

TABLE OF CONTENTS

<i>Foreword</i>	v
<i>Preface</i>	vii
<i>List of Authors</i>	ix
<i>Acknowledgements</i>	xi
<i>Table of Hong Kong Cases</i>	xxxix
<i>Table of Foreign Cases</i>	lvii
<i>Table of Legislation</i>	xcii

PART 1 GENERAL PRINCIPLES

CHAPTER 1 THE ARBITRATION ORDINANCE

Romesh Weeramantry

1. Introduction	1.001
2. Drafting History of the Arbitration Ordinance (Cap. 609)	1.002
3. Structure and Form of the Ordinance	1.006
4. Application of the UNCITRAL Model Law	1.012
5. Provisions Supplementing the Model Law	1.015
6. Schedule 2 Opt-in and Automatic Provisions	1.016
7. Confidentiality	1.020
8. Interim Measures	1.024
9. Enforcement of Emergency Relief	1.029
10. Med-arb and Arb-med	1.032
11. Conclusion	1.035

CHAPTER 2 STATE IMMUNITY: LIFE AFTER CONGO

Kathryn Sanger and Martin Wallace

1. Introduction	2.001
2. State Immunity	2.007
(a) The development of the doctrine - absolute beginnings	2.007
(b) Restrictive immunity - the commercial exception	2.009
(c) The position in Hong Kong	2.011
3. The Congo Rulings	2.015
(a) Court of First Instance	2.015
(b) Court of Appeal	2.018
(c) Court of Final Appeal	2.026

4. China and "Crown" Immunity in Hong Kong	2.042
5. Which Entities are Entitled to Immunity?	2.047
(a) State immunity	2.048
(b) Crown immunity and Chinese State-owned Enterprises	2.054
6. Looking Forward: Practical Implications and Ramifications	2.058
(a) Judicial independence	2.060
(b) Arbitration - including arbitration in Hong Kong - continues to play a vital role	2.063
(c) Litigation	2.065
(d) Enforcement and waiver	2.066
(e) Hong Kong's potential home advantage when dealing with the CPG	2.074

CHAPTER 3 PREVENTING COMMERCIAL DISPUTES

Ernest Yang

1. Introduction	3.001
2. Selecting a Counterparty	3.003
(a) Financial power	3.005
(b) Market reputation	3.006
(c) Location and culture	3.007
(d) Focus/investment on risk prevention	3.008
3. Contract Negotiation and Drafting	3.009
(a) Governing law	3.015
(b) Jurisdiction/arbitration	3.018
(c) Entire agreement	3.021
(d) Severability	3.026
(e) Successors and assigns	3.028
(f) No waiver	3.030
(g) Variation	3.033
(h) Force majeure and frustration	3.036
(i) Hardship	3.045
4. Managing the Performance of Contracts	3.052
(a) Project managing	3.055
(b) Documentation	3.057
5. <i>Sample Document: Force Majeure Clause</i>	
Sample Document 3.1: Force Majeure Clause as Recommended by the ICC	3.060

CHAPTER 4 WAYS TO RESOLVE A DISPUTE

David Bateson and Edmund Wan

Flowchart—HKIAC Mediation	4.001
Flowchart—Adjudication	4.002
1. Introduction	4.003
2. Negotiation	4.007

(a) What is negotiation?	4.007
(b) Objective theories of negotiation	4.009
(c) Subjective factors in negotiation	4.019
(d) Good faith in negotiation	4.020
(e) Summary	4.025
3. Mediation	4.026
(a) What is mediation?	4.026
(b) Fundamentals of mediation	4.029
(c) When should parties mediate?	4.036
(d) Which institutions facilitate mediation in Hong Kong?	4.037
(e) Are there any rules which apply to mediations?	4.038
(f) Strengths of mediation	4.042
(g) Weaknesses of mediation	4.044
(h) Summary	4.046
4. Adjudication	4.047
(a) What is adjudication?	4.047
(b) When do parties refer a dispute to adjudication?	4.048
(c) Adjudication procedure	4.050
(d) Is there a body which facilitates adjudication in Hong Kong?	4.053
(e) Are there any rules which apply to an adjudication?	4.055
(f) Strengths of adjudication	4.058
(g) Weaknesses of adjudication	4.059
(h) Summary	4.060
5. Dispute Review Boards (DRBs)	4.061
(a) What is a dispute review board?	4.061
(b) Origins of DRBs	4.062
(c) Composition of a DRB	4.065
(d) How is the DRB selected?	4.067
(e) How does the DRB process work?	4.068
(f) Enforcement of DRB awards	4.069
(g) Cost of DRBs	4.072
(h) Strengths of DRBs	4.073
(i) Weaknesses of DRBs	4.074
(j) Summary	4.075
6. Dispute Resolution Advisors (DRAs)	4.076
(a) What is a DRA?	4.076
(b) How is the DRA selected?	4.079
(c) How does the DRA process work?	4.080
(d) Costs	4.082
(e) Strengths and weaknesses of DRAs	4.083
(f) Summary	4.084

7. Expert Determination.....	4.086
(a) What is expert determination?.....	4.086
(b) Origins of expert determination.....	4.087
(c) Characteristics of an expert determination.....	4.089
(d) How is the expert selected?.....	4.090
(e) How does the expert determination process work?.....	4.091
(f) Enforcement of expert determination.....	4.095
(g) Expert Immunity from Suit?.....	4.098
(h) Strengths of expert determination.....	4.099
(i) Weaknesses of expert determination.....	4.100
(j) Summary.....	4.101
8. Early Neutral Evaluation (ENE).....	4.102
(a) What is ENE?.....	4.102
(b) What is the origin of ENE?.....	4.103
(c) How is the evaluator selected?.....	4.104
(d) Process of ENE.....	4.105
(e) Goals of ENE.....	4.106
(f) Strengths of ENE.....	4.107
(g) Weaknesses of ENE.....	4.108
(h) Summary.....	4.109
9. Partnering.....	4.110
(a) What is partnering?.....	4.110
(b) Origins of partnering?.....	4.114
(c) Key Elements.....	4.115
(d) What does the partnering process involve initially?.....	4.116
(e) How is partnering initiated?.....	4.117
(f) What is contained in a partnering charter?.....	4.118
(g) What is contained in a partnering contract?.....	4.121
(h) Strengths of partnering.....	4.124
(i) Weaknesses of partnering.....	4.125
(j) Summary.....	4.126
10. Arbitration.....	4.127
(a) What is arbitration?.....	4.127
(b) How is the arbitration process started?.....	4.130
(c) Arbitration procedure.....	4.132
(d) Documents-only arbitration.....	4.138
(e) Small claims arbitration.....	4.143
(f) Statute governing arbitrations in Hong Kong.....	4.146
(g) Rules applicable to arbitrations in Hong Kong.....	4.153
(h) Arbitration institutions in Hong Kong.....	4.155

