

Content

Title :	Regulation Governing Organization, Mediation Procedures and Fees of Arbitration Institution CH
Announced Date :	1999.03.03
Amended Date :	2003.01.22
Legislative :	1.Amended on March 3, 1999 2.Amended on January 22, 2003

Chapter 1 General Principles

Article 1	This Regulation is enacted pursuant to the second paragraph of Article 54 of the Arbitration Law of ROC ("Act").
Article 2	(Deleted)
Article 3	In the Act, "arbitration institution" means a juridical association of public-benefit purpose solely or jointly established by any professional or social organization of any level to be responsible for registration, cancellation of registration, training and lecturing of its arbitrators and handling arbitration matters provided that the establishment of which is approved by the competent authority after obtaining consent of the regulatory authority of the respective business and the relevant registration pursuant to laws is completed. An arbitration institution shall not engage in any business irrelevant to arbitration.

Chapter 2 Organization of Arbitration Institution

Article 4	Approval of an arbitration institution' s establishment shall be subject to whether the establishment is beneficial to the overall economics and public benefit and whether the arbitration institution meets the following requirements: (1) Members reach 30 or more; (2) Employment of 3 or more full-time personnel who have earned law degree from a public or a registered private college or above or an overseas college or above recognized by the Ministry of Education or passed the civil service examinations for legal affairs; (3) The space of its office or place of business is 70 pings (231.406m ²) or more, and, if it is leased, there shall be a notarized lease agreement with at least 2-year term; (4) Sufficient funds for establishment (including the funds for purchase or lease of land, building and equipment) and annual current expenses necessary for maintaining basic operation; (5) Independent accounting and internal audit system; and (6) Cash of New Taiwan Dollars ("NTD") 10,000,000 or more.
Article 5	Within 3 months beginning with the day that the arbitration institution completes its establishment registration, the land and building, funds and cash respectively set out in subparagraph(3), (4) and (6) of the preceding Article shall be registered under the arbitration institution' s name or deposited in its own account and reported to the MOI and the MOJ for records. For the property set out in the preceding paragraph, if it is real property, an arbitration institution shall not dispose, rent out, mortgage or change of use; if it is cash, an arbitration institution shall not deposit or loan to individuals or non-financial institution

without a resolution passed by the board of directors and approved by the MOI and the MOJ.

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- Article 6 An arbitration institution shall be in the same area where the competent authority is located unless otherwise approved by the competent authority.
An arbitration institution may set up a representative office upon approval of the competent authority.
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- Article 7 An arbitration institution solely or jointly established by any professional organization of any level may handle arbitration matters relevant to the profession; if solely or jointly established by any social organization of any level, an arbitration institution may handle arbitration matters relevant to its respective business.
To establish an arbitration institution, it shall be for the professional or social organization solely or jointly applying for the establishment to submit to the MOI the application form, each participating organization's registration certificate, the arbitration institution's member roster, draft charter of association, founding members roster and draft ethical rules of arbitrators and relevant evidencing documents set out in Article 4; an approval will be granted only after obtaining the consent of the MOJ which shall have consulted each regulatory authority of respective business.
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- Article 8 To establish an arbitration institution, it shall be for the professional or social organization that solely or jointly applying for the establishment to submit to the MOI the application form, each participating organization's registration certificate, the arbitration institution's member roster, draft charter of association, founding members roster and draft ethical rules of arbitrators and relevant evidencing documents set out in Article 4; an approval will be granted only after obtaining the consent of the MOJ which shall have consulted each regulatory authority of respective business.
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- Article 9 To establish an arbitration institution, it shall be for the organization that solely or jointly applying for the establishment to submit to the MOI the application form, each participating organization's registration certificate, the arbitration institution's member roster, draft charter of association, founding members roster and draft ethical rules of arbitrators and relevant evidencing documents set out in Article 4; an approval will be granted only after obtaining the consent of the MOJ which shall have consulted each regulatory authority of respective business.
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- Article 10 An arbitration institutions' charter of association shall include the following:
(1) Title;
(2) Purpose;
(3) Area;
(4) Location;
(5) Organization;
(6) Scope of arbitration matters handled;
(7) Members' qualification, procedures of admission and withdrawal;
(8) Members' rights and obligations;
(9) Admission fee and annual membership fee, including the amount and levels;
(10) Number of member representatives and criteria for their appointments;
(11) Number, duty, term, election and removal of directors and supervisors;
(12) Meeting;
(13) Funding and accounting; and
(14) Requirement and procedure for cancellation of an arbitrator's registration.
(15) Procedures for the formulation and amendment of charter of association.
(16) The date of the charter of association be formulated or amended.
Amendment of the charter of association shall be submitted for approval pursuant to the procedure set out in the preceding Article.

