

Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong to be regularised with refinements

With effect from March 1, 2025, the Government will regularise the Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong with refinements. Upon regularisation, the Scheme will be named the Immigration Facilitation Scheme for Persons Participating in Arbitral Proceedings in Hong Kong.

Under the Pilot Scheme, relevant individuals are allowed to participate in arbitral proceedings in Hong Kong as visitors without the need to obtain an employment visa if they are in possession of a letter of proof (Letter) issued by a designated arbitral and dispute resolution institution or venue provider proving that they are eligible persons participating in arbitral proceedings in Hong Kong.

As an international centre for legal and dispute resolution services in the Asia-Pacific region, Hong Kong is and has always been one of the most preferred seats and destinations of arbitration in the world. Catering for the needs of arbitrations taking place in Hong Kong, the Government launched the Pilot Scheme on June 29, 2020, to provide immigration facilitation for eligible visitors participating in arbitral proceedings in Hong Kong on a short-term basis. The arbitration community has been supportive of the Pilot Scheme since its launch, finding it conducive to maintaining Hong Kong's competitiveness as an international legal and dispute resolution services centre. This is in line with the National 14th Five-Year Plan, the Belt and Road Initiative and the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area.

After a review and having regard to feedback from the industry on the developing needs of parties in arbitrations, the Pilot Scheme will be regularised with the following refinements:

(a) The scope of eligible persons will be expanded to five categories to include persons who are directly related to or involved in the arbitrations taking place in Hong Kong such as tribunal secretaries, tribunal-appointed experts. Upon such refinement, the Scheme will cover five categories of persons (Eligible Persons), namely, (i) arbitrators; (ii) expert and factual witnesses; (iii) counsel in the arbitration; (iv) parties to the arbitration; and (v) other persons directly related to or involved in the arbitration such as tribunal secretaries, tribunal-appointed experts.

(b) The Scheme will cover all arbitrations physically taking place in Hong Kong, including those in which parties opt to, as a matter of law, have the "seat of arbitration" elsewhere.

After regularisation, persons who seek to benefit from the Scheme shall continue to, prior to their entry into Hong Kong, obtain the Letter confirming that they are Eligible Persons participating in arbitral proceedings in Hong Kong:

(a) For arbitrations administered by an arbitral institution, the Letter shall be issued by one of those designated arbitral and dispute resolution institutions and permanent offices in Hong Kong, which satisfies the criteria set out under Article 2(1) of the "Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the HKSAR". For details of the list of institutions and permanent offices and their contact details, please visit the Department of Justice (DoJ) website (www.doj.gov.hk/en/legal_dispute/pdf/Immigration_Facilitation_Scheme_contact_list_en.pdf).

(b) For ad hoc arbitrations (i.e. arbitrations not administered by an arbitral institution), the Letter shall be issued by reputable venue(s) with established and well-equipped hearing facilities. For details of the list of venue providers, please visit the DoJ website (www.doj.gov.hk/en/legal_dispute/pdf/list_of_venue_providers_en.pdf).

For the avoidance of doubt, users of the Scheme are still required to apply for the requisite visit visa or entry permit in order to enter Hong Kong where applicable. Eligible Persons are permitted to stay in Hong Kong for participating in arbitral proceedings for a period not exceeding the period for which they are permitted to remain in Hong Kong as a visitor. They shall produce the Letter upon inspection by the Immigration Department or the relevant authorities, if required. The DoJ will issue a Guidance Note on the Scheme to the above-mentioned arbitral and dispute resolution institutions.

Hong Kong has ranked among the most preferred seats for arbitration globally in recent years. Nationals of many countries may visit the city without a visit visa or entry permit. Hong Kong is also an international aviation hub located in the heart of Asia and well-connected to various regions. The Scheme will thus synergise with Hong Kong's many unique strengths as an ideal venue for arbitrations. With a pool of top professional services talent, there are no legal restrictions on who may act as arbitrator, and parties to arbitral proceedings may retain counsel or advisers without restrictions as to their nationalities and professional qualifications in Hong Kong. Additionally, Hong Kong is the first and only common law jurisdiction outside the Mainland where, as a seat of arbitration, parties to arbitral proceedings administered by designated arbitral institutions would be able to apply to the Mainland courts for preservation measures. Arbitral awards made in Hong Kong are generally upheld by local courts and enforceable in over 170 Contracting Parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). An award creditor of a Hong Kong arbitral award can make simultaneous enforcement applications to both the Mainland and Hong Kong courts.

A spokesman for the DoJ said, "The regularisation and refinement of the Scheme offer parties and practitioners high convenience and a broad choice of international and local legal experts and related professionals, further enhancing Hong Kong's attractiveness as a seat or destination for arbitrations."

Ends/Wednesday, February 12, 2025