

提出申索前須知

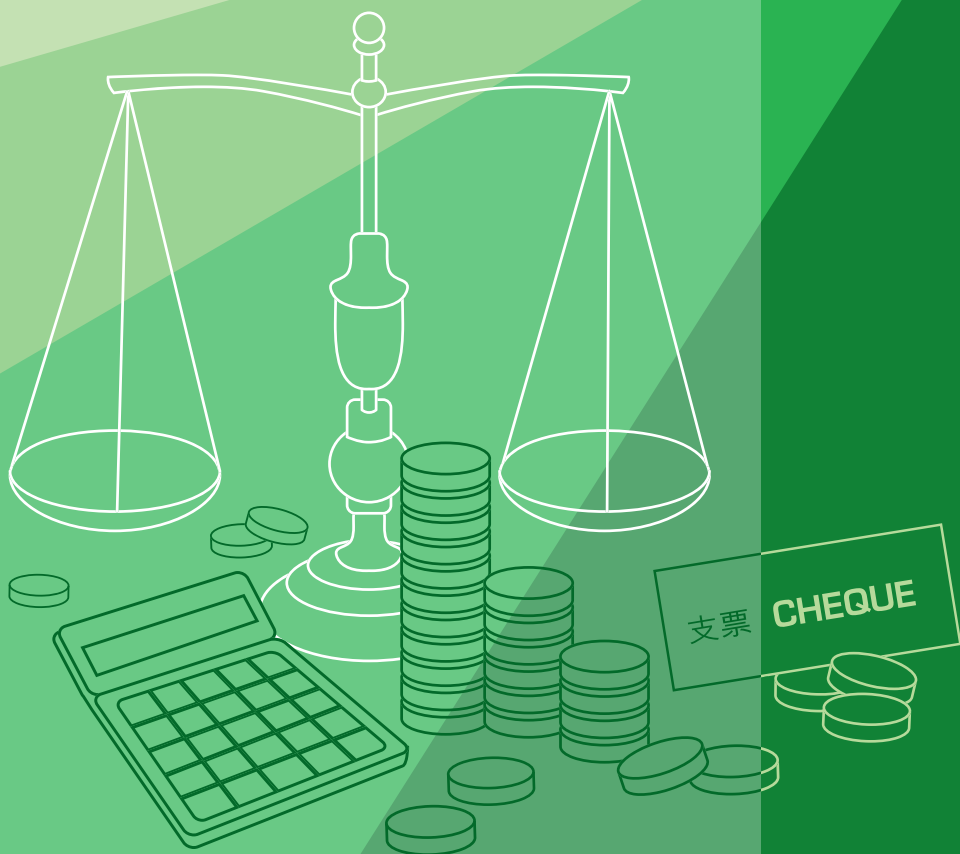
Before you start a claim

法庭服務簡介

Guide to Court Services

1

小額錢債審裁處
Small Claims Tribunal



提出申索前須知

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1. 本審裁處的工作是甚麼

- 1.1 本審裁處處理不超過75,000元的金錢申索。本審裁處的法律程序聆訊以不拘形式的方式進行。此外，訴訟各方不可以由律師代表出庭。

2. 甚麼是“小額錢債申索”

- 2.1 “小額錢債申索”是指涉及款額75,000元或以下的申索。本審裁處主要處理以下幾類申索：

- 債務
- 服務費
- 財產損毀
- 已售貨物
- 消費者提出的申索

- 2.2 本審裁處並不受理下列種類的申索：

- 勞資糾紛
- 收回土地管有權
- 贍養費
- 誹謗或誣蔑

- 2.3 你不可以為了使申索款額不超越本審裁處的司法管轄權範圍，而把逾75,000元的申索分割成為幾件案件辦理。不過，你可以放棄超過75,000元以上的申索款額，以符合在本審裁處提出申索的限額。

