



香港國際仲裁中心
Hong Kong International
Arbitration Centre

立法會 CB(4)40/12-13(03)號文件
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By Post and Email
<panel_ajls@legco.gov.hk>

To:
Clerk to Panel on Administration of Justice
and Legal Services
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Cc: Department of Justice

Dear Sirs,

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

1. In 1997, the Arbitration (Appointment of Arbitrators and Umpires) Rules (the Rules) were enacted as subsidiary legislation to the Arbitration Ordinance (Cap. 341) to facilitate the Hong Kong International Arbitration Centre (HKIAC) in performing its statutory functions under that Ordinance to appoint arbitrators and decide the number of arbitrators.
2. On 12 November 2011, the new Arbitration Ordinance (Cap. 609) (the New Ordinance) was enacted, under which the HKIAC, as the default statutory authority, appoints arbitrators as well as mediators and decides the number of arbitrators. Upon the coming into effect of the New Ordinance on 1 June 2011, the HKIAC, in exercise of the power under 13(3) of the New Ordinance, started to prepare a set of draft Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (the Draft Rules) in conformity with the New Ordinance.
3. In the course of preparing the Draft Rules, several drafts of the Chinese and English versions of the Draft Rules have been circulated between the Department of Justice (DOJ) and the HKIAC. The DOJ sought clarification from the HKIAC on the issue of fees and provided advice on technical drafting of the Draft Rules. In response, the HKIAC provided information, including details of similar fees from other institutions, for the DOJ's reference.
4. Before submitting the latest set of the Draft Rules to the Chief Justice for approval, the HKIAC wishes to consult the Panel on the newly revised Draft Rules.
5. The new version of the Draft Rules is substantially the same as the rules implemented for Cap. 341. The major changes are as follows:-
 - (a) Rule 14 of the Draft Rules provides that the existing Rules are repealed.
 - (b) The forms for appointment of arbitrators (Form 1) and decision on number of arbitrators (Form 2) of the existing Rules have not been changed in substance but they have been updated to be more user-friendly.
 - (c) The Draft Rules include rules to govern the new power granted to the HKIAC



pursuant to section 32(1) of the New Ordinance. In the event that the person assigned to make the appointment of a mediator fails to appoint in accordance with the arbitration agreement, section 32(1) empowers the HKIAC to appoint a mediator upon a party's application. As no such power existed under the Arbitration Ordinance (Cap. 341), Part 5 of the Draft Rules incorporates rules for the appointment of mediators. Parties may request that the HKIAC appoints a mediator pursuant to section 32(1) of the New Ordinance by filing a Form 3 of the Schedule to the Draft Rules.

- (d) Section 13 of the Draft Rules provides for an increase in the fee charged by the HKIAC to perform its statutory functions under the New Ordinance. Since 1997, the fees for an appointment of an arbitrator and for a decision on the number of arbitrators have remained unchanged, at HK\$4,000. However, costs for exercising our statutory appointing powers have increased significantly since then. The details of the costs based on the estimation of the sample cases handled by the HKIAC at the time of January to May of 2012 are set out as follows:-

- (i) Cost of manpower for making decision as to the number of arbitrators
(HK\$4,090.00 for Normal Case – HK\$8,853.40 for special case)

In the sample case (Case No. A12073), a total of 107 working units of three HKIAC staff members (78 units of a Case Administrator, 19 units of the Secretary-General and 10 units of a Deputy Secretary-General) are required for conducting the administrative activities for making a decision as to the number of arbitrators for one arbitration.

The cost per unit of each HKIAC staff members are namely, HK\$20 for Case Administrator, HK\$110 for Secretary-General, HK\$46 for Deputy Secretary-General and HK\$36.70 for Counsel. As a result, the total cost of the manpower for this sample case is **HK\$4,090.00 (A1)**.

