

Chapter:	338	SMALL CLAIMS TRIBUNAL ORDINANCE	Gazette Number	Version Date
----------	-----	---------------------------------	----------------	--------------

		Long title		30/06/1997
--	--	------------	--	------------

To establish a tribunal to be known as the Small Claims Tribunal having limited civil jurisdiction, and to make provision for the jurisdiction, procedure and practice thereof, and for matters connected therewith.

[1 October 1976] *L.N. 239 of 1976*

(Originally 79 of 1975)

Section:	1	Short title		30/06/1997
----------	---	-------------	--	------------

PART I

PRELIMINARY

This Ordinance may be cited as the Small Claims Tribunal Ordinance.

Section:	2	Interpretation	L.N. 247 of 2000	01/09/2000
----------	---	----------------	------------------	------------

In this Ordinance, unless the context otherwise requires-

- "adjudicator" (審裁官) means an adjudicator appointed under section 4; (Amended 14 of 1986 s. 2; 21 of 1999 s. 14)
- "Board" (仲裁處) means the Minor Employment Claims Adjudication Board established by section 3 of the Minor Employment Claims Adjudication Board Ordinance (Cap 453); (Added 28 of 1999 s. 2)
- "claim" (申索) includes a proceeding in the tribunal between a claimant and a defendant; (Amended 28 of 1999 s. 2)
- "claimant" (申索人) means a person bringing a claim other than-
- (a) a defendant entering a counterclaim; and
 - (b) a person who is being represented in a representative claim;
- "defendant" (被告人) means a person against whom a claim is made by a claimant other than-
- (a) a claimant against whom relief is sought by way of counterclaim; and
 - (b) a person who is being represented in a representative claim;
- "deputy adjudicator" (暫委審裁官) means a deputy adjudicator appointed under section 4A; (Added 14 of 1986 s. 2)
- "Labour Tribunal" (勞資審裁處) means the Labour Tribunal established by section 3 of the Labour Tribunal Ordinance (Cap 25); (Added 28 of 1999 s. 2)
- "Lands Tribunal" (土地審裁處) means the Lands Tribunal established by section 3 of the Lands Tribunal Ordinance (Cap 17); (Added 28 of 1999 s. 2)
- "party" (一方) means a claimant or defendant and any person joined as a third party;
- "registrar" (司法常務官) means the Registrar of the District Court; (Amended 28 of 2000 s. 47)
- "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;
- "tribunal" (審裁處) means the Small Claims Tribunal established by section 3.

Section:	3	Establishment of tribunal	L.N. 172 of 1999	05/07/1999
----------	---	---------------------------	------------------	------------

PART II

CONSTITUTION OF TRIBUNAL

(1) There is hereby established a tribunal to be known as the Small Claims Tribunal and to be known in the Chinese language as "小額錢債審裁處".

(2) The tribunal, which shall consist of such adjudicators and deputy adjudicators as may be appointed under this Ordinance, shall be a court of record with such jurisdiction and powers as are conferred on it by this or any other Ordinance. (Amended 21 of 1999 s. 15)

(3) All proceedings in the tribunal shall be heard and determined by an adjudicator or a deputy adjudicator sitting alone. (Amended 21 of 1999 s. 15)

(4) The tribunal shall have a seal of a design approved by the Chief Justice, and all awards, orders, summonses, and other processes of the tribunal shall be sealed therewith.

Section:	4	Appointment of adjudicators	10 of 2005	08/07/2005
----------	---	-----------------------------	------------	------------

(1) The Chief Executive shall appoint such number of adjudicators as he considers necessary. (Amended 25 of 1998 s. 2)

(2) (Repealed 10 of 2005 s. 151)

(3) An adjudicator shall be known in the Chinese language as "審裁官".

(4) Subject to subsection (5), an appointment made under subsection (1) may be given retrospective effect.

(5) No person appointed as an adjudicator shall discharge any judicial function 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.

Section:	4AA	Professional qualifications of adjudicators	10 of 2005	08/07/2005
----------	-----	---	------------	------------

(1) A person shall be eligible to be appointed as an adjudicator if-

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years-

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87);

(iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap 91);

(iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap 6); or

(v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b)-

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap 100) may be taken into account notwithstanding the repeal of that Ordinance.