3. 提出申索前須要考慮的事項

3.1 在本審裁處提出訴訟前，你應該先考慮下列問題：

(1) 我可以不提出訴訟而解決糾紛嗎？

向法庭提出訴訟是你迫不得已的最後方法。在向本審裁處提出申索前，你應該考慮可否以其他方式解決你與你想追究的被告人之間的糾紛，例如與對方商討分期還款的安排。

(2) 我能成功收回應收的款項嗎？

即使你獲得勝訴的判決，也不保證你必然會收回應收的款項。

如果被告人拒絕遵行判決，你便須採取進一步行動和支付更多費用以執行判決。

如果被告人的財政狀況不佳，例如失業、破產或正在進行清盤，你就有可能收不回應收的款項。

(3) 我要付甚麼費用？

你須要在案件進行期間的不同階段向本審裁處繳付各項費用。詳情可向本審裁處的登記處或資訊中心查詢，或瀏覽司法機構的網頁。

你可能因為出席聆訊而須要支付交通費，或須要請假而損失工資；你也可能須要付錢聘請專家（例如醫生、測量師或機械技師等）撰寫專家報告和出庭作證。

勝訴的一方有可能討回上述費用。

(4) 我有時間應付訴訟嗎？

處理一宗案件所需的時間視乎多項因素而定，包括案件的複雜程度，以及訴訟各方是否如期遵行本審裁處的指示。即使你已獲得勝訴，也可能須要花更多時間來執行判決。

4. 決定在本審裁處提出申索後應該注意的事項

- 4.1 本審裁處的職員只可就法庭程序的事宜向你提供協助，但是，他們不能向你提供法律意見，舉個例說，他們不能評論你的申索勝算，或者是你應該起訴誰。如果你想取得法律意見，便應該諮詢你的律師；不過，就算你獲得勝訴，也不能討回你在小額錢債案件中所支付的律師費。
- 4.2 你亦可以到某些民政事務處透過當值律師服務提供的「免費法律諮詢計劃」，免費取得法律意見。有關詳情，可致電民政事務總署的中央電話諮詢中心查詢，也可以瀏覽當值律師服務的網頁。
- 4.3 你應該就有關的法律程序作出充分準備。必須注意，在本審裁處進行民事訴訟可能是一場長期抗戰，由提出申索到排期審訊和作出判決，可能需要很多個月的時間，因此，你可能會感受到由此而產生的巨大的壓力。

4.4 本審裁處的審訊程序與香港其他法庭一樣，也是對抗性的。你除了須要向本審裁處陳述自己的案情外，還要盤問對方的證人。因此，你應該為上述程序作準備。詳情請參閱第5冊《怎樣準備和進行聆訊或審訊》的第4和第5段。

4.5 本審裁處的辦公時間如下：

星期一至星期五 上午8時45分至下午1時

下午2時至5時30分

星期六、星期日及公眾假日休息

小額錢債審裁處於天氣惡劣時的安排

(i) 請參閱司法機構網頁：颱風及暴雨警告的安排
(http://www.judiciary.hk/tc/crt_services/business_hours_typhoon.htm#typhoon_warning)或留意電台/電視台的相關報導。

(ii) 你也可以在辦公時間內致電小額錢債審裁處登記處查詢有關的安排，電話號碼是2877 4068。

5. 小額錢債審裁處資訊中心

5.1 位置：

小額錢債審裁處資訊中心位於西九龍法院大樓B座1樓。

5.2 目的：

資訊中心為有意進行訴訟的人士在提出申索之前向其提供服務。如你在提出申索前就程序事宜方面有疑問，你可以向資訊中心尋求協助。

如在提出申索後有任何查詢，則須向位於B座3樓的小額錢債審裁處登記處提出。

請注意，審裁處的職員不能向你提供法律意見；他們只可以就一般程序上的事宜向你提供協助。

5.3 可用設施：

除了有審裁處職員在場解答有關一般程序的問題外，資訊中心為小額錢債審裁處的使用者設有以下設施：

- (a) 展示案件審訊表的資訊顯示系統；
- (b) 可用作瀏覽司法機構網站的電腦終端機，並設有連結可進入相關政府部門/機構的網站，例如公司註冊處和稅務局；
- (c) 審裁處表格樣本；

