the Guardianship of Minors Ordinance (Cap. 13);
- (b) section 7(1) or 9C(10) of the Separation and Maintenance Orders Ordinance (Cap. 16);
- (c) section 48(2) or (3), 48A(5) or 53B(10) of the Matrimonial Causes Ordinance (Cap. 179);
- (d) section 5(6) of the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188);
- (e) section 7A of the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189);
- (f) section 11, 12, 13, 19(6), 23 or 28AB(10) of the Matrimonial Proceedings and Property Ordinance (Cap. 192);

- (g) section 13(1) of the Parent and Child Ordinance (Cap. 429) (in so far as it relates to the revocation or variation of a direction);
- (h) section 8(1), 9(2) or 18(1) of the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481).

18. Proceedings generally heard in private

- (1) Unless otherwise provided by an enactment, a family proceeding, whether held in court or in chambers, must be heard in private and in accordance with the Practice Direction on mode of hearing.
- (2) However, subject to subsection (3), a matrimonial cause must be heard in open court.
- (3) In a proceeding for nullity of marriage, evidence on the question of sexual capacity must be heard in private.
- (4) Despite subsection (1), the court may, having regard to Article 10 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383), order the hearing of a family proceeding to be open to the public.
- (5) Despite subsection (2), the court may, having regard to Article 10 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383), order the hearing of a matrimonial cause to be in private.

19. Appeals from CFI

- (1) Unless otherwise provided by an enactment, an appeal lies as of right to the Court of Appeal from an order of the CFI in a family proceeding.
- (2) No appeal lies to the Court of Appeal from the following orders or decision—

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- (a) an order of the CFI allowing an extension of time for appealing from an order;
 - (b) an order of the CFI that is provided by an enactment to be final;
 - (c) an order absolute for the dissolution or nullity of marriage where a party who, having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree;
 - (d) (except with the permission of the CFI or the Court of Appeal) an order of the CFI made with the consent of the parties or relating only to costs which are by law left to the discretion of the court;
 - (e) a decision of the CFI in respect of which a certificate is granted under section 27C of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) and leave to appeal is granted under section 27D of that Ordinance in a family proceeding.
- (3) Unless otherwise provided by the Rules, no appeal lies to the Court of Appeal from an interlocutory order of the CFI in a family proceeding unless permission to appeal has been given by the CFI or the Court of Appeal.
 - (4) Permission to appeal may be given—
 - (a) in respect of a particular issue arising out of the interlocutory order; and
 - (b) subject to the conditions considered by the court hearing the application to be necessary in order to secure the just, expeditious and economical disposal of the appeal.
 - (5) Permission to appeal must not be given unless the court hearing the application is satisfied that—

- (a) the appeal has a reasonable prospect of success; or
- (b) there is some other reason in the interests of justice for the appeal to be heard.

20. Appeals from Family Court

- (1) Unless otherwise provided by an enactment, no appeal lies to the Court of Appeal from an order of a Family Judge in a family proceeding unless permission to appeal has been given by a Family Judge or the Court of Appeal.
- (2) No appeal lies to the Court of Appeal from an order absolute for the dissolution or nullity of marriage where a party who, having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree.
- (3) An appeal lies as of right to a Family Judge in chambers from an order of a Master in a family proceeding.
- (4) An appeal also lies as of right to the Court of Appeal by a person against whom an order is made under section 20, 48B, 52D, 52E or 53(3) of the District Court Ordinance (Cap. 336).
- (5) Permission to appeal may be given—
 - (a) in respect of a particular issue arising out of the order referred to in subsection (1); and
 - (b) subject to the conditions considered by the Family Judge or the Court of Appeal hearing the application to be necessary in order to secure the just, expeditious and economical disposal of the appeal.
- (6) Permission to appeal must not be given unless the Family Judge or the Court of Appeal hearing the application is satisfied that—
 - (a) the appeal has a reasonable prospect of success; or

- (b) there is some other reason in the interests of justice for the appeal to be heard.

21. Application of High Court rules and practice

To the extent that no provision is made by this Ordinance or the Rules for the practice or procedure applicable to a family proceeding in the High Court or the Family Court, the Rules of the High Court (Cap. 4 sub. leg. A) and the practice of the High Court apply unless the court conducting the proceeding otherwise directs.

22. Practice Directions

- (1) The Chief Justice may make directions as to the practice and procedure of the court on one or more types of family proceedings.
- (2) The Chief Justice may designate a High Court Judge to make any of the directions referred to in subsection (1).

23. Rules Committee to specify forms

- (1) The Rules Committee may specify one or more forms to be used for a matter provided for in this Ordinance or for the purposes of any provision of this Ordinance.
 - (2) A form specified under this section must be completed in accordance with the instructions and directions that are specified in the form.
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Part 4

Family Procedure Rules Committee

24. Establishment of Family Procedure Rules Committee

- (1) The Family Procedure Rules Committee is established.
- (2) The Rules Committee consists of—
 - (a) the Chief Judge, who is the Chairperson;
 - (b) a High Court Judge nominated by the Chief Judge;
 - (c) the Registrar of the High Court, or a Master of the High Court nominated by the Chief Judge to represent the Registrar;
 - (d) the Principal Family Court Judge;
 - (e) a Family Judge nominated by the Chief Judge;
 - (f) the Registrar of the District Court, or a Master of the District Court nominated by the Chief Judge to represent the Registrar;
 - (g) 2 barristers nominated by the Hong Kong Bar Association;
 - (h) 2 solicitors nominated by The Law Society of Hong Kong; and
 - (i) the Secretary for Justice, or a legal officer in the Department of Justice nominated by the Secretary.
- (3) At a meeting of the Rules Committee, 5 members form a quorum of whom one must be a member specified in subsection (2)(g) or (h).
- (4) The member specified in subsection (2)(c) is the secretary of the Rules Committee.
- (5) In this section—

barrister (大律師) has the meaning given by section 2(1) of the Legal Practitioners Ordinance (Cap. 159);

legal officer in the Department of Justice (律政司律政人員) means a person holding one of the offices in the Department of Justice mentioned in Schedule 1 to the Legal Officers Ordinance (Cap. 87);

solicitor (律師) has the meaning given by section 2(1) of the Legal Practitioners Ordinance (Cap. 159).

25. Rule-making powers of Rules Committee

The Rules Committee may—

- (a) make rules for regulating and prescribing the practice and procedure for family proceedings in the High Court and the Family Court;
- (b) in relation to any matter relating to a family proceeding, make rules for better carrying out the purposes of—
 - (i) the High Court Ordinance (Cap. 4), in particular sections 14, 14AA, 21M, 26, 41, 42, 44, 52A and 52B of that Ordinance;
 - (ii) the Guardianship of Minors Ordinance (Cap. 13), in particular section 20 of that Ordinance;
 - (iii) the Separation and Maintenance Orders Ordinance (Cap. 16), in particular section 9A of that Ordinance;
 - (iv) section 9(3) of the Marriage Reform Ordinance (Cap. 178);
 - (v) the Matrimonial Causes Ordinance (Cap. 179), in particular sections 11A, 14 and 49 of that Ordinance;

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- (vi) the Marriage Ordinance (Cap. 181), in particular section 18A of that Ordinance;
 - (vii) the Married Persons Status Ordinance (Cap. 182);
 - (viii) the Legitimacy Ordinance (Cap. 184);
 - (ix) the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188);
 - (x) the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189);
 - (xi) the Matrimonial Proceedings and Property Ordinance (Cap. 192), in particular sections 12, 25 and 28 of that Ordinance;
 - (xii) the Adoption Ordinance (Cap. 290), in particular section 5A of that Ordinance;
 - (xiii) the District Court Ordinance (Cap. 336), in particular sections 47A, 47D, 52B, 53 and 53A of that Ordinance;
 - (xiv) the Parent and Child Ordinance (Cap. 429), in particular sections 6 and 12 of that Ordinance;
 - (xv) the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481);
 - (xvi) the Child Abduction and Custody Ordinance (Cap. 512); and
 - (xvii) the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639); and
- (c) without limiting paragraphs (a) and (b), make rules for the purposes set out in section 26.