(Added 10 of 2005 s. 152)

Section:	4A	Appointment and powers of deputy adjudicators	10 of 2005	08/07/2005
----------	----	---	------------	------------

(1) If the Chief Justice considers it desirable so to do, he may appoint a person who is eligible under section 4AA to be appointed as an adjudicator to be a deputy adjudicator for such period as the Chief Justice may think fit. (Amended 10 of 2005 s. 153)

(2) Subject to the terms of appointment, a deputy adjudicator shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and perform all the duties of the office of adjudicator and any reference in any law to an adjudicator shall be construed accordingly. (Amended 21 of 1999 s. 16)

(2A) Every appointment made in accordance with this section may be terminated by the Chief Justice at any time. (Added 21 of 1999 s. 16)

(3) Where the hearing of any proceedings duly commenced before a deputy adjudicator is adjourned or where judgment is reserved therein or is subject to review, the deputy adjudicator shall have power to resume the hearing and determine the proceedings or to deliver as the judgment of the tribunal the judgment which he has reserved or to review the judgment or decision which he has given if such review is otherwise authorized, as the case may be, notwithstanding that before the hearing is resumed or judgment is delivered or the review is disposed of, his appointment has expired or has been terminated.

(4) For the purposes of subsection (3), the power of a deputy adjudicator to determine the proceedings in a resumed hearing includes the power of awarding costs and the making of any order ancillary to or consequential upon the award of costs. (Added 21 of 1999 s. 16)

(Added 14 of 1986 s. 3)

Section:	5	Jurisdiction of the tribunal		30/06/1997
----------	---	------------------------------	--	------------

PART III

JURISDICTION

(1) The tribunal shall have jurisdiction to hear and determine the claims specified in the Schedule.

(2) Save as provided in this Ordinance, no claim within the jurisdiction of the tribunal shall be actionable in any other court in Hong Kong.

(3) A claim within the jurisdiction of the tribunal may be brought in another court if there is included in such claim a claim for some other relief, redress or remedy, other than a claim for costs.

(4) Subject to the Limitation Ordinance (Cap 347), the jurisdiction of the tribunal shall extend to a claim which arose before the commencement of this Ordinance.

Section:	6	Power to amend Schedule		30/06/1997
----------	---	-------------------------	--	------------

The Legislative Council may, by resolution, amend the Schedule.

Section:	7	Transfer of claims	L.N. 257 of 1999	19/10/1999
----------	---	--------------------	------------------	------------

The tribunal may at any stage of proceedings in the tribunal, either of its own motion or upon the application of any party, transfer the proceedings to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance, whereupon the practice and procedure of the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance, as the case may be, shall apply.

(Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 3)

Section:	8	Division of causes of action		30/06/1997
----------	---	------------------------------	--	------------

No claim shall be split or divided and pursued in separate proceedings in the tribunal for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of the tribunal.

Section:	9	Abandonment of part claim to give tribunal jurisdiction		30/06/1997
----------	---	---	--	------------

(1) Where a claimant has a claim which exceeds the monetary amount mentioned in paragraphs 1 and 2 of the Schedule and which, but for the excess, would be within the jurisdiction of the tribunal, the claimant may abandon the excess, and thereupon the tribunal shall have jurisdiction to hear and determine the claim, so, however, that the claimant shall not recover in the claim an amount exceeding that mentioned in paragraphs 1 and 2 of the Schedule. (Amended 79 of 1981 s. 2; 14 of 1986 s. 4; 49 of 1988 s. 2)

(2) Where the tribunal has jurisdiction to hear and determine a claim by virtue of this section, the award of the tribunal on the claim shall be in full discharge of all demands in respect of the claim, and judgment shall be deemed to be entered accordingly.

[cf. 1959 c. 22 s. 41 U.K.]

