

By post and by fax at 2840 0716

5 September 2013

Clerk to Subcommittee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central Hong Kong

[Attn: Ms Sandy SZETO]

Dear Ms SZETO

Legislative Council Subcommittee on Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules – Meeting on Wednesday, 18 September 2013

Thank you for inviting the Institution to put forth our views on the captioned subject. The Hong Kong Institution of Engineers (HKIE) is pleased to provide the following views and suggestions in relation to the Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules for consideration:

Part 2 – Appointment Advisory Board:

Rule 5. Appointment Advisory Board to be consulted

- It is suggested to amend as follows:

“...the HKIAC ~~must~~ shall, having regard to the nature of the dispute and the area of expertise of the members of the Appointment Advisory Board, consult with at least 3 members of the Appointment Advisory Board with whom the HKIAC is able to communicate, and must consider their advice but is not bound by it.”

Part 3 – Appointment of Arbitrator:

Rule 6. Procedure for requesting for appointment of arbitrator

Part 4 – Number of Arbitrators:

Rule 8. Procedure for seeking decision on number of arbitrators

Part 5 – Appointment of Mediator:

Rule 10. Procedure for applying for appointment of mediator

Schedule – Forms 1, 2 and 3

- It is observed that there is inconsistency in naming the different parties under Rules 6, 8 and 10 and in their corresponding Forms 1, 2 and 3.

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- While “*Requesting Party*”, “*Seeking Party*” and “*Applying Party*” are used respectively for the party initiating action under Rules 6, 8 and 10, “*Claimant*” is used instead in the three Forms. In light of this, it is suggested to replace “*Claimant*” with “*Requesting Party*”, “*Seeking Party*” and “*Applying Party*” respectively in the three Forms.
- In like manner, we note that “*Other Party or Parties to the Arbitration Agreement*” is used to represent the responding party under Rules 6, 8 and 10 while “*Respondent*” is used in the three Forms. To facilitate clarification and understanding, it is proposed to replace the term “*the other party or parties to the Arbitration Agreement*” with “*the other party or parties to the Arbitration Agreement (the Responding Party or Parties)*” under Rules 6, 8 and 10, as well as to replace “*Respondent*” with “*Responding Party*” under the three Forms.

Thank you for your attention.

Yours sincerely



Ir Raymond CHAN Kin Sek
President
The Hong Kong Institution of Engineers

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