

For discussion on
10 February 2025

LC Paper No. CB(2)190/2025(02)

**Legislative Council Panel on
Administration of Justice and Legal Services**

Promoting the Development of the Legal Profession in Hong Kong

Purpose

To facilitate the Panel Members' discussion of the captioned subject, this paper seeks to provide an overview of:-

- (i) the legal profession in Hong Kong; and
- (ii) the alternative dispute resolution services in Hong Kong.

Legal Profession in Hong Kong

2. The legal profession in Hong Kong, which comprises solicitors and barristers, may undertake a wide range of practices across various areas of law and in different forms of dispute resolution including litigation, arbitration and mediation. There are 11,758 solicitors holding current practising certificates as at the end of December 2024¹; and 1,716 practising barristers as at the end of January 2025².

3. There are different admission requirements and practice mode for the two branches of the legal profession. Such requirements are provided in the Legal Practitioners Ordinance (Cap. 159). Pursuant to Cap. 159, the two professional bodies, namely the Law Society of Hong Kong ("**Law Society**") and the Hong Kong Bar Association ("**Bar Association**"), are vested with the power to regulate solicitors and barristers in areas such as practice, conduct, discipline, examination

¹ Figures obtained from The Law Society of Hong Kong's website: <https://www.hklawsoc.org.hk/en/About-the-Society/Profile-of-the-Profession> (last accessed on 27 January 2025).

² Figures obtained from the Hong Kong Bar Association's websites: <http://www.hkba.org/Bar-List/junior-counsel>; <http://www.hkba.org/Bar-List/senior-counsel> (last accessed on 27 January 2025).

and continuing education by way of subsidiary legislation. Cap. 159 stipulates that the rules and regulations made by the Law Society and the Bar Association require the prior approval of the Chief Justice.

(a) Solicitors – General and Residency Requirements

4. The Court of First Instance (“**the Court**”) may admit as a solicitor a person who the Court considers is a fit and proper person to be so admitted and who has complied with requirements prescribed by the Council of the Law Society with respect to the employment as a trainee solicitor, passing of examinations and completion of courses.³

5. To qualify, a person will need to enter into a two-year trainee solicitor contract if he has passed or received a certificate of completion or certificate of satisfactory completion (as the case may be) in the Postgraduate Certificate in Laws and such examination or course required by the Law Society.

6. A person who applies for admission as a solicitor would also need to satisfy the requirements under the Admission and Registration Rules (Cap. 159B)⁴ and one of the residency requirements stipulated in Cap. 159⁵.

(b) Solicitors – Practice Mode⁶

7. In order to practise as a solicitor, a person must:

- (i) have his name for the time being on the roll of solicitors;

³ Section 4(1)(a) of Cap. 159.

⁴ The requirements include obtaining the required certificates from the Law Society, submitting the prescribed forms and motion papers, and paying the prescribed fees.

⁵ Section 4(1A) of Cap. 159 provides:

- (i) he has resided in Hong Kong for at least 3 months immediately before the date on which he applied for a certificate of eligibility for admission;
- (ii) he intends to reside in Hong Kong for at least 3 months immediately after his admission;
- (iii) he has been ordinarily resident in Hong Kong for at least 7 years; or
- (iv) he has been present in Hong Kong for at least 180 days of each of at least 7 years.

⁶ The practice of solicitors is governed by the Solicitors’ Practice Rules (Cap. 159H) which have detailed provisions relating to matters such as their general conduct, prohibition against publicity, name of firm, letterhead, fee cutting, supervision of office and control of employment of unqualified staff.