Article 11 The professional or social organization solely or jointly establishing an arbitration institution and their respective members may be the members of the arbitration institution.

The member referred to in the preceding paragraph shall be limited to industrial, commercial, agricultural, forestry, fishing, animal husbandry and mining enterprises operated by public or private interests and organized in the form of company, sole proprietorship, partnership, institution or organization.

A member of an arbitration institution shall pay the membership fee pursuant to the level at the member's election.

A member referred to in the preceding paragraph may appoint 1 to 5 representatives and the number of which shall be determined pursuant to the membership level. Any member representative shall enjoy the same rights to vote, to elect and to be elected.

Article 12 An arbitration institution shall have a board of directors consisting 9 to 31 directors and a board of supervisors consisting 3 to 9 supervisors; such directors and supervisors shall be elected from the member representatives. The number of alternate directors and supervisors shall not exceed one-third of the number of directors and supervisors respectively.

Standing directors and standing supervisors shall be respectively elected from the directors and supervisors referred to in the preceding paragraph provided that the number of which shall not exceed one-third of the respective number of directors and supervisors. The chairperson of the board of directors shall be elected by the directors from the standing directors and who shall be the convener of the meetings of the general assembly and the board of directors; the standing supervisors shall elect one from themselves as the convener of the board of supervisors meeting if there are 3 or more standing supervisors.

An arbitration institution shall report the election result set out in the preceding two paragraphs to the MOI and the MOJ for records within 15 days beginning with the day of election.

Article 13 Directors and supervisors of an arbitration institution shall not be remunerated; the tenure of which shall not exceed 4 years and they may be re-elected provided that the chairperson of the board of directors may be re-elected once only.

Article 14 The general assembly of an arbitration institution shall be convened annually; the board of directors and the board of supervisors shall meet separately or jointly every 3 months. Extraordinary meetings may be convened at any time if necessary.

Article 15 A general assembly's resolution shall be adopted by a majority of the attending member representatives who represent more than one-half of the total number of member representatives. A resolution in connection with removal of directors or supervisors or disposal of material property shall be adopted by at least two-third of the attending member representatives who represent more than one-half of the total number of member representatives; the amendment of charter of association shall follow the procedures in connection with the amendment of charter of association under the Civil Code.

A resolution of a board of directors or a board of supervisors shall be adopted respectively by a majority of the attending directors or supervisors who represent more than one-half of the total number of directors or supervisors unless otherwise specified.

Article 16 If any of the following circumstances occurs to an arbitration institution, the competent authority or the regulatory authority of the respective business may order the arbitration institution to make a correction within a specified time period; failing which, the competent authority may revoke or rescind the arbitration institution's approval and notify the court of registration:

- (1) Violation of laws, the charter of association or the conditions on its establishment approval;
- (2) Guideline for management, or management or operation does not conform to the establishment purpose;

- (3) Failure to obtain legal vouchers of financial revenue and expenditure or keep complete accounting records;
- (4) Concealing property or obstructing the competent authority or the regulatory authority of the respective business from conducting inspection;
- (5) Giving false report on operation or financial status;
- (6) Ceasing operation up to 2 years or more;
- (7) Other violation of the Regulations.

Article 17 The residual assets of an arbitration institution after its dissolution shall be distributed in accordance with the charter of association or the resolutions passed by the general assembly provided that no such residual assets shall be distributed to any individual or profit-seeking organization.

 If the distribution of residual assets is not specified in the charter of association or the generally assembly is unable to pass any resolution pursuant to the preceding paragraph, the residual assets shall be distributed to the municipality or county (city) where the arbitration institution is located.

Chapter 3 Arbitrator

Article 18 An arbitration institution shall have a roster of arbitrators to record registered arbitrators; the roster shall be affixed with arbitrators' photographs without hat, two inches in size, and include the following information:

- (1) Name, sex/gender, birth date, identification number, household and correspondence addresses; and nationality if the arbitrator is not a Republic of China national;
- (2) Academic background and professional experiences;
- (3) Profession and current position;
- (4) Specialty; and
- (5) Year, month and day of registration and registration number.