Section:	10	Jurisdiction as to counterclaim	L.N. 257 of 1999	19/10/1999
----------	----	---------------------------------	------------------	------------

(1) Where any counterclaim or set-off and counterclaim in proceedings in the tribunal is a monetary claim which is not within the jurisdiction of the tribunal, the tribunal shall order that the proceedings on the counterclaim or set-off and counterclaim be transferred to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance. (Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 4)

(2) Where an order is made under subsection (1) and judgment on the claim is given for the claimant, execution thereon shall, unless the tribunal otherwise orders, be stayed until the proceedings transferred to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance have been determined. (Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 4)

(3) Where a defendant has a counterclaim or set-off and counterclaim which exceeds the monetary amount mentioned in paragraphs 1 and 2 of the Schedule and which, but for the excess, would be within the jurisdiction of the tribunal, the defendant may abandon the excess and thereupon the tribunal shall have jurisdiction to hear and determine the counterclaim or set-off and counterclaim, so, however, that the defendant shall not recover in the counterclaim or set-off and counterclaim an amount exceeding that mentioned in paragraphs 1 and 2 of the Schedule. (Amended 79 of 1981 s. 2; 14 of 1986 s. 5; 49 of 1988 s. 2)

(4) Where a tribunal has jurisdiction to hear and determine a counterclaim or set-off and counterclaim by virtue of this section, the award of the tribunal on the counterclaim or set-off and counterclaim shall be in full discharge of all demands in respect thereof, and judgment shall be deemed to be entered accordingly.

Section:	11	Costs in transferred cases	L.N. 257 of 1999	19/10/1999
----------	----	----------------------------	------------------	------------

Where any proceedings on a claim or counterclaim or set-off and counterclaim are transferred under section 7 or section 10 from the tribunal to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance, the costs of the proceedings both before and after the transfer shall, subject to any order of the tribunal, be in the discretion of the Board, the Labour Tribunal, the Lands Tribunal or the court to which the proceedings are transferred; and the Board, the Labour Tribunal, the Lands Tribunal or the court may make orders with respect thereto, and where the proceedings are transferred from the tribunal to the Lands Tribunal, the District Court or the Court of First Instance, the Lands Tribunal or the court may also make orders as to the scales on which the costs of the proceedings are to be taxed, and the costs of the whole proceedings shall be taxed in the Lands Tribunal or the court.

(Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 5)

Section:	12	Filing claims	25 of 1998 s. 2	01/07/1997
----------	----	---------------	-----------------	------------

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

PART IV

COMMENCEMENT OF PROCEEDINGS

(1) A proceeding in the tribunal shall be commenced by filing a claim with the registrar.

(2) Subject to subsection (3), a claim shall be in writing in the prescribed form, in either the English or Chinese language, and shall be signed by or on behalf of the claimant. (Amended 14 of 1986 s. 6)

(3) The registrar may permit a claim to be made orally and shall cause it to be reduced to writing in the language in which it is made and shall supply a copy thereof to the claimant. (Amended 25 of 1998 s. 2)

(4) In any joint or representative claim-

(a) the registrar may permit the claim to be filed notwithstanding that it has not been signed by all the claimants or persons represented on condition that all the claimants or such persons shall do so before the date of hearing; and

(b) the name of a claimant or person represented who has not so signed the claim before the hearing may, if the tribunal so directs, be deleted from the claim and the amount of the claim reduced accordingly.

Section:	13	Contents of claim		30/06/1997
----------	----	-------------------	--	------------

A claim shall contain-

- (a) the name and address of each claimant, and, in the case of a representative claim, the name and address of each person represented;
- (b) the name and address of each defendant;
- (c) the sum of money claimed by each claimant or person represented;
- (d) such particulars of the claim as are reasonably sufficient to inform the defendant of the ground for the claim and the manner in which the amount claimed by each claimant or person represented has been calculated.

Section:	14	Service of claim and notice of hearing	L.N. 257 of 1999	19/10/1999
----------	----	--	------------------	------------

- (1) The registrar shall, when a claim has been filed-
 - (a) fix a place and date for hearing the claim which shall not be later than 60 days after the filing of the claim; and (Amended 14 of 1986 s. 7)
 - (b) cause a copy of the written claim and a notice in the prescribed form of the date and place of hearing to be served on every defendant in the manner specified in subsection (2).
- (2) Service of a copy of the written claim and the notice of hearing-
 - (a) shall be carried out by such person as may be appointed by the registrar for the purpose; and
 - (b) shall be effected-
 - (i) by delivering them personally to the defendant;
 - (ii) by leaving them with some person for him at his last known place of residence or business; (Replaced 49 of 1979 s. 2)
 - (iia) by sending them by post addressed to him at his last known place of residence or business; or (Added 49 of 1979 s. 2. Amended 28 of 1999 s. 6)
 - (iii) in such other manner as may be directed by the registrar.