- (ii) not be suspended from practice;
 - (iii) have in force a current practising certificate issued by the Law Society;
and
 - (iv) have complied with the requirement to take out professional indemnity insurance or have been exempted from the requirement.⁷
8. A Hong Kong law firm can operate in sole proprietorship or in partnership.
9. In sole proprietorship, solicitors are personally liable for their professional liability to the extent of their assets.
10. In a partnership, each partner is liable to the full extent of his partnership and private assets for any professional liability incurred by the partners, or their employees. Solicitors practising in a partnership can share the profits and expenses of the law firm in accordance with the partnership agreement drawn up by themselves.
11. The Legal Practitioners (Amendment) Ordinance 2012 came into effect on 1 March 2016, allowing law firms in Hong Kong to operate in the form of a limited liability partnership (“**LLP**”). As regards an LLP which is constituted and operates according to the requirements of Cap. 159, its partners are, subject to certain conditions⁸ and limitations⁹, not personally liable for any of its liability that arises from the provision of professional services by the LLP and as a result of the negligent or wrongful acts or omissions, or misconduct of another partner, an employee, agent or representative of the LLP not directly supervised by him. A number of consumer protection safeguards are also built into Cap. 159.¹⁰

(c) Solicitors – Higher Rights of Audience

12. The Legal Practitioners (Amendment) Ordinance 2010, which took effect

⁷ Section 7 of Cap. 159.

⁸ For example, at the time of the firm’s default, the client knew or ought reasonably to have known that the firm was an LLP.

⁹ For example, the relevant provisions do not protect an LLP partner’s interests in the partnership property.

¹⁰ One key measure is that, apart from the normal statutory professional indemnity coverage that law firms are required to maintain in general, an LLP must take out a top-up insurance for an additional indemnity coverage of HK\$10 million in respect of any one claim.

operation in June 2012, lifted the restriction against solicitors from representing their clients in our higher courts. It enables solicitors who meet the eligibility requirements and other relevant conditions in Cap. 159 to apply to the Higher Rights Assessment Board for higher rights of audience before the Competition Tribunal, High Court and the Court of Final Appeal.

(d) Barristers – General and Residency Requirements

13. The Court may admit a person from any jurisdiction to be a barrister if he is considered to be a fit and proper person and has complied with the requirements, passed the examinations and paid the fees prescribed by the Bar Council.¹¹

14. In addition, a person who seeks admission as a barrister shall enter into pupillage for a period of not less than 1 year in the chambers of a practising barrister (of not less than five years' standing) in Hong Kong. After the expiry of the first six months of the pupillage, the person shall be qualified to a limited practice.¹²

15. A person who applies for admission as barrister would need to satisfy one of the residency requirements stipulated in Cap. 159.¹³

(e) Barristers – Practice Mode

16. Barristers differ from solicitors in that they do not practise in partnership. Instead, barristers practise independently or in chambers. Two or more practising barristers may share professional expenses in accordance with an agreement or in proportion to their receipts. However, they may not share professional receipts or agree that any one or more of them shall assume responsibility for the professional work of the other(s).

¹¹ Section 27(1) of Cap. 159.

¹² Barristers (Qualification for Admission and Pupillage) Rules (Cap. 159AC), rule 4(3); Section 31(2) of Cap. 159.

¹³ Section 27(2)(b) of Cap. 159 provides:

- (i) he has resided in Hong Kong for at least 3 consecutive months immediately before the date of his application for admission;
- (ii) he has been ordinarily resident in Hong Kong for at least 7 years;
- (iii) he has been physically present in Hong Kong for at least 180 days of each of at least 7 years within the 10 years immediately preceding the date of his application for admission.

17. The conduct of barristers is governed by the Code of Conduct formulated by the Bar Association. It also provides guidelines regarding their practice overseas.

