



香港建築師學會
The Hong Kong Institute of Architects

Our Ref. : BP/LC/FL/CW/1906

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By Email and By Post
panc1_ajls@legco.gov.hk

Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Chairman
Subcommittee on Arbitration
(Appointment of Arbitrators and Mediators and
Decision on Number of Arbitrators) (Amendment) Rules 2019
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Dr Hon Leung

**Arbitration (Appointment of Arbitrators and Mediators and Decision on
Number of Arbitrators) (Amendment) Rules 2019**

Thank you for your letter dated 3 June 2019 inviting the Institute to give views on the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) (Amendment) Rules 2019.

We are pleased to give views on the subject. Enclosed please find our written views and comments to the captioned Rules for consideration by your Subcommittee.

Yours sincerely

LI Kwok Hing Felix FHKIA RA
President

Encl



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**Views and Comments on
Arbitration (Appointment of Arbitrators and Mediators and Decision on
Number of Arbitrators) (Amendment) Rules 2019**

The Hong Kong Institute of Architects would like to give the following views and comments to the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) (Amendment) Rules 2019) :

1. Views and Comments to Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) (Amendment) Rules 2019 (Legislative Council Brief - File Ref.: LP 19/00/4C)

1.1 Justifications for the Discretion to Waive Fees by The Hong Kong International Arbitration Centre (HKIAC)

- We agree to the proposals as set out in Paragraph Nos. 2 and 3 to lower HKIAC's charges for HK\$ 8,000 for exercising any of its functions as default appointing authority under S.23(3), S.24 and S.32(1) of Hong Kong Arbitration Ordinance (Cap. 609). We also agree to allow HKIAC to have discretion to lower party's costs in seeking appointment or decision from HKIAC under the Rules in low value arbitration by waiving the fees for exercising any of its functions under the Ordinance.
- For low value arbitration, i.e. many fast track or documents-only arbitration, another potential area for reduction in arbitration cost is venue fee. HKIAC may consider to allow parties and arbitrators to explore or use other non-HKIAC venues for lower rental to suit the needs and budget of the parties. HKIAC may consider as appropriate.

1.2 Proposal to Reduce to One-off Fee of HK\$8,000 for Cases with Total Amount in Dispute Less than HK\$2.5 million

- We note the proposal as set out in Paragraph Nos. 4 to 7. While one-off fee of \$8,000 may greatly reduce the HKIAC administration fee or decision fee, HKIAC is advised to clarify the meaning of "total amount in dispute is less than HK\$2.5 million." This is to avoid ambiguity and uncertainties in submission to Legislative Council.
- For instance, a typical arbitration case may involve claims, counter-claims, additional claims, claims on interests and legal costs etc. HKIAC is kindly advised to review how the details and criteria for determining cases for one-off fee under Paragraph 7 can be established in a fair, easily-understandable manner.
- For Paragraph 5, HKIAC may consider in future whether other initiatives in addition to one-off fee for low value arbitration can be used or implemented for dispute in Belt and Road projects or dispute cases in Greater Bay Area.



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(Continued)

1.3 Delivery of a Request

- We agree to repeal "double registered post constitutes good service" as set out in Paragraph nos. 8 and 9.

1.4 Time Limits

- We noted and agree to the proposal regarding time limits under Paragraph no. 10.

1.5 HKIAC's Discretion to Proceed

- We noted the proposal as set out in Paragraph nos. 11 and 12 to give HKIAC discretion to extend the time limit when it expires. We have no objection in principle.

HKIAC is kindly advised to consider to give parties written consent to extend the time limits before the time limit expires as an additional option. If the parties fail to give written consent to time limit, HKIAC shall have power and discretion under the amended Rules to extend the time limits.

1.6 Legislative Time Table

- HKIAC shall note that all the indicated dates under Paragraph no. 13, especially Publication in the Gazette, i.e. 17 May 2019, and Tabling at Legislative Council, i.e. 22 May 2019, may have been expired and no longer reasonable. HKIAC shall review.

1.7 Implications

- We noted and agree in principle to the implications as stated in Paragraph nos. 14 and 15.

2. Content of Subsidiary Legislation

- We noted and have no objection in principle.

HKIAC may consider as appropriate the observations / remarks in Part 1 above if HKIAC considers to be appropriate to do so.