The costs increase tremendously in complicated cases, in which more administrative activities are needed and more staff members are involved. As per the sample case A12019 which is detailed in the table entitled "Decisions as to the number of Arbitrators (Special Case takes around 53 days)", the total number of units spent on this case is 180, which gives the total cost of manpower **HK\$8,853.40 (A2)**.

- (ii) Cost of manpower for appointment of arbitrators *(HK\$5,380.00 for Normal Case – HK\$14,694.80 for Special Case)*

The sample case (Case No. A12066), as shown in the attached file, requires a total of 185 units of two HKIAC staff members (115 units of a Case Administrator and 70 units of a Deputy Secretary-General) attending to the administrative activities listed in the table entitled "Appointment of Arbitrators (Normal Case takes around 25 days)". Referring the cost per unit set out above, the total cost of manpower for this case is **HK\$5,380.00 (B1)**.

Similarly, the cost of manpower increases a lot in complicated cases. As per the sample case A12009 which is detailed in the table of "Appointment of Arbitrators (Special Case takes around 88 days)", in order to appoint an arbitrator for this case, four staff members (a Case Administrator, the Secretary-General, a Deputy



Secretary-General and a Counsel) spent a total of 288 units in conducting various administrative activities in the period of 16 Jan 2012 to 13 April 2012. The total cost of manpower of these four staff members is **HK\$14,694.80 (B2)**.

(iii) Overheads

In addition to the costs of manpower, there are also overheads allocated to each handled by the HKIAC. Based on the costs from March 2012, it is estimated that the total amount of overheads of the HKIAC for 2012 will be about HK\$171,869.42. Considering that the HKIAC has 14 full-time staff members, the overhead per staff member per unit is **HK\$7.67** (HK\$171,869.42 / 20 working days per month / 8 hours per day / 10 units per hour / 14 Staff members).

On this basis, the estimated overhead for the above four cases are:-

Case ID	Estimated overhead (HK\$)
A12073	<u>820.69</u> (107 units x 7.67 per unit) (A3)
A12019	<u>1,380.60</u> (180 units x 7.67 per unit) (A4)
A12066	<u>1,418.95</u> (185 units x 7.67 per unit) (B3)
A 12009	<u>2,208.96</u> (288 units x 7.67 per unit) (B4)

On this basis, the estimated total costs for exercising our statutory appointing powers are as follows:-

- (i) **HK\$ 4,910.69 (A1 + A3)** to **HK\$10,234.00 (A2 + A4)** for deciding the number of arbitrators for an arbitration; and
- (ii) **HK\$6,798.95(B1 + B3)** to **HK\$16,903.76(B2 + B4)** for appointing an arbitrator.

Based on the above, the HKIAC intends to fix the fee in the Draft Rules at around HK\$8,000, which is approximately the amount charged in initial fees by the HKIAC for an administered arbitration.

- (e) The HKIAC also seeks to include a provision in the Draft Rules allowing the HKIAC to vary such fee in response to any significant increases in the costs of the exercise of its statutory functions and any notable increases in prevailing market rates but such fee shall not exceed HK\$15,000. The HKIAC encloses charts referencing the computation of fees to carry out such functions for your information.

6. Subject to final approval, the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules will be subject to the negative vetting procedure of the Legislative Council.

Yours sincerely,

Chiann Bao
Secretary-General
Encl

Cost Calculation for Time Spent for average Decisions as to the number of arbitrators / appointment of arbitrators

Decision as to the number of arbitrators (Normal Case takes around 17 days)

Case No	Date	General Description	CA	Counsel	SG	DSG	Total
A12073	17-Apr-12	Receiving an application requesting a decision on number of arbitrators, issuing first letter	15			10	25
	18-Apr-12	Handling telephone enquiries from parties	5				5
	22-Apr-12	Handling telephone enquiries from parties	5				5
	30-Apr-12	Prepare AAC Agenda	11			9	20
	2-May-12	Issuing letter to AAB members	10			5	15
	3-May-12	Coordinating with and receiving feedback from AAB members	10				10
	3-May-12	Confirming no. of arbitrators	12			5	17
	3-May-12	Filing, photocopying and data entry	10				10
			78	0	19	10	107

