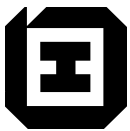


# **KEEPING PROPER EMPLOYMENT RECORDS – REFERENCE FOR EMPLOYEES**



**Labour Department**

**January 2009**

## **Foreword**

Under the Employment Ordinance, an employer must keep the wage and employment records (hereafter ‘employment records’) of each employee. These records should set out particulars of each employee such as his name, date of commencement of employment, job title, wages, period of leave and period of notice required for termination of contract. If employees get into the habit of keeping employment records, these will help them safeguard their employment rights.

This booklet highlights the importance of keeping employment records by employees and advises employees to keep relevant records for safeguarding their employment rights.

## **Importance of Keeping Employment Records by Employees**

Full and clear employment records can bring many benefits to employees. These include:

1. Helping employees have a good grasp of their employment terms, rights and benefits.
2. Facilitating employees' checking of the amount of employment rights and benefits calculated by employers.
3. Keeping track of employment history and skills acquired, hence facilitating employees' future job search, continuing education and skills recognition.
4. Helping reduce labour disputes resulting from ambiguous employment terms and incomplete employment records, hence promoting harmonious relations with employer.
5. Managing effectively the preserved accounts of Mandatory Provident Fund schemes resulting from change of employment.
6. When necessary, providing evidence for employees to support their employment claims.

## Case

The company at which Miss Lam has worked for 10 years suddenly underwent voluntary liquidation, and failed to settle all termination payments with the employees. Miss Lam approached the Labour Relations Division of the Labour Department for assistance to claim severance payment. She was later referred to the Department's Wage Security Division to apply for ex gratia payment from the Protection of Wages on Insolvency Fund.

As Miss Lam's reported length of service differed from the company's records, in the lack of sufficient supporting documents, Miss Lam encountered difficulties in her application for the ex gratia payment.

### Analysis

The above case clearly demonstrates that if employees have properly kept appropriate employment records in advance, when necessary, these records can be important evidence to support their claims for employment rights and benefits.

## Common Employment Records

There are many types of employment records. These may vary among different trades and companies. The following are examples of some common types of employment records:

Types of Employment Records	Common Examples
Record of commencement of employment / promotion / transfer	Job application form, appointment letter, written employment contract, notice of confirmation of probation, notice of promotion / transfer, etc
Wage record	Payslip, pay packet, wage receipt, notice of wage adjustment, bank passbook, bank monthly statement, copy of cheque, copy of dishonoured cheque, copy of Employer's Return of Remuneration and Pensions, copy of Tax Return-Individuals completed by an employee, cash deposit record (pay-in slip), etc
Commission record	Document on calculation of commission (e.g. document on commission rate, relevant transaction record, etc), commission payment record, etc
End of year payment record	Document on calculation of end of year payment, relevant payment record, etc
Attendance and leave record	Attendance record (e.g. clock card, duty roster, sign-in/sign-out record), overtime work record (including dates, duration of overtime work, etc), holiday/leave record, etc
Record on Occupational Retirement Schemes and Mandatory Provident Fund Schemes	Monthly contribution record, membership certificate, annual benefit statement, etc

<b>Types of Employment Records</b>	<b>Common Examples</b>
Proof of entitlement to sickness allowance / maternity protection	Medical certificate, sick leave record, proof of pregnancy, medical report, etc.
Record on termination of employment	Dismissal letter, resignation letter, award/order made by the Labour Tribunal/Minor Employment Claims Adjudication Board, etc
Others	Staff handbook, recommendation letter, notice on change of employment conditions, staff identity card, entry pass, reference letter, relevant company notice, email correspondence or letter, etc

## **Related Legal Requirements**

~ Provisions on terms of employment under the Employment Ordinance

- ✓ Under the Employment Ordinance, before an employee enters his employment, his employer must inform him of the conditions of employment, including:
  1. Wages (*including wage rate, overtime rate and any allowances*);
  2. Wage period;
  3. Length of notice required to terminate the contract; and
  4. End of year payment or proportion of it and the payment period (if applicable).
- ✓ If the contract of employment is in writing, the employer must give a copy of the written contract to the employee.
- ✓ If the contract of employment is not in writing, before the employment is entered into, an employee may issue a written request to ask his employer to deliver him a notice in writing containing the relevant conditions of employment.
- ✓ Before making any change to the conditions of employment or proposing such change to the employee, an employer should clearly explain the change or proposed change to the concerned employee. Where there is any written amendment made to the employment conditions or upon receipt of a written request from an employee, the employer must give a copy of the written amendment to the employee.
- ✓ The terms of employment must not be set below the minimum standards as laid down in the Employment Ordinance. Otherwise, such employment terms shall be void.
- ✓ The use of a written employment contract can help avoid labour disputes. An employer is advised to enter into a written employment contract with his employee as far as possible. For details, please refer to the booklet “Using Written Employment Contracts” published by our department.