18. A barrister of not less than 10 years' experience may be appointed as a Senior Counsel by the Chief Justice, after consultation with the chairman of the Bar Council and the president of the Law Society. A person is eligible for appointment as a Senior Counsel if the person – (i) has, in the opinion of the Chief Justice, sufficient ability and standing as a barrister or legal officer, and sufficient knowledge of the law, to be accorded that status; and (ii) has the requisite experience; and (iii) is practising at the bar in Hong Kong or is practising as an advocate while holding office as a legal officer.¹⁴

(f) Self-regulatory Regime of the Profession

19. Under the self-regulatory regime for Hong Kong's legal profession, the Law Society and the Bar Association must exercise its powers and perform its functions independently in compliance with the relevant laws. Against this vital principle, any reform or development proposal regarding the legal profession should be initiated by the legal professional bodies. The Department of Justice (“**DoJ**”) has been maintaining close communication and cooperation with the two legal professional bodies in promoting legal services, fostering an environment conducive to the development of the legal profession, and creating more opportunities for the sector through various initiatives and new policies. The Government will continue to support and facilitate reform proposals which have gained the consensus of the legal profession, especially when they involve amendments to existing legislation.

(g) Legal Education and Professional Training

20. The Standing Committee on Legal Education and Training (“**SCLET**”) established under section 74A of Cap. 159 is responsible for keeping under review the legal education and training in Hong Kong, monitoring vocational training of prospective legal practitioners, collecting and disseminating relevant information about legal education and training, and making recommendations on related matters. A representative from the DoJ is one of the SCLET members. For on-the-job training, both the Law Society and the Bar Association have established committees

¹⁴ Section 31A(2) of Cap. 159.

for reviewing such matters as legal professional development and continuing education. The DoJ will continue to support the two legal professional bodies and SCLET in their ongoing review and enhancement of the local legal education and professional training so as to nurture more legal talents for Hong Kong.

(h) Guangdong-Hong Kong-Macao Greater Bay Area (“GBA”) Lawyers

21. Eligible Hong Kong solicitors and barristers who have passed the GBA Legal Professional Examination (“**GBA Examination**”) and obtained the Lawyer’s License (GBA) can provide legal services in the nine Mainland municipalities in the GBA on certain civil and commercial matters (including litigation and non-litigation matters) to which the Mainland laws apply. As at the end of December 2024, over 530 Hong Kong and Macao legal practitioners have obtained the Lawyer’s License (GBA). The DoJ will continue to facilitate the GBA Examination and support the professional development of GBA lawyers.

Alternative Dispute Resolution Services in Hong Kong

(a) Background

22. Hong Kong receives strong national support to establish itself as the centre for international legal and dispute resolution services in the Asia-Pacific region, as highlighted by the National 14th Five-Year Plan and the Outline Development Plan for the GBA.

23. The Government of the Hong Kong Special Administrative Region (“**HKSAR**”) is committed to leveraging the unique strengths of Hong Kong under the principle of “One Country, Two Systems” to promote its legal and dispute resolution services on all fronts. This commitment is reaffirmed in the Policy Address 2024 (“**PA 2024**”)¹⁵ and the Policy Initiatives of the DoJ.¹⁶

24. Arbitration and mediation are the two most popular alternative dispute resolution (“**ADR**”) methods in Hong Kong. Our services in these areas are internationally recognised and respected.

¹⁵ See paragraphs 72 to 74 of the PA 2024.

¹⁶ See LC Paper No. CB(2)1283/2024(02) (<https://www.doj.gov.hk/en/legco/pdf/ajls20241101e1.pdf>).

(b) Arbitration

Landscape and Latest Developments

25. The Arbitration Ordinance (Cap. 609) which is largely based on the UNCITRAL Model Law, is continuously reviewed to ensure it remains competitive and in line with the latest international arbitration practice:

- (i) The Arbitration (Amendment) Ordinance 2017 clarifies that disputes over intellectual property rights (“**IPRs**”) are arbitrable and it would not be contrary to public policy to enforce an award solely because the award involves an IPR dispute¹⁷.
- (ii) The Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 clarifies that third party funding (“**TPF**”) of arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty and provides for related safeguards^{18, 19}.
- (iii) The *Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022* gazetted on 30 June 2022 provides, *inter alia*, that certain agreements using outcome related fee structures for arbitration (“**ORFSA**”) are not prohibited by the common law doctrines of maintenance, champerty and barratry. The ORFSA regime was fully implemented on 16 December 2022.²⁰

26. Arbitral awards made in Hong Kong are generally upheld by local courts and enforceable in over 170 Contracting States to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (also known as the New York Convention), with a good track record of quality and enforceability.