Cost of Time Spent: 1,560.00 2,090.00 440.00
 Fees Incurred for each case: 4,090.00 (A1)

Overhead (total unit x HK\$ 9 per staff per unit): 820.69 (A3)
 Total Cost (with overhead): 4,910.69 (A1) + (A3)

Appointment of Arbitrators (Normal Case takes around 25 days)

Case No	Date	General Description	CA	Counsel	SG	DSG	Total
A12066	5-Apr-12	Receiving an application requesting the appointment of a sole arbitrator, issuing first letter	17			13	30
	10-Apr-12	Handling telephone enquiries from parties	5				5
	17-Apr-12	Prepare AAC Agenda	12			12	24
	10-Apr-12	Handling telephone enquiries from parties	5				5
	19-Apr-12	Issuing letter to the proposed arbitrator	11			9	20
	20-Apr-12	Issuing letter to the parties proposing an arbitrator	15			13	28
	20-Apr-12	Issuing letter to AAB members	12			10	22
	23-Apr-12	Coordinating with and receiving feedback from AAB members	6				6
	25-Apr-12	Coordinating with and receiving feedback from AAB members	6				6
	30-Apr-12	Confirmation letter to the parties and arbitrator	16			13	29
	30-Apr-12	Filing, photocopying and data entry	10				10
			115			70	185

Cost of Time Spent: 2,300.00 3,080.00
 Fees Incurred for each case: 5,380.00 (B1)

Overhead (total unit x HK\$ 9 per staff per unit): 1,418.95 (B3)
 Total Cost (with overhead): 6,798.95 (B1) + (B3)

Cost Calculation for Time Spent for complicated decisions as to the number of arbitrators / appointment of arbitrators

Decision as to the number of arbitrators (Special Case takes around 53 days)

Case No	Date	General Description	CA	Counsel	SG	DSG	Total
A12019	30-Jan-12	Receiving an application requesting a decision on number of arbitrators, issuing first letter	15		11		26
	7-Feb-12	Handling telephone enquiries from parties	5				5
	8-Feb-12	Attending to the letter from the parties and Issuing letter to the parties	10		8		18
	9-Feb-12	Handling telephone enquiries from parties	5				5
	10-Feb-12	Prepare AAC Agenda	10		8		18
	10-Feb-12	Handling telephone enquiries from parties	5				5
	13-Feb-12	Issuing letter to AAB members	12		6		18
	14-Feb-12	Coordinating with and receiving feedback from AAB members	8				8
	21-Feb-12	Issuing email to the parties and ask for the status of the matter	9		7		16
	12-Mar-12	Attending to the letter from the parties	15		9		24
	13-Mar-12	Confirmation letter to the parties	16	2	9		27
	13-May-12	Filing, photocopying and data entry	10				10
			120	2	58	0	180

Cost of Time Spent: 2400.00 73.40 6,380.00
 Fees Incurred for each case: 8,853.40 (A2)

Overhead (total unit x HK\$ 9 per staff per unit): 1,380.60 (A4)
 Total Cost (with overhead): 10,234.00 (A2) + (A4)

Appointment of Arbitrators (Special Case takes around 88 days)

