

Subject Description Form

Subject Code	BRE415
Subject Title	Dispute Resolution
Credit Value	3
Level	4
Pre-requisite	BRE206
Objectives	Provide an understanding of the aspects of law and procedures relating to the resolution of dispute in the construction industry and develop students' ability to appropriately apply theoretical aspects of dispute resolution to practical solutions.
Intended Learning Outcomes	<p>Upon completion of the subject, students will be able to:</p> <ol style="list-style-type: none"> a. Explain the evolution of dispute resolution in an international context. b. Identify the relevant laws, regulations and procedures and apply them to the resolution of disputes in Hong Kong's construction industry. c. Analyse the process of arbitration, mediation, litigation and adjudication; d. Evaluate the implications involved, in terms of contractual and business relations, when making decisions about the choice of method to be used to settle construction related disputes. e. Propose solutions to complex construction dispute cases both orally and in writing. f. Communicate effectively
Subject Synopsis/ Indicative Syllabus	<p>Litigation as a means of settling disputes.</p> <p>Origins of arbitration and of alternative dispute resolution (ADR)</p> <p>Different forms of ADR.</p> <p>Dispute resolution process in Hong Kong.</p> <p>Application of laws relating to litigation, arbitration and ADR.</p> <p>Law of civil evidence.</p>
Teaching/Learning Methodology	<p>The course is conducted by way of problem-based learning. Before each of the lectures, the students are given problem scenarios around which the lecturing materials are built. During the lectures, the problems are discussed and feedback will then be given.</p> <p>The problem scenarios are designed with the purpose of achieving the intended learning outcomes. By preparing, attending and involving in the discussion and debate during the lectures, the outcomes are achieved.</p>

The knowledge acquired by the students then forms the fundamental knowledge of the students about the subject. The assessment methods, which stated below, then give the students the opportunity to widen the scope of their knowledge over the subject and to apply the knowledge in real situation.

Assessment Methods in Alignment with Intended Learning Outcomes

Specific assessment methods/tasks	% weighting	Intended subject learning outcomes to be assessed (Please tick as appropriate)					
		a	b	c	d	e	f
<p>1.</p> <p>Oral presentation, written report relating to the practical, procedural or legal aspects of topics which have not been covered by first assignment.</p> <p>After the presentation, questions are put to the students by the lecturer/tutor to test the students' abilities in applying the knowledge they acquired.</p>	50%	√	√	√	√	√	√
<p>2.</p> <p>Oral presentation and written report relating to the theoretical aspects of the topics covered by the syllabus.</p> <p>After the presentation, questions are put to the students by the lecturer/tutor to test the students' abilities in applying the knowledge they acquired.</p>	50%	√	√	√	√	√	√
Total	100%						

Explanation of the appropriateness of the assessment methods in assessing the intended learning outcomes:

Assessments for this module will be by two Coursework Assignments. There will be no assessment by examination.

	<p>The assessments are designed to contribute to learning, and to determine the extent to which a student has achieved the ILO and hence the programme outcome.</p> <p>For the first assignment, problem scenarios are designed by the lecturer. The students are required to form groups to complete the assignment by selecting one of the problem scenarios and to present their answers. In addition, each of the groups is required to submit a written report relating to the presentation.</p> <p>For the second assignment, each group is required to select any topic covering by the syllabus and the topic cannot be those already been dealt with in the first assignment by any of the problem scenarios. The students are then required to make a presentation relating to the topics they have selected and to submit a written report relating to the presentation.</p> <p>Both of the assignment are designed to test the students' abilities to:</p> <ol style="list-style-type: none"> 1. organize themselves with minimal instructions 2. organize through negotiation with other members of the same group without direction from the tutors or lecturer 3. work in a team environment 4. coordinate or negotiate selection of topics with other groups 5. complete the task through the use of initiative and ingenuity, <i>i.e.</i>, creativity and cleverness 6. use effectively the resources available to the students in the library and on-line 7. test the students' knowledge and the ability to apply the concepts that they have learnt as well as the students reasoning ability and their abilities in making critical judgment. <p>In that way, whether the students have acquired the abilities as statement in the ILO above can be assessed.</p>	
Student Study Effort Expected	Class contact:	
	<ul style="list-style-type: none"> ▪ Lecture 	26 Hrs.
	<ul style="list-style-type: none"> ▪ Tutorial 	13 Hrs.
	Other student study effort:	
	<ul style="list-style-type: none"> ▪ Self studying. Preparation for discussion of the problems to which the lectures relate and doing the course works. 	120 Hrs.
	Total student study effort	159 Hrs.
Reading List and References	<p>Reading List and References:</p> <p>Goldberg, S. B. (1999), <i>Dispute Resolution: Negotiation, Mediation and other Processes</i>. Aspen Law & Business</p> <p>Hills, M.J. (2001), <i>Building Contract Procedures in Hong Kong</i>. Longman Hong Kong Education</p> <p>Kaplan, N. (1994), <i>Hong Kong & China Arbitration: Cases and Materials</i>, Butterworths Asia.</p> <p>Morgan, R. (1997). <i>The Arbitration Ordinance of Hong Kong: A Commentary with 1997 Supplement</i>. Butterworths Asia.</p>	

Tapper, R. (1990). *Cross on Evidence*, Butterworths

Uff, J. (1996), *Construction Law & Practice Relating to the Construction Industry*, Sweet & Maxwell.

Chee, Simon (2016), *Construction Dispute Prevention and Resolution in Hong Kong*, Sweet & Maxwell and Hong Kong Construction Arbitration Centre, Limited

Chee, Simon (2013), (*Thesis*) *From right to Interest – Specialised Facilitative Mediation (Construction)*, City University of Hong Kong.

Supplementary:

Chan, E. H. (1997). Amicable Dispute Resolution in the PRC and its Implication for Foreign-related Construction Disputes. *Construction Economics and Management*, Nov. 1997, Vol.15, No. 6, pp.539-548.

Fenn, P.; O’Shea, M. & Davies, E. (eds.)(1998). *Dispute Resolution and Conflict Management in Construction: An International Review*. E. & FN Spon.

Hills, M.J. (1992), *A Case for an Alternative Approach to the Resolution of Disputes Under JCT 80 Standard Form of Building Contract*, MSc dissertation (Supervisor: Dr. R.F. Fellows), University of Bath

Kaplan, N. (1983), *Hong Kong Arbitration Cases and Materials*, Butterworths Asia

Langan, P. St. J. (1983), *Civil Procedures*, Sweet & Maxwell

Merkin, R. (1996), *Arbitration Act 1996: An Annotated Guide*, Lloyds of London Press

Relevant Ordinances and Regulations of the Hong Kong Government

Others:

1. Those being stated in the syllabus of the course.
2. Other suggested reading: : the latest edition of the following books
 - 2.1. Building Contract Procedures in Hong Kong
 - 2.2. Hong Kong Civil Procedures, i.e. the White Book.
 - 2.3. HKIAC rule of arbitration
 - 2.4. Brookers’ Arbitration Law and Practice
 - 2.5. Arbitration in Hong Kong – A Practical Guide.
 - 2.6. The related ordinances of the Hong Kong Special Administrative Region.