

Government proposes reform on the law of arbitration in Hong Kong

The Government has proposed reform on the law of arbitration in Hong Kong to make it more user-friendly and in line with international practices and development.

One of the objectives of the law reform is to attract more business parties to conduct arbitration proceedings here and help promote Hong Kong as a regional centre for dispute resolution.

The proposed reform is contained in the Arbitration Bill to be gazetted on Friday (June 26), following consultation with arbitration institutes, representatives of the legal profession including the Law Society of Hong Kong and the Hong Kong Bar Association, academics, various public authorities, concerned private organisations and the Administration of Justice and Legal Services Panel of the Legislative Council.

The bill, if enacted, will create a unitary regime of arbitration on the basis of the UNCITRAL Model Law on International Commercial Arbitration (Model Law) adopted by the United Nations Commission on International Trade Law (UNCITRAL) for all types of arbitration, thereby abolishing the distinction between domestic and international arbitration under the existing Arbitration Ordinance.

The bill gives legal effect to those provisions of the Model Law that are to apply in Hong Kong subject to such modifications and adaptations where appropriate. In comparison with the current regime, the bill limits the opportunities for judicial intervention and promotes greater parties' autonomy on the resolution of disputes by arbitration.

The bill covers various aspects including the principles for the interpretation of the Model Law, procedural rules in respect of the conduct of arbitral proceedings and the enforcement of arbitral awards. There are also "opt-in" provisions in the bill which allow arbitration users to continue to use certain provisions that only apply to domestic arbitration under the current regime.

As the current Arbitration Ordinance is to be repealed after the enactment of the bill, there are provisions relating to the relevant savings and transitional arrangements.

The first reading and commencement of the second reading debate of the bill by the Legislative Council will take place on July 8.

Ends/Wednesday, June 24, 2009