26. Rules for general matters

- (1) Without limiting section 25, rules may be made under that section for—
 - (a) regulating case management;
 - (b) regulating matters relating to alternative dispute resolution;
 - (c) regulating proceedings involving a deceased person or the estate of a deceased person;
 - (d) empowering the Registrar to deal with any matter relating to—
 - (i) costs to be taxed under a costs order; and
 - (ii) interests on taxed costs or costs of taxation;
 - (e) prescribing the procedure in connection with the transfer and retransfer of family proceedings between the CFI and the Family Court;
 - (f) prescribing the practice and procedure for an application for a financial order in family proceedings;
 - (g) regulating matters relating to appeals against orders of the court in family proceedings;
 - (h) prescribing the jurisdiction of the court that may be exercised by the Registrar or a Master in family proceedings (including provision for appeals against orders made in the exercise of that jurisdiction);
 - (i) prescribing fees and regulating matters relating to the fees and costs of family proceedings in the court;
 - (j) prescribing when persons absent, but having an interest in a family proceeding, must be bound by an order made in the proceeding;

- (k) providing for the enforcement of orders made in family proceedings, including—
 - (i) the prohibition of judgment debtors and persons against whom claims are made from leaving Hong Kong and ordering the payment of compensation to them in prescribed circumstances;
 - (ii) ordering the appearance of judgment debtors for examination; and
 - (iii) the arrest and imprisonment of judgment debtors;
- (l) providing for matters relating to the variation, discharge, suspension, rescission, setting aside or revival of an order made in a family proceeding;
- (m) providing for the means by which particular facts may be proved in a family proceeding and the mode in which evidence of those facts may be given;
- (n) regulating matters relating to the giving of expert evidence and the submission of expert reports;
- (o) empowering the court to dispense with or relax any procedure, or shorten any time limit, specified in the Rules;
- (p) regulating matters relating to family proceedings that, before the commencement date of this section, could be or have been provided for or regulated by rules of court made under the High Court Ordinance (Cap. 4);
- (q) providing that a contravention of any provision of the Rules that relates to a specified Ordinance is an offence, punishable by a fine, imprisonment or both;

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- (r) making different provisions for different cases, including different provisions for—
- (i) different courts specified in the Rules; or
 - (ii) different types of proceedings or jurisdictions specified in the Rules; and
- (s) providing for incidental, supplemental and consequential matters that the Rules Committee considers necessary or expedient.
- (2) For subsection (1)(q), the maximum fine that may be prescribed for an offence is level 2 and the maximum imprisonment is 2 years.
- (3) In this section—
- specified Ordinance*** (《指明條例》) means—
- (a) the Guardianship of Minors Ordinance (Cap. 13);
 - (b) the Separation and Maintenance Orders Ordinance (Cap. 16); or
 - (c) the Matrimonial Proceedings and Property Ordinance (Cap. 192).
-

Part 5

Miscellaneous Provisions

27. Rule on computation of vacation period not to apply

Section 31 of the High Court Ordinance (Cap. 4) does not apply in relation to a family proceeding in the CFI.

28. Consequential and related amendments

The enactments specified in the Schedule are amended as set out in the Schedule.

Schedule

[ss. 3 and 28]

Consequential and Related Amendments

Part 1

Amendments to High Court Ordinance and its Subsidiary Legislation

Division 1—High Court Ordinance (Cap. 4)

1. Section 14 amended (appeals in civil matters)

Section 14(3)(d)—

Repeal

“in favour of any”

Substitute

“where a”.

Division 2—Rules of the High Court (Cap. 4 sub. leg. A)

2. Order 1, rule 2 amended (application)

(1) Order 1, rule 2(2), Table—

Repeal item 6

Substitute

“6. Family proceedings as defined by section 2 of the Family Procedure Ordinance (of 2023).”

Family Procedure Ordinance (of 2023).”.

(2) Order 1, rule 2(2), Table—

Repeal items 7 and 8.

3. Order 18, rule 7A amended (conviction, etc. to be adduced in evidence: matter to be pleaded)

Order 18, rule 7A(2)—

Repeal

“matrimonial proceedings”

Substitute

“a matrimonial cause (as defined by that section)”.

4. Order 67, rule 9 repealed (order to apply to matrimonial causes and matters)

Order 67—

Repeal rule 9.

5. Order 89 amended (proceedings between husband and wife)

(1) Order 89—

Repeal rule 1.

(2) Order 89, rule 2(2)—

Repeal

“the first application by summons”

Substitute

“receipt of the originating application”.

6. Order 90 repealed (proceedings concerning minors)

Order 90—

Repeal the Order.

Part 2

Amendments to Evidence Ordinance (Cap. 8)

7. Section 63 amended (findings of adultery as evidence in civil proceedings)

(1) Section 63(1), (2)(b) and (3)—

Repeal

“matrimonial proceedings”

Substitute

“matrimonial cause”.

(2) Section 63—

Repeal subsection (5)

Substitute

“(5) In this section—

matrimonial cause (婚姻訴訟) means a proceeding for any of the following matters or any appeal arising out of such proceeding—

(a) divorce;

(b) nullity of marriage;

(c) judicial separation;

(d) presumption of death and dissolution of marriage.”.

Part 3

Amendments to Guardianship of Minors Ordinance and its Subsidiary Legislation

Division 1—Guardianship of Minors Ordinance (Cap. 13)

8. Section 2 amended (interpretation)

(1) Section 2, definition of *court*—

Repeal

“District”

Substitute

“Family”.

(2) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023);”.

9. Section 3 amended (general principles)

Section 3(1)(d)—

Repeal

“District”

Substitute

“Family”.

10. Section 13 amended (jurisdiction and orders on application under s. 10)

(1) Section 13(3)—

Repeal

everything after “interim order under this subsection”

Substitute

“ceases to have effect on the making of a final order or on the dismissal of the application.”.

(2) Section 13—

Repeal subsection (4)

Substitute

“(4) The Family Court may also make an interim order if it transfers an application to the Court of First Instance.”.

11. Section 16 amended (additional provisions as to interim orders)

(1) Section 16—

Repeal subsection (1).

(2) Section 16(2)—

Repeal

“any such interim order”

Substitute

“an interim order referred to in section 13(3) or (4)”.

12. Section 17 amended (evidence on applications under s. 10 or 14(2))

(1) Section 17(1)—

Repeal

“an officer of the Social Welfare Department to make to the court a report”

Substitute

“a report to be made to the court”.

- (2) After section 17(1)—

Add

“(1A) The report referred to in subsection (1) includes a clinical psychologist report and (if applicable) an international social welfare report.”.

- (3) Section 17(2)—

Repeal

“in pursuance of”

Substitute

“provided under”.

13. Section 20 amended (attachment of income to satisfy order)

- (1) Section 20(1)—

Repeal

“rules made under subsection (6)”

Substitute

“the rules made by the Rules Committee”.

- (2) Section 20—

Repeal subsections (6), (6A), (7) and (8).

14. Section 20A amended (interest on arrears of maintenance)

Section 20A—

Repeal subsection (8).

15. Section 20B amended (surcharge on arrears of maintenance)

(1) Section 20B(9)—

Repeal

“the court”

Substitute

“and the court is satisfied that the summons, affidavit and notice of the adjourned hearing have been duly served on the judgment debtor, it”.

(2) Section 20B(13)—

Repeal

“in the District”

Substitute

“in the Family”.

(3) Section 20B—

Repeal subsection (14).

16. Section 23 amended (procedure in District Court)

(1) Section 23, heading—

Repeal

“in District Court”.

(2) Section 23—

Repeal everything before paragraph (a)

Substitute

“The Family Procedure Ordinance (of 2023) applies to a proceeding before, and an order made by, the court under this Ordinance, and—”.

(3) Section 23(a)—

Repeal

“court;”

Substitute

“court; and”.

(4) Section 23—

Repeal paragraph (b).

17. Section 24 repealed (removal to Court of First Instance)

Section 24—

Repeal the section.

Division 2—Attachment of Income Order Rules (Cap. 13 sub. leg. A)

18. Attachment of Income Order Rules repealed

Attachment of Income Order Rules—

Repeal the Rules.

Part 4

Amendments to Separation and Maintenance Orders Ordinance (Cap. 16)

19. Long title amended

The long title—

Repeal

“District Court”

Substitute

“Court of First Instance and by the Family Court”.

20. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*court* (法院) means the Court of First Instance or the Family Court;

Family Court (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

family proceeding (家事法律程序) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Registrar (司法常務官)—

(a) in relation to family proceedings in the Court of First Instance, means the Registrar of the High Court; and

(b) in relation to family proceedings in the Family Court, means the Registrar of the District Court;

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023);”.

21. Section 3 amended (grounds on which an application for a section 5 order may be made)

(1) Section 3(1)—

Repeal

“District Court”

Substitute

“court”.

(2) Section 3(2)—

Repeal

“District Court”

Substitute

“court”.

22. Section 5 amended (powers of District Court)

- (1) Section 5, heading—

Repeal

“District Court”

Substitute

“court”.

- (2) Section 5(1)—

Repeal

“, the District Court”

Substitute

“, the court”.

- (3) Section 5(1)(c)—

Repeal

“of the District Court”.

- (4) Section 5(1)(d) and (e), Chinese text—

Repeal

“支付區域法院”

Substitute

“支付法院”.

- (5) Section 5(3), Chinese text—

Repeal

“區域”.

23. Section 6 amended (limitation of powers of District Court)

Section 6, heading—

Repeal

“District Court”

Substitute

“court”.

24. Section 7 amended (District Court may vary or discharge order)

(1) Section 7, heading—

Repeal

“District”.

(2) Section 7(1)—

Repeal

“District Court”

Substitute

“court”.

(3) Section 7(4)—

Repeal

“The District Court”

Substitute

“The court”.

(4) Section 7(4)(a), Chinese text—

Repeal

“區域” (wherever appearing).

(5) Section 7(4)(b)—

Repeal

“of the District Court”.

- (6) Section 7(4)(b), Chinese text—

Repeal

“則區域法院”

Substitute

“則法院”.

- (7) Section 7(4)(b)(i) and (ii), Chinese text—

Repeal

“區域”.

- (8) Section 7(5), Chinese text—

Repeal

“區域”.

25. Section 8 repealed (District Court may refuse an order in cases more fit for the Court of First Instance)

Section 8—

Repeal the section.

26. Section 9 amended (power to order interim payments where application for maintenance is adjourned)

- (1) Section 9(1)—

Repeal

“Subject to subsection (2), where,”

Substitute

“If”.

- (2) Section 9(1)—

Repeal

“District Court may”

Substitute

“court may”.

- (3) Section 9(1)—

Repeal

“of the District Court”.

- (4) Section 9(1), Chinese text—

Repeal

“支付區域法院”

Substitute

“支付法院”.

- (5) Section 9—

Repeal subsection (2).

- (6) Section 9(3)—

Repeal

“District Court”

Substitute

“court”.

27. Section 9A amended (attachment of income to satisfy order)

- (1) Section 9A(1)—

Repeal

“rules made under subsection (6)”

Substitute

“the rules made by the Rules Committee”.

- (2) Section 9A—

Repeal subsections (6), (6A), (7) and (8).

28. Section 9B amended (interest on arrears of maintenance)

Section 9B—

Repeal subsection (8).

29. Section 9C amended (surcharge on arrears of maintenance)

(1) Section 9C(9)—

Repeal

“the court”

Substitute

“and the court is satisfied that the summons, affidavit and notice of the adjourned hearing have been duly served on the judgment debtor, it”.

(2) Section 9C(13)—

Repeal

“in the District”

Substitute

“in the Family”.

(3) Section 9C—

Repeal subsection (14).

30. Section 11 repealed (procedure)

Section 11—

Repeal the section.

Part 5

Amendment to Legal Aid Regulations (Cap. 91 sub. leg. A)

31. **Regulation 6 amended (certificate not to refer to more than one cause of action etc.)**

Regulation 6—

Repeal subparagraph (a)

Substitute

“(a) a family proceeding (as defined by section 2 of the Family Procedure Ordinance (of 2023));”.

Part 6

Amendments to Marriage Reform Ordinance (Cap. 178)

32. **Section 2 amended (interpretation)**

Section 2—

Add in alphabetical order

“*court* (法庭) means the Court of First Instance or the Family Court;

Family Court (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

33. **Section 9 amended (registration of customary marriages and validated marriages)**

Section 9(3), (4)(b) and (7)—

Repeal

“District Court” (wherever appearing)

Substitute

“court”.

34. Section 24 amended (power to make regulations)

(1) Section 24, after “of this Ordinance”—

Add

“(except section 9(3))”.

(2) Section 24(a) and (b)—

Repeal

“this Ordinance”

Substitute

“those provisions”.

Part 7

Amendments to Matrimonial Causes Ordinance and its Subsidiary Legislation

Division 1—Matrimonial Causes Ordinance (Cap. 179)

35. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *court*

Substitute

“*court* (法院) means the Court of First Instance or the Family Court;”.

(2) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

financial order (財務命令) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

matrimonial order (婚姻命令) means—

- (a) a decree of divorce granted under section 15;
- (b) a decree of nullity of marriage granted under section 21;
- (c) a decree of judicial separation granted under section 24; and
- (d) a decree of presumption of death and dissolution of marriage made under section 26;

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023);”.

36. Section 3 amended (jurisdiction in divorce)

Section 3(a), (b) and (c)—

Repeal

“petition or application”

Substitute

“originating application”.

37. Section 4 amended (jurisdiction in nullity)

Section 4(a), (b), (c) and (d)—

Repeal

“petition”

Substitute

“originating application”.

38. Section 5 amended (jurisdiction in judicial separation)

Section 5(a), (b) and (d)—

Repeal

“petition”

Substitute

“originating application”.

39. Section 6 amended (jurisdiction in presumption of death)

(1) Section 6(1)(a)—

Repeal

“petitioner”

Substitute

“applicant”.

(2) Section 6(1)(a)—

Repeal

“petition”

Substitute

“originating application”.

(3) Section 6(1)(b)—

Repeal

“petitioner”

Substitute

“applicant”.

(4) Section 6(1)(b)—

Repeal

“petition”

Substitute

“originating application”.

40. Section 7A amended (effect of dissolution under Marriage Reform Ordinance)

Section 7A(1)—

Repeal

“ancillary relief”

Substitute

“a financial order”.

41. Section 10 amended (practice and procedure)

Section 10—

Repeal

everything after “provided by this Ordinance”

Substitute

“and the Family Procedure Ordinance (of 2023).”.

42. Part IIA repealed (commencement of proceedings)

Part IIA—

Repeal the Part.

43. Section 11 substituted

Section 11—

Repeal the section

Substitute

“11. Application and ground for divorce

- (1) Any proceedings for divorce are to be started by an originating application for divorce.
- (2) An originating application for divorce may be made by—
 - (a) either party to a marriage; or
 - (b) both parties to a marriage jointly.
- (3) The sole ground for making an originating application for divorce is that the marriage has broken down irretrievably.”.

44. Section 11A amended (proof of ground for petition)

- (1) Section 11A, heading—

Repeal

“petition”

Substitute

“originating application filed by either party to marriage”.

- (2) Section 11A—
Repeal subsection (1).
- (3) Section 11A(2)—

Repeal

“a petition for divorce shall not hold the marriage to have broken down irretrievably unless the petitioner”

Substitute

“an originating application for divorce filed by either party to a marriage must not hold the marriage to have broken down irretrievably unless the applicant”.

- (4) Section 11A(2)(a) and (b)—

Repeal

“petitioner”

Substitute

“applicant”.

- (5) Section 11A(2)(c) and (d)—

Repeal

“presentation of the petition”

Substitute

“filing of the originating application”.

- (6) Section 11A(2)(e)—

Repeal

“petitioner”

Substitute

“applicant”.

- (7) Section 11A(2)(e)—

Repeal

“presentation of the petition”

Substitute

“filing of the originating application”.

45. Section 11B amended (proof of ground for application, etc.)

- (1) Section 11B, heading—

Repeal

“application, etc.”

Substitute

“originating application filed by both parties to marriage jointly”.

- (2) Section 11B—

Repeal subsection (1).

- (3) Section 11B(2)—

Repeal

“application for divorce shall”

Substitute

“originating application for divorce filed by both parties to a marriage jointly must”.

- (4) Section 11B(2)(a)—

Repeal

“making of the”

Substitute

“filing of the originating”.

- (5) Section 11B(2)(a)—

Repeal

“and”.

