

55. 道路公司就行車隧道的使用而收取經批准的隧道費

- (1) 在符合本條例的規定下，道路公司可就汽車通過行車隧道而索取及收取隧道費。
- (2) 根據第(1)款可收取的隧道費，須為附表所指明者。
- (3) 附表所指明的隧道費——
- (a) 可由總督會同行政局與道路公司協定而予以更改；或
- (b) 在並無協定時，由總督會同行政局或道路公司根據《仲裁條例》(第 341 章)將更改隧道費的問題提交仲裁。
- (4) 對於根據第(3)款提交的仲裁，仲裁人須以有需要確保道路公司在根據本條例履行其義務或行使其權利時，獲得合理但非過多的報酬為準則，並顧及以下各點——
- (a) 自本條例制定或自上一次根據本條釐定隧道費(視屬何情況而定)以來，香港經濟情況的任何重要變動；
- (b) 道路公司根據第 75 條所作出的任何上訴遭駁回；
- (c) 任何影響道路公司行使其根據第 4(1)條獲批授的專營權權利的其他情況，有任何重要變動；
- (d) 引進或更改就使用行車隧道而徵收的任何稅項或徵費的效果；
- (e) 隧道費或收取隧道費的未來權利不得用作建造鐵路工程的融資的原則，亦不得用以直接或間接解除本條例所施加於鐵路公司的任何義務的原則；及
- (f) 任何其他有關事宜。
- (5) 凡根據第(3)款——
- (a) 總督會同行政局及道路公司協定更改隧道費；或
- (b) 依據提交仲裁的仲裁裁決，決定應更改隧道費，
- 則附表所指明的隧道費須遵從該協定或仲裁裁決(視屬何情況而定)作出更改。
- (6) 運輸署署長須在第(5)款所提述的協定或仲裁裁決作出後，在切實可行範圍內盡快藉憲報公告修訂附表。

55. Road Company to charge approved tolls for use of road tunnel

- (1) Subject to this Ordinance, the Road Company may demand and collect tolls in respect of the passage of motor vehicles through the road tunnel.
- (2) The tolls that may be collected under subsection (1) shall be those specified in the Schedule.
- (3) The tolls specified in the Schedule may be varied—
- (a) by agreement between the Governor in Council and the Road Company; or
- (b) in default of agreement by submission of the question of the variation of tolls to arbitration under the Arbitration Ordinance (Cap. 341) by either the Governor in Council or the Road Company.
- (4) On a submission to arbitration under subsection (3), the arbitrators shall be guided by the need to ensure that the carrying out by the Road Company of its obligations, or the exercise of its rights, under this Ordinance is reasonably but not excessively remunerative to the Road Company, having regard to—
- (a) any material change in the economic conditions of Hong Kong since the enactment of this Ordinance or, as the case may be, since tolls were last determined under this section;
- (b) the dismissal of any appeal by the Road Company made under section 75;
- (c) any material change in any other circumstances affecting the exercise by the Road Company of its rights under the franchise granted by section 4(1);
- (d) the effect of the introduction of, or alteration in, any tax or levy imposed on the use of the road tunnel;
- (e) the principle that tolls or future rights to tolls should not be used to finance the construction of the railway works or to discharge directly or indirectly any obligation imposed on the Rail Company by this Ordinance; and
- (f) any other relevant matter.
- (5) Where under subsection (3)—
- (a) the Governor in Council and the Road Company agree to a variation of the tolls; or
- (b) in an award pursuant to submission to arbitration it is determined that the tolls should be varied,
- the tolls specified in the Schedule shall be varied in compliance with such agreement or award, as the case may be.
- (6) The Commissioner shall, by notice in the Gazette, as soon as is practicable after such agreement or award as is referred to in subsection (5) amend the Schedule.

