
L.N. 115 of 2013

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

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Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

(Made by the Hong Kong International Arbitration Centre under section 13(3) of the Arbitration Ordinance (Cap. 609) with the approval of the Chief Justice)

Part 1

Preliminary

1. Commencement

These Rules come into operation on 2 December 2013.

2. Interpretation

In these Rules—

Appointment Advisory Board (委任諮詢委員會) means the board established under rule 3.

Part 2

Appointment Advisory Board

3. Constitution of Appointment Advisory Board

- (1) The HKIAC must establish a board known as the Appointment Advisory Board.
- (2) The Appointment Advisory Board is to consist of 11 members.
- (3) Each of the following persons or organizations is to nominate 1 person to be a member of the Appointment Advisory Board—
 - (a) the Chief Justice;
 - (b) the Chairman of the Hong Kong Bar Association;
 - (c) the President of The Law Society of Hong Kong;
 - (d) The Hong Kong General Chamber of Commerce;
 - (e) The Chinese General Chamber of Commerce;
 - (f) the President of The Hong Kong Institution of Engineers;
 - (g) the President of The Hong Kong Institute of Surveyors;
 - (h) the President of The Hong Kong Institute of Architects;
 - (i) the Hong Kong Shipowners Association Ltd.;
 - (j) the Hong Kong Federation of Insurers;
 - (k) the President of the Hong Kong Construction Association.

4. Appointments to Appointment Advisory Board

- (1) The HKIAC must appoint the persons nominated under rule 3(3) to be members of the Appointment Advisory Board, for a term not exceeding 3 years.
- (2) The HKIAC may re-appoint a person to be a member of the Appointment Advisory Board but not until 2 years have expired since that person was last a member of it.
- (3) If there is a vacancy for any reason in the office of any member of the Appointment Advisory Board, the person or organization specified in rule 3(3) who nominated that member is to make a further nomination.
- (4) The Appointment Advisory Board may continue to function while there is a vacancy as long as there are at least 6 members on it.
- (5) No member of the Appointment Advisory Board may be appointed as arbitrator by the HKIAC during his or her term of office.

5. Appointment Advisory Board to be consulted

Before making—

- (a) the appointment of an arbitrator under section 24 of the Ordinance;
- (b) the appointment of a mediator under section 32(1) of the Ordinance; or
- (c) a decision under section 23(3) of the Ordinance on the number of arbitrators that is appropriate for any particular dispute,

the HKIAC must consult with at least 3 members of the Appointment Advisory Board with whom the HKIAC is able to communicate, and must consider their advice but is not bound by it.

Part 3

Appointment of Arbitrator

6. Procedure for requesting for appointment of arbitrator

- (1) Any party to an arbitration agreement requesting for the appointment of an arbitrator by the HKIAC under section 24 of the Ordinance (*requesting party*) must make the request to the HKIAC in the manner described in subrule (2).
- (2) The request must be—
 - (a) in Form 1 in the Schedule;
 - (b) accompanied by the relevant fee charged under rule 13; and
 - (c) signed by the requesting party, or by a person authorized to sign on behalf of the requesting party, certifying that the details contained in the request are true and accurate.
- (3) The requesting party must—
 - (a) serve a copy of the request on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with the HKIAC documentary verification of service.
- (4) For the purposes of subrule (3), double registered post constitutes good service.

7. Appointment of suitable person as arbitrator by HKIAC

- (1) Subject to subrules (2) and (3) and rule 5, on receipt of a request made under rule 6(1), the HKIAC must appoint a suitable person to be an arbitrator, having regard to—

- (a) the nature of the dispute;
 - (b) whether the arbitrators who possess the required qualifications would be available to accept the appointment;
 - (c) the identity and nationality of the parties to the arbitration agreement;
 - (d) any considerations in respect of the independence and impartiality of the person to be appointed as an arbitrator;
 - (e) any stipulations in the relevant agreement; and
 - (f) any suggestions made by the parties themselves.
- (2) Before making an appointment of an arbitrator, the HKIAC must allow the other party or parties to the arbitration agreement to give the HKIAC any written information that other party or those other parties consider relevant to the request, including reasons why no arbitrator should be appointed.
- (3) If—
 - (a) reasons why no arbitrator should be appointed are given to the HKIAC by the other party or parties to the arbitration agreement; and
 - (b) the HKIAC is satisfied that no arbitrator should be appointed,the HKIAC may decline to appoint an arbitrator.
- (4) If no information mentioned in subrule (2) is given to the HKIAC within 14 days after the date on which a copy of the request is served on the other party or parties to the arbitration agreement under rule 6(3), the HKIAC must proceed to make an appointment of an arbitrator.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 3
Rule 7