(d) 自助影印機；

(e) 就各個階段的程序事宜提供意見的小冊子；及

(f) 書桌和椅子。

6. 服務承諾

如果情況許可，司法機構會盡可能即時回覆市民的來信。無論如何，我們會在收到信件後10天內作出臨時回覆，並於30天內作出詳盡答覆。如我們未能在30天內作出詳盡答覆，則會發出進一步的臨時回覆解釋原因。

7. 這系列的小冊子對你有甚麼幫助

- 7.1 這系列的小冊子是向訴訟各方概括地介紹本審裁處的民事法律程序，使訴訟各方瞭解正確的程序，知道應該怎樣向本審裁處提出他們的案情、證據和其他資料。
- 7.2 這系列的小冊子並非概括了本審裁處的民事訴訟常規，其內容只是就有關的程序提供一般的指引。如欲獲得本審裁處所採用的訴訟常規和程序的詳情，可參閱《小額錢債審裁處條例》（香港法例第338章）。你可以到以下網址瀏覽上述條例的中英文版本：

www.elegislation.gov.hk

7.3 這系列的小冊子共分以下8冊：

第1冊	提出申索前須知
第2冊	怎樣展開申索
第3冊	被告人在收到申索書後可以怎樣做
第4冊	小額錢債案件的一般法律程序須知
第5冊	怎樣準備和進行聆訊或審訊
第6冊	小額錢債案件中的所需文件
第7冊	申請把裁斷或命令作廢、覆核和上訴
第8冊	怎樣執行判決

7.4 下列機構的聯絡資料，對訴訟各方在本審裁處進行訴訟時，可能會有幫助：

司法機構

網址：www.judiciary.hk

小額錢債審裁處

地址：九龍深水埗通州街501號西九龍法院大樓B座3樓

熱線：2877 4068

傳真：2587 9139

小額錢債審裁處的互動音頻電話錄音系統

電話：2877 4068

稅務局商業登記署

地址：香港告士打道5號稅務大樓4樓

電話：1878 088

傳真：2824 1482

網址：www.ird.gov.hk

公司註冊處

地址：香港金鐘道66號金鐘道政府合署高座13樓

電話：2867 2571

傳真：2596 0585

網址：www.cr.gov.hk

當值律師服務

總辦事處地址：香港灣仔告士打道39號夏慤大廈808-809室

電話：2526 5969

傳真：2868 1754

網址：www.dutylawyer.org.hk

民政事務總署中央電話諮詢中心

電話：2835 2500

大律師公會

地址：香港金鐘道38號高等法院低層2樓

電話：2869 0210

傳真：2869 0189

網址：www.hkba.org

破產管理署

地址：香港金鐘道66號金鐘道政府合署高座10樓

電話：2867 2448

傳真：3105 1814

網址：www.oro.gov.hk

有關的機構很多，不能盡錄，可能還有其他機構也可以提供資料或意見予訴訟各方。上述聯絡資料截至本小冊子的付印日期仍然準確。

司法機構

2021年1月

(第三版)

Before you start a claim

Content

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2. What is a “small claim”
3. What to consider before you start a claim
4. Things you should pay attention to if you decide to file a claim with the Tribunal
5. Small Claims Tribunal Information Centre
6. Performance Pledge
7. Assistance you can get from this series of pamphlets

1. What work does the Tribunal do

- 1.1 The Tribunal deals with monetary claims not exceeding \$75,000. The hearing of proceedings in the Tribunal is in an informal manner. No legal representation is allowed.

2. What is a “small claim”

- 2.1 A “small claim” is a claim for money involving \$75,000 or less. The main types of claims handled by the Tribunal are:

- debts
- service charges
- damage to property
- goods sold
- consumer claims

- 2.2 The Tribunal does not handle:

- labour disputes
- possession of land
- alimony maintenance
- libel or defamation

- 2.3 If your claim exceeds \$75,000, you are not allowed to divide it into separate claims so as to fit in the Tribunal's jurisdiction. However, you may abandon any claims exceeding \$75,000 in order to bring a claim in the Tribunal.