Article 19 An arbitration institution' s board of directors shall review the qualification of applicants for arbitrators and register those who are determined qualified in the roster of arbitrators and notify the applicants.

Article 20 An arbitration institution shall have 20 or more registered arbitrators within 1 year beginning with the day of completion of its establishment registration.

Article 21 An arbitrator may register with up to 4 arbitration institutions.

Article 22 An arbitration institution shall draft the arbitrators' ethical rules and report to the regulatory authority of the respective business for records after it is adopted by the general assembly.

 Arbitrators' ethical rules referred to in the preceding paragraph shall include the following:

- (1) An arbitrator shall conduct arbitration cases in a fair and responsible manner and keep information confidential;
- (2) An arbitrator shall avoid acting in a manner that the arbitrator is likely suspected to act for a specific party;
- (3) An arbitrator shall not accept a party' s request for help or receive illicit benefit;
- (4) An arbitrator' s duties shall be exercised in person and may not be delegated to others;
- (5) An arbitrator shall remain neutral and may not engage in unjustified entertainment activities with any party, agent, witness, expert witness and other interested party;
- (6) An arbitrator, after agreement to conduct arbitration cases, may not excuse himself or herself from the duties without justified reasons; and
- (7) Other necessary matters consistent with the arbitrators' self-discipline and autonomy.

Article 23 Upon occurrence of any of the following to an arbitrator, such arbitrator' s registration may be cancelled by the arbitration institution:

(1) Violation of subparagraph (1), (3) or (5) of the second paragraph of the preceding Article; or

(2) Other circumstances sufficient for the arbitration institution to believe that the arbitration's fairness and credibility will be seriously affected.

In case of a minor violation of subparagraphs (2), (4) or (6) of the second paragraph of the preceding Article, the arbitration institution may give an order of advice after consideration of the circumstances provided that the relevant rules shall be promulgated by the arbitration institution.

Article 24 An arbitration institution shall report a list of registered arbitrators to the regulatory authority of the respective business for records within 15 days beginning with the day of registration.

Chapter 4 Arbitration Costs

Article 25 For an arbitration application concerning matters arising from proprietary rights, in addition to a payment of NTD 600 for obtaining the relevant form and material at the time of application, an arbitration fee which equals to the cumulative sum calculated pursuant to a claim's monetary value and the following scales shall be paid:

(1) NTD 3,000 on the first NTD60,000;

(2) 4 % on the portion over NTD60,000 and up to NTD600,000;

(3) 3 % on the portion over NTD600,000 and up to NTD1,200,000;

(4) 2% on the portion over NTD1,200,000 and up to NTD2,400,000;

(5) 1.5% on the portion over NTD2,400,000 and up to NTD4,800,000;

(6) 1% on the portion over NTD4,800,000 and up to NTD9,600,000; and

(7) 0.5% on the portion over NTD9,600,000.

If a claim's value is expressed in foreign currency, the monetary value shall be calculated in accordance with the foreign exchange rate in the market on the date of application.

If a claim's value is expressed in units of gold or silver, the monetary value shall be calculated in accordance with the respective market value on the date of application.

In case an applicant fails to pay the arbitration fee under the first paragraph, the arbitration institution shall order the applicant to make correction within a specified time period; failing which, the arbitration institution may dismiss the application.

Article 26 For an arbitration application concerning matters arising from non-proprietary rights, an arbitration fee of NTD9,000 shall be paid. For an arbitration application concerning matters arising from non-proprietary rights, but including a proprietary claim, the arbitration fee shall be calculated separately.

Article 27 The monetary value of an arbitration claim shall be determined by the arbitration tribunal. Articles 4 to 7 of the Taiwan Code of Civil Procedure's Costs shall apply mutatis mutandis in calculation of an arbitration claims' monetary value. An arbitration claim's monetary value shall be deemed NTD60,000 if it cannot be determined.

Article 28 A part of arbitration fee received by an arbitration institution for an arbitration case shall be paid to any arbitrator presiding the arbitration case pursuant to the percentage and the claim's monetary value as follows, and the remainder shall be kept by the arbitration institution:

(1) 60% of the arbitration fee for a claim's value up to NTD20,000,000;

(2) 50% on the portion over NTD20,000,000 for a claim's value over NTD20,000,000 and up to NTD300,000,000; and

(3) 40% on the portion over NTD300,000,000 for a claim's value over NTD300,000,000.

