

Chapter:	453	<b>Minor Employment Claims Adjudication Board Ordinance</b>	Gazette Number	Version Date
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		<b>Long title</b>	E.R. 1 of 2013	25/04/2013
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An Ordinance to establish a Board having limited jurisdiction to adjudicate minor employment claims, to be known as the Minor Employment Claims Adjudication Board, and to make provision for its jurisdiction, procedure and practice and for related matters.

(Enacted 1994)

[The Ordinance other than section 45<sup>#</sup> } 23 December 1994] *L.N. 677 of 1994*

(Enacting provision omitted—E.R. 1 of 2013)

(Originally 61 of 1994)

(\*Format changes—E.R. 1 of 2013)

**Note:**

# This section had not come into operation before it was repealed by section 102 of the Law Reform (Miscellaneous) Provisions and Minor Amendments) Ordinance 1997 (80 of 1997).

\* The format of the whole Ordinance has been updated to the current legislative styles.

Part:	1	<b>Preliminary</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	1	<b>Short title</b>	E.R. 1 of 2013	25/04/2013
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(1) This Ordinance may be cited as the Minor Employment Claims Adjudication Board Ordinance.

(2) (Omitted as spent—E.R. 1 of 2013)

(Enacted 1994)

Section:	2	<b>Interpretation</b>	E.R. 1 of 2013	25/04/2013
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In this Ordinance, unless the context otherwise requires-

**adjudication officer** (仲裁官) means an adjudication officer appointed under section 4(1);

**authorized officer** (獲授權人員) means a public officer who has been authorized by the Commissioner under section 4(6) to assist in conciliation under this Ordinance;

**Board** (仲裁處) means the Minor Employment Claims Adjudication Board established by section 3;

**claim** (申索) means a proceeding before the Board between a claimant and a defendant;

**claimant** (申索人) means a person seeking relief other than-

- (a) a defendant entering a counterclaim; and
- (b) a person who is being represented in a representative claim;

**Commissioner** (處長) means the Commissioner for Labour;

**conciliation** (調停) means a discussion or action initiated or undertaken by an authorized officer for the purpose of reaching a settlement of a dispute in respect of which a claim may be brought; (Amended 15 of 2012 s. 11)

**contract of employment** (僱傭合約) means-

- (a) an agreement, whether express or implied by law, whereby one person agrees to employ another and that other agrees to serve his employer as an employee whether payment is to be on a price, task or time basis and wherever the services are to be rendered; and
- (b) a contract of apprenticeship;

**defendant** (被告人) means a person against whom relief is sought by a claimant other than-

- (a) a person against whom relief is sought by way of counterclaim; and
- (b) a person who is being represented in a representative claim;

**employee** (僱員) means a person who has agreed to serve as an employee under a contract of employment;

**Labour Tribunal** (勞資審裁處) means the Labour Tribunal established by section 3 of the Labour Tribunal Ordinance (Cap 25);

**party** (當事人) means a claimant or defendant and any person joined as a third party;

**registrar** (案務主任) means the registrar of the Board;

**representative claim** (代表申索) means a claim brought in the name of one claimant on behalf of himself and one or more other claimants;

**Small Claims Tribunal** (小額錢債審裁處) means the Small Claims Tribunal established by section 3 of the Small Claims Tribunal Ordinance (Cap 338).

(Enacted 1994)

Part:	2	<b>Constitution of the Board</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	3	<b>Establishment of the Board</b>	E.R. 1 of 2013	25/04/2013
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- (1) There is hereby established a Board to be known as the Minor Employment Claims Adjudication Board.
- (2) The Board shall consist of such adjudication officers as may be appointed under section 4.
- (3) The Board shall have such jurisdiction and powers as are conferred on it by this or any other Ordinance.
- (4) Any power conferred on the Board by this Ordinance may be exercised by an adjudication officer.
- (5) All proceedings before the Board shall be inquired into, heard and determined by an adjudication officer sitting alone.

