
HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 11 OF 2015



C. Y. LEUNG
Chief Executive
16 July 2015

An Ordinance to amend the Arbitration Ordinance to adjust the circumstances under which the opt-in provisions in Schedule 2 to the Ordinance do not automatically apply; to update the Arbitration (Parties to New York Convention) Order; and to make related amendments.

[17 July 2015]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Arbitration (Amendment) Ordinance 2015.

Part 2

Amendments to Arbitration Ordinance

2. Arbitration Ordinance amended

The Arbitration Ordinance (Cap. 609) is amended as set out in sections 3 to 7.

3. Section 23 amended (article 10 of UNCITRAL Model Law (number of arbitrators))

Section 23—

Repeal subsection (3)

Substitute

“(3) The number of arbitrators in an arbitration is to be either 1 or 3 as decided by the HKIAC in the particular case if—

(a) the parties fail to agree on the number of arbitrators; and

(b) section 1 of Schedule 2 does not apply.”.

4. Section 102 amended (circumstances under which opt-in provisions not automatically apply)

(1) Section 102—

Renumber the section as section 102(1).

(2) Section 102(1)(b)(ii)—

Repeal

“any of the provisions in”

Substitute

“section 2, 3, 4, 5, 6 or 7 of”.

- (3) After section 102(1)—

Add

“(2) Subsection (1)(b)(ii) does not derogate from the operation of section 99.”.

5. Section 111 amended (savings and transitional provisions)

- (1) Section 111—

Renumber the section as section 111(1).

- (2) Section 111(1), before “Schedule”—

Add

“Part 1 of”.

- (3) After section 111(1)—

Add

“(2) Part 2 of Schedule 3 provides for the savings and transitional arrangements that apply on, or relate to, the commencement of the Arbitration (Amendment) Ordinance 2015 (11 of 2015).”.

6. Schedule 2 amended (provisions that may be expressly opted for or automatically apply)

- Schedule 2, section 1—

Repeal

“Despite section 23, any dispute arising between the parties to an arbitration agreement”

Substitute

“If the parties to an arbitration agreement fail to agree on the number of arbitrators, any dispute arising between the parties”.

7. **Schedule 3 amended (savings and transitional provisions)**

(1) Schedule 3, before section 1—

Add

“Part 1

**Savings and Transitional Provisions Relating to
Commencement of this Ordinance”.**

(2) Schedule 3, after Part 1—

Add

“Part 2

**Savings and Transitional Provisions Relating to
Commencement of Arbitration (Amendment)
Ordinance 2015**

1. Conduct of arbitral and related proceedings

(1) If an arbitration has commenced under article 21 of the UNCITRAL Model Law before the commencement date, that arbitration and all related proceedings are to be governed by the pre-amended Ordinance as if the Arbitration (Amendment) Ordinance 2015 (11 of 2015) had not been enacted.

(2) In subsection (1)—

all related proceedings (所有相關程序) includes arbitral proceedings resumed after the setting aside of the award made in the arbitration;

article 21 of the UNCITRAL Model Law (《貿法委示範法》第21條) means article 21 of the UNCITRAL Model Law as given effect to by section 49(1);

commencement date (生效日期) means the day on which the Arbitration (Amendment) Ordinance 2015 (11 of 2015) comes into operation;

pre-amended Ordinance (《原本條例》) means this Ordinance as in force immediately before the commencement date.”.

Part 3

Amendments to Arbitration (Parties to New York Convention) Order

8. Arbitration (Parties to New York Convention) Order amended

The Arbitration (Parties to New York Convention) Order (Cap. 609 sub. leg. A) is amended as set out in section 9.

9. Schedule amended

(1) The Schedule—

Repeal

“Bolivia”

Substitute

“Bolivia (Plurinational State of)”.

(2) The Schedule, entry relating to United Kingdom of Great Britain and Northern Ireland, after “Bermuda,”—

Add

“British Virgin Islands,”.

(3) The Schedule—

Add in alphabetical order

“Bhutan

Burundi

Democratic Republic of the Congo

Guyana

State of Palestine”.