(i) Third party funding in arbitration.....	4.156
(j) Strengths of arbitration.....	4.157
(k) Weaknesses of arbitration.....	4.163
(l) Summary.....	4.168
11. Litigation.....	4.169
(a) What is litigation?.....	4.169
(b) Summary of litigation procedure.....	4.170
(c) Strengths of litigation.....	4.171
(d) Weaknesses of litigation.....	4.172
(e) Settlement—sanctioned offers and payments.....	4.173
(f) Summary.....	4.175
12. Establishment of a Financial Dispute Resolution Centre.....	4.176

CHAPTER 5 MED-ARB

Danny McFadden

1. Med-Arb.....	5.001
2. Mediation.....	5.006
3. Definitions of Facilitative Mediation.....	5.009
4. Some Key Concepts.....	5.013
(a) Confidentiality.....	5.014
(b) Neutrality.....	5.016
5. Facilitative and Evaluative Mediation Models Compared.....	5.022
(a) Facilitative mediation.....	5.023
(b) Evaluative mediation.....	5.025
(c) The difference in practice.....	5.026
6. What is Arbitration?.....	5.027
(a) Advantages of arbitration.....	5.029
7. Arbitration and Mediation Processes Compared.....	5.030
(a) Mediation in mainland China.....	5.031
(b) Court-performed mediation in mainland China.....	5.034
8. Med-Arb.....	5.036
(a) Med-Arb or Arb-Med during mainland Chinese arbitration proceedings.....	5.040
(b) Due process issues in mainland China.....	5.041
9. Background to the Case of <i>Keeneye</i>	5.045
10. Hearing in Court of First Instance before The Honourable Mr Justice Reyes.....	5.057
(a) Waiver.....	5.067
(b) Estoppel.....	5.068
(c) Public policy.....	5.070
11. The Court of Appeal Decision.....	5.073
(a) The waiver.....	5.074
(b) No apparent bias.....	5.079
12. Final Observations on <i>Keeneye</i> Case.....	5.081

13. Approach to Med-Arb in Different Jurisdictions	5.082
(a) Singapore	5.083
(b) China	5.089
(c) UNCITRAL conciliation rules	5.092
(d) Hong Kong Arbitration Ordinance (“HKAO”) (Cap. 609)	5.093
(e) Article 14 mediator’s role in subsequent proceedings	5.098
14. ICC Mediation Rules	5.102
15. Advantages and Disadvantages with Med-Arb	5.104
(a) Advantages	5.105
(b) Disadvantages	5.106
16. The UK and its approach to Med-Arb.....	5.107
17. Suggestions for engaging with Med-Arb	5.116
18. Safeguards for arbitrators who use private meetings with each party, as a means of facilitating settlement.....	5.117
19. Common law and civil law jurisdictions approaches to Med-Arb	5.118
20. Conclusion	5.120
(a) <i>Keeneye’s</i> impact on legal practice in Hong Kong and Mainland China	5.122

CHAPTER 6 THE MAIN FEATURES OF ARBITRATION

Chiann Bao

1. Introduction.....	6.001
2. Party Autonomy.....	6.003
(a) Law governing the dispute.....	6.005
(b) Seat of arbitration.....	6.006
(c) Governing law of the arbitration agreement	6.009
(d) Rules of the arbitration.....	6.011
(e) Arbitrators.....	6.015
3. Neutrality.....	6.020
4. Enforceability.....	6.022
5. Privacy and Confidentiality.....	6.026
6. Conclusion.....	6.034

CHAPTER 7 HONG KONG INTERNATIONAL ARBITRATION CENTRE AND ITS RULES

Chiann Bao

1. History and Organisation of HKIAC.....	7.001
2. Functions and Services of HKIAC.....	7.011
(a) Appointing authority.....	7.012
(b) Case administration.....	7.014
(c) Hearing facilities.....	7.018

(d) Tribunal secretary service.....	7.020
(e) Fund holding.....	7.023
(f) ADR events and training.....	7.024
(g) Secretariat services	7.026
3. 2013 HKIAC Rules and Their Key Features.....	7.027
4. Other Arbitration Rules Issued by HKIAC	7.031
5. Case Statistics.....	7.034

CHAPTER 8 DOMESTIC AND INTERNATIONAL ARBITRATION

*Justin D’Agostino, Ula Cartwright-Finch and
Briana Young*

1. Arbitration Framework	8.001
2. Arbitrations Commenced On Or After 1 June 2011—The Ordinance	8.003
(a) Opt-in system for “Domestic” provisions	8.004
(b) The operation of the opt-in system for Hong Kong construction arbitration	8.007
3. Arbitrations Commenced Before 1 June 2011—The Old Ordinance	8.010
(a) Difference between “Domestic” and “International” arbitration under the Old Ordinance	8.014

CHAPTER 9 CONFLICT OF LAWS ISSUES IN ARBITRATION

Kim M. Rooney

1. Introduction to Conflict of Laws Issues	9.001
(a) What is conflict of laws?.....	9.001
(b) Conflict of laws problems in Hong Kong arbitration matters	9.003
(c) Scope of this chapter.....	9.007
(d) Sources of Hong Kong’s conflict of laws principles	9.010
(e) How conflict of laws problems arise?	9.029
2. What is Jurisdiction?.....	9.034
(a) Definition of jurisdiction.....	9.034
(b) The issue of jurisdiction as it relates to arbitration matters in Hong Kong	9.041
(c) Anti-suit injunctions.....	9.068
(d) Stay Applications	9.070
3. Choice of Law	9.075
(a) The approach to choice of law of questions—characterisation	9.082
(b) Main conflict of laws rules relative to arbitration agreements.....	9.090
(c) Conflict of laws issues on the formation of an arbitration agreement	9.093
(d) Conflict of laws issues in the performance of an arbitration agreement.....	9.099
(e) How is the law of a foreign legal system proved?.....	9.129
(f) Conflict of law issues under the New York Convention	9.130