¹⁷ The relevant amendments came into operation on 1 January 2018.

¹⁸ The provisions on third party funding of arbitration came into operation on 1 February 2019. The commencement of the provisions on third party funding of mediation will be deferred to a future date following further consultation with the relevant stakeholders.

¹⁹ As of 31 December 2024, there were 90 arbitration cases in Hong Kong in which TPF has been disclosed.

²⁰ As of 31 December 2024, there were 15 arbitration cases in Hong Kong in which ORFSA has been disclosed.

27. As part of an effort to develop arbitration services for cross-boundary disputes, the following arrangements were signed with the Mainland:

- (i) Under the Interim Measures Arrangement²¹ signed in 2019, Hong Kong became the first 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 interim measures, including preservation of assets, evidence and conduct. As of December 2024, Hong Kong’s arbitral institutions have processed 153 applications for interim measures made to the Mainland courts, and court orders for over RMB21.8 billion (approximately USD 2.9 billion) worth of assets have been issued.
- (ii) By the Enforcement Arrangement²² signed in 1999, the two jurisdictions can mutually enforce arbitral awards made in the Mainland and Hong Kong. The Supplemental Arrangement signed in 2020²³ has refined the Enforcement Arrangement and brought it more fully in line with international arbitration practice.

28. Hong Kong has long been recognised as a preferred seat for international arbitration. In the 2021 International Arbitration Survey conducted by Queen Mary University of London, Hong Kong was ranked as the third most popular seat for arbitration, chosen by 50% of the survey respondents worldwide.²⁴

29. The Hong Kong International Arbitration Centre (“**HKIAC**”), is well-received internationally and ranked the third most preferred and used arbitral institution worldwide in the aforementioned 2021 International Arbitration Survey. Referring to HKIAC’s statistics in 2023,²⁵ a total of 500 matters were submitted to

²¹ The full title is the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region.

²² The full title is the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong Special Administrative Region.

²³ The Supplemental Arrangement amends the Reciprocal Enforcement Arrangement in four aspects, including removing the previous restriction of the Reciprocal Enforcement Arrangement to allow parties to make simultaneous enforcement application to both the courts of Hong Kong and the Mainland.

²⁴ <https://arbitration.qmul.ac.uk/research/2021-international-arbitration-survey>

²⁵ <https://www.hkiac.org/news/hkiac-releases-statistics-2023>

the HKIAC in 2023. Of those, HKIAC received 281 arbitration filings, which was the third highest number of cases received since 2017. The total amount in dispute across all arbitrations in 2023 was HK\$92.8 billion (approximately US\$12.5 billion), representing a record high for HKIAC.

30. The Legal Hub hosts a number of well-respected international arbitral institutions²⁶, some of which have established a presence in Hong Kong outside their home jurisdictions.

31. On 21 September 2020, the Baltic and International Maritime Council (“**BIMCO**”) announced the adoption of the BIMCO Law and Arbitration Clause 2020.²⁷ Hong Kong is named under the new Clause as one of the four designated arbitration venues, alongside London, New York and Singapore, evidencing our strength as a reputable maritime arbitration centre.

Talents

32. There are no restrictions on foreign qualified lawyers to practise as arbitrators or to participate in arbitral proceedings in other capacities in Hong Kong. Parties in arbitration may appoint a person as an arbitrator regardless of the nationalities and professional qualifications of that person.

33. The HKIAC maintains a Panel of Arbitrators and a List of Arbitrators to facilitate parties making their choices of arbitrators.²⁸ As of January 2025, there were 460 persons on the Panel of Arbitrators and 446 persons on the List of Arbitrators. They are of diverse backgrounds in nationalities, qualifications and

²⁶ Namely, the AALCO Hong Kong Regional Arbitration Centre, the Chartered Institute of Arbitrators (East Asia Branch), the China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, the China Maritime Arbitration Commission Hong Kong Arbitration Center, Hong Kong Maritime Arbitration Group, the Secretariat of the International Court of Arbitration of the International Chamber of Commerce Asia Office and the eBRAM International Online Dispute Resolution Centre Limited.

