



PRACTICAL GUIDE

**for the Application to the President of
the Hong Kong Institute of Surveyors
for the Appointment of
an Independent Valuation Expert**

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*FORM IV1 – Application to the President of the Hong Kong Institute of Surveyors for the
Appointment of an Independent Valuation Expert*

Published in April 2011 by the Hong Kong Institute of Surveyors

INTRODUCTION

This Practical Guide provides guidance to users who wish to make use of the services of the Hong Kong Institute of Surveyors (hereinafter referred to as the “HKIS”) for the appointment of independent valuation experts (hereinafter referred to as the “IVE”). The purpose of such independent valuation services could relate to rental determinations (for rent review and lease renewal) or for capital value determinations.

The HKIS has published separately a set of Guidance Notes for Surveyors Acting as Independent Experts for Commercial Property Rent Review in 2000.

This Practical Guide is not a legal document. Parties making use of the HKIS appointment service must agree their terms of engagement with the IVE.

ELIGIBILITY

The applicant(s) should check carefully the relevant tenancy and/or agreement for the entitlement to apply to the President of the HKIS (hereinafter referred to as the “President”) for the appointment or nomination (hereinafter referred to as “the appointment”) of an IVE for the determination of the relevant subject valuation matter, and follow any directives set out.

The parties to a dispute can always agree on a joint application to the President for the appointment of an IVE.

APPLICATION

Applicant(s) who wishes to make use of the services of the HKIS for the appointment of an IVE should complete the application form for appointment (Form IV1) as attached hereto and submit the same to the President together with a cheque or cashier’s order drawn in favour of “The Hong Kong Institute of Surveyors” for payment of a non-refundable administrative fee as prescribed by the HKIS from time to time.

The application may be made by the parties jointly, or by one of the parties to the dispute.

If the application is to be made solely by one party, then the application has to be copied to the other party and evidence of the same shall be submitted together with the application form.

PROFESSIONAL REPRESENTATION

The applicant(s) may be represented by surveyors and/or other professional advisors (hereinafter referred to as “advisor”). In such cases, an authorization letter from the applicant shall be provided if the application is signed by the advisor on behalf of the relevant applicant.

REQUIREMENTS ON EXPERIENCE AND QUALIFICATIONS

The applicant(s) should state in the application form any requirements on the experience and qualifications of the IVE as set out in the tenancy and/or agreement between the parties.

Where an applicant requests for an IVE with specific experience and qualifications but such request(s) has not been agreed with the other party, then the President is not bound to entertain such request(s).

THE APPOINTMENT PROCESS

The appointment process of IVE is administered on behalf of the President by the Administration Office of the Hong Kong Institute of Surveyors (hereinafter referred to as “the HKIS Secretariat”) whose contact details are:

Address : Hong Kong Institute of Surveyors
Suite 801, 8th Floor
Jardine House
1 Connaught Place
Central
Hong Kong