- (6) Section 11B(2)(b)—

Repeal

“making of the”

Substitute

“filing of the originating”.

- (7) Section 11B(3)(b)—

Repeal

“rules made under section 54”

Substitute

“the rules made by the Rules Committee”.

46. Section 12 amended (restriction on petitions within one year of marriage)

(1) Section 12, heading—

Repeal

“petitions”

Substitute

“originating applications for divorce”.

(2) Section 12(1)—

Repeal

“petition for divorce shall be presented to”

Substitute

“originating application for divorce may be filed with”.

(3) Section 12(2)—

Repeal

“presentation of a petition”

Substitute

“filing of an originating application”.

(4) Section 12(2)—

Repeal

“petitioner”

Substitute

“applicant”.

(5) Section 12(3)—

Repeal

“presentation of a petition”

Substitute

“filing of an originating application”.

47. Section 13 amended (divorce not precluded by previous judicial separation)

(1) Section 13(1)—

Repeal

“presenting or making a petition or”

Substitute

“filing an originating”.

(2) Section 13(1)—

Repeal

“petitioner or an”.

(3) Section 13(1)—

Repeal

“the petition or”

Substitute

“the originating”.

(4) Section 13(2)—

Repeal

“petitioner or, if the case is an application”

Substitute

“applicant or, if the case is a joint originating application”.

48. Section 14 amended (alleged adulterer as a party)

(1) Section 14, Chinese text, heading—

Repeal

“姦夫”

Substitute

“通姦對象”.

(2) Section 14—

Repeal subsection (1)

Substitute

“(1) If, in an originating application for a matrimonial order, a party to the marriage (*applicant*) alleges that the other party to the marriage has committed adultery with a third person, the applicant must not make the third person a party to the proceedings unless—

(a) the applicant believes that the other party to the marriage is likely to object to the making of a matrimonial order; and

(b) it is appropriate to do so in the circumstances of the case.”.

(3) Section 14—

Repeal subsection (2).

(4) Section 14(3)—

Repeal

“a petition for divorce”

Substitute

“an originating application for a matrimonial order”.

(5) Section 14—

Repeal subsection (4).

49. Section 15 amended (hearing of petition)

(1) Section 15, heading—

Repeal

“petition”

Substitute

“originating application for divorce”.

(2) Section 15(3)—

Repeal

“a petition for divorce presented”

Substitute

“an originating application for divorce filed”.

(3) Section 15(3)—

Repeal

“petitioner”

Substitute

“applicant”.

(4) Section 15(3)(a)—

Repeal

“petition, without prejudice to any petition”

Substitute

“originating application, without prejudice to any originating application”.

(5) Section 15(3)(a)—

Repeal

“dismissed petition”

Substitute

“dismissed application”.

(6) Section 15(4)—

Repeal

“petitioner”

Substitute

“applicant”.

(7) Section 15(4)—

Repeal

“presented a petition”

Substitute

“filed an originating application”.

(8) Section 15(5)—

Repeal

“3 months”

Substitute

“6 weeks”.

50. Section 15A amended (provisions to encourage reconciliation)

Section 15A(3) and (4)—

Repeal

“petitioner” (wherever appearing)

Substitute

“applicant”.

51. Section 15B amended (decree to be refused in certain circumstances)

(1) Section 15B(1)—

Repeal

“a petition for divorce in which the petitioner”

Substitute

“an originating application for divorce in which the applicant”.

(2) Section 15B(2)(a)—

Repeal

“petitioner is entitled to rely in support of his petition”

Substitute

“applicant is entitled to rely in support of the applicant’s originating application”.

(3) Section 15B(2)—

Repeal

“the petition”

Substitute

“the originating application”.

52. Section 15C amended (power to rescind decree nisi in certain cases)

(1) Section 15C(1)—

Repeal

“petitioner” (wherever appearing)

Substitute

“applicant”.

(2) Section 15C(1)—

Repeal

“his petition”

Substitute

“the applicant’s originating application”.

53. Section 17 amended (proceedings after decree nisi)

- (1) Section 17(2)(a)—

Repeal

“3 months”

Substitute

“6 weeks”.

- (2) Section 17(2)(a)(i)—

Repeal

“a petition for divorce”

Substitute

“an originating application for divorce filed by either party to a marriage”.

- (3) Section 17(2)(a)(ii)—

Repeal

“application for divorce, either of the parties by whom the application was made”

Substitute

“originating application for divorce filed by both parties to a marriage jointly, either of the parties by whom the application was filed”.

54. Section 17A amended (financial protection for respondent in certain cases)

(1) Section 17A(1)(a)—

Repeal

“a petition”

Substitute

“an originating application”.

(2) Section 17A(1)(a)—

Repeal

“petitioner”

Substitute

“applicant”.

(3) Section 17A(1)(b)—

Repeal

“the petition”

Substitute

“the originating application”.

(4) Section 17A(1)(b)—

Repeal

“petitioner is entitled to rely in support of his petition”

Substitute

“applicant is entitled to rely in support of the applicant’s originating application”.

(5) Section 17A(2)—

Repeal

“application by”

Substitute

“application to consider the financial position of”.

- (6) Section 17A(2)(b)—

Repeal

“petitioner” (wherever appearing)

Substitute

“applicant”.

- (7) Section 17A(3)—

Repeal

“application”

Substitute

“application to consider the financial position of the respondent”.

- (8) Section 17A(3)(a) and (b)—

Repeal

“petitioner”

Substitute

“applicant”.

- (9) Section 17A(4)(b)—

Repeal

“petitioner”

Substitute

“applicant”.

- 55. Section 18A amended (court not to dismiss petition or application to make absolute a decree nisi on ground of collusion or misconduct of petitioner)**
- (1) Section 18A, heading—
Repeal
“petition”
Substitute
“originating application for divorce”.
- (2) Section 18A, heading—
Repeal
“petitioner”
Substitute
“applicant”.
- (3) Section 18A—
Repeal
“dismiss a petition”
Substitute
“dismiss an originating application”.
- (4) Section 18A—
Repeal
“dismiss such a petition”
Substitute
“dismiss that originating application for divorce or judicial separation”.
- (5) Section 18A—
Repeal
“presentation or prosecution of the petition”

Substitute

“filing or prosecution of the originating application”.

- (6) Section 18A—

Repeal

“petitioner”

Substitute

“applicant”.

56. Section 18B repealed (rules)

Section 18B—

Repeal the section.

57. Section 19 amended (petition for nullity)

- (1) Section 19, heading—

Repeal

“Petition”

Substitute

“Originating application”.

- (2) Section 19—

Repeal

“present a petition to”

Substitute

“file an originating application with”.

58. Section 20 amended (grounds for decree of nullity)

Section 20(2)(f), (3)(a), (5) and (6)—

Repeal

“petitioner”

Substitute

“applicant”.

59. Section 21 amended (granting of decree of nullity)

Section 21—

Repeal

“petition”

Substitute

“originating application”.

60. Section 24 amended (judicial separation)

(1) Section 24(1)—

Repeal

“A petition for judicial separation may be presented to”

Substitute

“An originating application for judicial separation may be filed with”.

(2) Section 24(1)—

Repeal

“such a petition as if they apply in relation to a petition”

Substitute

“that originating application as if those sections apply in relation to an originating application”.

(3) Section 24(1A)—

Repeal

“a petition”

Substitute

“an originating application”.

(4) Section 24(2)—

Repeal

“petitioner”

Substitute

“applicant”.

(5) Section 24(3)—

Repeal

“application by petition of”

Substitute

“originating application filed by”.

(6) Section 24(3)—

Repeal

“the petition”

Substitute

“the originating application”.

61. Section 26 amended (presumption of death and dissolution of marriage)

(1) Section 26(1)—

Repeal

“present a petition to”

Substitute

“file an originating application with”.

(2) Section 26(2)—

Repeal

“petitioner and the petitioner”

Substitute

“applicant, and the applicant”.

- (3) Section 26(3)—

Repeal

“shall apply to a petition and”

Substitute

“apply to an originating application for presumption of death and dissolution of marriage and”.

- (4) Section 26(3)—

Repeal

“a petition for”

Substitute

“an originating application for”.

- (5) Section 26(4)—

Repeal

“petitioner”

Substitute

“applicant”.