²⁷ <https://www.hkmag.org.hk/news/2020/10/6/bimco-law-and-arbitration-clause-2020>

²⁸ <https://www.hkiac.org/arbitration/arbitrators>

The HKIAC Panel of Arbitrators comprises senior members of the arbitration community who have been appointed as arbitrator in multiple disputes and have significant experience in award drafting. The HKIAC List of Arbitrators comprises members who may have some, but not necessarily extensive, experience acting as arbitrator as well as those who may have not yet achieved their first or multiple appointments, but who nevertheless have significant experience in arbitration to the extent that they would be suitable for appointment as arbitrator in cases either of smaller value or those with less complex issues for decision.

jurisdictions from which they received training.

34. The Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong (“**Pilot Scheme**”) was launched on 29 June 2020 to provide immigration facilitation for eligible visitors participating in arbitral proceedings in Hong Kong on a short-term basis. 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 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. Having reviewed its operation and taking into account feedback from the industry, there are plans to regularise the Pilot Scheme with refinements.

Arbitration in GBA

35. Judicial exchanges and cooperation within the GBA have been specifically strengthened with the establishment of the GBA Legal Departments Joint Conference since 2019. On the arbitration front, at the 6th GBA Joint Conference held on 18 November 2024, the three respective legal departments of Guangdong, Hong Kong and Macau endorsed the Working Guidelines on the Panel of GBA Arbitrators and reached consensus on the detailed arrangements for the mechanism of setting up a panel of arbitrators. The three places will commence their respective nominations of local arbitrators and selection procedures, endeavouring to announce the first batch of GBA arbitrators within 2025.

(c) Mediation

Landscape and Latest Developments

36. The Government of the HKSAR is committed to developing mediation services in Hong Kong. The Mediation Ordinance (Cap. 620) promotes, encourages and facilitates the use of mediation to resolve disputes while safeguarding the confidential nature of mediation communications.

37. Hong Kong is the first jurisdiction in Asia to enact a standalone apology legislation, i.e. the Apology Ordinance (Cap. 631) (effective from 1 December

2017). It is also the first jurisdiction amongst 56 common law jurisdictions to protect statements of fact in an apology legislation²⁹.

38. The CEPA Investment Agreement, concluded on 28 June 2017 provides a Mediation Mechanism for Investment Disputes for settlement of investment disputes. DoJ has produced a set of mediation rules for adoption by designated mediation institutions and mediators of Hong Kong. There are currently 19 designated Hong Kong mediators³⁰ and two designated Hong Kong mediation institutions.³¹

39. Since 2009, DoJ has been actively encouraging individuals, companies and organisations across different sectors to sign the “Mediate First” Pledge. The pledge is a non-legally binding commitment by pledgees to first explore the use of mediation to resolve disputes. As of January 2025, more than 920 companies, organisations/associations and individuals have signed the pledge. DoJ has also promoted this brand overseas, including Shanghai and Shenzhen in 2019 and Thailand in 2023, aiming to further cultivate the culture of “Mediate First” in Asia. Going forward, DoJ will endeavor to promote this brand in the GBA cities and beyond.

40. On 16 February 2023, the International Organization for Mediation (“**IOMed**”) Preparatory Office was set up in Hong Kong with the staunch support of the CPG. The establishment of the Preparatory office is a significant international initiative on promoting the use of mediation for resolving international conflicts in an amicable manner. It signifies a vote of confidence by the states signing the joint statement in placing their trust in the Hong Kong SAR as an international legal and dispute resolution centre in the Asia-Pacific Region.

41. In the local front, as announced in the PA 2024, the Government is implementing a series of measures to deepen the mediation culture.