CHAPTER 10 THE ARBITRATION AGREEMENT

Peter Yuen and Doris Yeung

1. Introduction	10.001
2. General Requirements	10.008
3. Institutional or <i>Ad Hoc</i> ?	10.030
4. Institutional Rules	10.042
5. <i>Ad Hoc</i>	10.063
6. Place of Arbitration	10.066
7. Clauses Providing an Election between Arbitration or Litigation	10.071
8. Hearings Other than at Stipulated Place of Arbitration	10.074
9. Appointing Arbitrators in Absence of Agreement	10.077
10. Emergency Arbitrators	10.081
11. Qualifications of Arbitrator	10.083
12. Number of Arbitrators	10.088
13. Impartiality and Independence of the Third Arbitrator	10.097
14. Should there be a Nationality Restriction on Party-appointed Arbitrators?	10.099
15. Amiables Compositeurs	10.112
16. Umpires	10.114
17. Assessors	10.118
18. Tribunal Experts	10.123
19. Secretary to the Tribunal	10.132
20. Language of the Arbitration	10.145
21. Rights of Appeal—Opting out/Contracting in	10.148
22. Excluding the Court's Supervisory Jurisdiction	10.151
23. Interim Relief	10.152
24. Multiparty Arbitrations	10.157
(a) Appointment of arbitrators	10.164
(b) Joinder	10.165
(c) Consolidation	10.169
25. Disclosure of Documents and Gathering of Evidence	10.172
26. Costs of the Arbitration	10.182
27. Other Limiting Conditions—Award	10.189
28. Hearing	10.195
29. Commencement of the Arbitration	10.196
30. Performance of Contract to Continue Despite Dispute	10.200
31. Confidentiality	10.202
32. Finality	10.208
33. Jurisdiction Clauses	10.209
34. Documents Only	10.216
35. Punitive Damages	10.220

36. Legal Representation	10.221
37. <i>Sample Documents: Model Clauses</i>	
Sample Document 10.1: Model Arbitration Clauses	10.224
Sample Document 10.2: HKIAC Arbitration Clause	10.225
Sample Document 10.3: Standard form Dispute Resolution Provisions	10.226
Sample Document 10.4: Government of Hong Kong General Conditions of Contract for the Airport Core Programme Civil Engineering Works	10.227
Sample Document 10.5: Government of Hong Kong Sub-Contract Articles of Agreement and Conditions for Civil Engineering Works, 1988 Edition	10.228
Sample Document 10.6: Provisional Airport Authority Hong Kong General Conditions of Contract Building and Civil Works Issue No. 5—July 1994	10.229
Sample Document 10.7: The Government of the Hong Kong Special Administrative Region General Conditions of Contract for Civil Engineering Works—1999 Edition	10.230
Sample Document 10.8: First RICS (HK Branch) Edition (1986) Standard form of Building Contract Private Edition—With Quantities	10.231
Sample Document 10.9: ICE Conditions of Contract—7th Edition Measurement Version	10.232
Sample Document 10.10: Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer Fidic 1St Edition 1999 Claim, Disputes and Arbitration	10.233
Sample Document 10.11: NEC Engineering and Construction Subcontract Second Edition—November 1995	10.234
Sample Document 10.12: JCC 1 Agreement & Schedule of General Conditions of Building Contract for use in Hong Kong Standard form of Building Contract Private Edition With Quantities	10.235
Sample Document 10.13: KCRC West Rail General Conditions of Contract for Civil Engineering and Building Works Dispute Resolution	10.236
Sample Document 10.14: MTRC Conditions of Contract for Civil Engineering and Building Works Construction	10.237
Sample Document 10.15: Appointment of Arbitrators Provisions	10.238

CHAPTER 11 ARBITRATORS

Frances van Eupen

Flowchart—Challenge Procedure Under s.26 of the Arbitration Ordinance	11.001
1. General Duties in Conducting Proceedings	11.002
(a) Duty to treat parties with equality and afford a reasonable opportunity to present their case	11.004
(b) Duty to act fairly and impartially and be independent	11.013
(c) Standards in arbitration rules	11.017
(d) Remedies for failure to comply	11.018

2. Bringing a Challenge.....	11.019
(a) What is the effect of failure to raise a challenge within the prescribed period?.....	11.021
(b) Status of proceedings whilst challenge pending.....	11.022
3. Same Test for Judges and Arbitrators Alike.....	11.024
4. Actual Bias.....	11.025
5. Automatic Disqualification.....	11.028
6. Real Possibility of Bias.....	11.031
(a) Past or present links between the arbitrator and a party or counsel.....	11.037
(b) Previously expressed views of the arbitrator.....	11.043
(c) Barristers from the same Chambers.....	11.045
(d) Infection of bias.....	11.048
(e) <i>Ex parte</i> communications.....	11.050
(f) Repeat instructions/appointments.....	11.052
(g) Importance of disclosure.....	11.062
(h) Standards for disclosure.....	11.068
(i) Failing to possess qualifications agreed to by the parties.....	11.075
(j) Failure or impossibility to act as an arbitrator.....	11.078
(k) Withdrawal.....	11.082
7. Tactical Considerations.....	11.085
8. Ethical Codes of Conduct.....	11.092
9. Fees.....	11.096
(a) Basic right to fees.....	11.096
(b) Costs of arbitration proceedings.....	11.102
(c) Court's residual role in assessing fees.....	11.105
(d) Acceptable fee structures.....	11.109
(e) Fee increases during the arbitration.....	11.123
(f) Commitment fees.....	11.125

CHAPTER 12 EMERGENCY ARBITRATORS

*David Bateson and
Laura Feldman*

1. Introduction.....	12.001
2. When to use emergency arbitrator procedures.....	12.003
(a) Instances where emergency arbitrator procedures are useful as compared to other forms of interim relief.....	12.003
(b) Inappropriate circumstances for emergency arbitrator procedures.....	12.016
(c) Comparison of pre-arbitral referee procedure, interim relief from the tribunal and emergency arbitrator procedures.....	12.021
(d) Enforceability of emergency arbitrator's orders or awards.....	12.026
3. Overviews of Available Procedures.....	12.035
(a) Hong Kong International Arbitration Centre ("HKIAC").....	12.036

