

The Rules on Arbitration Institution, Mediation Procedures and Fees

Jointly promulgated by orders of
(88)Fa-08006, Executive Yuan
and
(88)Yuan Tai Ting Ming 3-02096, Judicial Yuan
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Articles 2, 3, 7, 8, 10 11, 16, 19, 23, 28
As amended and effective from January 22, 2003

In case of any discrepancy between the English version and the Chinese
text of these rules, the Chinese text shall govern.

CHAPTER I : General Provisions

Article 1

These Rules are promulgated in accordance with Paragraph 2, Article 54 of the Arbitration Law (hereinafter referred to as the "Law").

Article 2

(Deleted)

Article 3

An arbitration institution as referred to in the Law shall mean a non-profit social association, solely or jointly established by professional or social organization(s) of each level, which maintains public interests as its purpose, is approved by the competent authority after obtaining consent from the authority in charge of the business, and shall be responsible for the registration, cancellation of registration, training and lecturing of arbitrators, administering arbitration matters, and has been registered in accordance with applicable laws.

An arbitration institution shall not engage in any business not related to arbitration.

CHAPTER II : The Organization of the Arbitration Institution

Article 4

The approval of the establishment of an arbitration institution shall be beneficial to the macro economy and the public interests, and shall be conditioned upon the fulfillment of the following requirements:

1. At least consisting of thirty members;
2. Staffed with three or more full-time personnel who graduated from a private junior college, or higher, accredited by the government or law department of a foreign junior college, or higher, recognized by the Ministry of Education, or passed the examination for civil

- servants for the subject of law;
3. With office space exceeding seventy pings for conducting business.
In case the above mentioned office space is obtained by lease, the duration of the lease shall be at least two years, and the lease shall be notarized by the court;
 4. With sufficient establishment budget (including the budget for purchase or lease of land, building and apparatus) and the annual ordinary expenses for maintaining the fundamental operation (including the cost of personnel affairs, business, maintenance, and disposal of useless objects);
 5. With independent accounting and internal audit system; and
 6. With over ten million NT dollars in cash.

Article 5

The land and building as referred to in Paragraph 3, the budget as referred to in Paragraph 4 and the cash as referred to in Paragraph 6 in the preceding Article shall be registered or deposited in a specific savings account under the name of the arbitration institution within three months of the establishment registration, and shall be reported to the Ministry of Interior and the Ministry of Justice for recordation.

For the assets mentioned in the preceding paragraph, unless permitted by the Ministry of Interior, the Ministry of Justice and a resolution of the board of directors, the real property shall not be disposed, leased, encumbered or altered the purpose of use, and the cash shall not be deposited with or loaned to any natural person or non-financial organization.

Article 6

The arbitration institution shall be established in the region where the competent authority is located, except where approved by the competent authority.

Upon the approval of the competent authority, the arbitration institution may establish liaison offices.

Article 7

An arbitration institution solely or jointly established by professional organizations may administer arbitration matters related to such profession. An arbitration institution solely or jointly established by social organizations may administer arbitration matters related to its respective business.

Article 8

To establish an arbitration institution, the professional or social organization(s) shall solely or jointly submit an application, the establishment certificate of the organization(s), the list of members, the draft articles of association of the arbitration institution, the list of promoters, the draft ethics guidelines for arbitrators and related certificates as set forth in Article 4 to the Ministry of Interior for review and approval by the Ministry of Justice and the competent authorities of the respective business.

Article 9

To establish, solely or jointly, an arbitration institution, the applicant organization(s) shall submit an application, the establishment certificates of the organization(s), the list of members, the draft articles of association of the arbitration institution, the list of promoters, the draft of the ethics guidelines for arbitrators and the related certificates as set forth in Article 4 to the Ministry of Interior. After being reviewed and agreed upon by the Ministry of Justice and the competent authorities of the respective business, the application may be approved.

Article 10

The articles of association of an arbitration institution shall state the following items:

1. Name
2. Purpose(s)
3. Region
4. Address

5. Organization
6. The scope of arbitration matters
7. The qualifications of members and procedures for participation and withdrawal
8. The rights and obligations of members
9. The amount of the participation fee and the annual fee, and the ranks for membership fees
10. The number and the criteria for election of representatives of members
11. The number, authority, tenure of office, election and discharge of directors and supervisors
12. Meetings
13. Budget and accounting
14. The requirements and procedures for canceling the registration of arbitrators
15. The procedures for enactment and amendment of the articles of association
16. The date of enactment or amendment of the articles of association

The amendment of the articles of association mentioned in the preceding paragraph shall be reported for approval in accordance with the preceding Article.

