



Labour Department

Statutory Time Limits Concerning Employment Claims

This leaflet sets out in simple terms various statutory time limits concerning employment claims for general reference. It should be noted that the relevant Ordinances remain the authorities for the provisions of the laws explained.

In case of disputes between the employer and employee on the rights and responsibilities of either party under the Employment Ordinance or the contract of employment, the employee concerned should seek assistance from the Labour Relations Division of the Labour Department as early as possible in order to avoid delay in meeting the statutory time limits for the claims concerned. In whatever circumstances, claimants should file their claims within the time limits stipulated under the relevant Ordinances as far as practicable.

Item / Authority <Relevant Ordinance>	Statutory Time Limit
<p>Liability to pay wages of sub-contractor's employees</p> <p><Employment Ordinance></p>	<ul style="list-style-type: none"> ● If an employee employed by a sub-contractor is owed wages, the employee shall serve a written notice to the principal contractor or the main nominated sub-contractor within 60 days after the wages become due. ● Having regard to the circumstances of the case, the Commissioner for Labour may approve an additional period up to 90 days.
<p>Severance payment</p> <p><Employment Ordinance></p>	<ul style="list-style-type: none"> ● An employee who wishes to make a claim for severance payment shall serve a written notice to his employer within 3 months after the dismissal/lay-off takes effect. ● Having regard to the circumstances of the case, the Commissioner for Labour may extend the deadline for serving such notice.
<p>Long service payment in the event of the death of an employee</p> <p><Employment Ordinance></p>	<ul style="list-style-type: none"> ● The eligible person (such as the spouse, children or parents) who wishes to make a claim for long service payment shall serve an application properly filled out in a specified form to the employer within 30 days after the death of the employee. ● Having regard to the circumstances of the case, the Commissioner for Labour may extend the deadline.

Item / Authority <Relevant Ordinance>	Statutory Time Limit
<p>Employment protection relating to unreasonable variation of the terms of the contract of employment and unreasonable/unlawful dismissal</p> <p><Employment Ordinance></p>	<ul style="list-style-type: none"> ● An employee may claim remedies against his employer in the event of unreasonable dismissal, unreasonable variation of the terms of the employment contract or unreasonable and unlawful dismissal. ● The employee shall give a written notice to the employer in respect of his claim within 3 months from the effective date of termination of employment or variation of contract terms. ● Having regard to the circumstances of the case, the Commissioner for Labour may extend the deadline for a further period of up to 6 months.
<p>Labour Tribunal</p> <p><Limitation Ordinance></p> <p><Employment Ordinance></p>	<ul style="list-style-type: none"> ● Actions founded on simple contract or on tort and certain other actions, insofar claims for remedies under Part VIA of the Employment Ordinance (such as order for reinstatement and re-engagement, award of terminal payments and award of compensation) are not involved, shall be brought within 6 years from the date on which the cause of action accrued. ● Claims for remedies regarding employment protection under Part VIA of the Employment Ordinance shall be filed within 9 months from the effective date of termination of employment or variation of contract terms.
<p>Minor Employment Claims Adjudication Board (MECAB)</p> <p><Minor Employment Claims Adjudication Board Ordinance></p>	<ul style="list-style-type: none"> ● Unless both parties agree, the jurisdiction of MECAB only covers those claims which arose within 12 months before the date on which the claim is filed. ● Cases beyond the jurisdiction of MECAB will be transferred to the Labour Tribunal.

Note: Under the Employment Ordinance, where a contract of employment is terminated by payment in lieu of notice in accordance with the Ordinance, the effective date of termination of employment mentioned above refers to the date up to which such wages are calculated.

Ex gratia Payment <Relevant Ordinance>	Statutory Time Limit
<p>Ex gratia payment from the Protection of Wages on Insolvency Fund (Fund)</p> <p><Protection of Wages on Insolvency Ordinance></p>	<ul style="list-style-type: none"> ● An employee whose employer has become insolvent may present a winding-up or bankruptcy petition against his employer and, at the same time, apply for ex gratia payment from the Fund in respect of wages, pay for untaken annual leave, pay for untaken statutory holidays, wages in lieu of notice and/or severance payment in arrears. ● Arrears of wages covered by the Fund are wages owed to an employee in respect of services rendered to his employer within 4 months prior to the employee's last day of service. ● The Fund covers pay for statutory holidays under the Employment Ordinance not yet taken by an employee within 4 months before his last day of service. ● Application in respect of wages and pay for untaken statutory holidays shall be made within 6 months after the employee's last day of service. ● Application in respect of pay for untaken annual leave, wages in lieu of notice or severance payment shall be made within 6 months after the date of termination of contract. ● The employee has to make statutory declaration on his application and produce supporting documents (e.g. employment contract, wage receipts and attendance records) for scrutiny.

Employment Claims



References

For further details about the employment claims mentioned in this leaflet, you may refer to the following publications published by the Labour Department or the Judiciary:

- Concise Guide to the Employment Ordinance
- Simple Guide to the Minor Employment Claims Adjudication Board
- Labour Tribunal (booklet)
- Guide to the Protection of Wages on Insolvency Ordinance and Points to note for making application to the Protection of Wages on Insolvency Fund

Enquiries

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

Homepage Address : <http://www.labour.gov.hk>

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