(Enacted 1994)

Section:	4	<b>Appointment of adjudication officers and other officers</b>	E.R. 1 of 2013	25/04/2013
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- (1) The Commissioner may appoint such number of public officers as he considers necessary to be adjudication officers.
- (2) Subject to subsection (3), an appointment made under subsection (1) may be given retrospective effect.
- (3) No person appointed as an adjudication officer shall discharge any function as such before the date of the instrument by which he is appointed or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap 11) have been fulfilled. (Amended L.N. 650 of 1994)
- (4) There shall be attached to the Board a registrar and such number of deputy or assistant registrars, clerks and other officers as the Commissioner may consider necessary.
- (5) Any act which under this Ordinance or any other enactment is required or authorized to be done by the registrar may be performed by a deputy registrar or assistant registrar of the Board.
- (6) The Commissioner may authorize any public officer to assist in conciliation.

(Enacted 1994)

Part:	3	<b>Jurisdiction</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	5	<b>Jurisdiction of the Board</b>	L.N. 163 of 2013	03/03/2014
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- (1) Subject to subsection (3), the Board shall have jurisdiction to inquire into, hear and determine the claims specified in the Schedule.
- (1A) Without derogation from the generality of subsection (1), the Board shall have jurisdiction to inquire into, hear and determine a claim or counterclaim or set-off and counterclaim transferred to it under section 7 or 10 of the

Small Claims Tribunal Ordinance (Cap 338). (Added 28 of 1999 s. 18)

- (2) Save as is provided in this Ordinance, no claim within the jurisdiction of the Board shall be actionable in any court.
- (3) The Board shall not have jurisdiction to inquire into, hear or determine-
- (a) any claim for a sum of money, or otherwise in respect of a cause of action, founded in tort whether arising from a breach of contract or a breach of duty imposed by a rule of common law or by any enactment; and
  - (b) any claim submitted to proof in a bankruptcy or winding up under the Bankruptcy Ordinance (Cap 6) or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32). (Amended 28 of 2012 ss. 912 & 920)

(Enacted 1994)

Section:	6	<b>Power to amend Schedule</b>	E.R. 1 of 2013	25/04/2013
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The Commissioner may by notice in the Gazette amend the Schedule.

(Enacted 1994)

Section:	7	<b>Limitation</b>	E.R. 1 of 2013	25/04/2013
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- (1) Subject to subsection (2), the Board shall not have jurisdiction to inquire into, hear or determine a claim or part of a claim if the right of action arose 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 and filed with the registrar, have agreed that the Board shall have jurisdiction.
- (2) When the right of action in a claim arose partly before and partly after the 12 month period of limitation prescribed by subsection (1), the Board may, with the consent of the parties, sever that part of the claim over which it has no jurisdiction and inquire into, hear and determine the part over which it has jurisdiction.
- (3) Nothing in this section shall preclude the institution of proceedings in the Small Claims Tribunal, the District Court or the Court of First Instance in respect of a claim which, by reason of the expiration of the limitation period prescribed by subsection (1), is not actionable in accordance with this Ordinance. (Amended 25 of 1998 s. 2)

(Enacted 1994)

Section:	8	<b>Declining jurisdiction</b>	E.R. 1 of 2013	25/04/2013
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- (1) The Board may, at any stage of the proceedings, either of its own motion or upon the application of any party, decline jurisdiction if it is of the opinion that for any reason the claim should not be inquired into, heard and determined by it.
- (2) Without prejudice to the generality of subsection (1), where-
- (a) a claim is brought by a claimant against a defendant; and
  - (b) the aggregate of the amount of-
    - (i) the claim mentioned in paragraph (a); and
    - (ii) a claim (if any) brought previously by the same claimant against the same defendant which is pending or being heard before the Board,exceeds the monetary amount mentioned in the Schedule,
- the Board may decline jurisdiction in relation to both such claims.
- (3) The Board shall, when it declines jurisdiction under subsection (1) or (2), transfer the claim to the Labour Tribunal.

(Enacted 1994)

Section:	9	<b>Division of causes of action</b>	E.R. 1 of 2013	25/04/2013
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No claim shall be split or divided and pursued in separate proceedings before the Board for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of the Board.