Case No	Date	General Description	CA	Counsel	SG	DSG	Total
A12009	16-Jan-12	Receiving an application requesting the appointment of a sole arbitrator, issuing first letter	17		14		31
	18-Jan-12	Handling telephone enquiries from parties	5				5
	20-Jan-12	Prepare AAC Agenda	11		9		20
	20-Jan-12	Coordinating with and receiving feedback from AAB members	8				8
	30-Jan-12	Issuing letter to the proposed arbitrator	8		6		14
	31-Jan-12	Issuing letter to AAB members	10		7		17
	31-Jan-12	Issuing letter to the parties proposing an arbitrator	8		6		14
	6-Feb-12	Attending to the letter from the parties	7		3	3	13
	7-Feb-12	Issuing letter to the parties seeking comments in respect of the proposed arbitrator's hourly rate	7	4	3		14
	7-Feb-12	Handling telephone enquiries from parties	5				5
	7-Feb-12	Attending to the letter from the parties	8		5	5	18
	9-Feb-12	Issuing letter to another proposed arbitrator	5		3		8
	13-Feb-12	Issuing letter to the parties proposing another arbitrator	7		5		12
	13-Feb-12	Issuing letter to the parties	5		3		8
	20-Feb-12	Attending to the letter from the parties	8		5	5	18
	21-Feb-12	Issuing letter to the parties	8		5		13
	3-Apr-12	Attending to the letter from the parties	7		5		12
	3-Apr-12	Issuing letter to the parties forwarding a copy of Claimant's counsel's letter to the Respondent	7		4		11
	6-Apr-12	Attending to the letter from the parties	6		4	4	14
	9-Apr-12	Handling telephone enquiries from parties	5				5
	13-Apr-12	Confirmation letter to the parties and arbitrator	11		7		18
	13-Apr-12	Filing, photocopying and data entry	10				10
			173	4	94	17	288

Cost of Time Spent: 3460 146.8 10340 748
 Fees Incurred for each case: 14,694.80 (B2)

Overhead (total unit x HK\$ 9 per staff per unit): 2,208.96 (B4)
 Total Cost (with overhead): 16,903.76 (B2) + (B4)

Overhead:**Cost Computation of fees Incurred (based on March 2012 account)**

	HK\$ (per month)
Building Management Fee	40,620.60
Cleaning Expenses	7,200.00
Electricity	7,985.00
Insurance relating to the premises	895.90
Rates	51,116.67
Repairs and Maintenance	4,820.58
Postage, courier, printing & stationery	45,833.00
Telephone, fax and Internet	<u>13,397.67</u>
Total Monthly Fees	<u>171,869.42</u>

**Overhead per staff member per unit
(Total Monthly Fees / 20 days / 8
hours / 10 units per hour / 14 Staff
Members):**

7.67

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

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Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 1

Section 1

1

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

(Made by the Hong Kong International Arbitration Centre under section 13(3) of the Arbitration Ordinance (Cap. 609) with the approval of the Chief Justice)

Part 1

Preliminary

1. Commencement

These Rules come into operation on 2012.

2. Interpretation

In these Rules—

Appointment Advisory Board (委任諮詢委員會) means the board established under section 3.

Part 2

Appointment Advisory Board

3. Constitution of Appointment Advisory Board

- (1) HKIAC must establish a board known as the Appointment Advisory Board.
- (2) The Appointment Advisory Board is to consist of 11 members.
- (3) Each of the following persons or organizations is to nominate one person to be a member of the Appointment Advisory Board—
 - (a) the Chief Justice;
 - (b) the Chairman of the Hong Kong Bar Association;
 - (c) the President of The Law Society of Hong Kong;
 - (d) The Hong Kong General Chamber of Commerce;
 - (e) The Chinese General Chamber of Commerce;
 - (f) the President of The Hong Kong Institution of Engineers;
 - (g) the President of The Hong Kong Institute of Surveyors;
 - (h) the President of The Hong Kong Institute of Architects;
 - (i) the Hong Kong Shipowners Association Ltd.;
 - (j) the Hong Kong Federation of Insurers;
 - (k) the President of the Hong Kong Construction Association.