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B3113

- (5) When the HKIAC has made any decision under this rule, it must notify both the requesting party and the other party or parties to the arbitration agreement.
-

Part 4

Number of Arbitrators

8. Procedure for seeking decision on number of arbitrators

- (1) Any party to an arbitration agreement seeking a decision by the HKIAC on the number of arbitrators under section 23(3) of the Ordinance (*seeking party*) must make an application to the HKIAC in the manner described in subrule (2).
- (2) The application must be—
 - (a) in Form 2 in the Schedule;
 - (b) accompanied by the relevant fee charged under rule 13; and
 - (c) signed by the seeking party, or by a person authorized to sign on behalf of the seeking party, certifying that the details contained in the application are true and accurate.
- (3) The seeking party must—
 - (a) serve a copy of the application on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with the HKIAC documentary verification of service.
- (4) For the purposes of subrule (3), double registered post constitutes good service.

9. Decision by HKIAC on number of arbitrators

- (1) Subject to subrules (2) and (4) and rule 5, when deciding under section 23(3) of the Ordinance on whether the number of arbitrators in any particular case is to be 1 or 3, the HKIAC must take into account the following factors—
 - (a) the amount in dispute;
 - (b) the complexity of the claim;
 - (c) the nationality of the parties to the arbitration agreement;
 - (d) any relevant customs of the trade, business or profession involved in the dispute;
 - (e) whether there are any appropriate arbitrators; and
 - (f) the urgency of the case.
- (2) Before deciding on whether the number of arbitrators to be appointed is to be 1 or 3, the HKIAC must allow the other party or parties to the arbitration agreement to give the HKIAC brief written reasons in support of the contention of that other party or those other parties as to whether the number of arbitrators in the particular case should be 1 or 3.
- (3) If no reasons mentioned in subrule (2) are given to the HKIAC within 14 days after the date on which a copy of the application is served on the other party or parties to the arbitration agreement under rule 8(3), the HKIAC may proceed with the decision.
- (4) The HKIAC may request further information from the seeking party or the other party or parties to the arbitration agreement before it makes a decision.
- (5) The party from whom further information is requested must supply the information within 14 days after the date on which the request is made.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 4
Rule 9

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B3119

- (6) If a party fails or refuses to supply the information within the time specified in subrule (5), the HKIAC must make a decision on the basis of the information it has.
 - (7) When the HKIAC has made any decision under this rule, it must notify both the seeking party and the other party or parties to the arbitration agreement.
-

Part 5

Appointment of Mediator

10. Procedure for applying for appointment of mediator

- (1) Any party to an arbitration agreement applying for the appointment of a mediator by the HKIAC under section 32(1) of the Ordinance (*applying party*) must make the application to the HKIAC in the manner described in subrule (2).
- (2) The application must be—
 - (a) in Form 3 in the Schedule;
 - (b) accompanied by the relevant fee charged under rule 13; and
 - (c) signed by the applying party, or by a person authorized to sign on behalf of the applying party, certifying that the details contained in the application are true and accurate.
- (3) The applying party must—
 - (a) serve a copy of the application on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with the HKIAC documentary verification of service.
- (4) For the purposes of subrule (3), double registered post constitutes good service.