(Enacted 1994)

Section:	10	<b>Abandonment of part claim to give Board jurisdiction</b>	E.R. 1 of 2013	25/04/2013
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- (1) Where a claimant has a claim which exceeds the monetary amount mentioned in the Schedule and which, but for the excess, would be within the jurisdiction of the Board, the claimant may abandon the excess, and thereupon the Board shall have jurisdiction to inquire into, hear and determine the claim.
  - (2) Where the Board has jurisdiction to inquire into, hear and determine a claim by virtue of this section-
    - (a) the claimant shall not recover in the claim an amount exceeding the monetary amount mentioned in the Schedule; and
    - (b) the award of the Board on the claim shall be in full discharge of all demands in respect of the claim.
- (Enacted 1994)

Part:	4	<b>Commencement of Proceedings</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	11	<b>Filing claims</b>	E.R. 1 of 2013	25/04/2013
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- (1) A proceeding before the Board may be commenced by filing a claim with the registrar.
  - (2) Subject to subsection (3), a claim shall-
    - (a) be in writing in either the English or Chinese language in such form as the registrar may, subject to section 12, specify; and
    - (b) be signed by each claimant.
  - (3) The registrar may permit a claim to be made orally in either English or Chinese and shall cause it to be reduced to writing, in the language in which it is made, and shall supply a copy of the claim to the claimant.
- (Enacted 1994)

Section:	12	<b>Contents of claims</b>	E.R. 1 of 2013	25/04/2013
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A claim shall contain-

- (a) the name and address of each claimant;
  - (b) the name and address of each defendant;
  - (c) a statement of the amount of money claimed by each claimant; and
  - (d) such particulars of the claim as shall be reasonably sufficient to inform the defendant of the grounds for the claim and of the manner in which the amount claimed by each claimant has been calculated.
- (Enacted 1994)

Section:	13	<b>Service of claim and notice of hearing</b>	E.R. 1 of 2013	25/04/2013
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- (1) The registrar shall, when a claim has been filed-
    - (a) fix a date and place for hearing the claim; and
    - (b) cause a copy of the claim, together with a notice of the date and place of hearing, to be served on every party concerned in the manner specified in subsection (2).
  - (2) Service of a copy of the claim and the notice of the date and place of hearing shall be effected-
    - (a) by delivering them personally to the parties concerned;
    - (b) by leaving them with some person for a party concerned at his last known place of residence or business;
    - (c) by sending them by post addressed to a party concerned at his last known place of residence or business; or
    - (d) in such other manner as the registrar may think fit.
- (Enacted 1994)

Section:	14	<b>Conciliation certificate and settlement</b>	E.R. 1 of 2013	25/04/2013
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- (1) The Board shall not hear a claim until a certificate signed by an authorized officer is filed with the registrar to the effect that-
  - (a) one or more of the parties have refused to take part in conciliation;

- (b) conciliation has been attempted but no settlement has been reached;
  - (c) conciliation is unlikely to result in a settlement being reached; or
  - (d) conciliation may prejudice the interests of a party.
- (2) If a settlement of a claim is reached, the terms of the settlement shall be reduced to writing in such form as the registrar may specify and signed by the parties to the settlement.
- (3) A settlement, which has been reduced to writing and signed by the parties thereto, shall be filed with the registrar.
- (4) A settlement filed under subsection (3) shall be treated for all purposes as if it were an award of the Board.
- (Enacted 1994)

Section:	14A	<b>Claims transferred from the Small Claims Tribunal</b>	E.R. 1 of 2013	25/04/2013
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- (1) Where a claim is transferred to the Board under section 7 of the Small Claims Tribunal Ordinance (Cap 338)-
- (a) the claim shall upon such transfer be regarded for all purposes as a claim brought under this Ordinance;
  - (b) the requirements under this Ordinance that would have to be fulfilled in relation to the claim before it could be inquired into, heard and determined by the Board if it were a claim brought under this Ordinance shall, upon such transfer, be deemed to have been fulfilled in relation to the claim.
- (2) Where a counterclaim or set-off and counterclaim is transferred to the Board under section 10 of the Small Claims Tribunal Ordinance (Cap 338)-
- (a) the counterclaim or set-off and counterclaim shall upon such transfer be regarded for all purposes as-
    - (i) a claim or counterclaim; or
    - (ii) a claim or set-off and counterclaim, as the case requires, brought under this Ordinance;
  - (b) the requirements under this Ordinance that would have to be fulfilled in relation to the counterclaim or set-off and counterclaim before it could be inquired into, heard and determined by the Board if it were-
    - (i) a claim or counterclaim; or
    - (ii) a claim or set-off and counterclaim, as the case requires, brought under this Ordinance shall, upon such transfer, be deemed to have been fulfilled in relation to the counterclaim or set-off and counterclaim.
- (Added 28 of 1999 s. 18)

Part:	5	<b>Practice and Procedure</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	15	<b>Hearing to be in public unless otherwise ordered</b>	E.R. 1 of 2013	25/04/2013
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The hearing of a claim shall be conducted in public unless the Board considers that in the interests of justice the hearing or any part of it should be in private, in which case it shall order accordingly.