Article 11

The professional or social organization(s) establishing an arbitration institution and its(their) members may become members of such arbitration institution.

Members mentioned in the preceding paragraph shall be limited to public or private enterprises, organizations or groups engaged in industrial, commercial, agricultural, forestry, fishery, pasturage, or mining business.

Members of an arbitration institution shall pay the membership fee in accordance with the rank that they voluntarily choose.

Members mentioned in the preceding paragraph may elect one (1) to five (5) representatives. The number of the representatives shall be determined

subject to the ranks of membership fees. Each representative shall have an equal voting right, election right, and right to be elected.

Article 12

An arbitration institution shall have nine to thirty one directors and three to nine supervisors as elected from among the representatives in the general meeting of members. The directors and the supervisors shall constitute, respectively, a board of directors and a board of supervisors. The number of the waiting directors and the waiting supervisors shall not exceed one third of the number of the directors and the supervisors.

Managing directors and managing supervisors shall be elected, respectively, from among the directors and the supervisors mentioned in the preceding paragraph, whose number shall not exceed one third of the number of the directors and the supervisors. A president shall be elected from among the managing directors by the directors, who shall act as the chairman of the board of directors and the general meeting of members. In case there are more than three managing supervisors, a chairman shall be elected from among the managing supervisors.

The results of the two elections mentioned in the preceding paragraph shall be reported, by the arbitration institution, to the Ministry of Interior and the Ministry of Justice for recordation within fifteen days of the date of election.

Article 13

There shall be no remuneration for the directors and the supervisors of an arbitration institution. The tenure of office of the directors and the supervisors shall not exceed four years, and both may be eligible for re-election. The re-election of the president shall be limited to one term.

Article 14

The general meeting of members of an arbitration institution shall be held once a year. The meeting of the board of directors and the board of supervisors shall be held, separately or jointly, every three months.

Extraordinary meetings may be held if necessary.

Article 15

The resolution of the general meeting of members shall be adopted by a majority vote of representatives present, who shall represent more than one-half of the total number of the representatives. The resolution on the discharge of directors or supervisors and the disposal of important property shall be adopted by a two-thirds majority vote of representatives present, who shall represent more than one-half of the total number of the representatives. Any modification or amendment of the articles of association shall be in accordance with the relevant procedures as set forth in the Civil Code.

Unless otherwise provided, the resolution of the board of directors and the board of supervisors shall be adopted by a majority vote of the directors or supervisors present, who shall represent more than one-half of the total number of the directors or supervisors.

Article 16

In case of any of the following events, the competent authority or the authority in charge of the relevant business may correct and request the arbitration institution to make the correction within a specified time limit. In case the arbitration institution does not make the correction within such time limit, the competent authority may revoke or abolish its approval and notify the registry court:

1. Violation of laws, regulations, the articles of association, or the terms of approval;
2. The operation policy, management or operation is inconsistent with its purposes of establishment;
3. Lack of legal certificates of financial conditions or adequate financial books and records;
4. To conceal its property or to impede any examination by the competent authority or the authority in charge of the business;
5. To make untrue reports about its business or financial conditions;
6. To suspend its business activities continuously for more than two (2) years; and

7. Other violations of the Rules.

Article 17

After the dissolution of an arbitration institution, the allocation of the remaining assets shall be in accordance with the articles of association or a resolution of the general meeting of members. The remaining assets shall not be assigned to any natural person or profit-seeking organization.

In case the remaining assets mentioned in the preceding paragraph cannot be allocated in accordance with the articles of association or the resolution of the general meeting of members, such assets shall be assigned to the local autonomous institution of the place where the arbitration institution is located.

CHAPTER III: The Arbitrators

Article 18

An arbitration institution shall maintain a list of arbitrators that states the following items with a two-inch front view hatless photograph of each arbitrator affixed:

1. Name, gender, date of birth, identification number, registered address and communication address, and nationality, if not an R.O.C. national;
2. Educational background and experiences;
3. Occupation and current position;
4. Specialty; and
5. The date and number of registration

Article 19

The board of directors of an arbitration institution shall examine the qualifications of an applicant for registering as an arbitrator. If being deemed qualified, the applicant shall be registered on the list of arbitrators and be notified in person.

Article 20

Within one year from the date of the establishment registration, the number of the registered arbitrators of an arbitration institution shall be twenty or more.

Article 21

An arbitrator may be registered with no more than four arbitration institutions.

Article 22

An arbitration institution shall enact ethics guidelines for arbitrators. Such guidelines shall be passed by the general meeting of members, and be reported to the authority in charge of the relevant business for reference.

