

New Hong Kong International Arbitration Centre Rules

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[The Hong Kong International Arbitration Centre Administered Arbitration Rules 2018 have been introduced to increase procedural flexibility and cost-effectiveness, setting a new standard for international arbitration practice.](#)

On 18 October 2018, the Hong Kong International Arbitration Centre (“**HKIAC**”) announced that the new version of its Administered Arbitration Rules (the “**2018 Rules**”) have been adopted by the council of HKIAC. The 2018 Rules have taken effect from 1 November 2018, and are accompanied by a practice note on appointment of arbitrators that is effective from the same date.

The previous version of the HKIAC Administered Arbitration Rules were well-received by users since their introduction in 2013, and are widely recognised as one of the leading sets in the market. The 2018 amendments do not represent a wholesale revision of the previous rules, but are focused on reflecting the latest market developments, with the aim of addressing needs in international arbitration and keeping the competitive edge of HKIAC administered arbitrations.

We set out below some of the significant amendments introduced by the 2018 Rules.

Use of Technology

According to the 2018 International Arbitration Survey carried out by the Queen Mary University of London in partnership with White & Case (the “**QMUL Survey**”), a significant number of respondents believe that arbitration proceedings could become more efficient through an increased use of technology. Such populist view is indeed reflected in the 2018 Rules, which included a number of provisions on the use of technology in arbitration:

[Online delivery of documents \(Articles 3.1\(e\), 3.3 and 3.4\)](#)

Parties may now deliver any written communication through the use of a secured online repository that they have agreed to use. Where this method is used to effect communication, the date of receipt is determined according to the local time at the place of receiving a notice of the upload.

[Use of technology for determination of procedures \(Article 13.1\)](#)

In adopting suitable procedures for the conduct of the arbitration to avoid unnecessary delay or expense, an arbitration tribunal should consider the effective use of technology.

Third Party Funding

Following the legalisation of third party funding in Hong Kong in 2017, the 2018 Rules have also introduced amendments to accommodate the change in the Hong Kong legal landscape:

Disclosure of third party funding (Article 44)

Reflecting the relevant amendments to the Hong Kong Arbitration Ordinance, provision has been included to the effect that a funded party must disclose the existence of a funding agreement, the identity of the third party funder and any subsequent changes to such information.

Confidentiality (Article 45.3(e))

While arbitration-related information remains confidential, a funded party is not prohibited from disclosing or communicating such information to its existing or prospective funders.

Costs of arbitration (Article 34.4)

The arbitral tribunal may have regard to any third party funding arrangement in determining the costs of an arbitration.

Streamlined procedures

In the QMUL Survey, lack of power in relation to third parties and lack of speed have been quoted as two of the worst characteristics of international arbitration. The 2018 Rules introduced some new provisions that could address these issues:

Single arbitration under multiple contracts (Article 29)

Provisions for single arbitration under multiple contracts have been expanded to allow a party to bring a single arbitration under more than one arbitration agreement if: (a) a common question of law or fact arises under each arbitration agreement; (b) the relief claimed are in respect of, or arising out of, the same transaction or a series of related transactions; and (c) the arbitration agreements are compatible.

Multiple arbitrations (Article 30)

Tribunals are expressly empowered to conduct multiple arbitrations concurrently, consecutively, or to suspend any of the arbitrations until the determination of any other of them. An arbitral tribunal may do so where: (a) the same tribunal is constituted in each arbitration; and (b) a common question of law or fact arises in all the arbitrations.

Early determination procedure (Article 43)

An early determination procedure is introduced to allow a tribunal to determine certain points of law or fact. Any request for early determination must be made promptly, and the tribunal shall issue a decision within 30 days of such request on whether the request is allowed to proceed.

Emergency Arbitrator Procedure (Article 23.1 and Schedule 4)

Parties are allowed to file an application for the appointment of an emergency arbitrator to HKIAC before, concurrent with, or after filing a Notice of Arbitration. All time limits under the Emergency Arbitrator Procedure have also been shortened.

Time of delivering awards (Article 31.2)

The tribunal is required to inform HKIAC and the parties of the anticipated date of delivering the arbitral award, which shall be within three months from the closure of the proceedings or relevant phase of the proceedings. This time limit may be extended by parties' agreement or HKIAC.

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