23. 仲裁裁決的司法覆核

(1) 在不損害第(2)款所授予的上訴權利的原則下，法院並無司法管轄權使其可基於裁決表面存有事實或法律上的錯誤而將根據仲裁協議所作的裁決作廢或發還。

(2) 在符合第(3)款的規定下，由於裁決(該裁決乃根據仲裁協議作出)產生的法律問題而提出上訴，須向法院提出；法院在裁定上訴時，可藉命令——

(a) 維持、更改該裁決或將該裁決作廢；或

(b) 將裁決連同法院對上訴主題的法律問題的意見，一併發還給仲裁員或公斷人重行考慮；

如裁決按(b)段發還，除非命令另有指示，否則仲裁員或公斷人須在命令的日期起計3個月內作出裁決。

(3) 根據本條提出的上訴，在下列情況下可由提交仲裁的任何一方提出——

(a) 得提交仲裁的其他各方同意；或

(b) 在符合第23B條的規定下，得法院許可。

(4) 除非法院在顧及所有情況後，認為有關法律問題的裁定，可實質影響仲裁協議一方或多方的權利，否則法院不得根據第(3)(b)款批予上訴許可；法院在批予許可時，可要求申請人先遵照法院認為合適的條件，然後始予許可。

(5) 在符合第(6)款的規定下，如裁決已經作出，而提交仲裁的任何一方於下列情況下提出申請——

(a) 得提交仲裁的其他各方同意；或

(b) 在符合第23B條的規定下，得法院許可，

法院覺得裁決書沒有列明或沒有充分列明作出裁決的理由，則法院可命令有關的仲裁員或公斷人詳細述明其裁決理由，以便在遇上訴根據本條提出時，法院能夠考慮由該裁決所產生的任何法律問題。

(6) 在任何情況下，如裁決書未列明任何裁決理由，法院不得根據第(5)款作出命令，除非法院信納——

(a) 在作出裁決前，提交仲裁的其中一方已通知有關的仲裁員或公斷人需要一份列明裁決理由的裁決書；或

(b) 基於某些特殊理由未有作出上述通知。

(7) 除非得法院或上訴法庭許可，否則不得就法院在根據本條提出的上訴所作的決定，向上訴法庭提出上訴。(由1998年第25號第2條修訂)

(8) 如仲裁員或公斷人所作的裁決在上訴時被更改，該項被更改的裁決(除為施行本條外)猶如是由仲裁員或公斷人所作的裁決一樣有效。

(由1982年第10號第9條代替)

[比照1979 c. 42 s. 1 U.K.]

23. Judicial review of arbitration awards

(1) Without prejudice to the right of appeal conferred by subsection (2) the Court shall not have jurisdiction to set aside or remit an award on an arbitration agreement on the ground of errors of fact or law on the face of the award.

(2) Subject to subsection (3) an appeal shall lie to the Court on any question of law arising out of an award made on an arbitration agreement; and on the determination of such an appeal the Court may by order—

(a) confirm, vary or set aside the award; or

(b) remit the award to the reconsideration of the arbitrator or umpire together with the Court's opinion on the question of law which was the subject of the appeal;

and where the award is remitted under paragraph (b) the arbitrator or umpire shall, unless the order otherwise directs, make his award within 3 months after the date of the order.

(3) An appeal under this section may be brought by any of the parties to the reference—

(a) with the consent of all the other parties to the reference; or

(b) subject to section 23B, with the leave of the Court.

(4) The Court shall not grant leave under subsection (3)(b) unless it considers that, having regard to all the circumstances, the determination of the question of law concerned could substantially affect the rights of one or more of the parties to the arbitration agreement; and the Court may make any leave which it gives conditional upon the applicant complying with such conditions as it considers appropriate.

(5) Subject to subsection (6), if an award is made and, on an application made by any of the parties to the reference—

(a) with the consent of all the other parties to the reference; or

(b) subject to section 23B, with the leave of the Court,

it appears to the Court that the award does not or does not sufficiently set out the reasons for the award, the Court may order the arbitrator or umpire concerned to state the reasons for his award in sufficient detail to enable the Court, should an appeal be brought under this section, to consider any question of law arising out of the award.