- (6) Section 26(4)—

Repeal

“matrimonial proceedings”

Substitute

“a matrimonial cause”.

62. Part VI heading repealed (ancillary relief)

Part VI, heading—

Repeal the heading.

63. Section 48 amended (power to provide for supervision of children)

Section 48(2)—

Repeal

“any rules”

Substitute

“the rules made by the Rules Committee”.

64. Section 49 amended (declarations of legitimacy, etc.)

(1) Section 49(1)—

Repeal

“petition”

Substitute

“an originating application”.

(2) Section 49(2)—

Repeal

“petition to the court, or may apply to the District Court in the manner prescribed by rules,”

Substitute

“an originating application to the court in the way prescribed by the rules made by the Rules Committee”.

(3) Section 49—

Repeal subsection (3).

(4) Section 49(5)—

Repeal everything before paragraph (a)

Substitute

“(5) Applications to the court for a decree under subsections (1) and (2) may be included in the same originating application, and on an application under

any of those subsections, the court must make the decree as it considers just, and the decree is binding on the Government and all other persons. However, the decree does not prejudice any person—”.

- (5) Section 49(5)(b)—

Repeal

“manner prescribed by rules”

Substitute

“way prescribed by the rules made by the Rules Committee”.

- (6) Section 49(7)—

Repeal

“High Court or the District Court thinks fit shall, subject to rules, be given notice of the application in the manner prescribed by rules”

Substitute

“court considers appropriate must, subject to the rules made by the Rules Committee, be given notice of the application in the way prescribed by those rules”.

65. Section 53A amended (interest on arrears of maintenance)

Section 53A—

Repeal subsection (8).

66. Section 53B amended (surcharge on arrears of maintenance)

- (1) Section 53B(9)—

Repeal

“the court”

Substitute

“and the court is satisfied that the summons, affidavit and notice of the adjourned hearing have been duly served on the judgment debtor, it”.

- (2) Section 53B(13)—

Repeal

“in the District”

Substitute

“in the Family”.

- (3) Section 53B—

Repeal subsection (14).

67. Section 54 repealed (rules)

Section 54—

Repeal the section.

68. Section 54B amended (abolition of right to petition for jactitation of marriage)

- (1) Section 54B, heading—

Repeal

“**petition**”

Substitute

“**apply**”.

- (2) Section 54B—

Repeal

“petition”

Substitute

“apply to”.

69. Part IX heading amended (recognition of overseas divorces and legal separations)

Part IX, heading—

Repeal

“Overseas”

Substitute

“Specified”.

70. Section 55 amended (recognition in Hong Kong of overseas divorces and legal separations)

(1) Section 55, heading—

Repeal

“overseas”

Substitute

“specified”.

(2) Section 55(1)—

Repeal

“overseas divorces and legal separations”

Substitute

“a specified divorce or legal separation”.

(3) Section 55—

Repeal subsection (2)

Substitute

“(2) For the purposes of subsection (1) and section 62—
specified divorce or legal separation (指明離婚或合法分居)
means a divorce or legal separation that—

- (a) has been obtained by means of judicial or other proceedings in any place outside Hong Kong; and
- (b) is effective under the law of that place.”.

71. Section 56 amended (grounds for recognition)

Section 56(1)—

Repeal

“an overseas”

Substitute

“a specified”.

72. Section 57 amended (cross-proceedings and divorces following legal separations)

Section 57(1)—

Repeal

“an overseas”

Substitute

“a specified”.

73. Section 58 amended (proof of facts relevant to recognition)

Section 58(1)—

Repeal

“an overseas”

Substitute

“a specified”.

74. Section 61 amended (exceptions from recognition)

Section 61(3)—

Repeal

“ancillary”.

75. Section 62 amended (interpretation and transitional provisions)

- (1) Section 62, heading—

Repeal

“**Interpretation and transitional**”

Substitute

“**Transitional**”.

- (2) Section 62—

Repeal subsection (1).

- (3) Section 62(2)—

Repeal

“overseas divorces and legal separations”

Substitute

“a specified divorce or legal separation”.

**Division 2—Matrimonial Causes Rules (Cap. 179 sub. leg.
A)**

76. Rule 2 amended (interpretation)

- (1) Rule 2(2), definition of *registrar*—

Repeal paragraph (a)

Substitute

“(a) in relation to proceedings pending in the District Court, the registrar of the District Court; and”.

- (2) Rule 2(2), definition of *registrar*—

Repeal paragraph (aa).

77. Matrimonial Causes Rules repealed

Matrimonial Causes Rules—

Repeal the Rules.

**Division 3—Matrimonial Causes (Fees) Rules (Cap. 179
sub. leg. B)**

78. Matrimonial Causes (Fees) Rules repealed

Matrimonial Causes (Fees) Rules—

Repeal the Rules.

**Division 4—Matrimonial Causes (Decree Absolute) General
Order (Cap. 179 sub. leg. C)**

79. Matrimonial Causes (Decree Absolute) General Order repealed

Matrimonial Causes (Decree Absolute) General Order—

Repeal the Order.

Part 8

Amendments to Marriage Ordinance (Cap. 181)

80. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“CFI Judge (原訟法庭法官) means—

- (a) the Chief Judge;
- (b) a judge, recorder or deputy judge mentioned in section 4(1) of the High Court Ordinance (Cap. 4); or

- (c) a Justice of Appeal acting as a judge of the Court of First Instance under section 4(2) of the High Court Ordinance (Cap. 4);

Family Judge (家事法官) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Judge (法官) means—

- (a) except in section 18, a CFI Judge or a Family Judge; and
(b) in section 18, a CFI Judge;”.

81. Section 18 amended (appeal against decision of Registrar)

- (1) Section 18(1)—

Repeal

“by petition”

Substitute

“by an originating application”.

- (2) Section 18(1), English text—

Repeal

“judge”

Substitute

“Judge”.

- (3) Section 18(1)—

Repeal

“the petition”

Substitute

“the originating application”.

- (4) Section 18(1), Chinese text—

Repeal

“法院”

Substitute

“原訟法庭”.

82. Section 18A amended (District Judge may give consent)

(1) Section 18A, heading—

Repeal

“**District**”.

(2) Section 18A(1)—

Repeal

“District”.

(3) Section 18A—

Repeal subsection (2).

Part 9

**Amendments to Married Persons Status Ordinance
(Cap. 182)**

83. Section 1A added

After section 1—

Add

“1A. Interpretation

CFI Judge (原訟法庭法官) means—

- (a) the Chief Judge;
- (b) a judge, recorder or deputy judge mentioned in section 4(1) of the High Court Ordinance (Cap. 4); or

- (c) a Justice of Appeal acting as a judge of the Court of First Instance under section 4(2) of the High Court Ordinance (Cap. 4);

Family Judge (家事法官) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

judge (法官) means a CFI Judge or a Family Judge.”

84. Section 6 amended (questions between husband and wife as to property to be decided in a summary way)

- (1) Section 6, heading—

Repeal

“to be decided in a summary way”.

- (2) Section 6(1)—

Repeal

“summons or otherwise in a summary way”

Substitute

“an originating application”.

- (3) Section 6—

Repeal subsections (3) and (4).

85. Section 7 amended (extension of section 6)

- Section 7(6)—

Repeal

everything after “that section, as extended by this section”

Substitute a full stop.

Part 10

Amendments to Legitimacy Ordinance (Cap. 184)

86. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *Court*

Substitute

“*Court* (法院) means the Court of First Instance or the Family Court;”.

(2) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

Part 11

Amendments to Maintenance Orders (Reciprocal Enforcement) Ordinance and its Subsidiary Legislation

Division 1—Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188)

87. Section 2 amended (interpretation)

(1) Section 2(1), definition of *Registrar*, paragraph (b)—

Repeal

“in the District”

Substitute

“in the Family”.

- (2) Section 2(1)—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

88. Section 5 amended (power of District Court to make provisional order against person residing in reciprocating country)

- (1) Section 5, heading—

Repeal

“**District Court**”

Substitute

“**court in Hong Kong**”.

- (2) Section 5—

Repeal subsection (4).

89. Section 8 amended (confirmation by District Court of provisional order made in reciprocating country)

- (1) Section 8, heading—

Repeal

“**District**”

Substitute

“**Family**”.