(Enacted 1994)

Section:	16	<b>Keeping of summary of evidence, etc.</b>	E.R. 1 of 2013	25/04/2013
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The Board shall keep a summary of the evidence, submissions or statements made or given at the hearing.

(Enacted 1994)

Section:	16A	<b>Language</b>	E.R. 1 of 2013	25/04/2013
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- (1) The hearing of claims may be conducted in the English or Chinese language or both as the Board thinks fit.
- (2) Notwithstanding subsection (1)-
- (a) any person who has a right of audience under section 22 may address the Board in any language;
  - (b) any witness testifying before the Board may testify in any language.

(Added 51 of 1995 s. 17)

Section:	17	<b>Hearing to be informal</b>	E.R. 1 of 2013	25/04/2013
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- (1) The hearing of claims in the Board shall be conducted in an informal manner.
- (2) The Board may order the production of any document, record, book of account or other exhibit which it considers relevant to the claim and put to a party or witness such question as it may think fit.
- (3) The Board may investigate any matter which it considers relevant to the claim, whether or not it has been raised by a party.

(Enacted 1994)

Section:	18	<b>Failure of claimant to appear at hearing</b>	E.R. 25.4.2013	25/04/2013
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- (1) If, upon the hearing of a claim, the claimant does not appear, the Board may strike out the claim, without prejudice, however, to the restoration of such claim by the Board, on the application of the claimant, on such terms as it may think just.
- (2) An application under subsection (1) shall be made within 7 days after the hearing or such further period as the Board may allow.

(Enacted 1994)

Section:	19	<b>Hearing of claims in the absence of defendant</b>	E.R. 1 of 2013	25/04/2013
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If a defendant fails to appear at the hearing of a claim by himself or by a representative referred to in section 22, the Board may, if it is satisfied that-

- (a) a copy of the claim and the notice of the date and place of hearing have been served on the defendant under section 13; and
  - (b) the facts relating to the claim are sufficiently established,
- inquire into, hear and determine the claim and make such award or order as it may think fit, notwithstanding the absence of the defendant.

(Enacted 1994)

Section:	20	<b>Setting aside award or order made in absence of defendant</b>	E.R. 1 of 2013	25/04/2013
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- (1) Any award or order made by the Board under section 19 in the absence of a defendant at a hearing may be set aside by the Board, on the application of the defendant, on such terms as it may think just.
- (2) An application under subsection (1) shall be made within 7 days after the hearing or such further period as the Board may allow.

(Enacted 1994)

Section:	21	<b>Announcement of decision</b>	E.R. 1 of 2013	25/04/2013
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- (1) The adjudication officer shall deliver his determination of a claim and make such award or order thereon as he may think fit as soon as possible after the conclusion of the hearing of the claim.
- (2) The reasons for an award or order may be given orally or in writing as the adjudication officer may think fit.
- (3) An adjudication officer shall, when he has made an award or order orally, reduce it to writing as soon as possible, and in any case not later than 14 days after the date of the award or order.
- (4) Every written award or order shall be served by the registrar on the parties.
- (5) Service of a written award or order under subsection (4) shall be effected-
  - (a) by delivering it personally to the party to be served;
  - (b) by leaving it with some person for him at his last known place of residence or business;
  - (c) by sending it by post addressed to him at his last known place of residence or business; or
  - (d) in such other manner as the registrar may think fit.

(Enacted 1994)

Section:	22	<b>Right of audience</b>	E.R. 1 of 2013	25/04/2013
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- (1) The following persons shall have a right of audience before the Board-
  - (a) any party;
  - (b) an officer or servant of a corporation who is authorized in writing by the corporation to appear as its representative, if the corporation is a party;
  - (c) a member of a partnership, if the persons comprising the partnership are parties;
  - (d) with the leave of the Board, an office-bearer of a trade union registered under the Trade Unions Ordinance (Cap 332) or of an association of employers who is authorized in writing by a party to appear as his representative.
- (2) No barrister or solicitor, including a barrister or solicitor who is a public officer, whether or not qualified to practise in a court in Hong Kong, shall have a right of audience before the Board unless he is acting on his own behalf as a party.

