

**Immigration Facilitation Scheme for Persons
Participating in Arbitral Proceedings in Hong Kong
Guidance Note to Arbitral Institutions / Venue Providers**

(1) The “Immigration Facilitation Scheme for Persons Participating in Arbitral Proceedings in Hong Kong” (“the Scheme”) aims to provide facilitation for eligible non-Hong Kong residents participating in arbitral proceedings in Hong Kong¹ on a short-term basis as visitors. The Scheme covers five categories of persons, namely:

- (i) Arbitrators;
- (ii) Expert and factual witnesses;
- (iii) Counsel in 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.

(hereinafter collectively referred to as “Eligible Person(s)”)

Under the Scheme, foreign nationals, whether they may visit Hong Kong visa-free (“Visa-free Nationals”) or require a visit visa to enter Hong Kong (“Visa-required Nationals”), and residents of the Mainland, Macao and Taiwan are eligible to come to Hong Kong as visitors to participate in arbitral proceedings under the Scheme without the need to obtain an employment visa/entry permit.

For the avoidance of doubt, Eligible Person(s) are still required to fulfill the requisite visit visa or entry permit requirements in order to enter into Hong Kong. Eligible Person(s) 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 and there will be no cap on the number of days that a person may participate in arbitral proceedings during each entry into Hong Kong or the number of times that the person may do so in a year. The visit visa requirements of Hong Kong for foreign nationals and entry arrangements for Mainland, Macao, Taiwan and overseas Chinese residents can be found in the homepage of the Immigration Department².

(2) Persons who are seeking to benefit from the Scheme shall obtain a “Letter of Proof”

¹ The Scheme covers 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.

² For nationals of foreign countries, please visit this webpage:

<https://www.immd.gov.hk/eng/services/visas/visit-transit/visit-visa-entry-permit.html>

For Mainland residents, please visit this webpage:

<https://www.immd.gov.hk/eng/services/visas/overseas-chinese-entry-arrangement.html#a>

For Macao residents, please visit this webpage:

<https://www.immd.gov.hk/eng/services/visas/overseas-chinese-entry-arrangement.html#b>

For overseas Chinese or Chinese residents of Taiwan, please visit these webpages:

<https://www.immd.gov.hk/eng/services/visas/overseas-chinese-entry-arrangement.html#c>

https://www.immd.gov.hk/eng/services/visas/pre-arrival_registration_for_taiwan_residents.html

confirming that they are Eligible Person(s) participating in arbitral proceedings in Hong Kong. For arbitrations that are being administered by an arbitral institution, the “Letter of Proof” shall be issued by the arbitral institution. The arbitral institutions issuing the “Letter of Proof” are currently confined to the designated arbitral and dispute resolution institutions and permanent offices in Hong Kong satisfying 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”.³ For *ad hoc* arbitration (i.e. arbitration not administered by an arbitral institution), the “Letter of Proof” shall be issued by reputable venue(s) with established and well-equipped hearing facilities.⁴

- (3) The relevant arbitral institutions/venue providers should only issue the “Letter of Proof” to Eligible Person(s) who are coming to Hong Kong to participate in arbitral proceedings of a specific case on a short-term basis. The relevant arbitral institutions/venue providers should remind such persons to apply for an appropriate visa / entry permit from the Immigration Department if they intend to come to Hong Kong to engage in activities falling outside the scope of the Scheme. Failure to do so may render the person concerned in breach of the condition of stay imposed on him/her. He/She may be liable to prosecution and removal from Hong Kong.
- (4) On or before collecting personal data from the Eligible Person(s) for the purpose of issuing the “Letter of Proof”, the arbitral institution / venue provider concerned should, in compliance with data protection principle 1(3) in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486), inform the Eligible Person(s) that their personal data may be transferred to government bureaux / departments (including the Security Bureau and the Immigration Department) for the following purposes:-
 - (i) to administer the Scheme;
 - (ii) to assist in the enforcement of relevant Ordinances and Regulations by government bureaux and departments through carrying out immigration control duties;
 - (iii) to serve statistical and research purposes; and
 - (iv) to serve any other legitimate purposes as may be required, authorised or permitted by law.

If the requisite personal data is not provided, the relevant arbitral institutions / venue providers shall refuse to issue the “Letter of Proof”. The relevant arbitral institutions / venue providers should also inform the Eligible Person(s) that they have the right to request access to and to request the correction of the personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). The

³ For details of the list of designated arbitral and dispute resolution institutions and permanent offices, please visit the website of the Department of Justice: https://www.doj.gov.hk/en/legal_dispute/pdf/Immigration_Facilitation_Scheme_contact_list_en.pdf

⁴ For details of the list of venue providers, please visit the website of the Department of Justice: https://www.doj.gov.hk/en/legal_dispute/pdf/list_of_venue_providers_en.pdf

name, job title and contact details of the individual from the relevant arbitral institutions / venue providers who is to handle any such data access and/or data correction request should also be provided to the Eligible Person(s).

- _____ (5) The details of the Eligible Person(s) and the concerned arbitral proceedings must be stipulated in the “Letter of Proof”, the template of which is attached at **Annex A**. The “Letter of Proof” should be signed by designated person of the arbitral institution / venue provider concerned. Contact point(s) of the arbitral institution / venue provider concerned, even outside office hours, must be stated in the “Letter of Proof” in order to facilitate necessary verification by personnel of the Immigration Department and/or other relevant government authorities when necessary.
- (6) The “Letter of Proof” should be issued to the Eligible Person(s) before their arrival in Hong Kong so that it can be produced to immigration officers at control points if required. The relevant arbitral institutions should also remind the Eligible Person(s) that upon arrival in Hong Kong, he/she will still be subject to immigration examination. Immigration officers at control points will decide whether he/she may be granted permission to land in Hong Kong in accordance with the prevailing laws, policies and practices. Factors to be taken into account include, among others, whether the Eligible person(s) can meet the normal immigration requirements (such as holding a valid travel document with adequate returnability to his/her country of residence or citizenship; being of clear criminal record and raising no security or criminal concerns to Hong Kong; having no likelihood of becoming a burden on Hong Kong, etc.). In other words, the Eligible Person(s) should not assume that he/she can gain entry into Hong Kong automatically, even though he/she is in possession of the “Letter of Proof”. Besides, Eligible Person(s) are required to furnish, where necessary, the “Letter of Proof” for inspection by personnel of the Immigration Department and/or other relevant government authorities.
- (7) The relevant arbitral institutions / venue providers should keep proper records of details of the arbitral proceedings and Eligible Persons under the Scheme for two years for the purpose of monitoring, inspection and law enforcement by the relevant government authorities in case of need. Statistical information in relation to the implementation of the Scheme should also be provided by the designated arbitral institution / venue provider to the Department of Justice upon request. The designated arbitral institutions / venue providers should provide a monthly return to the Immigration Department (by email and copied to the Department of Justice) as per **Annex B** by the 5th of each month, listing out the details of the Letter of Proof issued in the previous month⁵. If the relevant arbitral institutions / venue providers fail to do so, they may be removed from the list of qualified arbitral institutions / venue providers that may issue the “Letter of Proof” under the Scheme.
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⁵ From the first day to the last day of each month

- (8) This Guidance Note (including the Annexes) may be reviewed and revised from time to time by the Government.

Department of Justice
The Government of the Hong Kong
Special Administrative Region
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