Section:	15	Keeping of summary of evidence, etc.	L.N. 257 of 1999	19/10/1999
----------	----	--------------------------------------	------------------	------------

PART V

PROCEDURE

The adjudicator shall keep or cause to be kept a summary, whether by means of shorthand notes or mechanical, electronic or optical means or otherwise, of the evidence, submissions or statements made or given in proceedings in the tribunal and of any point of law and of his decision thereon.

(Amended 28 of 1999 s. 7)

Section:	16	Hearing to be informal		30/06/1997
----------	----	------------------------	--	------------

- (1) The hearing of proceedings in the tribunal shall be conducted in an informal manner.
- (2) The tribunal may summon any witness and require the production of any document, record, book of account or other thing, which is relevant in any proceedings.
- (3) The tribunal shall inquire into any matter which it may consider relevant to a claim, whether or not it has been raised by a party.

Section:	17	Judgment in default of appearance		30/06/1997
----------	----	-----------------------------------	--	------------

- (1) If a defendant fails to appear at the hearing, by himself or a person authorized by the tribunal to appear on his behalf, the claimant may apply for judgment.
- (2) An application for entry of judgment under subsection (1) may be supported by an affidavit verifying facts relied on.
- (3) Upon application made under subsection (1), the tribunal shall, if it is satisfied that the claimant is entitled

to judgment, order judgment to be entered.

(4) Judgment shall not be entered against a defendant under this section unless the tribunal is satisfied that a copy of the written claim and the notice of hearing have been served on the defendant under section 14(2).

(Replaced 49 of 1979 s. 3)

Section:	18	Determination of claims	L.N. 257 of 1999	19/10/1999
----------	----	-------------------------	------------------	------------

(1) The tribunal shall determine a claim and make such award or order thereon as it thinks 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 tribunal thinks fit.

(3) An adjudicator 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, and it shall not be necessary for the party in whose favour an award or order has been made to prove that it reached the party to be served.

(5) Service of an 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 at his place of business; (Amended 28 of 1999 s. 8)

(ba) by sending it by post addressed to him at his last known place of residence or at his place of business; or (Added 28 of 1999 s. 8)

(c) in such other manner as the registrar thinks fit.

Section:	19	Right of audience	14 of 2003	09/05/2003
----------	----	-------------------	------------	------------

(1) The following persons shall have a right of audience before the tribunal-

(a) any party;

(b) an officer or servant of a corporation, 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 tribunal, any person, other than counsel or a solicitor, who is authorized in writing by a party to appear as his representative; (Amended 14 of 2003 s. 12)

(e) a public officer, not being a barrister or solicitor, who appears on behalf of the Secretary for Justice, if the Secretary for Justice is a party. (Added 14 of 2003 s. 12)

(2) Except for the purposes of proceedings under section 35A for insulting behaviour, 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 tribunal unless he is acting on his own behalf as a claimant or defendant. (Amended 28 of 1999 s. 9)

Section:	20	Claims may be heard together		30/06/1997
----------	----	------------------------------	--	------------

(1) If 2 or more claims are filed and it appears to the tribunal 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,

the tribunal may order that such claims be heard at the same time.

(2) The power conferred by this section may be exercised notwithstanding that the hearing of 1 or more of the claims has begun.

Section:	21	Representative claims		30/06/1997
----------	----	-----------------------	--	------------

(1) Subject to subsection (2), if 2 or more persons have claims against the same defendant, such claims may be brought in the name of 1 of such persons as the representative of some or all of them.

(2) The tribunal may, if at any stage of the proceedings it considers that a representative claim may prejudice the defendant, order that the claims of all or any of the persons represented shall be heard separately.