(Enacted 1994)

Section:	23	<b>Claims may be joined</b>	E.R. 1 of 2013	25/04/2013
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- (1) If 2 or more claims are filed and it appears to the Board that-
  - (a) a common question of law or fact arises in both or all of them;
  - (b) the claims arise out of the same cause of action; or
  - (c) it would be in the interests of justice to do so,
 the Board may order that such claims be joined.
- (2) The power conferred by this section may be exercised notwithstanding that an inquiry into or hearing of 1 or more of the claims has been commenced.

(Enacted 1994)

Section:	24	<b>Representative claims</b>	E.R. 1 of 2013	25/04/2013
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- (1) Subject to subsection (2), if 2 or more, but not more than 5, persons have claims against the same defendant, such claims may be brought in the name of one of such persons as the representative of some or all of them.
- (2) The Board may, if at any stage of the proceedings it considers that the bringing of a representative claim may prejudice the defendant, order that the claims of all or any of the persons represented shall be inquired into, heard and determined separately.
- (3) Subject to subsection (4), each person represented in a representative claim shall be deemed to have authorized the representative on his behalf to-
  - (a) call and give evidence and make submissions to the Board on any matter arising during the inquiry into the claim;
  - (b) file affidavits, statements or other documents;
  - (c) agree to an adjournment or change of venue;
  - (d) agree to a settlement of the claim on such terms as he may think fit;
  - (e) amend the claim in respect of all or any of the individual claims or to abandon the claim; and
  - (f) act generally in as full and free a manner as such claimant could act himself.
- (4) The Board may, upon the application of a person represented in a representative claim, order that an authority deemed to be given under subsection (3) does not apply to the representative of that person.
- (5) The Board may, at any time before making an award, grant leave to any person to join as a person represented in a claim on such terms as it may think fit.
- (6) The Board may cause public notice to be given, in such manner as it may think fit, of the particulars of a representative claim which has been filed and of the date and place which have been fixed for the hearing of the claim.

(Enacted 1994)

Section:	25	<b>Joint defendants</b>	E.R. 1 of 2013	25/04/2013
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- (1) If 2 or more persons are defendants to a claim, as partners or otherwise, a process may be served on any of them

and an award may be obtained and execution issued against any person so served notwithstanding that any other persons jointly liable may not have been served or been a party or may not be within the jurisdiction of the Board.

- (2) If an award is made against a person in accordance with subsection (1) and is satisfied by that person, he shall be entitled to recover before the Board contribution from any other person jointly liable with him.
- (3) An award obtained against a person in respect of his liability jointly with any other person shall not discharge such other person from liability under the award.
- (4) A person who is sued in respect of his liability jointly with any other person may set up any defence or counterclaim which he would have been entitled to set up if all the persons liable had been made defendants.
- (5) If 2 or more persons are joined as defendants, the claimant may obtain an award against any one or more of the defendants and may enforce the award without prejudice to his right to proceed with the action against any other defendant.

(Enacted 1994)

Section:	26	<b>Evidence</b>	E.R. 1 of 2013	25/04/2013
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- (1) The Board may at any time during the hearing of a claim allow a witness or a party to give evidence on oath or unsworn.
- (2) The rules of evidence shall not apply to proceedings before the Board, which may receive any evidence which it considers relevant.

(Enacted 1994)

Section:	27	<b>Costs</b>	E.R. 1 of 2013	25/04/2013
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- (1) Subject to subsection (2), the Board may at its discretion award to a party costs and expenses, which may include-
  - (a) any reasonable expenses necessarily incurred and any loss of salary or wages suffered by that party; and
  - (b) any reasonable sum paid to a witness for expenses necessarily incurred and any loss of salary or wages suffered by him, in attending the hearing.
- (2) In making an award of costs under this section, the Board shall include a direction as to the amount to be paid by each party who is liable to pay costs.
- (3) An award of costs shall be enforceable in the same manner as any other award of the Board.