4. Appointments to Appointment Advisory Board

- (1) HKIAC must appoint the persons nominated under section 3(3) to be members of the Appointment Advisory Board, for a term not exceeding 3 years.
- (2) HKIAC may re-appoint a person to be a member of the Appointment Advisory Board but not until 2 years have expired since that person was last a member of it.
- (3) If there is a vacancy for any reason in the office of any member of the Appointment Advisory Board, the person or organization specified in section 3(3) who nominated that member is to make a further nomination.
- (4) The Appointment Advisory Board may continue to function while there is a vacancy as long as there are at least 6 members on it.
- (5) No member of the Appointment Advisory Board may be appointed as arbitrator by HKIAC during his or her term of office.

5. Appointment Advisory Board to be consulted

Before making—

- (a) the appointment of an arbitrator under section 24 of the Ordinance;
- (b) the appointment of a mediator under section 32(1) of the Ordinance; or
- (c) a decision under section 23(3) of the Ordinance on the number of arbitrators that is appropriate for any particular dispute,

HKIAC must consult with at least 3 members of the Appointment Advisory Board with whom HKIAC is able to communicate, and must consider their advice but is not bound by it.

Part 3

Appointment of Arbitrator

6. Procedure for requesting for appointment of arbitrator

- (1) Any party to an arbitration agreement requesting for the appointment of an arbitrator by HKIAC under section 24 of the Ordinance (*requesting party*) must make the request to HKIAC in the manner described in subsection (2).
- (2) The request must be—
 - (a) in Form 1 in the Schedule;
 - (b) accompanied by the relevant fee charged under section 13; and
 - (c) signed by the requesting party, or by a person authorized to sign on behalf of the requesting party, certifying that the details contained in the request are true and accurate.
- (3) The requesting party must—
 - (a) serve a copy of the request on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with HKIAC documentary verification of service.
- (4) For the purposes of subsection (3), double registered post constitutes good service.

7. Appointment of suitable person as arbitrator by HKIAC

- (1) Subject to subsections (2) and (3) and section 5, on receipt of a request made under section 6(1), HKIAC must appoint a suitable person to be an arbitrator, having regard to—
 - (a) the nature of the dispute;

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 3

Section 7

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- (b) whether the arbitrators who possess the required qualifications would be available to accept the appointment;
 - (c) the identity and nationality of the parties to the arbitration agreement;
 - (d) any considerations in respect of the independence and impartiality of the person to be appointed as an arbitrator;
 - (e) any stipulations in the relevant agreement; and
 - (f) any suggestions made by the parties themselves.
- (2) Before making an appointment of an arbitrator, HKIAC must allow the other party or parties to the arbitration agreement to give HKIAC any written information that other party or those other parties consider relevant to the request, including reasons why no arbitrator should be appointed.
- (3) If—
- (a) reasons why no arbitrator should be appointed are given to HKIAC by the other party or parties to the arbitration agreement; and
 - (b) HKIAC is satisfied that no arbitrator should be appointed,
- HKIAC may decline to appoint an arbitrator.
- (4) If no information mentioned in subsection (2) is given to HKIAC within 14 days after the date on which a copy of the request is served on the other party or parties to the arbitration agreement under section 6(3), HKIAC must proceed to make an appointment of an arbitrator.
- (5) When HKIAC has made any decision under this section, it must notify both the requesting party and the other party or parties to the arbitration agreement.
-

Part 4

Number of Arbitrators

8. Procedure for seeking decision on number of arbitrators

- (1) Any party to an arbitration agreement seeking a decision by HKIAC on the number of arbitrators under section 23(3) of the Ordinance (*seeking party*) must make an application to HKIAC in the manner described in subsection (2).
- (2) The application must be—
 - (a) in Form 2 in the Schedule;
 - (b) accompanied by the relevant fee charged under section 13; and
 - (c) signed by the seeking party, or by a person authorized to sign on behalf of the seeking party, certifying that the details contained in the application are true and accurate.
- (3) The seeking party must—
 - (a) serve a copy of the application on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with HKIAC documentary verification of service.
- (4) For the purposes of subsection (3), double registered post constitutes good service.