(b) International Chamber of Commerce.....	12.037
(c) Arbitration Rules of the Singapore International Arbitration Centre.....	12.040
(d) Panel of Recognised and International Market Experts in Finance.....	12.048
(e) London Court of International Arbitration.....	12.050
(f) The China International Economic and Trade Arbitration Commission.....	12.055
(g) Equivalent provisions in other rules.....	12.057
4. Comparison of emergency arbitrator procedures.....	12.059
(a) Introduction.....	12.059
(b) Tabular comparison of the common EAP features.....	12.061
5. Procedural Guidance.....	12.062
(a) Examples of available relief.....	12.062
(b) Application under the HKIAC Rules.....	12.064
(c) Written submissions.....	12.072
(d) Factors to be considered in awarding relief.....	12.074
(e) Undertakings.....	12.088
(f) Other Limitations.....	12.089

PART 2 PROCEDURE

CHAPTER 13 COMMENCEMENT OF ARBITRATION

John Choong and Eric Chan

1. Introduction.....	13.001
2. Deciding Whether to Arbitrate or Litigate.....	13.003
3. Time Limits.....	13.007
(a) The Limitation Ordinance.....	13.009
(b) Date of commencement of an arbitration.....	13.011
(c) Contractual time limits.....	13.015
(d) Conflict of laws.....	13.023
4. Commencement—Notice of Arbitration.....	13.025
(a) Compliance with conditions precedent and preliminary procedures.....	13.026
(b) Requirements for notice of arbitration.....	13.030
(c) Practical considerations.....	13.039
(d) Service of notice of arbitration.....	13.043
(e) Respondent's reply or answer.....	13.048
5. The Tribunal.....	13.052
(a) Introduction.....	13.052
(b) Composition of the tribunal.....	13.058
(c) Constituting the tribunal.....	13.065

CHAPTER 14 JURISDICTION*David Bateson and Edmund Wan*

1. The Rights and Duties of the Arbitrator	14.001
(a) What are the arbitrator's obligations upon commencement of a reference?	14.001
(b) Statutory Duty	14.003
2. Procedural Powers and Limitations of the Tribunal	14.009
(a) General background	14.009
(b) Powers of the arbitral tribunal	14.010
(c) Powers conferred expressly by the parties	14.012
(d) Powers implied by custom	14.013
(e) Powers conferred by rules of trade or professional institution	14.014
(f) Powers conferred by Arbitration Ordinance in Hong Kong	14.015
(g) Power of arbitrator to rule on own jurisdiction	14.016
(h) Power of arbitrator to dismiss claim where there is delay	14.022
(i) General procedural powers	14.029
(j) The power to order inquisitorial procedure	14.033
(k) Power to limit recoverable costs	14.034
(l) Power to grant interim measures and preliminary orders	14.035
(m) Power to correct errors and make changes to the arbitral award and the award of costs	14.043
(n) Power to award any remedy or relief	14.046
(o) Power to award interest	14.047
(p) Power to direct payment of costs	14.048
(q) Power to extend time for arbitration proceedings	14.054
(r) Language	14.058
(s) Laws applicable to dispute	14.059
3. Court Relief and Remedies	14.060
(a) Background	14.060
(b) Opt-in provisions	14.061
4. The Arbitration Ordinance	14.113
(a) Stay of court proceedings	14.113
(b) Labour tribunal proceedings	14.134
(c) Special powers of the court in interlocutory matters	14.136
(d) Appointment, removal and revocation of authority of arbitrator (or umpire)	14.139
(e) Setting aside awards	14.140
(f) Exclusion agreements	14.143
(g) Limitation Ordinance	14.144
(h) Arbitration (Amendment) Bill 2016	14.149

CHAPTER 15 THE PROCEEDINGS*Teresa Cheng GBS, SC, JP*

1. Inquisitorial Powers in Adversarial System	15.001
2. Separation of Procedural and Substantive Matters	15.004
3. Arbitration Rules	15.010
4. Fundamental Guidelines	15.014
5. Procedural Meetings	15.017
(a) Necessity, purpose and timing of preliminary meetings	15.017
(b) Agenda of procedural meetings	15.021
(c) Preliminary issues	15.050
(d) Documents-only or oral hearing	15.053
(e) Collection of real evidence	15.055
(f) Communication with arbitrator	15.060
6. Order for Directions	15.061
7. Identification of Issues	15.065
(a) General	15.065
(b) Court-style pleadings	15.068
(c) Modified pleadings	15.070
(d) List of issues	15.076
(e) Scott Schedule	15.079
8. Evidence	15.081
(a) Rules of evidence	15.081
(b) Excluding admissible evidence?	15.085
(c) Weight	15.088
(d) Hearsay evidence	15.089
(e) Other evidence to which an arbitral tribunal may attach less weight	15.091
(f) Burden of proof	15.092
(g) Documentary evidence	15.093
(h) New evidence	15.098
(i) Earlier arbitration awards	15.101
(j) Inquisitorial or adversarial approach	15.105
(k) Receiving evidence in the absence of a party	15.109
9. Oral Evidence	15.110
(a) Examination of witness	15.110
(b) Real evidence	15.135
10. The Use of Information Technology in Arbitrations in Hong Kong	15.144
(a) Document management	15.145
(b) Digital recording and real-time transcription services	15.152
(c) Responsive administrative support	15.156

(d) Delayed transcription	15.157
(e) Service interlinking	15.160
(f) Video conferencing	15.161
11. Hearing	15.162
(a) Estimation of duration of hearing	15.162
(b) Venue for hearing	15.177
(c) Directions for main hearing	15.179
(d) List of agreed facts	15.180
(e) Hearing bundle	15.182
(f) Form and exchange of submissions	15.189
(g) Interpretation	15.192
(h) Translation	15.193
(i) Transcript	15.194
12. Pre-hearing Review	15.195
13. Order of Proceedings	15.196
(a) Opening submissions	15.200
(b) Oral evidence	15.202
(c) Closing submissions	15.214
14. Costs	15.215
(a) What costs are recoverable?	15.215
(b) When costs should be awarded	15.218
(c) Discretion as to costs	15.223
(d) Assessment of costs	15.227
15. Default Powers of Arbitrator	15.228
(a) Notice of hearing	15.238
(b) Notice to proceed <i>ex parte</i>	15.242
(c) Documents-only arbitration in absence of one party	15.243

CHAPTER 16 INTERLOCUTORY APPLICATIONS

Paul Starr and Suraj Sajjani

Flowchart—The Arbitration	16.001
1. Introduction—the Importance and Usefulness of Interlocutory Applications	16.002
2. Discovery	16.007
(a) General	16.008
(b) Discovery—statutory powers of arbitral tribunal	16.012
(c) Discovery—applicable rules	16.020
(d) Discovery—arbitral tribunal's discretion	16.021
(e) Discovery—statutory power of the court	16.022
(f) Interrogatories	16.023
(g) Objection to production	16.026