(3) 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 tribunal on any matter arising during the hearing of 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 thinks fit;
- (e) amend or abandon the claim; and
- (f) act generally in as full and free a manner as such claimant may act on his own behalf.

(4) The authority deemed to be given to a representative by subsection (3) shall not be withdrawn save by leave of the tribunal.

(5) The tribunal may, at any time before determining any claim, grant leave to any person to join in the claim as a person represented on such terms as it may think fit.

(6) The tribunal 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 fixed for the hearing of the claim.

Section:	22	Joint defendants		30/06/1997
----------	----	------------------	--	------------

(1) If 2 or more persons are defendants in proceedings in the tribunal, as partners or otherwise, the claim may be heard and determined in relation to any of such defendants who have been duly served with a written claim notwithstanding that other defendants have not been so served or are not within the jurisdiction of the tribunal.

(2) If an award is made against a defendant under subsection (1) and is satisfied by him, he shall be entitled to claim in proceedings in the tribunal contribution from any other person jointly liable with him.

(3) An award against a defendant in respect of a liability jointly with another person shall not discharge such other person from his liability.

(4) A person against whom a claim is made in respect of a 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 jointly liable with him were defendants.

(5) If 2 or more persons are joined as defendants, the claimant may obtain an award against any 1 or more of the defendants and may enforce the award without prejudice to his right to proceed with the claim against any other defendant.

Section:	23	Evidence		30/06/1997
----------	----	----------	--	------------

(1) The tribunal 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 in the tribunal, which may receive any evidence which it considers relevant.

(Replaced 14 of 1986 s. 8)

Section:	24	Costs		30/06/1997
----------	----	-------	--	------------

(1) Subject to subsection (2), the tribunal may 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 tribunal 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 tribunal.

Section:	25	Frivolous or vexatious claims		30/06/1997
----------	----	-------------------------------	--	------------

The tribunal 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 fit.

Section:	26	Adjournments		30/06/1997
----------	----	--------------	--	------------

The tribunal 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 thinks fit.

Section:	26A	Failure to comply with order of the tribunal	L.N. 257 of 1999	19/10/1999
----------	-----	--	------------------	------------

Where the tribunal directs a party to comply with an order within a specified time and the party fails to do so, the tribunal may dismiss the claim or counterclaim filed by the party, stay the proceedings or enter judgment against the party, as the case may be, on such terms as it thinks just.

(Added 28 of 1999 s. 10)

Section:	27	Review of decision concerning transfer	L.N. 257 of 1999	19/10/1999
----------	----	--	------------------	------------

PART VI

REVIEW AND APPEAL

(Amended 67 of 1977 s. 2)

(1) Where the tribunal has under section 7 transferred a claim to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance, the Court of First Instance may, within 14 days from the date on which the tribunal transferred the claim, review the tribunal's decision and on such review it may- (Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 11)

- (a) confirm the decision of the tribunal or remit the claim to the tribunal; and
- (b) make such order as to costs and expenses as it thinks fit.

(2) The power conferred by subsection (1) may be exercised, on the application of a party, within 7 days of the date on which the tribunal transferred the claim, on notice in the prescribed form to all other parties.

Section:	27A	Review of awards and orders		30/06/1997
----------	-----	-----------------------------	--	------------

(1) Except where a party has filed an application for leave to appeal and does not agree to withdraw the application, an adjudicator may, within 14 days from the date of an award or order given or made by him, review the award or order and on such review may re-open and re-hear the claim wholly or in part and may call or hear fresh evidence and may confirm, vary or reverse his previous award or order.

(2) The power conferred by subsection (1) may be exercised-

- (a) by an adjudicator of his own motion, by notice in the prescribed form to all parties;
- (b) on the application of a party within 7 days, by notice in the prescribed form 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 adjudicator, 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 tribunal, giving of security or otherwise as he may think fit.

(5) An adjudicator may transfer the hearing and consideration of a review to another adjudicator 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.