9. Decision by HKIAC on number of arbitrators

- (1) Subject to subsections (2) and (4) and section 5, when deciding under section 23(3) of the Ordinance on whether the

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Part 4
Section 9

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number of arbitrators in any particular case is to be 1 or 3, HKIAC must take into account the following factors—

- (a) the amount in dispute;
 - (b) the complexity of the claim;
 - (c) the nationality of the parties to the arbitration agreement;
 - (d) any relevant customs of the trade, business or profession involved in the dispute;
 - (e) whether there are any appropriate arbitrators; and
 - (f) the urgency of the case.
- (2) Before deciding on whether the number of arbitrators to be appointed is to be 1 or 3, HKIAC must allow the other party or parties to the arbitration agreement to give HKIAC brief written reasons in support of the contention of that other party or those other parties as to whether the number of arbitrators in the particular case should be 1 or 3.
 - (3) If no reasons mentioned in subsection (2) are given to HKIAC within 14 days after the date on which a copy of the application is served on the other party or parties to the arbitration agreement under section 8(3), HKIAC may proceed with the decision.
 - (4) HKIAC may request further information from the seeking party or the other party or parties to the arbitration agreement before it makes a decision.
 - (5) The party from whom further information is requested must supply the information within 14 days after the date on which the request is made.
 - (6) If a party fails or refuses to supply the information within the time specified in subsection (5), HKIAC must make a decision on the basis of the information it has.

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 4

Section 9

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- (7) When HKIAC has made any decision under this section, it must notify both the seeking party and the other party or parties to the arbitration agreement.
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Part 5

Appointment of Mediator

10. Procedure for applying for appointment of mediator

- (1) Any party to an arbitration agreement applying for the appointment of a mediator by HKIAC under section 32(1) of the Ordinance (*applying party*) must make the application to HKIAC in the manner described in subsection (2).
- (2) The application must be—
 - (a) in Form 3 in the Schedule;
 - (b) accompanied by the relevant fee charged under section 13; and
 - (c) signed by the applying party, or by a person authorized to sign on behalf of the applying party, certifying that the details contained in the application are true and accurate.
- (3) The applying party must—
 - (a) serve a copy of the application on the other party or parties to the arbitration agreement at the last known address or addresses of that other party or those other parties; and
 - (b) lodge with HKIAC documentary verification of service.
- (4) For the purposes of subsection (3), double registered post constitutes good service.

11. Appointment of suitable person as mediator by HKIAC

- (1) Subject to subsections (2) and (3) and section 5, on receipt of an application made under section 10(1), HKIAC may appoint a suitable person to be a mediator, having regard to—
 - (a) the nature of the dispute;
 - (b) whether the mediators who possess the required qualifications would be available to accept the appointment;
 - (c) the identity and nationality of the parties to the arbitration agreement;
 - (d) any considerations in respect of the independence and impartiality of the person to be appointed as a mediator;
 - (e) any stipulations in the relevant agreement; and
 - (f) any suggestions made by the parties themselves.
- (2) Before making an appointment of a mediator, HKIAC must allow the other party or parties to the arbitration agreement to give HKIAC any information that other party or those other parties consider relevant to the application, including reasons why no mediator should be appointed.
- (3) If—
 - (a) reasons why no mediator should be appointed are given to HKIAC by the other party or parties to the arbitration agreement; and
 - (b) HKIAC is satisfied that no mediator should be appointed,
HKIAC may decline to appoint a mediator.
- (4) If no information mentioned in subsection (2) is given to HKIAC within 14 days after the date on which a copy of the application is served on the other party or parties to the

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 5

Section 11

11

arbitration agreement under section 10(3), HKIAC may proceed to make an appointment of a mediator.

- (5) When HKIAC has made any decision under this section, it must notify both the applying party and the other party or parties to the arbitration agreement.
-

Part 6

General

12. Additional forms

HKIAC may specify additional forms for use for the purposes of these Rules.

