

立法會
Legislative Council

LC Paper No. CB(4)1145/18-19
(These minutes have been seen
by the Hong Kong International
Arbitration Centre)

Ref: CB4/SS/11/18

**Subcommittee on Arbitration (Appointment of Arbitrators and Mediators
and Decision on Number of Arbitrators) (Amendment) Rules 2019**

**Minutes of the second meeting held on
Tuesday, 4 June 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

- Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)
Hon Alvin YEUNG
Hon Holden CHOW Ho-ding
- Members absent** : Hon Dennis KWOK Wing-hang
Hon Tony TSE Wai-chuen, BBS
- Public officer attending** : **Agenda item I**

Department of Justice

Mr LEE Tin-yan
Senior Assistant Solicitor General (Arbitration)
- Attendance by invitation** : **Agenda item I**

Hong Kong International Arbitration Centre

Ms Sarah GRIMMER
Secretary-General

Mr Joe LIU
Deputy Secretary-General

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Macy NG
Senior Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

- I. Meeting with the Hong Kong International Arbitration Centre and the Administration**
[L.N. 76 of 2019, File Ref.: LP19/00/4C, LC Paper No. LS73/18-19 and CB(4)963/18-19(01)]

Declaration of interest

The Chairman declared that she was an arbitrator and had handled arbitration work.

Discussion

2. Hong Kong International Arbitration Centre ("HKIAC") briefed members on the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) (Amendment) Rules 2019 (L.N. 76 of 2019) ("the Amendment Rules").
3. The Subcommittee deliberated (index of proceedings in **Annex**).
4. The Chairman concluded that the Subcommittee had completed the scrutiny of the provisions of the Amendment Rules. The Subcommittee did not propose any amendment to the Amendment Rules.

Invitation for written submissions

5. The Chairman said that the deadline for the public to submit written submissions to the Amendment Rules was 8 June 2019. Written submissions received by the Subcommittee, if any, would be circulated to members for reference and HKIAC for response.

(Post-meeting note: With the concurrence of the Chairman, the Hong Kong Institute of Architects ("HKIA") and the Hong Kong Bar Association were allowed to submit their written submissions by 18 June 2019. HKIA's submission and HKIAC's response were circulated to members via LC Paper No. CB(4)1015/18-19(01) on 19 June 2019 and LC Paper No. CB(4)1034/18-19(01) on 20 June 2019 respectively, while the Hong Kong Bar Association indicated that it had no objection to the Amendment Rules.)

Legislative timetable

6. The Subcommittee noted that the Chairman would move a motion at the Council meeting of 5 June 2019 to extend the scrutiny period of the Amendment Rules to the Council meeting of 10 July 2019. Upon extension of the scrutiny period, the deadline for giving notice of motion to amend the Amendment Rules would be 3 July 2019. The Chairman would report the deliberations of the Subcommittee to the House Committee at the meeting on 28 June 2019.

(Post-meeting note: At the Council meeting of 5 June 2019, the motion to extend the scrutiny period of the Amendment Rules to the Council meeting of 10 July 2019 was passed.)

II. Any other business

7. There being no other business, the meeting ended at 11:33 am.

**Proceedings of the second meeting of
Subcommittee on Arbitration (Appointment of Arbitrators and Mediators and
Decision on Number of Arbitrators) (Amendment) Rules 2019
on Tuesday, 4 June 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Hong Kong International Arbitration Centre and the Administration			
000818 – 001126	Chairman	Declaration of interest Legislative timetable	
001127 – 001511	Hong Kong International Arbitration Centre ("HKIAC")	Briefing by HKIAC on the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) (Amendment) Rules 2019 ("Amendment Rules")	
001512 – 002112	Chairman HKIAC	Explanation on the current mechanism for the charging of HK\$8,000 for each decision on the number of arbitrators, appointment of an arbitrator or appointment of a mediator, irrespective of the amount in dispute, and including where more than one decision was required in one case, and that the legislative amendment to grant HKIAC a discretionary power to waive its fees for exercising any of its functions would provide a stronger incentive for parties to opt for Hong Kong as the seat of arbitration	
002113 – 002549	Mr Holden CHOW HKIAC	Discussion on the number of maritime arbitration cases handled by HKIAC each year and how the discretionary waiver of HK\$8,000 would benefit the maritime businesses in general and the maritime arbitration in particular	
002550 – 003219	Chairman HKIAC	Discussion on the amendment to grant HKIAC the express power to amend any of the time limits for the parties to provide comments or information before HKIAC proceeded to appoint or make a decision, and HKIAC's measures to avoid abusing the power	
<i>Examination of the Amendment Rules section by section</i>			
003220 – 003709	Chairman HKIAC	Rule 6 Discussion on the rationale of amending rule 6(3)(a) and adopting the same amendments to rules 8(3)(a) and 10(3)(a) of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules	

Time marker	Speaker	Subject(s)	Action required
003710 – 004209	Chairman Mr Holden CHOW HKIAC	Rule 7(4) Discussion on whether there would be a reasonable time limit for HKIAC to make an appointment of an arbitrator after the suspension for appointment, and members' concern on whether the appointment would be suspended indefinitely	
004210 – 004321	Chairman HKIAC	Rules 8, 9 and 10	
004322 – 004530	Chairman HKIAC	Rule 13 HKIAC's indication that it would publish a guideline with respect to the kinds of cases that it would consider waiving fees, that it would be measured primarily according to the amount in dispute in a particular case, and its decision that the appropriate threshold for waving fees was cases with the amount in dispute under HK\$2.5 million	
004531 – 004747	Chairman HKIAC	Schedule	
004748 – 004916	Chairman	Commencement date of the Amendment Rules	
004917 – 005016	Chairman	Conclusion Invitation for written submissions	
Agenda item II – Any other business			
005017 – 005040	Chairman	Concluding remarks	