(Added 67 of 1977 s. 3)

Section:	28	Leave to appeal on point of law	25 of 1998 s. 2	01/07/1997
----------	----	---------------------------------	-----------------	------------

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

- (1) Any party who is aggrieved by a decision of the tribunal-
- (a) on any ground involving a question of law alone; or
 - (b) on the ground that the claim was outside the jurisdiction of the tribunal,
- may apply to the Court of First Instance for leave to appeal and the Court of First Instance may grant such leave if it thinks fit. (Amended 67 of 1977 s. 4; 79 of 1981 s. 10)
- (2) An application for leave to appeal under this section shall be-
- (a) in the prescribed form, 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) if within that period the aggrieved party applies to the tribunal for the reasons for the award or order, 7 days after the date on which the reasons are served on him; or (Amended 67 of 1977 s. 4)
 - (iii) such time as may be extended by the Registrar of the High Court on good cause. (Added 72 of 1982 s. 2)
- (3) A refusal by the Court of First Instance to grant leave to appeal shall be final. (Amended 79 of 1981 s. 10)
- (4) Nothing in this section shall affect any right of appeal under section 50 of the High Court Ordinance (Cap 4).
- (Amended 92 of 1975 ss. 58 & 59; 25 of 1998 s. 2)

Section:	29	Powers of Court of First Instance on appeal	25 of 1998 s. 2	01/07/1997
----------	----	---	-----------------	------------

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

- (1) On an appeal for which it has granted leave under section 28, the Court of First Instance may- (Amended 79 of 1981 s. 10; 49 of 1988 s. 2)
- (a) allow the appeal;
 - (b) dismiss the appeal; or
 - (c) remit the matter to the tribunal with such directions as it thinks fit, which may include a direction to the tribunal for a new hearing.
- (2) On an appeal for which it has granted leave under section 28, the Court of First Instance may- (Amended 79 of 1981 s. 10; 49 of 1988 s. 2)
- (a) draw any inference of fact; and
 - (b) make such order as to costs and expenses as it thinks fit,
- but may not-
- (i) reverse or vary any determination made by the tribunal on questions of fact; or
 - (ii) receive further evidence.
- (3) Subject to section 29A, the decision of the Court of First Instance shall be final. (Added 79 of 1981 s. 10)
(Amended 92 of 1975 s. 59; 25 of 1998 s. 2)

Section:	29A	Appeal to the Court of Appeal	25 of 1998 s. 2	01/07/1997
----------	-----	-------------------------------	-----------------	------------

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

- (1) Any party who is aggrieved by a decision of the Court of First Instance on an appeal heard by leave given under section 28 may, within 7 days after the date of the decision, apply to the Court of Appeal for leave to appeal and, if the Court of Appeal considers that a question of law of general public importance is involved, it may grant leave. (Amended 49 of 1988 s. 2)
- (2) An application for leave to appeal under this section shall be-
- (a) in the prescribed form, setting out the question of law; and
 - (b) lodged with the Registrar of the High Court.
- (3) A refusal by the Court of Appeal to grant leave to appeal shall be final.
(Added 79 of 1981 s. 10; 25 of 1998 s. 2)

Section:	29B	Power of the Court of Appeal on appeal		30/06/1997
----------	-----	--	--	------------

On an appeal for which it has granted leave under section 29A, the Court of Appeal may- (Amended 49 of 1988 s. 2)

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) remit the matter to the tribunal with such directions as it thinks fit, which may include a direction to the tribunal for a new hearing,

and may make such order as to costs as it thinks fit.

(Added 79 of 1981 s. 10)

Section:	30	Procedure on appeal		30/06/1997
----------	----	---------------------	--	------------

Subject to this Part, an appeal from the tribunal shall be brought in such manner and shall be subject to such conditions as may be prescribed.

Section:	31	Stay of execution on appeal	25 of 1998 s. 2	01/07/1997
----------	----	-----------------------------	-----------------	------------

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

The filing of an application for leave to appeal under section 28 or section 29A shall not operate as a stay of execution of an award or order unless the tribunal, the Court of First Instance or 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 tribunal, the giving of security or otherwise as the tribunal, the Court of First Instance or Court of Appeal thinks fit.