(6) In any case where an award is made without any reason being given, the Court shall not make an order under subsection (5) unless it is satisfied—

(a) that before the award was made one of the parties to the reference gave notice to the arbitrator or umpire concerned that a reasoned award would be required; or

(b) that there is some special reason why such a notice was not given.

(7) No appeal shall lie to the Court of Appeal from a decision of the Court on an appeal under this section unless the Court or the Court of Appeal gives leave.

(8) Where the award of an arbitrator or umpire is varied on appeal, the award as varied shall have effect (except for the purposes of this section) as if it were the award of the arbitrator or umpire.

(Replaced 10 of 1982 s. 9).
[cf. 1979 c. 42 s. 1 U.K.]

24. 發還裁決的權力

(1) 在所有提交仲裁的案件中，法院或法官可不時將提交仲裁的事項，或將其中的任何事項，發還仲裁員或公斷人重行考慮。（由 1998 年第 25 號第 2 條修訂）

(2) 如裁決被發還，除非命令另有指示，否則仲裁員或公斷人須在命令的日期起計 3 個月內作出裁決。

[比照 1950 c. 27 s. 22 U.K.]

25. 將仲裁員撤職及裁決作廢

(1) 凡仲裁員或公斷人的本身行為不當，或在仲裁程序中行為不當，法院均可將其撤職。

(2) 凡仲裁員或公斷人的本身行為不當，或在仲裁程序中行為不當，又或仲裁或裁決是以不當手段促致的，法院均可將裁決作廢。

(3) 凡有申請將裁決作廢，法院可命令在申請仍有待裁決時，任何由該裁決規定繳付的款項均須交給法院或以其他方法保證。

[比照 1950 c. 27 s. 23 U.K.]

24. Power to remit award

(1) In all cases of reference to arbitration the Court or a judge thereof may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrator or umpire.

(2) Where an award is remitted, the arbitrator or umpire shall, unless the order otherwise directs, make his award within 3 months after the date of the order.

[cf. 1950 c. 27 s. 22 U.K.]

25. Removal of arbitrator and setting aside of award

(1) Where an arbitrator or umpire has misconducted himself or the proceedings, the Court may remove him.

(2) Where an arbitrator or umpire has misconducted himself or the proceedings, or an arbitration or award has been improperly procured, the Court may set the award aside.

(3) Where an application is made to set aside an award, the Court may order that any money made payable by the award shall be brought into court or otherwise secured pending the determination of the application.

[cf. 1950 c. 27 s. 23 U.K.]

5. 時限的延展等(第 3 號命令第 5 條規則)

(1) 法庭可按其認為公正的條款，藉命令將本規則或任何判決、命令或指示規定或批准任何人在任何法律程序中作出任何作為的期限，予以延展或縮短。

(2) 即使延展申請是在第(1)款所提述的任何期限屆滿後始提出，法庭仍可將該期限延展。

(3) 本規則或任何命令或指示規定某人須將任何狀書送達、送交存檔或修訂的期限，可藉同意(以書面作出者)而延展，而無須為該目的而作出法庭命令。

(4) 在本條規則中，凡提述法庭之處，須解釋為包括提述上訴法庭及該法院的單一名法官。(1998 年第 25 號第 2 條)

5. Extensions, etc., of time (O. 3, r. 5)

(1) The Court may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorized by these rules, or by any judgment, order or direction, to do any act in any proceedings.

(2) The Court may extend any such period as is referred to in paragraph (1) although the application for extension is not made until after the expiration of that period.

(3) The period within which a person is required by these rules, or by any order or direction, to serve, file or amend any pleading or other document may be extended by consent (given in writing) without an order of the Court being made for that purpose.

(4) In this rule references to the Court shall be construed as including references to the Court of Appeal and a single judge of that Court.