(h) Inadequate discovery—background	16.027
(i) Inadequate discovery—further and better list	16.030
(j) Inadequate discovery—specific discovery	16.033
(k) Inadequate discovery—provision of affidavit/affirmation	16.038
(l) Failure or delay in complying with arbitral tribunal's order	16.039
(m) IBA Rules of Evidence	16.044
(n) Concluding remarks on discovery	16.048
3. Preliminary Points of Law	16.050
(a) General	16.050
(b) General responsibilities of arbitral tribunal	16.051
(c) Jurisdiction of the arbitral tribunal	16.052
(d) Application under s.3 of schedule 2—decision of a preliminary question of law by the Court	16.053
(e) First step—obtain permission	16.056
(f) Second step—apply to court	16.057
(g) Third step—court decides whether to entertain the application	16.060
(h) Fourth step—court's discretion	16.061
(i) Arbitral tribunal deciding preliminary point of law	16.063
(j) Independent legal advice	16.064
(k) Concluding remarks on preliminary points of law	16.066
4. Amendments	16.069
(a) General	16.069
(b) Conduct of the proceedings	16.070
(c) Arbitral tribunal's power to order amendments	16.071
(d) Exercise of discretion	16.072
(e) Court intervention?	16.075
(f) Failure or delay in complying with arbitral tribunal's order?	16.076
(g) Concluding remarks on amendments	16.078
5. Further and Better Particulars	16.079
(a) General	16.079
(b) Arbitral tribunal's power to order particulars	16.081
(c) Arbitral tribunal's discretion	16.082
(d) Criteria for further and better particulars	16.084
(e) Failure or delay in complying with arbitral tribunal's order?	16.086
(f) Concluding remarks on particulars	16.087
6. Extensions of Time	16.088
(a) General	16.088
(b) Extension of contractual time limit within which to commence arbitral proceedings—time bar clauses in arbitration agreements	16.089
(c) Statutory power for extension of time to take commencement step—s.58	16.093

(d) Application of s.58.....	16.098
(e) Discretionary threshold test—general	16.100
(f) Circumstances outside contemplation of the parties	16.103
(g) Conduct of the other party	16.107
(h) What amounts to a commencement step sufficient to avoid a time bar?	16.109
(i) Delay	16.113
(j) Exhaust any available arbitral procedures first	16.114
(k) Limitation Ordinance	16.115
(l) Application to the court or tribunal?	16.116
(m) Extension of time within which an arbitral tribunal can make an award	16.117
7. Security for Costs	16.124
(a) General	16.124
(b) Statutory power of arbitral tribunal—security for costs	16.125
(c) Statutory power of the court—security for costs	16.131
(d) Comparison between Hong Kong and England	16.133
(e) Arbitral tribunal's discretion	16.135
(f) Relevant factors when deciding application for security for costs	16.136
(g) Statutory restriction on arbitral tribunal's discretion—foreign claimant	16.137
(h) Statutory restriction on arbitral tribunal's discretion—need to specify period of time	16.139
(i) Arbitral tribunal may dismiss or stay a claim	16.140
(j) Concluding remarks on security for costs	16.141
8. Security for Claim	16.144
(a) General	16.144
(b) Applications to the court for interlocutory orders	16.148
(c) Concluding remarks on security for claim	16.149
9. Interim Measures of Protection	16.150
(a) General	16.150
(b) Arbitral tribunal's discretion	16.152
(c) Statutory power of arbitral tribunal—preservation, custody or sale of property	16.153
(d) Statutory power of the court—preservation, custody or sale of property	16.156
(e) Scope of order—preservation, custody or sale of property	16.157
(f) Statutory power of arbitral tribunal—inspection, photographing, preservation or detention of property, taking samples or conducting experiments	16.161
(g) Statutory power of the court—inspection, photographing, preservation or detention of property, taking samples or conducting experiments	16.164
(h) Scope of order—inspection, photographing, preservation or detention of property, taking samples or conducting experiments	16.168

(i) Principles of an Anton Piller order	16.172
(j) Statutory power of arbitral tribunal—interim measures	16.175
(k) Statutory power of arbitral tribunal—preliminary orders	16.182
(l) Various provisions relating to interim measures and preliminary orders—arbitral tribunal	16.184
(m) Statutory power of the court—interim measures	16.188
(n) Scope of the power—interim measures	16.195
(o) Governing principles for interlocutory injunctions	16.196
(p) Governing principles for <i>Mareva</i> injunctions	16.199
(q) Appointing a receiver	16.202
(r) Concurrent powers of tribunal and court	16.204
(s) Applications to the court for interlocutory orders	16.210
(t) Difference between Hong Kong and England	16.211
10. Split Hearing—Provision of Awards on Different Aspects	16.212
(a) General	16.212
(b) Power to make awards on different aspects	16.213
(c) Nature of award	16.214
(d) Concluding remarks on split hearings and awards	16.217
11. Peremptory Orders	16.218
(a) General	16.218
(b) Definition of peremptory order	16.220
(c) Statutory power of the tribunal	16.224
(d) Equal treatment of parties and rules of procedure	16.225
(e) Default of a party	16.226
(f) Discretion of the arbitral tribunal	16.229
(g) Sanctions for breach of peremptory orders	16.230
(h) Subject to agreement of the parties	16.233
(i) Enforcement of orders and directions of arbitral tribunal	16.234
(j) Order to be made in case of delay in pursuing claims in arbitral proceedings	16.235
(k) Unreasonable delay	16.237
(l) Tribunal may order dismissal of claim and prohibit further proceedings	16.240
(m) Delay in pursuing a claim	16.244
(n) Concluding remarks on peremptory orders	16.245
12. Costs of Interlocutory Applications	16.247
(a) General	16.247
(b) Taxation of costs of arbitral proceedings (other than fees and expenses of arbitral tribunal)	16.254
(c) Costs for unqualified person	16.256
(d) Expert appointed by arbitral tribunal	16.257
(e) Usual practice with interlocutory costs	16.258
(f) Types of costs orders	16.260