(Enacted 1994)

Section:	28	<b>Frivolous or vexatious claims</b>	E.R. 1 of 2013	25/04/2013
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The Board may at any time dismiss a claim which it considers to be frivolous or vexatious on such terms as to payment of costs as it may think just.

(Enacted 1994)

Section:	29	<b>Adjournments</b>	E.R. 1 of 2013	25/04/2013
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The Board may at any time, either of its own motion or on the application of any party, adjourn the hearing of proceedings on a claim on such terms as it may think just.

(Enacted 1994)

Part:	6	<b>Review and Appeal</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	30	<b>Review of awards and orders</b>	E.R. 1 of 2013	25/04/2013
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- (1) Except where a party has filed an application for leave to appeal and does not agree to withdraw the application,

an adjudication officer may, within 14 days from the date of an award or order given or made by the Board, review the award or order and on such review may reopen and rehear the claim wholly or in part and may call or hear fresh evidence and may confirm, vary or reverse the previous award or order.

- (2) The power conferred by subsection (1) may be exercised-
  - (a) by an adjudication officer of his own motion, by notice in writing to all parties;
  - (b) on the application of a party within 7 days, by notice in the form specified by the registrar to all other parties.
- (3) The exercise of the power conferred by subsection (1) shall not operate as a bar to an appeal by a party against the award or order or against the determination of the review.
- (4) On the application of a party for a review under this section, the adjudication officer, having regard to the possibility of assets which may be available to satisfy an award being disposed of to the prejudice of any party, may make such order regarding payment into the Board, giving of security or otherwise as he may think just.
- (5) An adjudication officer may transfer the hearing and consideration of a review to another adjudication officer who shall have all the powers and functions he would have if he had originally heard the claim and had prepared the record of proceedings.

(Enacted 1994)

Section:	31	<b>Appeal on point of law</b>	E.R. 1 of 2013	25/04/2013
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- (1) Any party who is aggrieved by a decision of the Board-
  - (a) on any ground involving a question of law alone; or
  - (b) on the ground that the claim was outside the jurisdiction of the Board,
 may, with leave to appeal granted by the Court of First Instance upon application, appeal to the Court of First Instance.
- (2) An application for leave to appeal under this section shall be-
  - (a) in the form specified by the registrar, specifying the ground of the appeal and the reasons in support of such ground; and
  - (b) lodged with the Registrar of the High Court within-
    - (i) 7 days after the date on which the written award or order is served on the aggrieved party; or
    - (ii) such time as may be extended by the Registrar of the High Court on good cause.
- (3) A refusal by the Court of First Instance to grant leave to appeal shall be final.

(Enacted 1994. Amended 25 of 1998 s. 2)

Section:	32	<b>Powers of Court of First Instance on appeal</b>	E.R. 1 of 2013	25/04/2013
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- (1) On an appeal for which it has granted leave under section 31, the Court of First Instance may-
  - (a) allow the appeal;
  - (b) dismiss the appeal; or
  - (c) remit the matter to the Board with such directions as it may think fit, which may include a direction to the Board for a new hearing.
- (2) On an appeal for which it has granted leave under section 31, the Court of First Instance may-
  - (a) draw any inference of fact; and
  - (b) make such order as to costs and expenses as it may think fit, but may not-
    - (i) reverse or vary any determination made by the Board on questions of fact; or
    - (ii) receive further evidence.
- (3) Subject to section 33, the decision of the Court of First Instance shall be final.

(Enacted 1994. Amended 25 of 1998 s. 2)

Section:	33	<b>Appeal to Court of Appeal</b>	E.R. 1 of 2013	25/04/2013
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- (1) If any party is dissatisfied with a decision of the Court of First Instance on an appeal under section 31, such party may, with leave to appeal granted by the Court of Appeal upon application, appeal to the Court of Appeal.
- (2) The Court of Appeal may grant leave to appeal under subsection (1) if it is satisfied that a question of law of general public importance is involved.

- (3) An application for leave to appeal under this section shall be-
- (a) in the form specified by the Registrar of the High Court, setting out the question of law; and
  - (b) lodged with the Registrar of the High Court within-
    - (i) 7 days after the date of the decision against which the appeal is made; or
    - (ii) such time as may be extended by the Registrar of the High Court on good cause.
- (4) A refusal by the Court of Appeal to grant leave to appeal shall be final.

