

ARBITRATION IN HONG KONG



Nick Sansom
Telephone: +65 6506 2889
E-mail: nick.sansom@ctcplc.com

Hong Kong Arbitration Ordinance 2011 provides legislative support for arbitration in Hong Kong, based on the UNCITRAL Model Law. The law for domestic and international arbitration is now unified.

Administered arbitration may be conducted under the Rules of the Hong Kong International Arbitration Centre (HKIAC), ICC or the parties can agree ad hoc arbitration under UNCITRAL Rules of Arbitration or whatever rules they chose. Where the parties have agreed an ad hoc arbitration, the HKIAC may appoint arbitrators where the parties have failed to agree, have not designated an appointing authority or the designated authority has failed to appoint. As the statutory default appointing authority, the HKIAC may also be requested to decide on the number of arbitrators if the parties have not, or are unable to agree, on this.

If the HKIAC Administered Arbitration Rules apply, arbitration is commenced by notice to the HKIAC. A registration fee is payable. The parties may choose their arbitrator(s) and the HKIAC is required to confirm the appointment. The arbitrator does not have to be on the HKIAC panel. If the parties cannot agree, the HKIAC will appoint. A fee is payable to the HKIAC for administering the arbitration and this is a percentage of the sum in dispute. The parties can agree to apply a HKIAC scale to the fees of the arbitrators or each appointing party can agree with the arbitrator an appropriate fee. The parties can chose the law of the dispute and foreign lawyers or other persons can represent the parties.

The Tribunal may order interim measures. The award is final and not subject to review on the merits, except where the arbitration agreement between the parties expressly states that an appeal can be made on the grounds that an arbitrator has made an error of law or misconduct by the arbitrator. The New York Convention applies to Hong Kong.

The Hong Kong Maritime Group provides a list of arbitrators with experience of maritime disputes. Its members are happy to conduct HKIAC Administered Arbitration Rules arbitration, but also ad hoc arbitrations or rules based on LMAA.

ARBITRATION IN IRELAND



Leanne O'Loughlin: Claims Executive
Telephone: +44 20 3320 8900
E-mail: leanne.oloughlin@ctcplc.com

INTRODUCTION

We review the development of arbitration in Ireland and focus on the arbitrators' powers in relation to the conduct of an arbitration before looking at hearings, awards, appeals, costs and enforcement.

STATUTORY DEVELOPMENT

Ireland has a long history and tradition of resolving disputes by arbitration and by its predecessor systems under its ancient laws. The Arbitration Act 1954, as amended by the Arbitration Act 1980, was very closely modelled upon the UK Arbitration Act 1950 (which has been replaced by the UK Arbitration Act 1996) and was the principal source of arbitration law in Ireland up to the passing of the Arbitration Act 2010 (the 2010 Act), which became operative on 8 June 2010 (www.irishstatutebook.ie).

The 2010 Act sets out a new regime for arbitrations in Ireland and repeals all prior legislation dealing with arbitration. Whilst Irish law operated a dual approach previously, with different regimes applying to domestic and international arbitrations, the new Act applies the UNCITRAL Model Law (Model Law) uniformly to all arbitrations. Indeed, the 2010 Act imposes a number of important changes to the way in which arbitrations, particularly domestic arbitrations, were previously conducted. A key objective of the new legislation was to standardise and modernise arbitration law in Ireland, as well as making Ireland a more attractive venue for international arbitrations.

The court's ability to intervene in the arbitral process has been dramatically restricted by the 2010 Act and time will tell what approach the courts will take in cases of apparent injustice where the 2010 Act provides that they shall not interfere.

