

立法會
Legislative Council

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Tel : 3919 3325

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 14 June 2017

**Arbitration and Mediation Legislation (Third Party Funding)
(Amendment) Bill 2016**

Committee stage amendments

The Second Reading debate on the above Bill will be resumed at the Council meeting of 14 June 2017. Subject to the Bill receiving Second Reading, the President has given permission for the Secretary for Justice to move Committee stage amendments (“CSAs”) to the Bill.

2. As directed by the President, the CSAs are attached for Members’ consideration.

(Angela LIN)
for Clerk to the Legislative Council

Encl.

Committee Stage

Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
3	By deleting the proposed section 98G(2).
3	<p>In the proposed Part 10A, in Division 3, by adding—</p> <p>“98NA. Part 10A not applicable to lawyers acting for parties in arbitration</p> <p>(1) This Part does not apply in relation to the provision of arbitration funding to a party by a lawyer who, in the course of the lawyer’s legal practice, acts for any party in relation to the arbitration.</p> <p>(2) If a lawyer works for, or is a member of, a legal practice (however described or structured), the references in subsection (1) to “lawyer” include the legal practice and any other lawyer who works for, or is a member of, the legal practice.</p> <p>(3) In this section—</p> <p><i>lawyer</i> (律師) means—</p> <p>(a) a person who is enrolled on the roll of barristers kept under section 29 of the Legal Practitioners Ordinance (Cap. 159);</p> <p>(b) a person who is enrolled on the roll of solicitors kept under section 5 of that Ordinance; or</p> <p>(c) a person who is qualified to practise the law of a jurisdiction other than Hong Kong, including a foreign lawyer as defined by section 2(1) of that Ordinance;</p> <p><i>party</i> (一方) means a party to an arbitration within the</p>

meaning of section 98I.”.

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By deleting the proposed section 7A(d) and substituting—

“(d) section 98S of that Ordinance were replaced by the following—

“98S. Disclosure of mediation communication for third party funding of mediation

- (1) Despite section 8(1) of the MO, a mediation communication—
 - (a) may be disclosed by a person to another person for the purpose of having, or seeking, third party funding of mediation from the other person; and
 - (b) may be disclosed by a person mentioned in paragraph (a) to a professional adviser of the person for the purpose of obtaining advice in connection with the third party funding of mediation.
- (2) Also, despite section 8(1) of the MO, a mediation communication may, with leave, be disclosed by a person mentioned in subsection (1)(a) to protect or pursue a legal right or interest of the person in relation to the third party funding of mediation in legal proceedings before a court or other judicial authority in or outside Hong Kong.
- (3) For the purposes of leave required under subsection (2), section 10 of the MO applies as if the reference to “section 8(3)” in that section included subsection (2).
- (4) If a disclosure is made by a person to a professional adviser under subsection (1)(b), subsections (1)(b) and (2) apply to the professional adviser as if the professional adviser were the person.
- (5) In this section—

mediation (調解) has the same meaning as in

section 8 of the MO;

mediation communication (調解通訊) has the same meaning as in section 8 of the MO;

MO (《調解條例》) means the Mediation Ordinance (Cap. 620).”.”.