2. 由在法庭的法官處理的事宜 (第73號命令第2條規則)

- (1) 除《仲裁條例》(第341章)第2D條另有規定外，每次向法庭申請或請求——
- (a) 根據該條例第24條將裁決發還，或
 - (b) 根據該條例第25(1)條將仲裁員或公斷人撤職，或
 - (c) 根據該條例第25(2)條將裁決作廢，或
 - (香港)(d) 根據該條例第23(2)條給予上訴許可，或
 - (e) 根據該條例第23A(1)條就在仲裁過程中產生的任何法律問題作出裁定，或
 - (香港)(f) 根據該條例第29A(2)條作出命令，或
 - (香港)(g) 根據該條例附表5第13(3)條就對仲裁員的質疑作出決定，或 (1990年第363號法律公告)
 - (香港)(h) 根據該條例附表5第14(1)條就終止仲裁員任命一事作出決定，或 (1990年第363號法律公告)
 - (香港)(i) 根據該條例附表5第34條將仲裁裁決作廢， (1990年第363號法律公告)

必須藉原訴動議向在法庭的單一名法官提出。 (1990年第363號法律公告)

(2) 根據《仲裁條例》(第341章)第23(2)條向原訟法庭提出的上訴，必須藉原訴動議向在法庭的單一名法官提出，而凡需要許可者，原訴動議通知書可包括申請在上訴許可通知書之內。

(3) 以仲裁員或公斷人作出的裁決是在無司法管轄權的情況下作出為理由，而要求宣布該裁決對裁決的某一方並無約束力的申請，可藉原訴動議向在法庭的單一名法官提出，但前述條文不得視為影響法官拒絕在動議所開展的法律程序中作出該宣布的權力。

2. Matters for a judge in court (O. 73, r. 2)

(1) Subject to section 2D of the Arbitration Ordinance (Cap. 341), every application or request to the Court—

- (a) to remit an award under section 24 of that Ordinance, or
- (b) to remove an arbitrator or umpire under section 25(1) of that Ordinance, or
- (c) to set aside an award under section 25(2) of that Ordinance, or
- (HK)(d) for leave to appeal under section 23(2) of that Ordinance, or
- (e) to determine, under section 23A(1) of that Ordinance, any question of law arising in the course of a reference, or
- (HK)(f) to make an order under section 29A(2) of that Ordinance, or
- (HK)(g) to decide, under article 13(3) of the Fifth Schedule to that Ordinance, on a challenge to an arbitrator, or (L.N. 363 of 1990)
- (HK)(h) to decide, under article 14(1) of the Fifth Schedule to that Ordinance, on the termination of an arbitrator's mandate, or (L.N. 363 of 1990)
- (HK)(i) to set aside an arbitral award under article 34 of the Fifth Schedule to that Ordinance, (L.N. 363 of 1990)

must be made by originating motion to a single judge in court. (L.N. 363 of 1990)

(2) Any appeal to the Court of First Instance under section 23(2) of the Arbitration Ordinance (Cap. 341) shall be made by originating motion to a single judge in court and notice thereof may be included in the notice of application for leave to appeal, where leave is required. (25 of 1998 s. 2)

(3) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion to a single judge in court, but the foregoing provision shall not be taken as affecting the judge's power to refuse to make such a declaration in proceedings begun by motion.

3. 由在內庭的法官或由聆案官處理的事宜
(第 73 號命令第 3 條規則)

(1) 除本命令的前述條文及本條規則的條文另有規定外，原訟法庭或原訟法庭法官根據《仲裁條例》(第 341 章)具有的司法管轄權，可由在內庭的法官或由聆案官行使。

(2) 任何屬以下情況的申請——

- (a) 根據《仲裁條例》(第 341 章)第 23(2) 條申請上訴許可者，或
- (b) 根據該條例第 23(5) 條提出者(包括任何要求許可的申請)，或
- (c) 根據該條例第 23 條提出者，或

(香港)(d) 根據該條例第 29A 條提出者，
須向在內庭的法官提出。

(3) 本條規則所適用的任何申請，如有關的訴訟是在待決階段，須藉在該宗訴訟中發出的傳票提出，而在任何其他情況下，則須藉採用附錄 A 表格 10 格式的原訴傳票提出。

