

A Simple Guide to the  
Minor Employment Claims  
**Adjudication Board**



## Foreword

This guide sets out in simple terms the main provisions of the Minor Employment Claims Adjudication Board Ordinance (Cap. 453). It should be noted that the Ordinance itself remains the sole authority for the provisions of the law explained.

## Minor Employment Claims Adjudication Board

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The Minor Employment Claims Adjudication Board (hereunder referred to as “the Board”) is a board established under the Minor Employment Claims Adjudication Board Ordinance to provide quick, simple, inexpensive and independent employment dispute adjudication service.

## Minor employment claims

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Minor employment claims are claims:

- (a) arising from disputes of statutory or contractual rights of employment;
- (b) involving not more than 10 claimants in each case; and
- (c) not exceeding \$8,000 per claimant.

## Lodging claims with the Board

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A person having gone through conciliation by the Labour Relations Division of the Labour Department without a settlement may file his claim with the Board.

Direct application to the Board for adjudication without first going through conciliation will not be accepted.

A claimant whose claim exceeds \$8,000 may abandon the excess amount to enable the Board to have jurisdiction to hear the claim.

Claims that are within the jurisdiction of the Board cannot be brought before any other court.

## Cases in which the Board has no jurisdiction

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The Board does not have jurisdiction in any case where the claim is pursued for a cause of action founded in tort, or any claim submitted to proof in a bankruptcy or winding-up.

In addition, the Board shall not have jurisdiction to hear any claim arising more than 12 months before the date on which the claim is filed, unless the parties to the claim, by a memorandum signed by them, have agreed that the Board shall have jurisdiction. Otherwise, the case should be transferred to the Labour Tribunal.

## Circumstances under which the Board can decline jurisdiction

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The Board can decline jurisdiction when:

- (a) it is of the opinion that the case should not be inquired into, heard and determined by it and therefore should be transferred to the Labour Tribunal;
- (b) a claim has been split or divided and pursued in separate proceedings for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of the Board.

## Right of audience

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The following persons will have a right of audience before the Board:

- (a) any party to the claim;
- (b) an officer or servant of a limited company authorised as its representative in writing;

(c) with the permission of the Board, an office-bearer of a registered trade union or employer association who is authorised in writing by a party to appear as his representative.

No legal representation on either side would be allowed.

## Hearings in the Board

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Hearing is conducted in public, and in an informal manner, either in Chinese or English.

The Board may order the production of any document, record, book of account or other exhibit and make inquiries on parties and witnesses as it thinks fit.

An award or order will be made as soon as possible after the conclusion of hearing by the adjudication officer.

## Enforcing compliance in the Board's adjudication process

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The adjudication officer is endowed with the same privileges and immunities as a judge of the Court of First Instance in civil proceedings in that court.

Any person commits an offence if he, without reasonable excuse, fails to comply with an order of the Board to produce any document, record, book of account or other exhibit which the Board considers relevant to the claim.

It is also an offence for anyone:

- (a) to threaten, persuade or induce a witness or party not to give evidence in any hearing before the Board;
- (b) to use a threatening or insulting expression or behave in an insulting manner or wilfully interrupt a hearing before the Board.

## Review and appeal

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An application for review must be made by a party within 7 days from the date of award or order. On such review the adjudication officer may:

- (a) reopen and rehear a claim,
- (b) call or hear fresh evidence, and
- (c) confirm, vary or reverse the award or order.

A party may, within 7 days after a written award is served on him (or such time as may be extended by the Registrar of the High Court on good cause), appeal to the Court of First Instance against the award on grounds that it is wrong in law or that the claim is outside the jurisdiction of the Board. Appeal against the decision of the Court of First Instance can be made to the Court of Appeal.

## Enforcement of award of the Board

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An award or order of the Board may be registered in the District Court and, as a result, becomes a judgment of the District Court and be enforced accordingly.

## Defaulting payment of an award of the Board is a criminal offence

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Under the Employment Ordinance, if an award of the Board provides for the payment by an employer of any specified entitlement (such as wages, end of year payment, maternity leave pay and severance payment, etc) and the employer wilfully and without reasonable excuse fails to pay the award within 14 days after the date on which the sum is payable, the employer is liable to prosecution and, upon conviction, to a fine of \$350,000 and imprisonment for three years.

## Enquiries

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Enquiry Hotline : 2717 1771 (the hotline is handled by “1823”)

Homepage of the Labour Department : <http://www.labour.gov.hk>

### **Minor Employment Claims Adjudication Board**

Room 1012, 10/F., Cheung Sha Wan Government Offices,  
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