

# Civil Justice (Miscellaneous Amendments) Ordinance 2008

## Amendments to Arbitration Ordinance (Cap. 341)

### Remarks

#### 2GC. Special powers of Court in relation to arbitration proceedings

(1) ~~The Court or a judge of the Court may, in relation to a particular arbitration proceeding~~ Subject to subsection (1A), the Court or a judge of the Court may, in relation to particular arbitration proceedings which have been or are to be commenced in Hong Kong or in a place outside Hong Kong, do any of the following –

Section 11  
Rec 45-48

- (a) make an order directing an amount in dispute to be secured;
- (b) in relation to relevant property –
  - (i) make an order directing the inspection, photographing, preservation, custody, detention or sale of the property by the tribunal, a party to the proceedings or an expert; or
  - (ii) make an order directing samples to be taken from, observations to be made of, or experiments to be conducted on the property;
- (c) grant an interim injunction or direct any other interim measure to be taken.

(1A) In relation to arbitration proceedings that have been or are to be commenced in a place outside Hong Kong, the Court or a judge of the Court, may make an order under subsection (1), grant an interim injunction or direct any other interim measure to be taken under that subsection, only if the arbitration proceedings are capable of giving rise to an arbitral award (whether interim or final) which may be enforced in Hong Kong under this Ordinance or any other Ordinance.

Section 11  
Rec 45-48

(1B) Subsection (1A) applies notwithstanding that –

- (a) the subject matter of the arbitration proceedings would not, apart from that subsection, give rise to a cause of action over which the Court or a judge of the Court would have jurisdiction; or
- (b) the order sought, the interim injunction or other interim measure is not ancillary or incidental to any arbitration proceedings in Hong Kong.

(1C) In exercising the power under subsection (1) in relation to arbitration proceedings in a place outside Hong Kong, the Court or a judge of the Court, shall have regard to the fact that the power is –

- (a) ancillary to arbitration proceedings outside Hong Kong; and
- (b) for the purpose of facilitating the process of a court or arbitral tribunal outside Hong Kong that has primary jurisdiction over the arbitration proceedings.

**(1D) The Court or a judge of the Court, has the same power to make any incidental order or direction for the purpose of ensuring the effectiveness of interim relief granted in relation to arbitration proceedings in a place outside Hong Kong as if the interim relief were granted in relation to arbitration proceedings in Hong Kong.**

**(1E) In subsection (1D), “interim relief” (臨時濟助) means –**

- (a) an order made under subsection (1);**
- (b) an interim injunction granted under that subsection; or**
- (c) any other interim measure directed to be taken under that subsection.**

(2) Property is relevant property for the purposes of subsection (1)(b) if –

- (a) the property is owned by or is in the possession of a party to the arbitration proceedings concerned; and
- (b) the property is subject to the proceedings, or any question relating to the property has arisen in those proceedings.

(3) The Court or a judge of the Court may order a person to attend proceedings before an arbitral tribunal to give evidence or to produce documents or other material evidence.

(4) The Court or a judge of the Court may also order a writ of habeas corpus ad testificandum to be issued requiring a prisoner to be taken for examination before an arbitral tribunal.

(5) The powers conferred by this section can be exercised irrespective of whether or not similar powers may be exercised under section 2GB in relation to the same dispute.

(6) The Court or a judge of the Court may decline to make an order under this section in relation to a matter referred to in subsection (1) on the ground that –

- (a) the matter is currently the subject of arbitration proceedings; and
- (b) the Court or the judge considers it more appropriate for the matter to be dealt with by the relevant arbitral tribunal.

(Added 75 of 1996 s. 7)

**Remarks**

Section 12  
Rec 45-48

**49. Rules of court**

**(1) The power to make rules of court under section 54 of the High Court Ordinance (Cap. 4) includes power to make rules of court for –**

- (a) the making of an application for an order under section 2GC(1) or for an interim injunction or any other interim measure under that section; and**
- (b) the service out of the jurisdiction of an application for such order, interim injunction or other interim measure.**

**(2) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the authority making the rules considers necessary or expedient.**