



香港銅鑼灣記利佐治街1號金百利9字樓  
9/F Island Beverley, No 1 Great George St. Causeway Bay, Hong Kong  
電話Tel +852 2895 4446 傳真Fax +852 2577 7791  
hkie-sec@hkie.org.hk www.hkie.org.hk

Enclosure

### **Views from The Hong Kong Institution of Engineers on the Mediation Bill**

The Hong Kong Institution of Engineers (HKIE) is pleased to provide views on the Mediation Bill as set out below for your consideration.

#### **Immunity Provision**

2. It is widely recognised that people with intimate dispute resolving experience and professional knowledge of the dispute to be resolved are good potential mediators. However, the HKIE notes that these part-time mediators do not have liability insurance covering themselves and it is very expensive to take out such insurance in Hong Kong. Unlike the proposed Bill, the Arbitration Ordinance CAP 609 does provide immunity to the arbitral tribunal. In this light, it is proposed that mediator be granted immunity unless the mediator's act is done or omitted to be done dishonestly. It is considered that such immunity provision can attract good quality practitioners to act as mediators to promote the mediation process and foster Hong Kong as a regional centre for mediation.

#### **Independent Authority**

3. We notice that there are various bodies approving and providing their own list of qualified mediators. The HKIE considers that a single, independent, appointing authority to be responsible for the consolidation, further approval and maintenance of the list of mediators is highly desirable. This can ensure a uniform standard and quality of the approved mediators and that this independent appointing authority can separate itself from the training role which is at present provided by various bodies. There will then be certainty in the quality of mediators that can promote the mediation process and again foster Hong Kong as a regional centre for mediation.

#### **Other Comments**

4. To facilitate and encourage resolution of disputes by mediation, the HKIE suggests that the clause for 'Determination of selection of mediator' should be added with further elaboration on the method of reaching agreement between the parties to mediation and the mediators. In addition, considering the confidentiality of mediation communication of both mediating parties and the mediator, it is proposed that penalty clause to be added to the Mediation Bill to avoid violation of confidentiality.