3. What to consider before you start a claim

3.1 You should ask yourself the following questions before taking action in the Tribunal:

(1) Can I settle the disputes without going to court?

Court action should be your last resort. Before you start a claim in the Tribunal, you should consider if you may settle the matter with the intended defendant by other means. For example, you may negotiate an instalment payment with the intended defendant.

(2) Will I get my money?

Even if you obtain judgment in your favour, there is no guarantee that you will get your money back eventually.

If the defendant refuses to comply with the judgment, you will have to take enforcement action which will incur further costs.

If the defendant is financially unsound, e.g. unemployed, bankrupt or in liquidation, you may not be able to get your money back.

(3) What are the expenses?

You will have to pay various fees to the Tribunal at various stages of the case. Please approach the Tribunal Registry or the Information Centre or browse into the Judiciary's website for details.

You may have to incur costs for travelling, taking days-off and hiring experts witnesses, e.g. doctor, surveyor or mechanic, to prepare expert reports and to testify in court.

The party who wins the case may be able to recover the above expenses.

(4) Can I afford the time?

The span of a case depends on a number of factors, including the complexity of the case and whether the parties comply with the Tribunal's directions punctually. Even if you win the case, you may need to spend more time to enforce judgment.

4. Things you should pay attention to if you decide to file a claim with the Tribunal

- 4.1 Tribunal staff would provide assistance on procedural matters only. They cannot give you legal advice, e.g. they cannot tell you if you have a good claim or whom you should sue. If you wish to get legal advice, you should consult your own lawyer; however, legal costs incurred in small claim cases will not be recoverable even if you win the case.
- 4.2 You may be able to get free legal advice through Free Legal Advice Scheme of the Duty Lawyer Service at some District Offices. For details, you can call the Central Telephone Enquiry Centre of the Home Affairs Department. You can also refer to the website of the Duty Lawyer Service.
- 4.3 You are responsible for preparing evidence and attending all the hearings throughout the proceedings. You have to note that civil litigation in the Tribunal may be a long-drawn battle, which will take

months before the case is set down for trial and judgment of the Tribunal is passed. The pressure arising from it could be tremendous.

4.4 The trial process in the Tribunal is, like other courts in Hong Kong, adversarial. In addition to presenting your own case to the Tribunal, you are expected to cross-examine the witnesses of your opponent's case. You should therefore be prepared to accomplish these tasks. Please refer to paragraphs 4 and 5 in Pamphlet 5 "How to prepare for and conduct a hearing or trial" for details.

4.5 The business hours of the Tribunal are:

Monday to Friday 8:45 a.m. - 1:00 p.m.

2:00 p.m. - 5:30 p.m.

Closed on Saturdays, Sundays and Public Holidays

Arrangements of the Small Claims Tribunal in case of bad weather

- (i) Please refer to Typhoon and Rainstorm Warning Arrangements in the Judiciary website (http://www.judiciary.hk/en/crt_services/business_hours_typhoon.htm) or radio/television announcements of the same.
- (ii) You may also call the Small Claims Tribunal Registry at Tel. No. 2877 4068 during office hours to enquire about the arrangements.

5. Small Claims Tribunal Information Centre

5.1 Location:

The Small Claims Tribunal Information Centre is located on the 1st Floor, Tower B of the West Kowloon Law Courts Building.

5.2 Purpose:

The Information Centre is to provide services to potential litigants before a claim is filed. If you have questions of a procedure nature, before you file your claim, you can approach the Information Centre for assistance.

After you filed your claim, all enquiries must be directed to the Small Claims Tribunal Registry located on the 3rd Floor of Tower B.

Please remember tribunal staff cannot provide legal advice; they can only assist you on issues of general procedural matters.