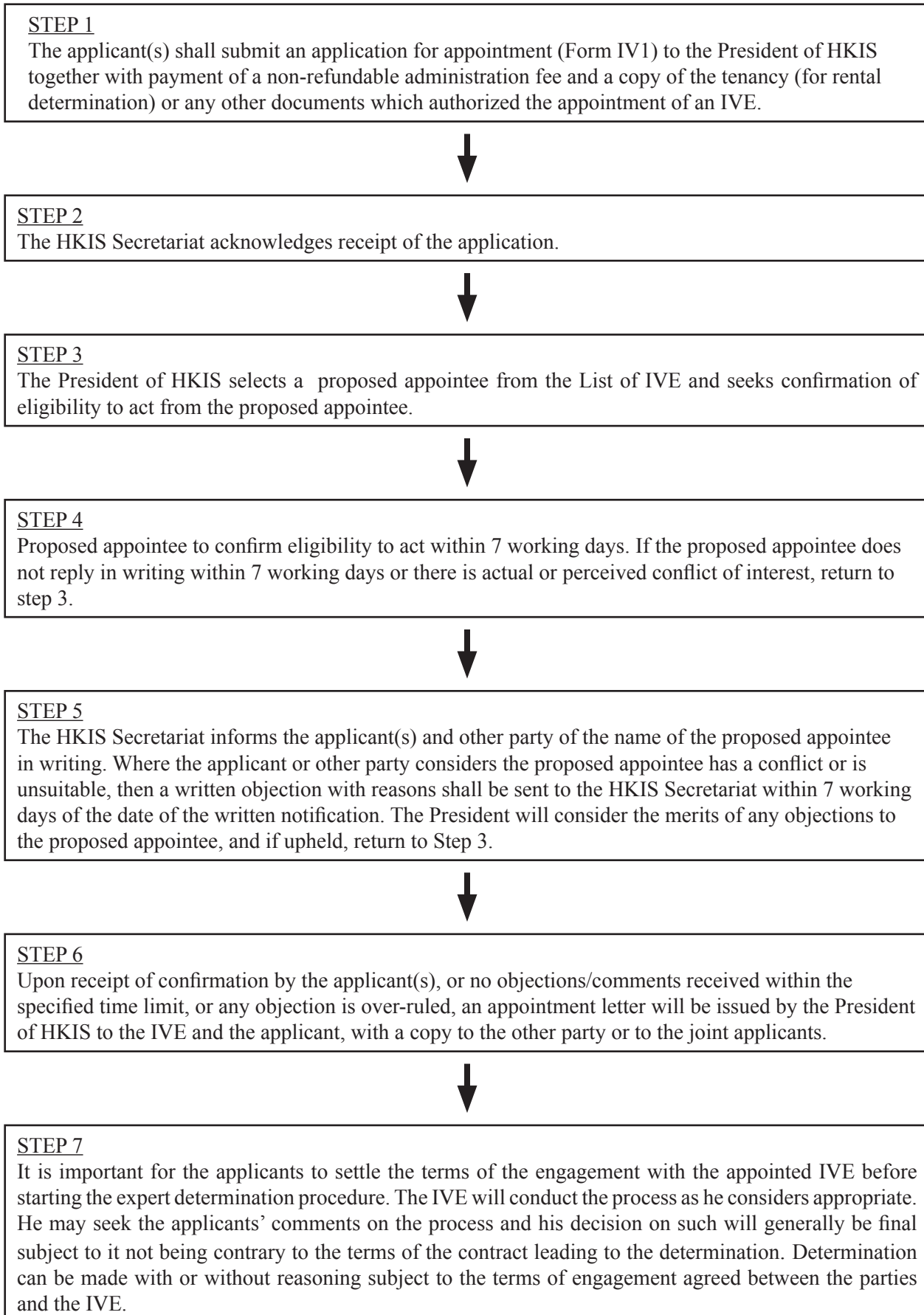
Attn : HKIS Secretariat

Tel : + 852 2526 3679

Fax : + 852 2868 4612

E-mail : info@hkis.org.hk

FLOW CHART: APPOINTMENT OF IVE



(Note: 'working days' exclude Saturdays, Sundays and public holidays).

CONTRACTUAL RELATIONSHIP OF THE APPOINTMENT

The applicants should settle all the terms of engagement with the appointed IVE before starting the expert determination procedure.

In case of disagreement between the parties, the expert determination procedure can still commence when one of the parties underwrites payment of all fees of the IVE.

It should be noted that failure of the parties to agree fees with the IVE will not normally be considered as valid grounds for seeking the President to appoint a new IVE.

COSTS AND EXPENSES

The HKIS administration fee, currently set at HK\$10,000 shall be payable upon application. Such fee will be as prescribed by the HKIS from time to time. Please note that the administration fee, once paid, is non-refundable under any circumstances.

TERMS OF ENGAGEMENT

After the appointment by the President of HKIS, the IVE will provide a fee quote and terms of engagement (including procedural rules as appropriate) for the expert determination assignment.

The service fee quotation would hinge upon various factors including but not limited to the time expected to be spent on the procedure and actual valuation work, resources that the IVE needs to employ, complexity of the assignment, and risk profile etc. The IVE should set out in his/her fee quote an indication of the number of hours that he/she expects to be spent on the assignment in the light of the information provided to him/her. For cases which turn out to require more time than that indicated in the engagement letter, for example, due to legal issues, then the IVE may reserve a right to charge extra fee for extra time spent over and above the previously expected hours. In such circumstances, a time log may be requested from the IVE for such additional works.

Given the complexity of rental reviews and/or lease renewals and the time to be spent on the process, applicant(s) should note that an indicative fee for each assignment would normally be not less than HK\$75,000.

WRITTEN REPRESENTATION AND/OR REBUTTAL

Applicant(s) may state in the written representation the evidence and arguments that they wish the IVE to know or to be aware of. Generally, the representations will be prepared by professional valuers acting on behalf of the parties. After the written representations are submitted, the professional valuer(s) of one party may comment on the other party's representation in the rebuttal stage.