(Amended 92 of 1975 s. 59; 79 of 1981 s. 10; 25 of 1998 s. 2)

Section:	32	Enforcement of award of tribunal		30/06/1997
----------	----	----------------------------------	--	------------

PART VII

MISCELLANEOUS

An award of the tribunal may be enforced in the District Court in the same manner as a judgment of that court.
(Amended 14 of 1986 s. 9)

Section:	32A	Setting aside award or order given in absence of party		30/06/1997
----------	-----	--	--	------------

(1) Any award or order of the tribunal obtained where one party did not appear at the hearing may be set aside by the tribunal, on the application of that party, on such terms as it thinks just.

(2) An application under subsection (1) shall be made within 7 days after the hearing or such further period as the tribunal may allow. (Amended 49 of 1979 s. 4)

(Added 67 of 1977 s. 5)

Section:	33	Interest on awards	10 of 2005	08/07/2005
----------	----	--------------------	------------	------------

(1) The tribunal may include in the amount of an award interest at the rate specified in subsection (4) on the whole or any part of the sum claimed for the whole or any part of the period between the date when the cause of action arose and the date of the award. (Amended 14 of 1986 s. 10)

(2) The powers 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 tribunal 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. (Added 14 of 1986 s. 10)

(4) The rate of interest specified for the purposes of subsections (1) and (3) shall be the rate from time to time applicable to judgment debts under section 50 of the District Court Ordinance (Cap 336). (Added 14 of 1986 s. 10. Amended 10 of 2005 s. 229)

Section:	34	Payment of award		30/06/1997
----------	----	------------------	--	------------

(1) In a joint or representative claim the amount of an award shall be paid into the tribunal and there shall be allocated to the parties to the claim the sum of money claimed by each claimant or person represented.

(2) When money is paid into the tribunal by a defendant, in full or part discharge of an award made against him in a joint or representative claim, the defendant shall be deemed to have satisfied his liability under the award to the extent of the amount so paid and shall not be liable to any claimant as to the manner in which such money is allocated by the tribunal.

Section:	35	Penalty for neglect of witness summons	L.N. 257 of 1999	19/10/1999
----------	----	--	------------------	------------

(1) Any person on whom a summons under section 16 has been served who-

- (a) refuses or neglects, without sufficient cause, to appear or produce any documents required by the summons to be produced; or
- (b) refuses to be sworn or give evidence,

shall forfeit such fine not exceeding level 2 as the adjudicator may direct. (Amended 28 of 1999 s. 13)

(2) A person to whom subsection (1) applies shall not forfeit a fine under that subsection unless there has been paid or tendered to him at the time of service of the summons a reasonable sum in respect of his expenses including any loss of salary or wages.

(3) Any person present before the tribunal who is required to give evidence but refuses to be sworn or to give evidence shall forfeit a fine in accordance with subsection (1).

(4) An adjudicator may, in his discretion, direct that the whole or any part of any such fine shall, after deducting the costs, be applied towards indemnifying the party injured by the refusal or neglect but without prejudice to the right of the party so injured to institute civil proceedings in respect of the injury.

[cf. 1959 c. 22 s. 84 U.K.]

Section:	35A	Insulting behaviour	L.N. 257 of 1999	19/10/1999
----------	-----	---------------------	------------------	------------

(1) If any person, in a hearing of proceedings in the tribunal-

- (a) uses a threatening or insulting expression to or concerning or in the presence of the adjudicator; or
- (b) behaves in an insulting manner or wilfully interrupts the hearing of proceedings,

the adjudicator may summarily sentence the person to a fine at level 3 and to imprisonment for 6 months.

(2) For the avoidance of doubt, it is hereby declared that section 50 of the High Court Ordinance (Cap 4) applies in the case of any exercise by the adjudicator of his power under subsection (1).

(Added 28 of 1999 s. 14)

Section:	35B	Power of adjudicator to enforce payment of fine, etc.	L.N. 257 of 1999	19/10/1999
----------	-----	---	------------------	------------

For the purposes of enforcing the payment of any fine imposed or giving effect to any sentence of imprisonment, an adjudicator shall have the powers of a judge.