5.3 Facilities Available:

In addition to tribunal staff available to answer general procedural questions, the following facilities are available at the Information Centre for Small Claims Tribunal users:

- (a) Information display system showing Daily Cause Lists;
- (b) Computer terminals with access to the Judiciary website, interlinked with relevant government departments/agencies such as Companies Registry and Inland Revenue Department;
- (c) Sample court forms;
- (d) Self-service photocopying machines;
- (e) Pamphlets on procedural advice at various stages; and
- (f) Writing desk and chairs.

6. Performance Pledge

Wherever possible, the Judiciary will reply at once to correspondence from members of the public. In any case, we will give you an interim reply within 10 days and a full response within 30 days of receiving a letter. If a full response cannot be given within 30 days, we will give you a further interim reply with a brief explanation.

7. Assistance you can get from this series of pamphlets

- 7.1 The purpose is to introduce to litigants a broad outline of civil proceedings in the Tribunal. They provide information concerning the procedures in the Tribunal, the manner in which the parties should present their case, evidence and other materials to the Tribunal.
- 7.2 They do not intend to be a summary of the civil practice at the Tribunal. They give a general guideline on the procedures. For details on the practice and procedure adopted in the Tribunal, you may refer to the Small Claims Tribunal Ordinance (Chapter 338, Laws of Hong Kong). The English and Chinese versions can be found on the website:

www.elegislation.gov.hk

7.3 This series of pamphlets includes the following:

Pamphlet 1	Before you start a claim
Pamphlet 2	How to start a claim
Pamphlet 3	What a defendant may do after receipt of the claim
Pamphlet 4	General points to note about small claims proceedings
Pamphlet 5	How to prepare for and conduct a hearing or trial
Pamphlet 6	Documents required in a small claim case
Pamphlet 7	Application to set aside, review and appeal
Pamphlet 8	How to enforce a judgment

7.4 The following is the contact details of various organizations which the litigants may find useful to approach when handling a case in the Tribunal:

Judiciary

Website : www.judiciary.hk

Small Claims Tribunal

Address : 3/F, Tower B, West Kowloon Law Courts Building,
501 Tung Chau Street, Sham Shui Po, Kowloon

Hotline : 2877 4068

Fax : 2587 9139

Interactive Voice Recording System of the Small Claims Tribunal

Tel : 2877 4068

Business Registration Office, Inland Revenue Department

Address : 4/F, Revenue Tower, 5 Gloucester Road, Hong Kong

Tel : 1878 088

Fax : 2824 1482

Website : www.ird.gov.hk

Companies Registry

Address : 13/F, Queensway Government Offices, High Block,
66 Queensway, Hong Kong

Tel : 2867 2571

Fax : 2596 0585

Website : www.cr.gov.hk

Duty Lawyer Service

Administration Office :

Address : Suites 808-809 Harcourt House,
39 Gloucester Road, Wanchai, Hong Kong

Tel : 2526 5969

Fax : 2868 1754

Website : www.dutylawyer.org.hk

Central Telephone Enquiry Centre, Home Affairs Department

Tel : 2835 2500

Bar Association

Address : LG2, High Court Building, 38 Queensway, Hong Kong

Tel : 2869 0210

Fax : 2869 0189

Website : www.hkba.org

Official Receiver's Office

Address : 10/F, Queensway Government Offices, High Block,
66 Queensway, Hong Kong

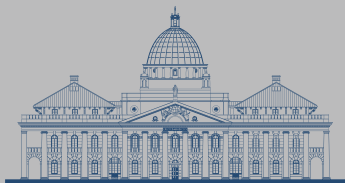
Tel : 2867 2448

Fax : 3105 1814

Website : www.oro.gov.hk

The above is not an exhaustive list. There may be other organizations that may provide information or advice to the litigants. Contact details are accurate only up to the date of printing.

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司 法 機 構 JUDICIARY

此小冊子只作一般參考用途，
並不可視為法律或法庭常規的
詳盡及具有權威性的說明。

This publication is for general
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treated as a complete and
authoritative statement of law
or court practice.

香港特別行政區政府新聞處設計封面
政府物流服務署印

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