- (2) Section 8(2) and (4)—

Repeal

“**District Court shall**”

Substitute

“Family Court must”.

- (3) Section 8(5)—

Repeal

everything before “refuses to confirm”

Substitute

- “(5) The Registrar must, if the Family Court confirms the order, register the order in the District Court in the prescribed manner, or if the Family Court”.

90. Section 9 amended (enforcement of maintenance order registered in Hong Kong)

- (1) Section 9(1)—

Repeal

“District”

Substitute

“Family”.

- (2) Section 9(2)—

Repeal

“shall give notice of any”

Substitute

“must, within 14 days of any change of the person’s address, give notice of the”.

- (3) Section 9(2)—

Repeal

“level 1”

Substitute

“level 2”.

- (4) Section 9(3)(b)—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

(5) Section 9(4)—

Repeal

“District”

Substitute

“Family”.

(6) Section 9(7)—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

91. Section 10 amended (variation and revocation of maintenance order registered in District Court)

(1) Section 10(1)—

Repeal

“, the District Court”

Substitute

“, the Family Court”.

(2) Section 10(1)(a)—

Repeal

“District”

Substitute

“Family”.

- (3) Section 10(2)—

Repeal

“District court shall”

Substitute

“Family Court must”.

- (4) Section 10(3)—

Repeal

“District Court shall”

Substitute

“Family Court must”.

- (5) Section 10(4)—

Repeal

“District Court shall”

Substitute

“Family Court must”.

- (6) Section 10(4)—

Repeal

“District Court is required to apply that law, the court”

Substitute

“Family Court is required to apply that law, it”.

- (7) Section 10(4), Chinese text—

Repeal

“法院仍”

Substitute

“法庭仍”.

- (8) Section 10(5)—

Repeal

“District”

Substitute

“Family”.

- (9) Section 10(6)—

Repeal

“District Court, the court”

Substitute

“Family Court, it”.

- (10) Section 10(7)—

Repeal

“District Court shall”

Substitute

“Family Court must”.

- (11) Section 10(8) and (9)—

Repeal

“District”

Substitute

“Family”.

92. Section 11 amended (cancellation of registration and transfer of order)

- (1) Section 11(1)(a), (b) and (c)—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

- (2) Section 11(3)(a), (b) and (c), Chinese text, before “司法”—

Add

“該”.

93. Section 13 amended (appeals)

Section 13(3)—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

94. Section 15 amended (obtaining of evidence needed for certain proceedings)

- (1) Section 15(1)—

Repeal

“District Court shall have”

Substitute

“Family Court has”.

- (2) Section 15(2)—

Repeal

“District Court”

Substitute

“Family Court”.

- (3) Section 15(2)—

Repeal

“court” (wherever appearing)

Substitute

“Family Court”.

(4) Section 15(3), before “for that purpose”—

Add

“in the reciprocating country”.

95. Section 17 amended (payment of sums under order made abroad: conversion of currency)

Section 17(5)(a) and (b)—

Repeal

“by the District Court”

Substitute

“by the Family Court”.

96. Section 19 repealed (power to make rules)

Section 19—

Repeal the section.

**Division 2—Maintenance Orders (Reciprocal Enforcement)
Rules (Cap. 188 sub. leg. A)**

97. Maintenance Orders (Reciprocal Enforcement) Rules repealed

Maintenance Orders (Reciprocal Enforcement) Rules—

Repeal the Rules.

Part 12

Amendments to Domestic and Cohabitation Relationships Violence Ordinance and its Subsidiary Legislation

Division 1—Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189)

98. Section 2 amended (interpretation and application)

Section 2(1)—

Add in alphabetical order

“*court* (法院) means the Court of First Instance or the Family Court;

Family Court (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Family Judge (家事法官) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

99. Section 3 amended (power of District Court to grant injunction: spouses and former spouses)

(1) Section 3, heading—

Repeal

“District Court”

Substitute

“court”.

(2) Section 3(1) and (2)—

Repeal

“the District Court”

Substitute

“a court”.

100. Section 3A amended (power of District Court to grant injunction: other relatives)

(1) Section 3A, heading—

Repeal

“**District Court**”

Substitute

“**court**”.

(2) Section 3A(1)—

Repeal

“The District Court”

Substitute

“A court”.

(3) Section 3A(6)—

Repeal

“the District Court”

Substitute

“a court”.

101. Section 3B amended (power of District Court to grant injunction: cohabitants and former cohabitants)

(1) Section 3B, heading—

Repeal

“**District Court**”

Substitute

“court”.

- (2) Section 3B(1) and (4)—

Repeal

“the District Court”

Substitute

“a court”.

- 102. Section 4 repealed (Court of First Instance may exercise powers of District Court in certain cases)**

Section 4—

Repeal the section.

- 103. Section 8 repealed (rules of practice and procedure)**

Section 8—

Repeal the section.

- 104. Section 11 amended (powers of the court to be exercised by a judge)**

- (1) Section 11, Chinese text, heading—

Repeal

“一位”.

- (2) Section 11(1), English text—

Repeal

“judge”

Substitute

“judge of the Court”.

- (3) Section 11(1), Chinese text—

Repeal

“—位”.

(4) Section 11(2)—

Repeal

“District Court”

Substitute

“Family Court”.

(5) Section 11(2)—

Repeal

“District Judge”

Substitute

“Family Judge”.

105. “Family” substituted for “District”

The following sections—

(a) section 5(3)(a)(ii) and (b);

(b) section 7A(2)(a) and (b);

(c) section 9—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

**Division 2—Domestic and Cohabitation Relationships
Violence Rules (Cap. 189 sub. leg. A)**

**106. Domestic and Cohabitation Relationships Violence Rules
repealed**

Domestic and Cohabitation Relationships Violence Rules—

Repeal the Rules.

Part 13

**Amendments to Matrimonial Proceedings and Property
Ordinance (Cap. 192)**

107. Long title amended

The long title—

Repeal

“ancillary and other relief in matrimonial causes and other matrimonial”

Substitute

“financial and other relief in matrimonial causes and certain family”.

108. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *court*

Substitute

“*court* (法庭、法院) means the Court of First Instance or the Family Court;”.

(2) Section 2(1), definition of *maintenance order*, paragraph (a), after “section”—

Add

“3,”.

(3) Section 2(1), English text, definition of *property*—

Repeal

“not.”

Substitute

“not;”.

(4) Section 2(1)—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

family proceeding (家事法律程序) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Registrar (司法常務官)—

- (a) in relation to family proceedings in the Court of First Instance, means the Registrar of the High Court; and
- (b) in relation to family proceedings in the Family Court, means the Registrar of the District Court;

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023).”.

109. Part IA repealed (commencement of proceedings)

Part IA—

Repeal the Part.

110. Part II heading amended (ancillary and other relief in matrimonial causes and other matrimonial proceedings)

Part II, heading—

Repeal

“Ancillary and Other Relief in Matrimonial Causes and Other Matrimonial”

Substitute

“Financial and Other Relief in Matrimonial Causes and Certain Family”.

111. Section 3 amended (maintenance pending suit in case of divorce, etc.)

(1) Section 3—

Repeal

everything before “may order”

Substitute

“On an originating application for divorce, nullity of marriage or judicial separation, the court”.

(2) Section 3—

Repeal

“presentation of the petition or making of the”

Substitute

“filing of the originating”.

112. Section 9 amended (duration of certain orders made in favour of party to marriage and effect of remarriage)

Section 9(4)—

Repeal

“a petition presented”

Substitute

“an originating application filed”.

113. Section 12 amended (payment of certain arrears unenforceable without the leave of the court)

Section 12—

Repeal subsection (3).

114. Section 18 amended (restrictions on decrees for dissolution, annulment or separation affecting children)

Section 18(5)(a)—

Repeal

“minor”.

115. Section 21 amended (abolition of right to claim restitution of conjugal rights)

Section 21—

Repeal

“petition the court”

Substitute

“file an originating application with the court”.

116. Section 22 repealed (order for maintenance of party to marriage under Matrimonial Causes Ordinance to cease to have effect on remarriage of that party)

Section 22—

Repeal the section.

117. Section 23 amended (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage)

Section 23(5)—

Repeal

“and to any such order as is referred to in subsection (1) or (2) of section 22”.