(Enacted 1994. Amended 25 of 1998 s. 2)

Section:	34	<b>Powers of Court of Appeal on appeal</b>	E.R. 1 of 2013	25/04/2013
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On an appeal for which it has granted leave under section 33, the Court of Appeal may-

- (a) allow the appeal;
  - (b) dismiss the appeal; or
  - (c) remit the matter to the Board with such directions as it may think fit, which may include a direction to the Board for a new hearing,
- and may make such order as to costs as it may think fit.

(Enacted 1994)

Section:	35	<b>Procedure on appeal</b>	E.R. 1 of 2013	25/04/2013
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Subject to this Ordinance, an appeal from the Board shall be brought in such manner and shall be subject to such conditions as shall be prescribed.

(Enacted 1994)

Section:	36	<b>Stay of execution on review or appeal</b>	E.R. 1 of 2013	25/04/2013
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Neither a decision by an adjudication officer to exercise his power of review under section 30 nor the filing of an application for leave to appeal under section 31 or 33 shall operate as a stay of execution of an award or order unless the Board, the Court of First Instance or the Court of Appeal, as the case may be, otherwise orders and any stay of execution may be subject to such conditions as to costs, payment into the Board, the giving of security or otherwise as the Board, the Court of First Instance or the Court of Appeal may think just.

(Enacted 1994. Amended 25 of 1998 s. 2)

Part:	7	<b>Miscellaneous</b>	E.R. 1 of 2013	25/04/2013
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(Enacted 1994)

Section:	37	<b>Enforcement of award of Board</b>	E.R. 1 of 2013	25/04/2013
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An award or order of the Board may be registered, in such manner as may be specified by the Registrar of the District Court, in the District Court and shall, on such registration, become for all purposes a judgment of the District Court and, subject to section 39, may be enforced accordingly, notwithstanding that the amount for which an award or order has been given is not within the jurisdiction of the District Court.

(Enacted 1994)

Section:	38	<b>Interest on claims and awards</b>	E.R. 1 of 2013	25/04/2013
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- (1) The Board may include in the amount of an award interest at the rate specified in subsection (4) on the whole or any part of the period between the date when the cause of action arose and the date of the award.
- (2) The power conferred by subsection (1) may be exercised-
  - (a) whether or not interest is expressly claimed;
  - (b) at any time after the date of the award if it appears to the Board that the failure to claim or to award interest was through inadvertence; and
  - (c) where an award is made against the defendant in his absence.

- (3) An award shall carry interest at the rate specified in subsection (4) on the aggregate amount thereof, or on such part thereof as for the time being remains unsatisfied, from the date of the award until satisfaction.
- (4) The rate of interest specified for the purpose of subsections (1) and (3) shall be the rate fixed by the Chief Justice by notice in the Gazette under section 50 of the District Court Ordinance (Cap 336).

(Enacted 1994)

Section:	39	<b>Payment of award</b>	E.R. 1 of 2013	25/04/2013
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In a joint or representative claim the amount of an award shall be paid to the claimants or persons represented in such amount and manner as the Board may think fit.

(Enacted 1994)

Section:	40	<b>Immunity</b>	E.R. 1 of 2013	25/04/2013
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- (1) In the performance of any function under this Ordinance, an adjudication officer has the same privileges and immunities as a judge of the Court of First Instance in civil proceedings in that court.
- (2) A witness before the Board shall be entitled to the same privileges and immunities as if he were a witness in civil proceedings in the Court of First Instance.

(Enacted 1994. Amended 25 of 1998 s. 2)

Section:	41	<b>Offences</b>	E.R. 1 of 2013	25/04/2013
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- (1) Any person who by threats, persuasion or otherwise induces a witness or a party not to give evidence in any hearing before the Board commits an offence.
- (2) Any person who, in a hearing before the Board-
- uses a threatening or insulting expression to or concerning or in the presence of the adjudication officer; or
  - behaves in an insulting manner or wilfully interrupts the hearing, commits an offence.
- (3) Any person who, without reasonable cause, fails to comply with an order under section 17(2) to produce any document, record, book of account or other exhibit commits an offence.
- (4) Any person who commits an offence under subsection (1), (2) or (3) shall be liable to a fine at level 3 and to imprisonment for 6 months.
- (5) A prosecution for an offence under subsection (3) may be brought in the name of the Commissioner and may be commenced and conducted by any officer of the Labour Department authorized in that behalf in writing by the Commissioner.
- (6) Nothing in this section shall derogate from the power of the Secretary for Justice in respect of the prosecution of criminal offences. (Amended L.N. 362 of 1997)