(4) 凡根據《仲裁條例》(第 341 章)第 23(5) 條提出申請(包括任何要求許可的申請)，傳票必須送達仲裁員或公斷人及仲裁的任何另一方。

(1998 年第 25 號第 2 條)

5. 關於根據《仲裁條例》提出的上訴
及申請的時限及其他特別條文
(第 73 號命令第 5 條規則)

(1) 向法庭申請——

- (a) 根據《仲裁條例》(第 341 章)第 24 條將裁決發還，或
- (b) 根據該條例第 25(2) 條或其他依據將裁決作廢，或
- (c) 根據該條例第 23(5) 條指示仲裁員或公斷人須述明其裁決的理由，

必須在裁決作出及向有關各方公布後 21 天內提出，而傳票或通知書亦必須在該期限內送達。

(2) 如屬根據《仲裁條例》(第 341 章)第 23(2) 條向法院提出的上訴，必須在裁決作出及向有關各方公布後 21 天內將通知書送達，而上訴亦必須在該期限內予以登錄：

3. Matters for judge in chambers or master (O. 73, r. 3)

(1) Subject to the foregoing provisions of this Order and the provisions of this rule, the jurisdiction of the Court of First Instance or a judge thereof under the Arbitration Ordinance (Cap. 341), may be exercised by a judge in chambers or a master. (25 of 1998 s. 2)

(2) Any application—

- (a) for leave to appeal under section 23(2) of the Arbitration Ordinance (Cap. 341), or
- (b) under section 23(5) of that Ordinance (including any application for leave), or
- (c) under section 23 of that Ordinance, or

(HK)(d) under section 29A of that Ordinance, shall be made to a judge in chambers.

(3) Any application to which this rule applies shall, where an action is pending, be made by summons in the action, and in any other case by an originating summons which shall be in Form No. 10 in Appendix A.

(4) Where an application is made under section 23(5) of the Arbitration Ordinance (Cap. 341) (including any application for leave) the summons must be served on the arbitrator or umpire and on any other party to the reference.

5. Time limits and other special provisions as to appeals
and applications under the Arbitration Ordinance
(O. 73, r. 5)

(1) An application to the Court—

- (a) to remit an award under section 24 of the Arbitration Ordinance (Cap. 341), or
- (b) to set aside an award under section 25(2) of that Ordinance or otherwise, or
- (c) to direct an arbitrator or umpire to state the reasons for an award under section 23(5) of that Ordinance,

must be made, and the summons or notice must be served, within 21 days after the award has been made and published to the parties.

(2) In the case of an appeal to the Court under section 23(2) of the Arbitration Ordinance (Cap. 341), the notice must be served, and the appeal entered, within 21 days after the award has been made and published to the parties:

[附屬法例]

但如對上訴具關鍵性的理由是在裁決公布之後的某日始發表，則該 21 天的期限須由理由發表之日起計算。

(3) 根據《仲裁條例》(第 341 章) 第 23A(1) 條申請就在仲裁過程中產生的任何法律問題作出裁定，必須在仲裁員或公斷人對提出申請表示同意或其他各方作此同意後 14 天內提出，而申請的通知書亦必須在該段時間內送達。

(4) 就第 (3) 款而言，同意必須以書面作出。

(5) 就本條規則適用的每一宗上訴或申請而言，原訴動議通知書或原訴傳票(視屬何情況而定)必須述明上訴或申請的理由；而凡上訴或申請是以藉誓章提出的證據為依據，或是經仲裁員或公斷人或其他各方同意而提出，每一份擬如此使用的誓章或每一份書面同意(視屬何情況而定)的文本，必須連同該通知書送達。

[Subsidiary]

Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.

(3) An application, under section 23A(1) of the Arbitration Ordinance (Cap. 341), to determine any question of law arising in the course of a reference, must be made, and notice thereof served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.

(4) For the purpose of paragraph (3) the consent must be given in writing.

(5) In the case of every appeal or application to which this rule applies, the notice of originating motion, or as the case may be, the originating summons, must state the grounds of appeal or application and, where the appeal or application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or as the case may be, of every consent given in writing, must be served with that notice.