If an arbitrator fails to participate in consideration of arbitration case or refuses to sign on the arbitration award, the party may apply for reduction of the arbitration fee paid to the arbitrator under the preceding paragraph within 2 months of receipt of arbitration award. The arbitration fee allocated to an arbitration institution shall not be

distributed as earnings or otherwise used in other profit seeking activities.

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- Article 29 Expenses incurred for transcription, translation, postages and telegrams, transportation, publication on newspaper and otherwise necessary for arbitration shall be charged on a reimbursement basis.
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- Article 30 The attendance fee for a witness will be NTD600 to NTD1,200 each time; for an expert witness or a translator will be NTD900 to NTD1800 each time; all will be determined by the arbitration tribunal.
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- Article 31 In addition to the attendance fee, an overstay fee of NTD900 to NTD1,800 will be paid to the witness, expert witness or translator who stays 1 day or more as required for questioning or translation; the sum will be determined by the arbitration tribunal.
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- Article 32 An arbitrator's transportation and food/accommodation costs incurred as a result of field investigation as well as the witness, expert witness and translator's transportation and food/accommodation costs shall be calculated in accordance with each arbitration institution's standard.
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- Article 33 An expert witness' assessment fee shall be determined by the arbitration tribunal depending on the complexity of the matters.
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- Article 34 Sharing of arbitration, settlement or mediation costs shall be provided in the decision set out in an arbitration award or the settlement or mediation agreement.
In case the costs are omitted from the arbitration award, settlement or mediation agreement referred to in the preceding paragraph, the parties may apply for determination by the original arbitration tribunal.
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- Article 35 The party which withdraws an arbitration application shall bear the arbitration costs.
The party which withdraws an arbitration application after selection of the arbitrator(s), but before the arbitration proceedings begin, may apply for the return of one-half of the amount which would have been paid to the arbitrator(s) in accordance with Article 28. If the withdrawal is made prior to selection of the arbitrator(s), the party may apply for return of the full amount which would have been paid to the arbitrator(s).
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- Article 36 Arbitration fees set out in Articles 25 and 26 shall be prepaid by the applicant to the arbitration institution upon application.
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- Article 37 The expenses set out in Articles 29 to 33 may be prepaid by the parties upon the arbitration institution's notice.
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- Article 38 The relevant provisions of this Regulation may apply mutatis mutandis to the arbitration fee and expense for arbitration proceedings not administered by an arbitration institution.

Chapter 5 Mediation Procedure and Costs

- Article 39 In terms of mediation, an applicant shall submit a written application along with the number of copies same as the number of the other parties to the arbitration institution.
The written application referred to in the preceding paragraph shall describe the reasons for the mediation application and the dispute's status along with copies of relevant evidencing documents.
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- Article 40 An arbitration institution shall give notice to each of the other party along with a copy of the written application and request the other party to submit a consent to mediation within 7 days beginning with the day of receipt of the notice.
If no consent to mediation is given within the time period specified in the preceding paragraph, such other party shall be deemed to have refused the mediation.
With the other party's consent to mediation, the arbitration institution shall notify the parties to select the arbitrator(s) to conduct mediation within 7 days beginning with the day of their receipt of such notice.

In calculation of the time period specified in the first paragraph and the preceding paragraph, the time occupied in travel shall be deducted provided that the standard of time en route adopted by the courts shall be applicable herein mutatis mutandis.