(g) Amendments/further and better particulars and costs orders	16.262
(h) Dilatory conduct and costs orders	16.263
(i) Concluding remarks on costs orders	16.264
13. Conduct of Arbitral Tribunal During Interlocutory Applications	16.265
14. <i>Sample Documents: Orders and Applications</i>	
Sample Document 16.1: Redfern Schedule for Discovery	16.269
Sample Document 16.2: Order for Disclosure	16.270
Sample Document 16.3: Application for Challenging the Tribunal's Jurisdiction	16.271
Sample Document 16.4: Order for Amendment of Pleadings	16.272
Sample Document 16.5: Order for Further and Better Particulars	16.273
Sample Document 16.6: Order for Extension of Time	16.274
Sample Document 16.7: Order for Security for Costs	16.275

CHAPTER 17 ARBITRATION AWARDS *Timothy Hill and Mark Lin*

1. Scope and Function of Awards	17.001
2. Timing of Awards	17.005
3. Types of Award	17.014
(a) Consent awards	17.015
(b) Interim or partial awards	17.022
(c) Final awards	17.027
(d) Default awards	17.030
(e) Costs award	17.036
(f) Additional and corrective awards	17.037
4. Elements of the Award	17.043
(a) Written	17.044
(b) Signature	17.045
(c) Date	17.047
(d) Place	17.048
(e) Unambiguous	17.050
(f) Finality	17.052
5. Contents of the Award	17.053
(a) Headings	17.055
(b) Type of award	17.057
(c) Recitals	17.058
(d) Operative directions / Dispositive provisions	17.060
(e) Remedies	17.061
(f) Costs	17.063
(g) Reasons	17.064
(h) Signature	17.068

6. Majority Awards	17.070
7. Remedies	17.075
(a) Monetary award	17.076
(b) Specific performance	17.077
(c) Injunction	17.080
(d) Declaratory relief	17.084
(e) Indemnity	17.085
(f) Interest	17.086
8. <i>Sample Documents: Awards</i>	
Sample Document 17.1: Consent Award	17.088
Sample Document 17.2: Final Award	17.089

CHAPTER 18 ROLE OF THE COURT *Timothy Hill and Mark Lin*

1. General	18.001
2. Enforcing an Arbitration Agreement	18.008
3. Support for the Conduct of Arbitration Proceedings	18.011
4. Appeals	18.021
Enforcing an Award	18.031

CHAPTER 19 RECOGNITION AND ENFORCEMENT OF THE ARBITRAL AWARD *Denis Brock, Sarah Knapton and Aditya Kurian*

Flowchart—Enforcement of arbitral awards in Hong Kong	19.001
1. Introduction	19.002
(a) Pro-enforcement approach in Hong Kong	19.002
(b) Contracts (Rights of Third Parties) Ordinance (Cap.623)	19.005
(c) Enforcement of interim awards and emergency arbitrator awards	19.006
2. Enforcement of arbitral awards made in Hong Kong arbitral awards made in a jurisdiction which is not a party to the New York Convention and under the UNCITRAL Model Law	19.007
(a) Hong Kong awards	19.008
(b) Awards made in a jurisdiction which is not a party to the New York Convention and under the UNCITRAL Model Law	19.009
(c) The methods for enforcement of Hong Kong awards, non-Convention awards, and UNCITRAL Model Law awards	19.011
3. Enforcement of Convention Awards	19.025
(a) Convention Awards	19.025
(b) Distinguishing non-Convention Awards	19.034
4. Enforcement of Mainland Awards	19.039
(a) Background to the legislative regime	19.039
(b) Effect of the legislative regime	19.040
(c) Practical considerations	19.043

5. Enforcement of Macao Awards	19.060
(a) Background to the legislative regime.....	19.060
(b) Effect of the legislative regime	19.061

CHAPTER 20 CHALLENGE OF ARBITRAL AWARDS

Peter Chow and Felicia Cheng

Flowchart—Challenging the Award	20.001
1. Introduction	20.002
(a) Types of challenge	20.006
2. Setting Aside	20.026
(a) General	20.026
(b) Grounds for setting aside	20.039
(c) Procedure	20.074
3. Serious Irregularity	20.083
(a) General	20.083
(b) Grounds for challenge	20.096
(c) Procedure	20.131
(d) Effect of remission or setting aside	20.137
4. Appeals	20.148
(a) General	20.148
(b) Grounds for appeal	20.153
(c) Procedure	20.157
(d) Principles applicable to leave applications	20.165
(e) Effect of order	20.170
(f) Exclusion agreements	20.174

PART 3

SPECIALIST ARBITRATION

CHAPTER 21 CONSTRUCTION ARBITRATION

Paul Starr and James McKenzie

Flowchart—Issues to Consider in Construction Arbitration.....	21.001
1. Introduction.....	21.002
2. Arbitration Agreements.....	21.006
(a) Advantages of arbitration in construction disputes.....	21.006
(b) Arbitration clauses in standard forms.....	21.030
(c) Other contractual methods of dispute resolution	21.073
(d) Condition precedent/challenge on jurisdiction	21.078
(e) The engineer's/architect's certificate	21.086
(f) Notice of dispute.....	21.093

3. Commencement of Arbitration.....	21.098
(a) Notice of arbitration	21.107
4. Choice of Arbitrator	21.109
(a) General.....	21.109
(b) Appointment by appointing bodies.....	21.110
(c) Nature of dispute.....	21.113
(d) Use of technical/legal assessor.....	21.117
5. The Hearing.....	21.122
(a) Interim or partial hearings.....	21.122
(b) Choice of procedure in the hearing.....	21.138
(c) Time limit—chess-clock approach	21.158
(d) Expert evidence.....	21.160
6. Consolidation	21.170
7. Name Borrowing.....	21.187
(a) General.....	21.187
(b) Nominated subcontract standard terms.....	21.197
(c) Problems associated with name borrowing.....	21.199

CHAPTER 22 PRC-RELATED ARBITRATION

Kathryn Sanger, Bing Yu and Cynthia Chan

1. Introduction.....	22.001
2. Background—Economic Relations Between Hong Kong and the PRC.....	22.004
3. Venue—Why Hong Kong?.....	22.010
(a) Location, culture and language.....	22.011
(b) Legal system	22.015
(c) Judicial support.....	22.022
(d) Legal and commercial expertise	22.026
(e) Hong Kong International Arbitration Centre (HKIAC).....	22.031
(f) Choice of Arbitrators.....	22.037
4. Types of Cases Administered by the HKIAC.....	22.042
5. Disputes Governed by PRC Law—Points to Note	22.043
(a) The PRC Contract Law (Contract Law).....	22.043
(b) PRC Law—an issue of fact.....	22.049
6. Other Points to Note.....	22.054
(a) Common law system.....	22.054
(b) The arbitral proceedings	22.056
(c) Translators.....	22.057
7. Enforcement.....	22.059
(a) Enforcement of Hong Kong awards in the Mainland.....	22.065

