

**立法會**  
**Legislative Council**

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**Subcommittee on  
Arbitration (Amendment) Ordinance 2013 (Commencement) Notice**

**Background brief prepared by the Legislative Council Secretariat**

**Purpose**

This paper gives an account of the past deliberations of the Bills Committee on the Arbitration (Amendment) Bill 2013 ("the Bills Committee").

**Background**

2. Prior to the conclusion of the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards between the Hong Kong Special Administrative Region and the Macao Special Administrative Region ("the Arrangement") in January 2013, there was no arrangement between Hong Kong and Macao on the reciprocal recognition and enforcement of arbitral awards.

3. In order to implement the Arrangement and to provide for the enforcement of emergency relief and make other miscellaneous amendments to the Arbitration Ordinance (Cap. 609) ("the Ordinance"), amongst others, the Arbitration (Amendment) Bill 2013 ("the Bill") was introduced by the Administration into the Council on 24 April 2013.

4. At the House Committee meeting on 26 April 2013, members agreed to form a Bills Committee to study the Bill.

**Past deliberations of the Bills Committee**

5. The Bills Committee agreed to the amendments to the Bill proposed by the Administration to improve the drafting of certain provisions of the Bill; and to add "Myanmar" to the Schedule to the Arbitration (Parties to New York

Convention) Order (Cap. 609 sub. leg. A), having regard to the fact that Myanmar had acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958 on 16 April 2013.

6. The Bills Committee did not raise any query to the arrangements that the Bill, if enacted, would come into operation by two phases. The first phase would comprise the coming into operation of (i) the clauses on the emergency arbitrator procedure to tie in with that of the arbitration rules of the Hong Kong International Arbitration Centre; (ii) clause 7 to amend section 75 of the Ordinance to provide that if the parties to arbitration have agreed that the costs of the arbitral proceedings are to be taxed by the court, the costs are to be taxed on a "party and party" basis under rule 28(2) of Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A); (iii) clauses 19 and 20 to amend the Schedule to Cap. 609 sub. leg. A; and (iv) clauses containing amendments to enhance the readability of the relevant provisions of the Ordinance. The first phase would commence on the day on which the Amendment Ordinance is published in the Gazette. The second phase would comprise the coming into operation of the remaining clauses to implement the Arrangement.

7. The Bills Committee supported the resumption of Second Reading debate on the Bill, subject to the moving of the amendments by the Administration referred to in paragraph 5 above.

### **Recent development**

8. The Bill was passed by the Council on 10 July 2013. The first phase of the Bill has already come into operation on the day on which the Arbitration (Amendment) Ordinance 2013 (7 of 2013) was published in the Gazette on 19 July 2013. The second phase, which mainly relates to the procedures for the enforcement of Macao arbitral awards in Hong Kong courts, will come into operation on 16 December 2013 under the Arbitration (Amendment) Ordinance 2013 (Commencement) Notice gazetted on 11 October 2013.

Council Business Division 4  
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