13. Fees

- (1) Subject to subsection (2), HKIAC may charge \$8,000 for making—
 - (a) the appointment of an arbitrator under section 24 of the Ordinance;
 - (b) the appointment of a mediator under section 32(1) of the Ordinance; or
 - (c) a decision under section 23(3) of the Ordinance on the number of arbitrators that is appropriate for any particular case.
- (2) HKIAC may charge, for the exercise of any of the functions referred to in subsection (1), a fee (**determined fee**) of an amount that—
 - (a) exceeds \$8,000 but does not exceed \$15,000; and
 - (b) is determined by HKIAC to be a reasonable fee for the recovery of expenditure incurred or likely to be incurred by it in the exercise of the functions provided that such variation does not undermine the object mentioned in section 3(1) of the Ordinance.
- (3) HKIAC—

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Part 6

Section 15

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- (a) must display notices setting out the determined fee at an appropriate and prominent location or locations in the premises of HKIAC as may be determined by it; and
- (b) must publicize the determined fee through the Internet.

14. Arbitration (Appointment of Arbitrators and Umpires) Rules repealed

The Arbitration (Appointment of Arbitrators and Umpires) Rules (Cap. 609 sub. leg. B) are repealed.

15. Transitional

Despite anything in Part 2, a member of the Appointment Advisory Board established under rule 3 of the Arbitration (Appointment of Arbitrators and Umpires) Rules (Cap. 609 sub. leg. B) repealed by these Rules (*previous Board*), whose appointment has continued to have effect by virtue of section 4 of Schedule 3 to the Ordinance, is to be a member of the Appointment Advisory Board established under section 3 upon the commencement of that section until the expiry of the term of that appointment as if the Appointment Advisory Board established under that section were the previous Board.

Schedule

[ss. 6, 8 & 10]

Forms

FORM 1

Hong Kong International Arbitration Centre

REQUEST FOR APPOINTMENT OF AN ARBITRATOR

(This form must be used, in accordance with section 6 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (L.N. of 2012), to request the Hong Kong International Arbitration Centre (*HKIAC*) for the appointment of an arbitrator under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED REQUESTS HKIAC FOR THE APPOINTMENT OF AN ARBITRATOR UNDER SECTION 24 OF THE ARBITRATION ORDINANCE (Cap. 609):

2. PARTICULARS OF PARTIES:

(If there are more than two parties, set out the details of the other party or parties on separate sheet.)

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

Schedule

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CLAIMANT:

Name _____

Address _____

Tel. No. _____

Fax. No. _____

E-mail Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax. No. _____

E-mail Address _____

RESPONDENT:

Name _____

Address _____

Tel. No. _____

Fax. No. _____

E-mail Address _____

Nationality _____

Solicitor/Adviser (If any):

Name _____

Address _____

Tel. No. _____

Fax. No. _____

E-mail Address _____

Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules

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6. OTHER RELEVANT DETAILS:

(If applicable, give date on which the other party was requested to agree to the appointment of arbitrator under the contract/agreement, names of arbitrators proposed, whether the other party has responded or not (if yes, the content of the response and any stipulations in the relevant agreement on the choice of arbitrator) and any other factors to be taken into account by HKIAC under section 7 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (L.N. of 2012).)

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-
-
7. FEE: A cheque payable to “Hong Kong International Arbitration Centre” for HK\$ _____ for payment of HKIAC’s fee is enclosed.
(HKIAC to set out the fee payable.)

8. CERTIFICATION STATEMENT:

I certify that the details contained in this request are true and accurate.