²⁹ Under the Apology Ordinance, an apology does not constitute an express or implied admission of a person’s fault or liability in connection with the matter. It must not be taken into account in determining fault, liability or any other issue in connection with the matter to the prejudice of the person making the apology. The Apology Ordinance applies to various civil proceedings, including judicial, arbitral, administrative, disciplinary and regulatory proceedings, but not criminal proceedings.

³⁰ List of Mediators, see: <https://www.tid.gov.hk/english/cepa/investment/mediation.html>

³¹ The two Hong Kong mediation institutions are the Hong Kong International Arbitration Center - Hong Kong Mediation Council and the Mainland - Hong Kong Joint Mediation Center.

42. The Government will enhance the accreditation and disciplinary system for local mediation professions to further strengthen Hong Kong’s position as an international mediation centre. DoJ has established the Working Group on Mediation Regulatory System (the “**Working Group**”) in October 2024 and completed the review of the regulatory system on the accreditation and disciplinary matters of the mediation profession in Hong Kong at the end of 2024. DoJ is considering the views of the Working Group and will consult stakeholders.

43. The Government will include mediation clauses in government contracts and encourage private organizations to make reference to and include similar mediation clauses in their contracts. DoJ issued a policy statement on 6 November 2024, and the relevant policy has taken effect on 6 February 2025. To raise awareness of mediation within the Government and assist various government bureaux/departments in preparing for the implementation of the relevant policy, DoJ collaborated with the Civil Service College to provide mediation training for relevant civil servants in January 2025.

44. DoJ, in collaboration with the Environment and Ecology Bureau and the Food and Environmental Hygiene Department, will launch a two-year Pilot Scheme on Community Mediation through the training of property management staff. This can help them gain a better understanding of mediation and its value in harmonious dispute resolution, as well as empower them with mediation skillsets in resolving daily disputes with a view to deepening the culture of community mediation and promoting the wider use of mediation in the community.

Talents

45. Similar to arbitration, Hong Kong currently imposes no restrictions on foreign qualified lawyers or foreigners to practise as a mediators in Hong Kong. Parties are free to appoint any person as a mediator regardless of their nationalities and professional qualifications.

46. The Hong Kong Mediation Accreditation Association Limited, established in August 2012, is a non-statutory and industry-led body that provides accreditation and disciplinary oversight for mediators in Hong Kong. As of January 2025, there were 2,303 General Mediators, 333 Family Mediators, and 67 Family Mediation Supervisors registered on its mediator panels.

GBA Mediation Platform

47. In 2020, DoJ together with the legal departments of Guangdong and Macao set up the GBA Mediation Platform to promote the wider use of mediation within the GBA.³² The GBA Mediator Accreditation Standards, the GBA Mediator Code of Conduct Best Practice, and the GBA Cross-boundary Disputes Mediation Model Rules have since then been promulgated in 2021 and 2022. Further, the GBA Mediator Accreditation Rules for Hong Kong were published in March 2024 and the consolidated GBA Mediator Panel was established in December 2024. The panel, with the setting of the aforementioned GBA mediation standards and rules, will facilitate the use of mediation by the business sector and the public in the three places to resolve cross-boundary disputes in the GBA. Further efforts will be invested in the integration and harmonisation of mediation services within the GBA.

Concluding Remarks

48. To conclude, DoJ has been working closely with the two legal professional bodies and the leading ADR institutions. This includes leading delegations comprised of their representatives to promote legal and ADR services in the Mainland and overseas, co-organising events with them and supporting their activities. Looking ahead, DoJ will continue to foster even closer collaboration with them in a joint effort to promote the legal services of Hong Kong and create more opportunities for the legal profession.

Advice Sought

49. Members are invited to note the contents of the paper.

Department of Justice
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³² The GBA Mediation Platform does not offer any mediation services but it is an authoritative platform for high-level exchange and cooperation among the legal departments of the three governments of Guangdong, Hong Kong and Macao, established to facilitate the use of mediation and discharge the role of a standard-setting body with a view to promoting the wider use of mediation within the GBA.