(Added 28 of 1999 s. 14)

Section:	36	Chief Justice may make rules	L.N. 257 of 1999	19/10/1999
----------	----	------------------------------	------------------	------------

The Chief Justice may make rules-

- (a) regulating the procedure for-

- (i) applying for leave to appeal, and the hearing of such applications, under sections 28 and 29A;
- (ii) the hearing of appeals under sections 29 and 29B; (Amended 79 of 1981 s. 10)
- (b) regulating the transfer of proceedings to the Board, the Labour Tribunal, the Lands Tribunal, the District Court or the Court of First Instance; (Amended 92 of 1975 s. 59; 25 of 1998 s. 2; 28 of 1999 s. 15)
- (c) providing for matters of procedure which are not provided for in this Ordinance;
- (d) prescribing anything which is to be or may be prescribed;
- (e) prescribing the fees and costs applicable to proceedings in the tribunal;
- (f) generally for the better carrying out of the provisions of this Ordinance.

Section:	37	Procedure generally		30/06/1997
----------	----	---------------------	--	------------

Where no provision is made by this Ordinance or rules made under section 36, the practice and procedure in the tribunal shall be such as the tribunal may determine, either generally or in any particular proceeding.

Section:	38	Application to Crown		30/06/1997
----------	----	----------------------	--	------------

This Ordinance binds the Crown.

Section:	39	Immunity	L.N. 257 of 1999	19/10/1999
----------	----	----------	------------------	------------

(1) An adjudicator has, in the exercise of his powers or duties under this Ordinance, 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 tribunal shall be entitled to the same privileges and immunities as if he were a witness in civil proceedings in the Court of First Instance.

(Added 28 of 1999 s. 16)

Schedule:		SCHEDULE	L.N. 18 of 2009	02/04/2009
-----------	--	----------	-----------------	------------

[section 5]

JURISDICTION OF TRIBUNAL

1. Any monetary claim founded in contract, quasi-contract or tort where the amount claimed is not more than \$50000, whether on balance of account or otherwise: (Amended L.N. 81 of 1982; 14 of 1986 s. 11; 49 of 1988 s. 2; 28 of 1999 s. 17)

Provided that the tribunal shall not have jurisdiction to hear and determine-

- (a) any action in respect of-
 - (i) defamation;
 - (ii)-(iii) (Repealed 40 of 1986 s. 6)
- (b) any action or proceeding in respect of a maintenance agreement within the meaning of section 14 of the Matrimonial Proceedings and Property Ordinance (Cap 192);
- (c) any action by a money lender licensed under the Money Lenders Ordinance (Cap 163) for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent;
- (ca) any action that lies within the jurisdiction of the Minor Employment Claims Adjudication Board established by section 3 of the Minor Employment Claims Adjudication Board Ordinance (Cap 453); (Added 61 of 1994 s. 56)
- (d) any action that lies within the jurisdiction of the Labour Tribunal established under the Labour Tribunal Ordinance (Cap 25);
- (e) any action which is submitted to the jurisdiction of the Estate Agents Authority established by section 4 of the Estate Agents Ordinance (Cap 511) and in respect of which the Estate Agents Authority has not declined jurisdiction, under or pursuant to section 49 of that Ordinance; (Added 48 of 1997 s. 58. Amended 3 of 2008 s. 6)

- (f) any action or proceeding for an order for the costs of and incidental to a dispute in relation to which no proceedings have been commenced in the tribunal. (Added 3 of 2008 s. 6)

1A. Notwithstanding subparagraph (d) of the proviso to paragraph 1, the tribunal shall have jurisdiction to hear and determine a claim transferred to the tribunal under section 10(2) of the Labour Tribunal Ordinance (Cap 25). (Added 25 of 1999 s. 19)

2. Any claim for the recovery of any penalty, expenses, contribution or other amount which is recoverable by virtue of any enactment and for the recovery of any amount which is declared by any enactment to be recoverable as a civil debt if-

- (a) it is not expressly provided by that or any other enactment that the demand shall be recoverable only in some other court; and
- (b) the amount claimed does not exceed \$50000. (Amended L.N. 81 of 1982; 14 of 1986 s. 11; 49 of 1988 s. 2; 28 of 1999 s. 17)

For the purposes of this paragraph, "penalty" (罰金) shall not include a fine imposed on the conviction of any person for an offence.