(SIGNED) _____

Date: _____

Name and Capacity _____

FORM 2

Hong Kong International Arbitration Centre

APPLICATION FOR DECISION ON THE NUMBER OF ARBITRATORS

(This form must be used, in accordance with section 8 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (L.N. _____ of 2012), to make an application to the Hong Kong International Arbitration Centre (*HKIAC*) to seek a decision on the number of arbitrators under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED MAKES AN APPLICATION TO HKIAC TO SEEK A DECISION ON WHETHER THERE IS TO BE 1 OR 3 ARBITRATORS UNDER SECTION 23(3) OF THE ARBITRATION ORDINANCE (Cap. 609):

2. PARTICULARS OF PARTIES:

(If there are more than two parties, set out the details of the other party or parties on separate sheet.)

CLAIMANT:

Name _____

Address _____

RESPONDENT:

Name _____

Address _____

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_____	_____
_____	_____
Tel. No. _____	Tel. No. _____
Fax. No. _____	Fax. No. _____
E-mail Address _____	E-mail Address _____
Nationality _____	Nationality _____
Solicitor/Adviser (If any): Name _____	Solicitor/Adviser (If any): Name _____
_____	_____
Address _____	Address _____
_____	_____
_____	_____
_____	_____
Tel. No. _____	Tel. No. _____
Fax. No. _____	Fax. No. _____
E-mail Address _____	E-mail Address _____

3. CONTRACT/AGREEMENT IN RESPECT OF WHICH THE DISPUTE HAS ARISEN: (Enclose a copy or summarize briefly.)

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4. ARBITRATION CLAUSE OR AGREEMENT UNDER WHICH THE APPOINTMENT OF ARBITRATORS IS TO BE MADE: (A copy is attached to this application.)

5. DISPUTE: (Give brief details of the nature of the dispute, the circumstances and place in which the dispute arises, and the amount at issue.)

8. CERTIFICATION STATEMENT:

I certify that the details contained in this application are true and accurate.

(SIGNED) _____

Date: _____

Name and Capacity _____

FORM 3

Hong Kong International Arbitration Centre

APPLICATION FOR APPOINTMENT OF A MEDIATOR

(This form must be used, in accordance with section 10 of the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (L.N. _____ of 2012), to apply to the Hong Kong International Arbitration Centre (*HKIAC*) for the appointment of a mediator under the Arbitration Ordinance (Cap. 609).)

1. THE UNDERSIGNED APPLIES TO HKIAC FOR THE APPOINTMENT OF A MEDIATOR UNDER SECTION 32(1) OF THE ARBITRATION ORDINANCE (Cap. 609):

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2. PARTICULARS OF PARTIES:

(If there are more than two parties, set out the details of the other party or parties on separate sheet.)

CLAIMANT:

RESPONDENT:

Name _____

Name _____

Address _____

Address _____

Tel. No. _____

Tel. No. _____

Fax. No. _____

Fax. No. _____

E-mail
Address _____

E-mail
Address _____

Nationality _____

Nationality _____

Solicitor/Adviser (If any):

Solicitor/Adviser (If any):

Name _____

Name _____

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Address _____

Address _____

Tel. No. _____

Tel. No. _____

Fax. No. _____

Fax. No. _____

E-mail
Address _____

E-mail
Address _____

3. CONTRACT/AGREEMENT IN RESPECT OF WHICH THE DISPUTE HAS ARISEN: (Enclose a copy or summarize briefly.)

4. ARBITRATION CLAUSE OR AGREEMENT WHICH

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Approved this day of 2012.

Chief Justice

Made this day of 2012.

Chairman,
Hong Kong International Arbitration
Centre

Explanatory Note

The purpose of these Rules is to make provisions to facilitate the performance of the following functions by the Hong Kong International Arbitration Centre (*HKIAC*)—

- (a) the default appointment by HKIAC of an arbitrator under section 24 of the Arbitration Ordinance (Cap. 609) (*the Ordinance*);
- (b) the decision by HKIAC on the number of arbitrators under section 23(3) of the Ordinance; and
- (c) the default appointment by HKIAC of a mediator under section 32(1) of the Ordinance.