CHAPTER 23 INTELLECTUAL PROPERTY AND DOMAIN NAME ARBITRATION *Loke-Khoon Tan*

Flowchart—Schematic Diagram for .hk Domain Name Dispute Resolution Process	23.001
Flowchart—Domain Name Dispute Resolution Proceedings.....	23.002
Flowchart—Case Proceedings.....	23.003
Flowchart—UDRP Domain Name Dispute Resolution Proceedings (Simplified).....	23.004
Flowchart—Incorporation of Terms Online.....	23.005
Flowchart—Electronic Signatures and Encryption	23.006
Flowchart—Elements of a Valid Online Contract.....	23.007
Flowchart—Arbitration Procedure under the Hong Kong International Arbitration Centre (HKIAC) Electronic Transaction Arbitration Rules	23.008
1. Nature of Intellectual Property Law.....	23.009
2. Trademarks and the Internet.....	23.011
(a) Effects of trademarks	23.011
(b) Trademarks and domain names	23.014
3. Domain Name Disputes	23.016
(a) Domain name basics	23.016
(b) Dispute resolution procedures.....	23.031
(c) UDRP proceedings, court proceedings or negotiation?.....	23.168
(d) UDRP or URS proceedings?.....	23.180
(e) Preventive measures.....	23.184
(f) Conclusion	23.185
4. Online Contracts.....	23.188
(a) The formation of online contracts.....	23.205
(b) Electronic Transactions Ordinance	23.207
(c) UNCITRAL Model Law on Electronic Commerce of 1996 (Model Law)	23.216
(d) The UN Convention on the Use of Electronic Communications in International Contracts.....	23.223
5. <i>Sample Documents: Intellectual Property and Domain Name Arbitration</i>	
Sample Document 23.1: HKIAC Complaint and Response Forms	23.227
Sample Document 23.2: CNNIC Complaint and Response Forms	23.228

CHAPTER 24 SHIPPING AND INTERNATIONAL TRADE ARBITRATION *Philip Yang and Rosita Lau*

1. International Trade Disputes	24.001
2. International Shipping Disputes.....	24.004
(a) Liner shipping.....	24.006
(b) Bulk shipping of commodities.....	24.007
3. Qualification and Conflict of Interest of Shipping/Maritime Arbitrator	24.010
(a) Qualifications	24.010
(b) Conflict of interest.....	24.017

4. Arbitration Clauses and Appointment of Arbitrators	24.024
(a) What is the preferred number of arbitrators?.....	24.026
(b) Implied position on number of arbitrators in the Arbitration Ordinance	24.036
(c) Recommended arbitration clause for international trade and shipping	24.041
(d) Incorporating arbitration rules	24.047
5. Consolidation or Concurrent Hearings and Other Problems of Multiparty Disputes	24.048
(a) An express consolidation provision or opting in under the Arbitration Ordinance (Cap.609)	24.053
(b) Concurrent references under the LMAA Terms.....	24.055
(c) Indemnity action and vouching in.....	24.057
6. Terms of Appointment, Deposits and Appointment Fees	24.067
7. Preliminary Meetings	24.079
8. Pleadings and Submissions	24.082
(a) Informal pleadings	24.083
(b) Limit for submissions	24.088
(c) Particulars or clarifications	24.091
(d) Decisions and/or orders made before pleadings	24.094
9. Discovery and Disclosure.....	24.095
(a) Opting for documents-only arbitration	24.099
(b) Opting for oral hearing.....	24.103
10. Preliminary Issues	24.106
11. Instant Arbitration	24.107
12. Publication of the Award	24.111
13. Costs.....	24.113
(a) Small claims procedure.....	24.113
(b) Security for costs.....	24.115
(c) Offers and payment into court	24.119
(d) Taxation or assessment of costs	24.123
(e) High costs in shipping/maritime arbitration?.....	24.126
14. Enforcement of Awards, <i>In Rem</i> Proceedings and Arrest of Ships	24.132
15. Conclusion.....	24.144

CHAPTER 25 TAIWAN ARBITRATION *Marianne Chao*

1. Legal System—Civil Law System	25.001
2. Dispute Resolution Mechanisms in Taiwan	25.002
(a) Litigation.....	25.003
(b) Arbitration.....	25.004
(c) Mediation	25.007
(d) Other Contractual Dispute Resolution Mechanisms.....	25.009
3. Arbitration Agreement	25.010

4. Role of the Court in Arbitration	25.013
(a) Enforcing an arbitration agreement	25.014
(b) Support for the conduct of arbitration proceedings	25.015
(c) Enforcing an award	25.016
(d) Ordering provisional seizure or preliminary injunction	25.017
5. Arbitrators	25.018
(a) Arbitrator's qualification	25.020
(b) Arbitrator shall receive training	25.022
(c) Independence and impartiality	25.024
(d) Remedies for failure to comply	25.025
6. Arbitration Procedure	25.026
(a) Applicable procedural law	25.027
(b) Time limit for the arbitral tribunal to render an award	25.028
(c) Arbitral tribunal to decide its jurisdiction	25.029
(d) Process of the arbitration proceedings	25.030
(e) <i>Ad hoc</i> Arbitration in Taiwan	25.031
7. Revocation of the Arbitral Award	25.032
(a) Time limit to revoke an arbitral award	25.032
(b) Reasons to revoke an arbitral award	25.033
(c) Effect of award revocation lawsuit	25.037
8. Enforcement of the Arbitral Award: Enforcement Ruling Required	25.038
9. Enforceability of Foreign Arbitral Awards in Taiwan	25.040
(a) General principle	25.040
(b) Recognition of Hong Kong arbitral awards in Taiwan	25.044
(c) Taiwan's recognition of PRC arbitral awards	25.048

