

The New Arbitration Ordinance

A new era for Arbitration in Hong Kong

The 1st of June 2011 is a landmark date in the development of arbitration in Hong Kong. On this day, the new Arbitration Ordinance came into operation, doing away with the division between the domestic and international arbitration regimes. Hong Kong has entered a new era with a brand new regulatory framework for arbitration to realize its full potential as a dispute resolution mechanism, and to further strengthen Hong Kong's credentials as the regional hub for international arbitration.

The New Arbitration Ordinance

The new Ordinance is a testament to the concerted efforts of the Government, the Legislative Council and the arbitration community. It has gone through a long gestation period of over 10 years during which the proposals for reform were carefully scrutinised by arbitration professionals and users of arbitration. The Department of Justice would like to pay tribute to all those who have contributed in this important exercise to reform arbitration law in Hong Kong.

With the new Ordinance coming into operation, we have now a unified arbitration regime based on the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law (UNCITRAL). Our law becomes in tune with the latest and best

international practice, and more familiar and easily accessible to both local and foreign arbitration users and practitioners. With the clear policy in the new Ordinance that the court may intervene only in circumstances that are expressly provided for, the new regulatory regime is in line with the objectives to achieve fair and speedy resolution of disputes and to avoid unnecessary costs. Other major features of the new Arbitration Ordinance include the protection of confidentiality in arbitration proceedings as well as court hearing related to those proceedings.

Additional accommodation for the Hong Kong International Arbitration Centre (HKIAC)

The second reason why the 1st June 2011 is a landmark date in the development of arbitration in Hong Kong is the announcement by the Department of Justice on this day that additional space adjacent to the current premises of the HKIAC would be made available to the centre to enable it to expand its hearing and office facilities.

The flourishing commercial and financial activities in the region, in particular in respect of Mainland-related businesses, have contributed to greater use of arbitration to resolve disputes in recent years. Because of our highly experienced and skilled arbitration professionals and our strategic location as the gateway to Mainland China, naturally the demand for first-class arbitration facilities in Hong Kong has been increasing in recent years.

In less than a year time, HKIAC will be able to operate from the entire

floor of its current address in Two Exchange Square, with the total floor space of about 1270 square meters, doubling the size of the present establishment. With the additional hearing facilities, we can attract more international arbitral institutions to come to Hong Kong, just as the International Court of Arbitration of the International Chamber of Commerce (ICC) did two years ago. With the expansion of the HKIAC, I am confident that businesses around the world will find Hong Kong even more attractive as a preferred venue when it comes to arbitration as well as setting up businesses.

The overhaul of our arbitration law and the expansion of the HKIAC are clear demonstrations of the HKSAR Government's commitment to promote Hong Kong as a regional centre for international arbitration, which was clearly stated by the Chief Executive in his Policy Address in 2007.

On 1st June 2011, Hong Kong has made a great leap forward in providing the best software and hardware for arbitration. However, the single most crucial factor for the success of arbitration in Hong Kong must still be the human talents. We shall work closely with our first class legal and arbitration professionals to ensure Hong Kong will continue to excel in this highly competitive area of legal services.

Wong Yan Lung, SC
Secretary for Justice