The ethics guidelines for arbitrators mentioned in the preceding paragraph shall include:

1. An arbitrator shall handle the arbitration matters impartially and responsibly, and uphold the principle of confidentiality;
2. An arbitrator shall avoid any activities which may cast any doubt on his/her role as an agent of a specific party;
3. An arbitrator shall not accept any favor offered by any of the parties or receive any improper benefits;
4. An arbitrator shall perform his/her duties in person, and shall not entrust the same to any other person;
5. An arbitrator shall be impartial and shall not have any improper interaction with the parties, their agents, witnesses, expert witnesses or any other person who has a personal interest in the matter;
6. Unless with a good cause, an arbitrator shall not resign from his/her duties after accepting to be an arbitrator of a specific dispute; and
7. Any other matter which is necessary for the self-discipline and self-regulation of arbitrators.

Article 23

In case of any of the following events, an arbitration institution may cancel the arbitrator's registration:

1. Violation of Items 1, 3, or 5 of Paragraph 2 of the preceding Article;
and
2. Other matters which, as determined by the arbitration institution, may seriously affect the impartiality of and public trust in arbitration.

Where a violation of Items 2, 4 or 6 of Paragraph 2 of the preceding Article is minor, the arbitration institution may, at its discretion, advise the arbitrator of their concerns. The related guidelines shall be issued by the arbitration institution.

Article 24

The list of registered arbitrators shall be reported by an arbitration institution to the authority in charge of the relevant business for reference within fifteen days from the date of registration.

CHAPTER IV: The Arbitration Fees

Article 25

For arbitration regarding property disputes, in addition to the NT\$600 net cost for the forms and information for application, the arbitration fee shall be progressively escalated according to the amount or price of the subject matter pursuant to the following standard:

1. Where the amount or price of the subject matter is NT\$60,000 or less, the arbitration fee shall be NT\$3,000.
2. Where the amount or price of the subject matter is greater than NT\$60,000 and up to NT\$600,000, the arbitration fee for the amount exceeding NT\$60,000 shall be 4%.
3. Where the amount or price of the subject matter is greater than NT\$600,000 and up to NT\$1,200,000, the arbitration fee for the amount exceeding NT\$600,000 shall be 3%.
4. Where the amount or price of the subject matter is greater than NT\$1,200,000 and up to NT\$2,400,000, the arbitration fee for the

- amount exceeding NT\$1,200,000 shall be 2%.
5. Where the amount or price of the subject matter is greater than NT\$2,400,000 and up to NT\$4,800,000, the arbitration fee for the amount exceeding NT\$2,400,000 shall be 1.5%.
 6. Where the amount or price of the subject matter is greater than NT\$4,800,000 and up to NT\$9,600,000, the arbitration fee for the amount exceeding NT\$4,800,000 shall be 1%.
 7. Where the amount or price of the subject matter is greater than NT\$9,600,000, the arbitration fee for the amount exceeding NT\$9,600,000 shall be 0.5%.

In case the amount of the arbitration subject matter is denominated in foreign currency, it shall be converted in accordance with the prevailing market exchange rate on the date of the application.

In case the amount of the arbitration subject matter is denominated in gold or silver, it shall be converted in accordance with the prevailing market price on the date of the application.

In case an applicant of arbitration does not pay the arbitration fee in accordance with Paragraph 1, the arbitration institution shall request the applicant for payment within a time limit. In case the applicant does not pay within such time limit, the arbitration institution may reject the application for arbitration.

Article 26

For arbitration regarding non-property disputes, the arbitration fee shall be NT\$9,000.

For a non-property dispute arbitration application to which a property claim is appended, the arbitration fee shall be calculated separately.

Article 27

The price of the arbitration subject matter shall be determined by the arbitral tribunal.

Articles 4 to 7 of the Law of Civil Procedure Cost shall apply, *mutatis mutandis*, to the calculation of the price of the arbitration subject matter.

In case the price of the arbitration subject matter can not be determined, the price shall be deemed as NT\$60,000.

Article 28

For each arbitration case, an arbitration institution shall, subject to the amount or value of the arbitration subject matter, give the following percentage of the arbitration fee to the arbitrator(s) participating in the matter, and the remaining amount shall belong to the arbitration institution:

1. Where the arbitration subject matter amount or value is below NT\$20,000,000, the percentage shall be 60%.
2. Where the arbitration subject matter amount or value exceeds NT\$20,000,000 and below NT\$300,000,000, for the amount exceeding NT\$20,000,000, the percentage shall be 50%.
3. Where the arbitration subject matter amount or value exceeds NT\$300,000,000, for the amount exceeding NT\$300,000,000, the percentage shall be 40%.