CHAPTER 26 INVESTMENT TREATY ARBITRATION

Dr Nils Eliasson

1. Introduction	26.001
2. Investment Treaties and Investment Arbitration	26.005
3. Investment Treaties Concluded by Hong Kong	26.010
4. Protection of Investments by Hong Kong Investors	26.018
5. Protection of Foreign Investments in Hong Kong	26.035
6. Investment Arbitration in Hong Kong	26.042
(a) Does the seat of arbitration matter in investment treaty cases?	26.043
(b) ICSID Arbitration in Hong Kong	26.046
(c) ICSID Additional Facility Arbitration or <i>ad hoc</i> arbitration under the UNCITRAL Arbitration Rules with the seat in Hong Kong	26.051
7. Applicable Law	26.062
8. Challenge of Investment Treaty Awards	26.070
9. Enforcement	26.081

CHAPTER 27 ARBITRATION IN BANKING AND FINANCE DISPUTES

Frances van Eupen

1. Introduction	27.001
2. Reasons why Financial Institutions have Traditionally been Reluctant to use Arbitration	27.003
(a) Summary Judgment	27.005
(b) Arbitrators Tend to Compromise	27.029
(c) Lack of Experienced Arbitrators	27.031
(d) Lack of Binding Precedent	27.034
(e) Some disputes are not capable of being arbitrated	27.038
3. Reasons Why Arbitration is Becoming More Popular in Asia	27.045
(a) Enforcement	27.046
(b) Reluctance to Rely on Local Courts in Emerging Markets	27.056
(c) Confidentiality	27.060
(d) Reduced Disclosure	27.062
(e) Technical Expertise	27.065
(f) Flexibility	27.066
(g) Neutrality	27.068
(h) Industry-specific initiatives	27.070
4. Types of Banking and Finance Transactions	27.083
(a) Loan Agreements	27.084
(b) Derivatives	27.090
(c) Bonds	27.091
(d) Project Finance	27.093
(e) Documentary Credits	27.094
(g) <i>Ad Hoc</i> Schemes	27.100
5. Investment Treaty Arbitration	27.101
(a) How Does Investment Treaty Arbitration Work?	27.103
(b) Opportunities for Financial Institutions	27.108

CHAPTER 28 INSURANCE ARBITRATION

Gary Soo and Mary Thomson

1. AIDA Reinsurance and Insurance Arbitration Service	28.001
(a) Standard contractual provision	28.003
(b) Centrocon and Forfeiture clauses	28.005
2. Arbitration Agreement	28.021
3. Consolidation	28.030
4. Subrogation	28.034
5. Choice of Arbitrator	28.041

CHAPTER 29 ARBITRATION OF EMPLOYMENT DISPUTES

By Gary Soo

1. Arbitration of Employment Disputes	29.001
(a) Arbitration clauses in employment contracts	29.007
(b) Distinguishing between domestic and international arbitration agreements	29.011
(c) Practical issues	29.012

APPENDICES

<i>Appendix A1: Arbitration Ordinance (Cap 609)</i>	1039
<i>Appendix A2: HKIAC Rules 2013</i>	1125
<i>Appendix A3: New York Convention</i>	1171
<i>Appendix A4: IBA Guidelines on Conflicts of Interest in International Arbitration (2004)</i>	1181
<i>Appendix A5: IBA Rules on the Taking of Evidence in International Arbitration (2010)</i>	1205
<i>Appendix A6: IBA Guidelines on Party Representation in International Arbitration (2013)</i>	1227
<i>Appendix A7: Practice Direction SL1.2 - Pilot Scheme for Discovery and Provision of Electronically Stored Documents in Cases in the Commercial List</i>	1247
<i>Index</i>	1267

TABLE OF HONG KONG CASES

All references are to paragraph numbers

廈門新景地集團有限公司 v Eton Properties Ltd (unrep., HCA 961/2008, [2010] HKEC 403), CFI	10.012
A v B [2015] 3 HKLRD 586; [2015] 5 HKC 509, CFI	20.028, 20.040, 20.069
A v D (Arbitral Award) [2017] 1 HKLRD 779, CFI	4.152
A v D (unrep., HCMP 1014/2016, 6 and 22 December 2016), CFI	20.078, 20.112
A v R (Arbitration: Enforcement) [2009] 3 HKLRD 389, CFI	6.025, 19.020, 19.027, 19.029, 20.008, 20.080, 20.081, 20.164
Adhiguna Meranti, The [1987] HKLR 904	9.066, 9.073
Adorn Workshop Ltd v Steicke David Paul (unrep., DCCJ 4350/2009, [2010] HKEC 244) DC	14.120
Aggressive Construction Co Ltd v Data Form Engineering Ltd (unrep., HCA 2143/2008, [2009] HKEC 1555), CFI	14.117
Aggressive Construction Company Ltd v Data-Form Engineering Ltd (unrep., HCA 2163/2008, 13 October 2009), CFI	16.089, 16.116
Alpha Building Construction Ltd v Best Partner Ltd (unrep., HCCT 80/2006, [2008] 2 HKLRD D4), CFI	14.070
Amcors Ltd v California Ltd (unrep., HCA 2544/2005, [2006] HKEC 1140), CFI	12.079
American International Group Inc v Huaxia Life Insurance Co Ltd (unrep., HCCT 60/2015, [2016] HKEC 2666), CFI	19.012
American International Group Inc v Huaxia Life Insurance Co Ltd (unrep., HCMP 3417/2016, [2017] HKEC 80), CA	18.023
American International Group Inc v X Co (unrep., HCCT 60/2015, [2016] HKEC 1996), CFI	20.010, 20.063
Apex Tech Investment Ltd v Chuang's Development (China) Ltd [1996] 2 HKLR 155, CA	19.027, 19.030, 20.040
Apple Daily Ltd v Commissioner of the Independent Commission Against Corruption (No.2) [2000] 1 HKLRD 647, CA	16.026
Arima Photovoltaic & Optical Corp v Flextronics Computing Sales and Marketing (L) Ltd (unrep., CACV 194/2012, [2014] 5 HKLRD K1), CA	17.066
Arjowiggins HKK2 Ltd v X Co (unrep., HCCT 53/2015, [2016] HKEC 2472), CFI	19.028, 19.031, 20.045
Arnhold & Co Ltd v Yieldworth Engineers & Suppliers Ltd [1994] 2 HKC 391, CA	15.078, 16.136, 20.169
Asia Construction Co v Crown Pacific Ltd [1989] 1 HKC 387, High Ct	14.092, 15.052, 20.143
Astel-Peiniger Joint Venture v Argos Engineering & Heavy Industries Co Ltd [1995] 1 HKLR 300; [1994] 3 HKC 328, High Ct	10.018, 14.125, 28.021