(Amended E.R. 1 of 2013)

(Enacted 1994)

Section:	42	<b>Chief Justice may make rules</b>	E.R. 1 of 2013	25/04/2013
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The Chief Justice may make rules-

- regulating the procedure for-
  - applying for review, and the hearing of such applications, under section 30;
  - applying for leave to appeal, and the hearing of such applications, under sections 31 and 33;
  - the hearing of appeals under sections 32 and 34;
- regulating the transfer of proceedings to the Labour Tribunal;
- providing for matters of procedure which are not provided for in this Ordinance;
- prescribing anything which is to be or may be prescribed;
- prescribing the fees and costs applicable to proceedings in the Board;
- generally for the better carrying out of the provisions of this Ordinance.

(Enacted 1994)

Section:	43	<b>Procedure generally</b>	E.R. 1 of 2013	25/04/2013
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Where no provision is made by this Ordinance or rules made under section 42, the practice and procedure in the Board shall be such as the Board may determine, either generally or in any particular proceeding.

(Enacted 1994)

Section:	44	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	45	<b>(Repealed 80 of 1997 s. 102)</b>		30/06/1997
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Section:	46	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	47	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	48	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	49	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	50	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	51	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	52	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	53	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	54	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	55	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Section:	56	<b>(Omitted as spent—E.R. 1 of 2013)</b>	E.R. 1 of 2013	25/04/2013
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Schedule:		<b>Schedule</b>	E.R. 1 of 2013	25/04/2013
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[sections 5, 6, 8, 10 & 19]

### **Jurisdiction of the Minor Employment Claims Adjudication Board**

Subject to any provision in this Ordinance (including section 7), the Board shall have jurisdiction to inquire into, hear and determine a claim-

- (a) the right of action of which arose wholly before 25 June 1997 and made by not more than 5 claimants for a sum of money not exceeding \$5000 per claimant, which arises from-
  - (i) the breach of a term, whether express or implied, of a contract of employment, whether for performance in Hong Kong or under a contract to which the Contracts for Employment Outside Hong Kong Ordinance (Cap 78) applies;
  - (ii) the breach of a term, whether express or implied, of a contract of apprenticeship;
  - (iii) the failure of a person to comply with the provisions of the Employment Ordinance (Cap 57) or the Apprenticeship Ordinance (Cap 47);
  - (iv) any question as to the right of an employee to a severance payment under Part VA of the Employment Ordinance (Cap 57) or the amount of such payment; or
  - (v) any question as to the right of an employee to payment of wages by a person other than his employer under Part IXA of the Employment Ordinance (Cap 57) or the amount of such payment; or
- (b) the right of action of which arose on or after 25 June 1997, or partly before and partly on or after that date, and made by not more than 10 claimants for a sum of money not exceeding \$8000 per claimant, which arises from-
  - (i) the breach of a term, whether express or implied or (if relevant) arising by force of section 10(1) of the Minimum Wage Ordinance (Cap 608), of a contract of employment, whether for performance in Hong Kong or under a contract to which the Contracts for Employment Outside Hong Kong Ordinance (Cap 78) applies;
  - (ii) the breach of a term, whether express or implied or (if relevant) arising by force of section 10(1) of the Minimum Wage Ordinance (Cap 608), of a contract of apprenticeship;
  - (iii) the failure of a person to comply with the provisions of the Employment Ordinance (Cap 57), the Minimum Wage Ordinance (Cap 608) or the Apprenticeship Ordinance (Cap 47);
  - (iv) any question as to the right of an employee to a severance payment under Part VA of the Employment Ordinance (Cap 57) or the amount of such payment; or
  - (v) any question as to the right of an employee to payment of wages by a person other than his employer under Part IXA of the Employment Ordinance (Cap 57) or the amount of such payment. (Amended 15 of 2010 s. 23)

(Replaced L.N. 268 of 1997)