In case the arbitrator(s), without justifiable reason(s), does not participate in the deliberation or refuses to sign an award, the parties may, within two (2) months following receipt of the award, request to reduce the arbitration fee mentioned in the preceding paragraph.

The arbitration fee belonging to the arbitration institution in accordance with Paragraph 1 shall not be distributed as profit or be used for profit seeking.

Article 29

Expenses for making copies, translation, mail and telecommunications, delivery, and publication in newspapers and other necessary expenses related to the arbitration shall be calculated based on actual costs.

Article 30

The attendance fees for witnesses shall be from NT\$600 up to NT1,200 each time. The attendance fees for expert witnesses and interpreters shall be from NT\$900 up to NT\$1,800 each time. Both shall be determined by the arbitral tribunal.

Article 31

In case a witness, an expert witness or an interpreter has stayed, due to inquiry or translation, for more than one day, in addition to the attendance fee, a lodge fee from NT\$900 up to NT\$1,800 shall be paid. The amount of such lodge fee shall be determined by the arbitral tribunal.

Article 32

The traveling and residence expenses for an arbitrator's out-side evidence investigation and the traveling and residence expenses for witnesses, expert witnesses and interpreters shall be determined in accordance with the standard established by the arbitration institution.

Article 33

Fees for expert witnesses shall be determined by the arbitral tribunal, at its discretion, subject to the extent of complexity of the case.

Article 34

The allocation of the arbitration fee, settlement fee or mediation fee shall be stated in the main text of the arbitral award, the settlement agreement or the mediated agreement, respectively.

In case the fee is not decided in the arbitral award, the settlement agreement or the mediated agreement as mentioned in the preceding paragraph, either party may apply with the arbitral tribunal for a decision.

Article 35

The arbitration fee shall be paid by an applicant who withdraws the arbitration application.

Where either party requests to withdraw the arbitration after the arbitrator(s) has been selected but before the arbitration inquiry has started, such party may request the return of half of the paid arbitration fee to be given to the arbitrator(s) in accordance with Article 28. Where either party withdraws the arbitration before the arbitrator(s) has been selected, such party may request the return of the full amount of the aforementioned fee.

Article 36

The arbitration fee as referred to in Article 25 and Article 26 shall be pre-paid by an applicant to the arbitration institution upon the application.

Article 37

The arbitration institution may notify the parties to pre-pay the expenses mentioned in Articles 29 to 33.

Article 38

The fees of an arbitration which is not handled by the arbitration institution may be collected, *mutatis mutandis*, in accordance with these Rules.

CHAPTER V: The Procedures and Fees of the Mediation

Article 39

An application for mediation shall be submitted, in writing, by the applicant to an arbitration institution. Copies of the application shall be submitted according to the number of the other party(ies).

The subject matter and the nature of dispute shall be stated in the application mentioned in the preceding paragraph. Photocopies of the related evidentiary documents shall be attached.

Article 40

Upon receiving an application for mediation, an arbitration institution shall

immediately notify the other party with copies of the application that a consent to mediation shall be submitted by the other party within seven days upon receipt of the aforementioned notification.

In case the other party does not submit the consent to mediation within the time limit mentioned in the preceding paragraph, it shall be deemed as a refusal of mediation.

After the other party has consented to the mediation, the arbitration institution shall immediately notify the parties to select the arbitrator(s), within seven days upon receipt of such notification, for the commencement of the mediation.

The List of the Time for the Journey of Parties to Litigations shall apply, *mutatis mutandis*, to the calculation of the period mentioned in Paragraph 1 and the preceding paragraph. The time for the journey of a party shall be deducted.

Article 41

The parties shall jointly or each select one arbitrator for the commencement of the mediation.

The parties may, through mutual agreement, authorize the arbitration institution to select, for the parties, one or two arbitrators for the commencement of the mediation.

In case the parties are unable to mutually agree as mentioned in the preceding paragraph and the arbitrator(s) cannot be selected within the time limit, either party may request the arbitration institution to select one arbitrator for the parties as the mediator.

Article 42

A party may authorize, in writing, an agent for the proceeding of the mediation.

The agent of a party shall submit a power of attorney to the arbitration

institution or the mediator(s) prior to the commencement of the mediation.

In case the power of attorney mentioned in the preceding paragraph is made outside of the R.O.C., such power of attorney shall be authenticated by the local embassies, consulates, representative offices, liaison offices or other organizations authorized by the government of R.O.C. Where there are no such embassies, consulates, representative offices, liaison offices or other organizations authorized by the government of R.O.C., the power of attorney shall be authenticated by a local court or a notary public.