118. Section 25 amended (commencement of proceedings for financial provision orders, etc.)

(1) Section 25, heading—

Repeal

“Commencement”

Substitute

“Start”.

(2) Section 25(1)—

Repeal everything before paragraph (a)

Substitute

“(1) If an originating application for divorce, nullity of marriage or judicial separation has been filed, then, proceedings under section 3, 4, 5, 6 or 6A may, subject to and in accordance with the rules made by the Rules Committee, be started after the filing of the originating application, but—”.

(3) Section 25—

Repeal subsections (2) and (3).

119. Section 26 amended (direction for instrument to be settled by the Registrar)

Section 26(a)—

Repeal

“of the High Court”.

120. Section 28 amended (attachment of income to satisfy order)

(1) Section 28(1)—

Repeal

“rules made for the purpose of subsection (6)”

Substitute

“the rules made by the Rules Committee”.

(2) Section 28—

Repeal subsections (6), (6A), (7) and (8).

121. Section 28AA amended (interest on arrears of maintenance)

Section 28AA—

Repeal subsection (9).

122. Section 28AB amended (surcharge on arrears of maintenance)

(1) Section 28AB(9)—

Repeal

“the court”

Substitute

“and the court is satisfied that the summons, affidavit and notice of the adjourned hearing have been duly served on the judgment debtor, it”.

(2) Section 28AB(14)—

Repeal

“in the District”

Substitute

“in the Family”.

(3) Section 28AB—

Repeal subsection (15).

123. Section 29AB amended (applications for financial relief after divorce, etc. outside Hong Kong)

Section 29AB(1)—

Repeal

“rules of court”

Substitute

“the rules made by the Rules Committee”.

124. Section 29AC amended (leave of court required for applications for financial relief)

Section 29AC(1)—

Repeal

“rules of court”

Substitute

“the rules made by the Rules Committee”.

125. Section 29AL amended (power to grant injunctions not affected)

Section 29AL—

Repeal

“High Court to”

Substitute

“Court of First Instance to”.

126. Section 29A amended (power of court hearing petition to terminate subsisting maintenance order made by another court)

(1) Section 29A, heading—

Repeal

“petition”

Substitute

“**originating application**”.

- (2) Section 29A(1)—

Repeal

“presentation or making of a petition or joint application”

Substitute

“filing of an originating application”.

- (3) Section 29A(1)—

Repeal

“to the petition or”

Substitute

“to the originating”.

- (4) Section 29A(1)—

Repeal

“hearing the petition or”

Substitute

“hearing the originating”.

- (5) Section 29A—

Repeal subsection (2)

Substitute

“(2) In this section—

parties to the originating application (原訴申請的雙方) means the applicant and the respondent of an originating application for divorce, nullity of marriage or judicial separation.”.

127. Section 30 repealed (jurisdiction of, and appeal on question of fact from, District Court)

Section 30—

Repeal the section.

128. Section 32 repealed (rules of court)

Section 32—

Repeal the section.

Part 14

Amendments to Adoption Ordinance and its Subsidiary Legislation

Division 1—Adoption Ordinance (Cap. 290)

129. Section 2 amended (interpretation)

(1) Section 2, definition of *Court*, paragraph (a)—

Repeal

“District”

Substitute

“Family”.

(2) Section 2, English text, definition of *relative*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

(3) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023).”.

130. Section 4A repealed (commencement and transfer of adoption applications)

Section 4A—

Repeal the section.

131. Section 12 amended (rules, etc.)

(1) Section 12, heading—

Repeal

“Rules, etc.”

Substitute

“Appointment of guardian ad litem”.

(2) Section 12—

Repeal subsections (1) and (2).

(3) Section 12(3)—

Repeal

“any rules under this section”

Substitute

“the rules made by the Rules Committee”.

132. Section 20C amended (application of the other Parts of this Ordinance)

Section 20C(3)—

Repeal

“, and section 4A shall not apply in relation to the application”.

133. Section 22 amended (prohibition of certain payments)

Section 22(3)—

Repeal

“rules made in accordance with the provisions of section 12”

Substitute

“the rules made by the Rules Committee”.

Division 2—Adoption Rules (Cap. 290 sub. leg. A)

134. Adoption Rules repealed

Adoption Rules—

Repeal the Rules.

Division 3—Convention Adoption Rules (Cap. 290 sub. leg. D)

135. Convention Adoption Rules repealed

Convention Adoption Rules—

Repeal the Rules.

Part 15

Amendments to District Court Ordinance and its Subsidiary Legislation

Division 1—District Court Ordinance (Cap. 336)

136. **Section 38 repealed (jurisdiction under the Married Persons Status Ordinance)**

Section 38—

Repeal the section.

137. **Section 63 amended (appeals in civil matters)**

(1) Section 63(1)—

Repeal

“subsection”

Substitute

“subsections (1C) and”.

(2) After section 63(1B)—

Add

“(1C) No appeal lies to the Court of Appeal from an order absolute for the dissolution or nullity of marriage where a party who, having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree.”.

(3) Section 63(3)—

Repeal

“29”.

Division 2—District Court (Fixed Costs in Matrimonial Causes) Rules (Cap. 336 sub. leg. F)

138. Rule 2 amended (interpretation)

- (1) Rule 2, English text, definition of *matrimonial cause*, paragraph (c)—

Repeal the full stop

Substitute a semicolon.

- (2) Rule 2—

Repeal the definition of *ancillary relief*.

- (3) Rule 2—

Add in alphabetical order

“*specified order* (指明命令) means an order made under section 3, 4, 5, 6, 11 or 17 of the Matrimonial Proceedings and Property Ordinance (Cap. 192).”.

139. First Schedule amended (fixed costs)

- (1) First Schedule, paragraphs 2 and 3—

Repeal

“ancillary relief”

Substitute

“specified order”.

- (2) First Schedule, paragraph 4A—

Repeal

“a petition”

Substitute

“an originating application”.

- (3) First Schedule, paragraph 5(a)—

Repeal

“petition;”

Substitute

“originating application; and”.

- (4) First Schedule, Table of Fixed Costs, Part I, item 1(a)—

Repeal

“rule 47A of the Matrimonial Causes Rules (Cap. 179 sub. leg. A) (cause disposed of in the special procedure list)”

Substitute

“the rules made by the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023) in relation to a cause disposed of in the special procedure list”.

- (5) First Schedule, Table of Fixed Costs, Part I, item 1(b), (c), (d), (e) and (f)—

Repeal

“a petition”

Substitute

“an originating application”.

- (6) First Schedule, Table of Fixed Costs, Part II, item 2(b) and (c)—

Repeal

“ancillary relief” (wherever appearing)

Substitute

“specified order”.

- (7) First Schedule, Table of Fixed Costs, Part IV, item 4—

Repeal

“a petition”

Substitute

“an originating application”.

140. Second Schedule amended

- (1) Second Schedule, Form 1A—

Repeal

“Petitioner”

Substitute

“Applicant”.

- (2) Second Schedule, Form 1A—

Repeal

“petitioner’s/the respondent’s/the applicant’s”

Substitute

“applicant’s/the respondent’s”.

- (3) Second Schedule, Form 1A—

Repeal

“petitioner/respondent/applicant”

Substitute

“applicant/respondent”.

- (4) Second Schedule, Form 1B—

Repeal

“Ancillary Relief” (wherever appearing)

Substitute

“Specified Order”.

- (5) Second Schedule, Form 1B—

Repeal

“petitioner/respondent/applicant”

Substitute

“applicant/respondent”.

- (6) Second Schedule, Form 3, item 4—

Repeal

“a petition”

Substitute

“an originating application”.

Division 3—Rules of the District Court (Cap. 336 sub. leg. H)

141. Order 1, rule 2 amended (application)

- (1) Order 1, rule 2—

Repeal paragraph (2).

- (2) Order 1, rule 2(2A)—

Repeal subparagraph (b)

Substitute

“(b) family proceedings as defined by section 2 of the Family Procedure Ordinance (of 2023); or”.

- (3) Order 1, rule 2(2A)—

Repeal subparagraph (ba).

- (4) Order 1, rule 2(4)—

Repeal

“(2),”.