It should be noted that the IVE when acting as an Independent Expert is not bound by the representations and rebuttals submitted to him/her. It is at the discretion of the IVE to take into account or reject these representations and rebuttals.

VALUERS APPOINTED TO ACT AS ARBITRATORS

Where a tenancy/agreement specifies the IVE is to act as an arbitrator and not as an expert, the appointed valuer will rely upon the submissions and particularly evidence presented by the parties. It is therefore essential that the parties concerned should consider carefully the need for experienced consultants to prepare and lodge submissions on their behalf.

DETERMINATIONS

The IVE determination is a quick and reasonably inexpensive process for dispute settlement. Normally, a determination will be given without the expert's reasoning or calculations.

In case the relevant tenancy and/or contract stipulates that a reasoned determination is to be made by the IVE or that both parties specifically request for a reasoned determination, this will be given by the IVE.

Should a reasoned determination be required, either by contract or by parties' agreement with the IVE, this shall convey a logical explanation for the IVE's reasons for his conclusions on key or substantial points raised, so that a reasonable person having all background knowledge, which might have been available to the parties, may understand the reasons for the determination.

Due to the substantial additional work involved in setting out a reasoned determination, fees charged by the IVE will be significantly higher than for a determination without the reasons provided.

LIST OF IVE

The list of IVE and CVs of relevant independent valuation experts and arbitrators containing his/her experience and expertise are available at the website of the HKIS.

Should you have any enquiries, please contact:

The Hong Kong Institute of Surveyors
Suite 801, 8/F, Jardine House
1 Connaught Place
Central, Hong Kong

Tel : + 852 2526 3679
Fax : + 852 2868 4612
E-mail : info@hkis.org.hk
Website : www.hkis.org.hk

**APPLICATION TO THE PRESIDENT OF
THE HONG KONG INSTITUTE OF SURVEYORS
FOR THE APPOINTMENT OF AN INDEPENDENT VALUATION EXPERT**

The undersigned hereby requests the President of the Hong Kong Institute of Surveyors (HKIS) to appoint an Independent Valuation Expert.

Part 1: Details of parties		
1st Party		
Name:		
Capacity: Landlord/Tenant/Others		
Address:		
Tel no.:	Fax no.	Email:
Professional Advisor (if any)		
Name:		
Address:		
Tel no.:	Fax no.	Email:
2nd Party		
Name:		
Capacity: Landlord/Tenant/Others		
Address:		
Tel no.:	Fax no.	Email:
Professional Advisor (if any)		
Name:		
Address:		
Tel no.:	Fax no.	Email:

Part 4: Declaration

- (1) I / We hereby certify that details contained herein are true and accurate.
- (2) I / We acknowledge that the President of HKIS has complete discretion over who is to be appointed.
- (3) I / We acknowledge that no **re-appointment will generally be considered for an appointment once made unless the contract provides for such.**
- (4) I / We acknowledge that the terms of engagement and the fee to be charged of the independent valuation expert being appointed is to be confirmed with the said valuer direct.
- (5) I / We acknowledge that the President of HKIS has discharged his duty once he has notified the applicant(s) in writing, copied to the other party, the name of the duly appointed IVE.
- (6) I / We hereby confirm that I / we will be responsible for all fees and expenses in the appointment for which no liability attaches to the President of HKIS personally or to the HKIS.
- (7) I / We acknowledge that neither the President of HKIS nor the HKIS shall be liable for any act or omission whatsoever in connection with the appointment of the Independent Valuation Expert.

Applicant _____	Applicant _____
Capacity _____	Capacity _____
Signed _____	Signed _____
Date _____	Date _____

Please provide a letter of authorization from the applicant if this application form is signed by an Advisor to one of the parties.

Application to be returned to:

The Hong Kong Institute of Surveyors
Suite 801, Jardine House
1 Connaught Place
Central, Hong Kong

Tel : +852 2526 3679
Fax : +852 2868 4612
Email : info@hkis.org.hk

Enclosure - Checklist for fully completed, signed and dated Application Form:

- 1) Cheque/cashier's order
- 2) Lease/Tenancy Agreement
- 3) Letter of Authorization (if signed by a Surveyor or an Advisor)
- 4) Copy of Letter Notifying Other Party of Application (if application is from a single party)