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- Article 41 The parties shall mutually select one arbitrator or select one for each party to conduct mediation.
The arbitration institution may be designated upon the parties' agreement to select one or two arbitrators for the parties.
Without the agreement set out in the preceding paragraph and no arbitrator is timely selected, either party may request the arbitration institution to select one arbitrator as the mediator for the parties.
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- Article 42 A party may, by written form, appoint agent(s) to conduct mediation.
A party's agent shall submit a power of attorney to the arbitration institution or the mediator before the mediation begins.
The power of attorney, if executed overseas, shall be certified by the Republic of China (Taiwan)'s embassy, representative office, office or other institution authorized by the government in that country; otherwise it shall be certified by the local court or other notary office if there is no Republic of China (Taiwan)'s embassy, representative office, office or other institution authorized by the government in that country.
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- Article 43 The mediator shall set a date of mediation as soon as possible and notify the parties to be present; if a party has appointed an agent, the notice shall be given to the agent.
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- Article 44 Failure of a party or both parties to be present on the date of mediation without justified reasons shall be deemed that no settlement is reached. However, the mediator may set another date of mediation if it is considered likely to reach a settlement.
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- Article 45 A mediation proceeding may be conducted in private at the arbitration institution or other place considered appropriate.
The mediator and persons who handle the mediation matters shall keep the mediation case confidential except the matters that have been made public.
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- Article 46 A mediator shall explore the true facts and the parties' main dispute and, if required, may conduct investigation on the matter and relationship to the extent necessary.
An arbitration institution may consult relevant authorities for assistance while hosting a mediation over a dispute under this Regulation.
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- Article 47 If a settlement is reached, the mediator shall prepare a settlement agreement setting forth the following information and the settlement agreement shall be signed or affixed with seals by the parties or their agents and the mediator:
(1) Names and addresses of all parties; if a party is a legal person or an organization or institution, its full name and the address of its office or place of business;
(2) If a party has a legal representative or is represented by mediation agent, their names and addresses;
(3) Name and address of the mediator present;
(4) Subject matter of the mediation;
(5) Settlement terms;
(6) Venue of settlement; and
(7) Day, month and year of settlement
The mediator shall report the settlement agreement referred to in the preceding paragraph to the arbitration institution within 5 days beginning with the day of settlement.
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- Article 48 The mediation proceeding shall automatically terminate upon occurrence of any of the following:
(1) Settlement is reached;
(2) Settlement cannot be reached; or
(3) A party applies to withdraw the mediation application and the withdrawal is consented by the other party.

When a mediation application or a consent to mediation is withdrawn by a party, the mediation shall be deemed terminated.

Article 49 When a settlement cannot be reached through mediation, a party may apply to the arbitration institution in writing for issuance of a certificate evidencing that the settlement is not reached.
An arbitration institution shall issue the certificate referred to in the preceding paragraph within 7 days beginning with the day of its receipt of the application.

Article 50 For a mediation application concerning matters arising from proprietary rights, a mediation fee calculated pursuant to a claim's monetary value and the following scales shall be paid:
(1) NTD 3,000 on the first NTD600,000; and
(2) 5 % on the portion over NTD600,000 for a claim's monetary value over NTD600,000;
If a claim is expressed in foreign currency, the monetary value shall be calculated in accordance with the foreign exchange rate in the market on the date of application.
If a claim is expressed in unit of gold or silver, the monetary value shall be calculated in accordance with the market value on the date of application.

Article 51 For a mediation application concerning matters arising from non-proprietary rights, a mediation fee of NTD3,000 shall be paid.
For a mediation application concerning matters arising from non-proprietary rights, but including a proprietary claim, the mediation fees shall be calculated separately.

Article 52 A mediation claim's monetary value shall be determined by the mediator. Articles 4 to 7 of the Civil Procedural Code shall apply mutatis mutandis in calculation of a mediation claim's monetary value.
A mediation claim's monetary value shall be deemed NTD60,000 if it cannot be determined.

Article 53 After a mediation proceeding is terminated, with respect to the mediation fee received by an arbitration institution, the amount paid to the mediator presiding a mediation case shall be calculated pursuant to the claim's monetary value and the following scales:
(1) 60% of the mediation fee for a claim with monetary value of NTD20,000,000 or less;
(2) 50% on the portion over NTD20,000,000 for a claim with monetary value over NTD20,000,000 to NTD300,000,000; and
(3) 40% on the portion over NTD300,000,000 for a claim with monetary value over NTD300,000,000.

Article 54 A party which applies for mediation shall pre-pay one-half of the mediation fee to the arbitration institution. This also applies to the other party which consents to mediation.

Article 55 Articles 29 to 33 and Article 37 shall apply mutatis mutandis to the expenses incurred from the mediation.

Article 56 Unless otherwise agreed upon by the parties, the mediation costs shall be equally borne by the parties.
The party which withdraws the mediation application or the consent to mediation shall bear all mediation costs.

Chapter 6 Miscellaneous

Article 57 This Regulation shall come into force on and from the day of promulgation.