Article 43

The mediator(s) shall immediately determine the date of mediation, and notify the parties to attend. In case there are agents, the agents shall be notified.

Article 44

In case one or both of the parties does not appear on the date of mediation, it shall be deemed that there is no successful conclusion of the mediation. However, in case the mediator(s) considers that there can possibly be a successful conclusion of the mediation, he/she may determine another date of mediation.

Article 45

The mediation shall be held in the arbitration institution or other proper places. The proceeding of the mediation may be in private.

Except the matters which have been made public, the mediator(s) and the persons involved in the mediation shall keep the mediation confidential.

Article 46

The mediator(s) shall review the facts and the dispute between the parties. If necessary, an investigation on the related matters may be made.

In mediating a dispute in accordance with these Rules, the arbitration

institution may request assistance from related agencies.

Article 47

Where there is a successful conclusion of the mediation, a mediated agreement shall be made by the mediator(s), which shall be signed and sealed by the parties or their agents and the mediator(s). The following items shall be stated in the mediated agreement:

1. The names, residences or domiciles of the parties. In case any of the parties is a legal person or a group or organization, its name, administrative office, principle office or business office;
2. In case there are statutory agents or mediation agents, their names, residences or domiciles;
3. The names, residences or domiciles of persons who participate in the mediation;
4. The mediation subject matter;
5. The terms of the mediated agreement;
6. The place where the successful conclusion of the mediation is made; and
7. The date on which the successful conclusion of the mediation is made.

A mediated agreement as referred to in the preceding paragraph shall be reported by the mediator(s) to the arbitration institution within five days from the date on which the successful conclusion of the mediation is made.

Article 48

A mediation shall automatically terminate under any of the following circumstances:

1. A successful conclusion of the mediation has been made;
2. A successful conclusion of the mediation cannot be made; and
3. Either party withdraws from the mediation upon the consent of the other party.

Where either party withdraws the application for mediation or the consent to mediation, a mediation shall be deemed terminated.

Article 49

In case a successful conclusion of the mediation cannot be made, either party may request, in writing, the arbitration institution to issue a certificate of non-sustenance of mediation.

The arbitration institution shall issue the certificate as referred to in the preceding paragraph within seven days upon receiving the request.

Article 50

For mediation regarding property disputes, the mediation fee shall be determined according to the amount or price of the subject matter pursuant to the following standard:

1. Where the amount or price of the subject matter is NT\$600,000 or less, the mediation fee shall be NT\$3,000; and
2. Where the amount or price of the subject matter is greater than NT\$600,000, the mediation fee for the amount exceeding NT\$600,000 shall be 0.5%.

In case the amount of the mediation subject matter is denominated in foreign currency, it shall be converted in accordance with the prevailing market exchange rate on the date of the application.

In case the amount of the mediation subject matter is denominated in gold or silver, it shall be converted in accordance with the prevailing market price on the date of the application.

Article 51

For mediation regarding non-property disputes, the mediation fee shall be NT\$3,000.

For a non-property dispute mediation application to which a property claim is appended, the mediation fee shall be calculated separately.

Article 52

The price of the mediation subject matter shall be determined by the mediator(s).

Articles 4 to 7 of the Law of Civil Procedure Cost shall apply, *mutatis mutandis*, to the calculation of the price of the mediation subject matter.

In case the price of the mediation subject matter cannot be determined, the price shall be deemed as NT\$60,000.

Article 53

After the termination of a mediation, the arbitration institution shall, subject to the amount or price of the mediation subject matter, give the mediation fee to the mediator(s) participating in the mediation in accordance with the following percentage:

1. Where the amount or price of the mediation subject matter is NT\$20,000,000 or less, the percentage shall be 60%.
2. Where the amount or price of the mediation subject matter is greater than NT\$20,000,000 and up to NT\$300,000,000, the percentage of the amount exceeding NT\$20,000,000 shall be 50%.
3. Where the amount or price of the mediation subject matter is greater than NT\$300,000,000, the percentage of the amount exceeding NT\$300,000,000 shall be 40%.

Article 54

The party applying for mediation shall pre-pay half of the mediation fee to the arbitration institution. The other party who consents to the mediation shall pre-pay the same amount.

Article 55

Articles 29 to 33 and Article 37 shall apply, *mutatis mutandis*, to the expenses for mediation.

Article 56

Unless otherwise agreed by the parties, the mediation fee shall be equally borne by the parties.

A party who withdraws an application for mediation or the consent to mediation shall pay the full amount of the mediation fee.

CHAPTER VI: Supplementary Provisions

Article 57

These Rules shall take effect on the date of promulgation.