## Points-to-Note

Before accepting an employment offer, an employee should know the identity of the employer, including name of company, registration address, name and post of the person-in-charge or company representative, etc.

If the employment contract is not in writing and the employer is not a limited company (i.e. an employer in personal capacity engaging employees), an employee should take note of the following which may help them identify the employer so as to safeguard his employment rights:

- ✓ Before entering into employment, an employee may issue a written request to ask his employer to deliver him a written notice containing relevant conditions of employment in accordance with the Employment Ordinance;
- ✓ An employee should take note of the particulars about the employer or the company name (i.e. trading name of the employer) as shown in documents<sup>1</sup> or in the workplace/office premises;
- ✓ An employee may seek advice from other staff, clients, principal contractors (for construction and building works), and other third parties; and
- ✓ An employee may apply for a copy of Business Registration Certificate from the Business Registration Office of the Inland Revenue Department.

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<sup>1</sup> These documents may include job advertisement, business card showing name of the company or employer, envelope, letterhead, staff registration form, sign-in/sign-out record, receipt, business registration certificate, etc.

## **The Employment Ordinance**

The Employment Ordinance is the major piece of labour legislation in Hong Kong. The Ordinance lays down the minimum standards for various employment rights and benefits of employees. For details, please refer to the full text of the Ordinance or the booklet “A Concise Guide to the Employment Ordinance” published by the Labour Department. Or you may visit the webpages below to obtain the materials:

### The Employment Ordinance

Bilingual Laws Information System of the Department of Justice:

<http://www.legislation.gov.hk>

### A Concise Guide to the Employment Ordinance

<http://www.labour.gov.hk/eng/public/ConciseGuide.htm>

# **ENQUIRY**

## **Employment Ordinance**

Website : <http://www.labour.gov.hk>

Hotline : 2717 1771 (the hotline is handled by the 1823 Call Centre)

### **Offices of the Labour Relations Division**

#### ***Hong Kong***

Hong Kong East Office  
34/F, Revenue Tower,  
5 Gloucester Road, Wanchai, Hong Kong

Hong Kong West Office  
3/F, Western Magistracy Building,  
2A Pokfulam Road, Hong Kong

#### ***Kowloon***

Kowloon East Office  
Room 1206, 12/F, Stelux House,  
698 Prince Edward Road East,  
San Po Kong, Kowloon

Kowloon West Office  
Room 1009, 10/F,  
Cheung Sha Wan Government Offices,  
303 Cheung Sha Wan Road, Kowloon

Kowloon South Office  
2/F, Mongkok Government Offices,  
30 Luen Wan Street, Mongkok, Kowloon.

Kwun Tong Office  
6/F, Kowloon East Government Offices,  
12 Lei Yue Mun Road, Kwun Tong, Kowloon.

#### ***New Territories***

Tsuen Wan Office  
5/F, Tsuen Wan Government Offices, 38 Sai  
Lau Kok Road, Tsuen Wan, New Territories.

Kwai Chung Office  
6/F, Kwai Hing Government Offices, 166-174  
Hing Fong Road, Kwai Chung, New Territories.

Tuen Mun Office  
Room 2720, 27/F,  
Tuen Mun Parklane Square,  
2 Tuen Hi Road, Tuen Mun, New Territories.

Shatin & Tai Po Office  
Rooms 304-313, 3/F,  
Sha Tin Government offices,  
1 Sheung Wo Che Road, Sha Tin, New  
Territories.

### **Personal Data Privacy**

Office of the Privacy Commissioner for  
Personal Data Privacy  
Website: <http://www.pcpd.org.hk>  
Telephone: 2827 2827  
Fax: 2877 7026

### **Mandatory Provident Fund Schemes**

Mandatory Provident Fund Schemes Authority  
Website: <http://www.mpfa.org.hk>  
Telephone: 2918 0102  
Fax: 2259 8806