11. Appointment of suitable person as mediator by HKIAC

- (1) Subject to subrules (2) and (3) and rule 5, on receipt of an application made under rule 10(1), the HKIAC may appoint a suitable person to be a mediator, having regard to—
 - (a) the nature of the dispute;
 - (b) whether the mediators who possess the required qualifications would be available to accept the appointment;
 - (c) the identity and nationality of the parties to the arbitration agreement;
 - (d) any considerations in respect of the independence and impartiality of the person to be appointed as a mediator;
 - (e) any stipulations in the relevant agreement; and
 - (f) any suggestions made by the parties themselves.
- (2) Before making an appointment of a mediator, the HKIAC must allow the other party or parties to the arbitration agreement to give the HKIAC any information that other party or those other parties consider relevant to the application, including reasons why no mediator should be appointed.
- (3) If—
 - (a) reasons why no mediator should be appointed are given to the HKIAC by the other party or parties to the arbitration agreement; and
 - (b) the HKIAC is satisfied that no mediator should be appointed,the HKIAC may decline to appoint a mediator.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 5
Rule 11

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B3125

- (4) If no information mentioned in subrule (2) is given to the HKIAC within 14 days after the date on which a copy of the application is served on the other party or parties to the arbitration agreement under rule 10(3), the HKIAC may proceed to make an appointment of a mediator.
 - (5) When the HKIAC has made any decision under this rule, it must notify both the applying party and the other party or parties to the arbitration agreement.
-

Part 6

General

12. Additional forms

The HKIAC may specify additional forms for use for the purposes of these Rules.

13. Fees

- (1) Subject to subrule (2), the HKIAC may charge \$8,000 for making—
 - (a) the appointment of an arbitrator under section 24 of the Ordinance;
 - (b) the appointment of a mediator under section 32(1) of the Ordinance; or
 - (c) a decision under section 23(3) of the Ordinance on the number of arbitrators that is appropriate for any particular case.
- (2) The HKIAC may charge, for the exercise of any of the functions referred to in subrule (1), a fee (*determined fee*) of an amount that—
 - (a) exceeds \$8,000 but does not exceed \$15,000; and
 - (b) is determined by the HKIAC to be a reasonable fee for the recovery of expenditure incurred or likely to be incurred by it in the exercise of the functions provided that such variation does not undermine the object mentioned in section 3(1) of the Ordinance.
- (3) The HKIAC—
 - (a) must display notices setting out the determined fee at an appropriate and prominent location or locations in the premises of the HKIAC as may be determined by it; and

(b) must publicize the determined fee through the Internet.

14. Arbitration (Appointment of Arbitrators and Umpires) Rules repealed

The Arbitration (Appointment of Arbitrators and Umpires) Rules (Cap. 609 sub. leg. B) are repealed.

15. Transitional

Despite anything in Part 2, a member of the Appointment Advisory Board established under rule 3 of the Arbitration (Appointment of Arbitrators and Umpires) Rules (Cap. 609 sub. leg. B) repealed by these Rules (*previous Board*), whose appointment has continued to have effect by virtue of section 4 of Schedule 3 to the Ordinance, is to be a member of the Appointment Advisory Board established under rule 3 of these Rules on the commencement of that rule until the expiry of the term of that appointment as if the Appointment Advisory Board established under that rule were the previous Board.

Schedule

[rr. 6, 8 & 10]

Forms

Form 1

Hong Kong International Arbitration Centre

REQUEST FOR APPOINTMENT OF ARBITRATOR

(This form must be used, in accordance with rule 6 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules, to request the Hong Kong International Arbitration Centre (*HKIIAC*) for the appointment of an arbitrator under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED REQUESTS THE HKIAC FOR THE APPOINTMENT OF AN ARBITRATOR UNDER SECTION 24 OF THE ARBITRATION ORDINANCE (Cap. 609):

2. PARTICULARS OF PARTIES:

(If there are more than 2 parties, set out the details of the other party or parties on separate sheet.)

CLAIMANT:

RESPONDENT:

Name _____

Name _____

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

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B3133

Address _____ Address _____

Tel. No. _____ Tel. No. _____

Fax No. _____ Fax No. _____

E-mail
Address _____ E-mail
Address _____

Nationality _____ Nationality _____

Solicitor/Adviser (If any): Solicitor/Adviser (If any):

Name _____ Name _____

Address _____ Address _____

Tel. No. _____ Tel. No. _____

Fax No. _____ Fax No. _____

E-mail
Address _____ E-mail
Address _____

3. **CONTRACT/AGREEMENT IN RESPECT OF WHICH THE DISPUTE HAS ARISEN:** (Enclose a copy or summarize briefly.)

