

Arbitration (Amendment) Bill 2013 to be gazetted

The Arbitration (Amendment) Bill 2013 will be gazetted this Thursday (March 28) to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards between the Hong Kong Special Administrative Region and the Macao Special Administrative Region.

A spokesman for the Department of Justice said that the Arrangement, concluded with Macao in January this year, is beneficial to Hong Kong in terms of enhancing its role as a regional arbitration centre as it facilitates the efficient enforcement of Macao arbitral awards in Hong Kong and vice versa.

In order to implement the Arrangement, it is necessary to amend the existing Arbitration Ordinance (Cap. 609) so as to enable awards made in Macao to be enforced by Hong Kong courts in accordance with the principles set out in the Arrangement, the spokesman added.

Under the proposed amendments, a Macao award is enforceable in Hong Kong either by action in the Court of First Instance of the High Court (the Court), or in the same manner as an arbitral award to which the relevant section of the Ordinance applies with the leave of the Court.

To further enhance the arbitral regime in Hong Kong, some amendments to the Ordinance are also proposed in light of recent developments in the arbitration sector.

The Bill provides that with the leave of the Court, any emergency relief granted by an emergency arbitrator in or outside Hong Kong is enforceable in the same manner as an order or direction of the Court. Furthermore, if the parties to arbitration have agreed that the costs of the arbitral proceedings are to be taxed by the court, the costs shall be taxed on a "party and party" basis.

Amendment is also made to the Schedule to the Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) to update the list of the parties to the New York Convention by adding the new parties, namely Fiji, Liechtenstein, Sao Tome and Principe and Tajikistan.

All the proposed amendments have received support from the legal and arbitration sectors, the spokesman said.

The Bill will be introduced to the Legislative Council on April 24.

Ends/Tuesday, March 26, 2013