

## Subject Description Form

<b>Subject Code</b>	BRE415
<b>Subject Title</b>	Dispute Resolution
<b>Credit Value</b>	3
<b>Level</b>	4
<b>Pre-requisite</b>	BRE206
<b>Objectives</b>	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.
<b>Intended Learning Outcomes</b>	<p>Upon completion of the subject, students will be able to:</p> <ol style="list-style-type: none"> <li>a. Explain the evolution of dispute resolution in an international context.</li> <li>b. Identify the relevant laws, regulations and procedures and apply them to the resolution of disputes in Hong Kong's construction industry.</li> <li>c. Analyse the process of arbitration, mediation, litigation and adjudication in construction context;</li> <li>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.</li> <li>e. Propose solutions to complex construction dispute cases both orally and in writing.</li> <li>f. Communicate effectively</li> </ol>
<b>Subject Synopsis/ Indicative Syllabus</b>	<p>Litigation as a means of settling construction disputes.</p> <p>Origins of arbitration and of alternative dispute resolution (ADR)</p> <p>Different forms of ADR.</p> <p>Dispute resolution processes in Hong Kong standard construction contracts.</p> <p>Application of laws relating to litigation, arbitration and ADR.</p> <p>Law of civil evidence.</p>
<b>Teaching/Learning Methodology</b>	<p>The course is conducted by way of problem-based learning around theoretical knowledge transfer in lectures and students' performance individually or in groups in tutorial classes that forms the basis for dynamic learning. Before and during lectures and tutorials, students are given problem scenarios around which the lecturing materials are built. During the tutorials, the problems are discussed and feedback will then be given.</p> <p>The problem scenarios are designed with the purpose of achieving the intended</p>

learning outcomes. By preparing, attending and involving in the discussion, presentation and debate during the lectures and tutorials, the outcomes are achieved.

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
1.  Oral presentation and written report relating to the practical, procedural or legal aspects of topics which have not been covered by first assignment.  After the presentation, questions are put to the students by the lecturer/tutor to test the students' abilities in applying the knowledge they acquired.	50%	√	√	√	√	√	√
2.  Oral presentation and written report relating to the theoretical aspects of the topics covered by the syllabus.  After the presentation, questions are put to the students by the lecturer/tutor to test the students' abilities in applying the knowledge they acquired.	50%	√	√	√	√	√	√
Total	100%						

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

	<p>Assessments for this module will be by two Coursework Assignments. There will be no assessment by examination.</p> <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"> <li>1. organize themselves with minimal instructions</li> <li>2. organize through negotiation with other members of the same group without direction from the tutors or lecturer</li> <li>3. work in a team environment</li> <li>4. coordinate or negotiate selection of topics with other groups</li> <li>5. complete the task through the use of initiative and ingenuity, <i>i.e.</i>, creativity and cleverness</li> <li>6. use effectively the resources available to the students in the library and on-line</li> <li>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.</li> </ol> <p>In that way, whether the students have acquired the abilities as statement in the ILO above can be assessed.</p>	
<b>Student Study Effort Expected</b>	Class contact:	
	▪ Lecture	26 Hrs.
	▪ Tutorial	13 Hrs.
	Other student study effort:	
	▪ 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.
<b>Reading List and References</b>	<p><b>Reading List and References:</b></p> <p>Fisher, R.; Patton, B. M.; &amp; Ury, W. L. (1992) <i>Getting to Yes: Negotiating an Agreement without Giving In</i>, 2nd ed. London: Random House.</p> <p>Goldberg, S. B. (1999), <i>Dispute Resolution: Negotiation, Mediation and other Processes</i>. Aspen Law &amp; Business</p> <p>Chee, Simon (2016), <i>Construction Dispute Prevention and Resolution in Hong Kong</i>, Sweet &amp; Maxwell and Hong Kong Construction Arbitration Centre, Limited</p>	

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

Hills, M.J. (2001), *Building Contract Procedures in Hong Kong*. Longman Hong Kong Education

*Hong Kong Arbitration Ordinance Cap. 609*

*Hong Kong Mediation Ordinance Cap 620*

*HKIA / HKIS / HKICM Standard Forms of Building Contracts* (2005, 2006 Editions)

*General Conditions of Contract for Building Works, HKSAR Government* (1999 Edition)

Judiciary. *Civil Justice Reform – Final Report, Chief Justice’s Working Party on Civil Justice Reform*, HKSAR Government, 2004

Judiciary. Practice Direction 6.1 Construction and Arbitration List (Feb 2009)

Kaplan, N. (1994), *Hong Kong & China Arbitration: Cases and Materials*, Butterworths Asia. Ma, Geoffrey, General Editor-in-Chief., (3rd Ed., 2014) *Arbitration in Hong Kong: A Practical Guide*, Hong Kong: Sweet & Maxwell.

*Proposed Security of Payment Legislation for the Construction Industry - Consultation Document*, HKSAR Government Development Bureau, 1 June 2015

Morgan, R. (1997). *The Arbitration Ordinance of Hong Kong: A Commentary with 1997 Supplement*. Butterworths Asia.

Riches, John & Dancaaster, Christopher. *Construction Adjudication*, John Wiley & Son, Second Ed. 2008

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

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

**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:**

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|  | <ol style="list-style-type: none"><li>1. Those being stated in the syllabus of the course.</li><li>2. Other suggested reading: : the latest edition of the following books<ol style="list-style-type: none"><li>2.1. Building Contract Procedures in Hong Kong</li><li>2.2. Hong Kong Civil Procedures, i.e. the White Book.</li><li>2.3. Hong Kong International Arbitration Centre Rules of Arbitration</li><li>2.4. Hong Kong Construction Arbitration Centre Construction Arbitration Rules, Construction Mediation Rules and Construction Adjudication Rules 2015</li><li>2.5. Brookers' Arbitration Law and Practice</li><li>2.6. Arbitration in Hong Kong – A Practical Guide.</li><li>2.7. The related ordinances of the Hong Kong Special Administrative Region.</li></ol></li></ol> |
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