142. Order 18, rule 7A amended (conviction, etc., to be adduced in evidence: matters to be pleaded)

- Order 18, rule 7A(2)—

Repeal

“matrimonial proceedings”

Substitute

“a matrimonial cause (as defined by that section)”.

143. Order 67, rule 9 repealed (order to apply to matrimonial causes and matters)

Order 67—

Repeal rule 9.

144. Order 89 amended (proceedings between husband and wife)

(1) Order 89—

Repeal rule 1.

(2) Order 89, rule 2(2)—

Repeal

“the first application by summons”

Substitute

“receipt of the originating application”.

145. Order 90 repealed (proceedings concerning minors)

Order 90—

Repeal the Order.

146. Order 90A repealed (proceedings concerning judgment summons)

Order 90A—

Repeal the Order.

147. Appendix D repealed (forms)

Appendix D—

Repeal the Appendix.

Part 16

Amendments to Parent and Child Ordinance (Cap. 429)

148. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *court*

Substitute

“*court* (法院) means the Court of First Instance or the Family Court;”.

(2) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);

Rules Committee (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023);”.

149. Section 6 amended (declarations of parentage, legitimacy or legitimation)

Section 6(5)—

Repeal

“shall be binding on the Crown”

Substitute

“is binding on the Government”.

150. Section 8 amended (supplementary provisions as to declarations)

(1) Section 8(1)—

Repeal

“prescribed by rules under this Ordinance”

Substitute

“specified by the Rules Committee”.

(2) Section 8—

Repeal subsection (3).

151. Section 16 repealed (transfer of proceedings to the High Court)

Section 16—

Repeal the section.

152. Section 17 repealed (regulations)

Section 17—

Repeal the section.

153. Section 18 amended (rules)

(1) Section 18(1)—

Repeal

“Chief Justice”

Substitute

“Rules Committee”.

(2) Section 18(1)(a)—

Repeal the semicolon

Substitute

“; or”.

(3) Section 18(1)(b)—

Repeal

“; or”

Substitute a full stop.

- (4) Section 18(1)—

Repeal paragraph (c).

Part 17

**Amendments to Inheritance (Provision for Family and
Dependants) Ordinance (Cap. 481)**

154. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *child*—

Repeal paragraph (b)

Substitute

“(b) a child who was in the womb of his or her mother at the death of the deceased and born posthumously;”.

- (2) Section 2(1), definition of *court*—

Repeal

“District”

Substitute

“Family”.

- (3) Section 2(1)—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

155. Section 25 repealed (commencement and transfer of proceedings)

Section 25—

Repeal the section.

Part 18

Amendments to Child Abduction and Custody Ordinance (Cap. 512)

156. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *District Court*.

(2) Section 2—

Add in alphabetical order

“*Family Court* (家事法庭) has the meaning given by section 2 of the Family Procedure Ordinance (of 2023);”.

157. Section 12 repealed (rules of court for giving effect to Part 2)

Section 12—

Repeal the section.

158. Section 20 amended (stay of custody application pending determination of proceedings under the Convention)

Section 20(1), definition of *specified authority*—

Repeal

“District”

Substitute

“Family”.

159. Section 21 amended (Court of First Instance or District Court may make order prohibiting removal of child out of Hong Kong without consent)

(1) Section 21, heading—

Repeal

“District”

Substitute

“Family”.

(2) Section 21(8), definition of *court*, paragraph (b)—

Repeal

“District” (wherever appearing)

Substitute

“Family”.

160. Section 24 repealed (rules of court for giving effect to Part 3)

Section 24—

Repeal the section.

Part 19

Amendments to Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance and its Subsidiary Legislation

Division 1—Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Ordinance (Cap. 639)

161. Section 2 amended (interpretation)

- (1) Section 2, definition of *prescribed fee*—

Repeal

“under section 40”

Substitute

“by the Rules Committee”.

- (2) Section 2—

Add in alphabetical order

“*Rules Committee* (規則委員會) means the Family Procedure Rules Committee established under the Family Procedure Ordinance (of 2023);”.

162. Section 23 amended (payment of maintenance: attachment of income order)

- (1) Section 23(1)—

Repeal

“the Attachment of Income Order Rules (Cap. 13 sub. leg. A) (*those Rules*)”

Substitute

“the rules made by the Rules Committee in relation to the issue of attachment of income orders”.

(2) Section 23(2), English text—

Repeal

“Rules”

Substitute

“rules”.

163. Section 39 amended (issue of certified copy of Hong Kong Judgments and certificate for Hong Kong Judgments)

Section 39(2)(a)(ii) and (b)—

Repeal

“under section 40”

Substitute

“by the Rules Committee”.

164. Section 40 repealed (rules)

Section 40—

Repeal the section.

Division 2—Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Rules (Cap. 639 sub. leg. A)

165. Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Rules repealed

Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Rules—

Family Procedure Bill

Schedule—Part 19—Division 2
Section 165

C453

Repeal the Rules.

Explanatory Memorandum

The purpose of this Bill is to make procedural reforms to the family justice system based on the recommendations of the Chief Justice's Working Party on Family Procedure Rules as set out in the Final Report on the Review of Family Procedure Rules published in May 2015.

2. The Bill is divided into 5 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement. Clauses 1, 2, 3(1)(a), (b), (c) and (d), (2) and (4), 15, 24, 25, 26 and 28 (and section 76 of the Schedule) are to come into operation on the day on which the Ordinance to be enacted (*Ordinance*) is published in the Gazette. The remaining clauses and the remaining sections of the Schedule are to come into operation on a day to be appointed by the Chief Justice.
4. Clause 2 contains the definitions for the interpretation of the Bill. Clauses 3 and 4 respectively set out the meaning of *family proceeding* and *financial order*.
5. Clause 5 provides that the Ordinance is to apply to every family proceeding in the High Court or the Family Court (including a family proceeding started in, or transferred or retransferred to, the High Court or the Family Court before the commencement date of that clause).

Part 2—Jurisdiction and Powers of Courts in Family Proceedings

6. Clauses 6 and 7 respectively set out the matters that are within the jurisdiction of the Court of First Instance (*CFI*) and the Family Court.
7. Clause 8 deals with the transfer of proceedings between the CFI and the Family Court. Clause 9 deals with the transfer of applications in CFI's inherent jurisdiction proceedings.
8. Clause 10 provides that if the CFI or the Family Court exercises the jurisdiction under the Ordinance over a family proceeding started under another Ordinance (*that Ordinance*), any determination in the proceeding must be made in accordance with that Ordinance and any subsidiary legislation made under that Ordinance.
9. Clause 11 confers a power on the CFI and the Family Court to make a declaration of beneficial ownership in favour of or against a third party.
10. Clause 12 provides for the finality of a court order made in a family proceeding.
11. Clauses 13 and 14 respectively set out the powers of a judge, and a judge in chambers, in family proceedings.
12. Clause 15 sets out the powers and duties of the Registrar (as defined by clause 2) and a Master (as defined by clause 2).

Part 3—Practice and Procedure

13. Clause 16 regulates the procedures for the start of a family proceeding and clause 17 regulates the procedures for making an application in relation to an order or direction referred to in the provisions set out in that clause 17.
14. Clause 18 provides for the types of family proceedings that must be heard in private and those that must be heard in open court.
15. Clauses 19 and 20 respectively deal with appeals from the CFI and the Family Court.
16. Clause 21 provides that the Rules of the High Court (Cap. 4 sub. leg. A) and the practice of the High Court are to apply to a family proceeding if the relevant practice or procedure is not provided for in the Ordinance, unless the court conducting the proceeding otherwise directs.
17. Clause 22 confers a power on the Chief Justice to make directions as to the practice and procedure of the CFI and the Family Court in family proceedings.
18. Clause 23 empowers the Family Procedure Rules Committee (established by clause 24) (*Rules Committee*) to specify forms to be used for any matter provided for in, or for the purposes of, the Ordinance.

Part 4—Family Procedure Rules Committee

19. Clause 24 provides for the establishment of the Rules Committee.

20. Clauses 25 and 26 empower the Rules Committee to make rules for the purposes set out in those clauses.

Part 5—Miscellaneous Provisions

21. Clause 27 provides that section 31 of the High Court Ordinance (Cap. 4) (computation of vacation period) does not apply in relation to a family proceeding in the CFI.
22. Clause 28 and the Schedule deal with consequential and related amendments to various legislation.