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

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B3137

(If applicable, give date on which the other party was requested to agree to the appointment of arbitrator under the contract/agreement, names of arbitrators proposed, whether the other party has responded or not (if yes, the content of the response and any stipulations in the relevant agreement on the choice of arbitrator) and any other factors to be taken into account by the HKIAC under rule 7 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules.)

7. FEE: A cheque payable to “Hong Kong International Arbitration Centre” for HK\$ for payment of the HKIAC’s fee is enclosed.

(The HKIAC to set out the fee payable.)

8. CERTIFICATION STATEMENT:

I certify that the details contained in this request are true and accurate.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

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B3139

(SIGNED) _____

Date: _____

Name and Capacity _____

Form 2

Hong Kong International Arbitration Centre

APPLICATION FOR DECISION ON NUMBER OF ARBITRATORS

(This form must be used, in accordance with rule 8 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules, to make an application to the Hong Kong International Arbitration Centre (*HKIAC*) to seek a decision on the number of arbitrators under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED MAKES AN APPLICATION TO THE HKIAC TO SEEK A DECISION ON WHETHER THERE IS TO BE 1 OR 3 ARBITRATORS UNDER SECTION 23(3) OF THE ARBITRATION ORDINANCE (Cap. 609):

2. PARTICULARS OF PARTIES:

(If there are more than 2 parties, set out the details of the other party or parties on separate sheet.)

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

L.N. 115 of 2013

B3141

CLAIMANT:

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

RESPONDENT:

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

3. **CONTRACT/AGREEMENT IN RESPECT OF WHICH THE DISPUTE HAS ARISEN:** (Enclose a copy or summarize briefly.)

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

L.N. 115 of 2013

B3147

(SIGNED) _____

Date: _____

Name and Capacity _____

Form 3

Hong Kong International Arbitration Centre

APPLICATION FOR APPOINTMENT OF MEDIATOR

(This form must be used, in accordance with rule 10 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules, to apply to the Hong Kong International Arbitration Centre (*HKIAC*) for the appointment of a mediator under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED APPLIES TO THE HKIAC FOR THE APPOINTMENT OF A MEDIATOR UNDER SECTION 32(1) OF THE ARBITRATION ORDINANCE (Cap. 609):

2. PARTICULARS OF PARTIES:

(If there are more than 2 parties, set out the details of the other party or parties on separate sheet.)

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

L.N. 115 of 2013

B3149

CLAIMANT:

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

RESPONDENT:

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax No. _____

E-mail
Address _____

3. **CONTRACT/AGREEMENT IN RESPECT OF WHICH THE DISPUTE HAS ARISEN:** (Enclose a copy or summarize briefly.)

6. OTHER RELEVANT DETAILS:

(If applicable, give details of the steps taken to request the person provided for in the arbitration agreement to appoint a mediator and the refusal or failure of that person to appoint a mediator, names of mediators and terms of appointment proposed by any party, and any other factors to be taken into account by the HKIAC under rule 11 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules.)

7. FEE: A cheque payable to “Hong Kong International Arbitration Centre” for HK\$ for payment of the HKIAC’s fee is enclosed.

(The HKIAC to set out the fee payable.)

8. CERTIFICATION STATEMENT:

I certify that the details contained in this application are true and accurate.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

L.N. 115 of 2013

B3155

(SIGNED) _____

Date: _____

Name and Capacity _____

Approved this 17th day of June 2013.

Geoffrey MA
Chief Justice

Made this 19th day of June 2013.

Huen WONG
Chairman,
Hong Kong International
Arbitration Centre

Explanatory Note

The purpose of these Rules is to make provisions to facilitate the performance of the following functions by the Hong Kong International Arbitration Centre (*HKIAC*)—

- (a) the default appointment by the HKIAC of an arbitrator under section 24 of the Arbitration Ordinance (Cap. 609) (*the Ordinance*);
- (b) the decision by the HKIAC on the number of arbitrators under section 23(3) of the Ordinance; and
- (c) the default appointment by the HKIAC of a mediator under section 32(1) of the Ordinance.