

## New Pilot Scheme for widening participation in arbitrations in Hong Kong

July 2020

*The Hong Kong government has launched a pilot scheme aimed at allowing eligible non-Hong Kong residents to participate in arbitral proceedings in Hong Kong on a short-term basis*

On 29 June 2020 the Hong Kong government launched the Pilot Scheme on Facilitation for Persons Participating in Arbitral Proceedings in Hong Kong (the **Pilot Scheme**) as part of the initiative to strengthen Hong Kong's position as an international central for legal and dispute resolution services in the Asia-Pacific region, the Belt and Road Initiative as well as the Guangdong-Macao Greater Bay Area Development. In this briefing, we give a brief overview of the application of the Pilot Scheme.

### What is the purpose and effect of the Pilot Scheme?

Previously, non-Hong Kong residents who wished to participate in an arbitration in Hong Kong were required to obtain an employment visa. The Pilot Scheme dispenses with the working visa requirement for nationals of countries who may visit Hong Kong without first obtaining a visa (visa-free nationals). In other words, visa-free nationals who meet the other criteria as discussed below may travel to Hong Kong for the purpose of participating in arbitral proceedings without first obtaining a work visa.

### Who does the Pilot Scheme cover?

The Pilot Scheme covers visa-free nationals who are: (i) arbitrators; (ii) witnesses (both expert and factual); (iii) counsel; and (iv) parties to the arbitration (**Eligible Persons**).

### What are the Pilot Scheme's requirements?

In addition to being an Eligible Person, an individual seeking to benefit from the Pilot Scheme must be in possession of the required letter of proof (the **Letter**). The purpose of the Letter is to confirm that the relevant individual is an Eligible Person participating in arbitral proceedings in Hong Kong. For administered arbitrations, the Letter shall be issued by the relevant arbitral institution. For *ad hoc* arbitrations, the Letter shall be issued by the 'reputable venue' hosting the arbitral proceedings in Hong Kong (reputable venues include HKIAC and the Department of Justice).

Eligible Persons participating in the Pilot Scheme shall not stay in Hong Kong for longer than the duration of their current visa-free period.

### What is the duration of the Pilot Scheme?

The Pilot Scheme will be reviewed after its trial period of two years. Subject to the review, it may be extended to cover Eligible Persons coming from other jurisdictions such as Mainland China (which the Pilot Scheme currently does not appear to cover).

## What are the practical implications of the Pilot Scheme?

The Pilot Scheme will significantly increase the ease for Eligible Persons to participate in arbitrations in Hong Kong. This is particularly welcome for arbitrators, witnesses and parties as it makes Hong Kong a more accessible and

attractive jurisdiction for the arbitral seat. However, in the interim, it is worth noting that the current entry restrictions to Hong Kong imposed as a result of Covid-19 apply to Eligible Persons covered by the Pilot Scheme - so it may be some time before we are able to analyse the success of the Pilot Scheme.



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Dated July 2020