

怎樣展開申索 How to start a claim

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怎樣展開申索

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1. 查閱被告人的資料

1.1 在提交申索書之前，申索人應該先核實被告人的全名和其最後為申索人所知的地址。

(1) 如果被告人是一個法團(例如：ABC有限公司)，申索人應該先進行公司查冊，以取得關於這個法團的名稱和註冊辦事處的最新資料；申索人可以到公司註冊處取得上述資料。

(2) 如果被告人是一間獨資經營(例如：陳大文經營XYZ公司)或合夥經營(例如：陳大文和陳小文經營XYZ公司)的商號，申索人應該先查閱這間商號的《商業登記申請書》，以核實該商號的營業名稱、主要營業地點及/或東主或合夥人的住址；申索人可以到稅務局商業登記署取得上述資料。

(3) 如果被告人是一個由法團經營的商號(例如：ABC有限公司經營XYZ公司)，申索人應該先向公司註冊處索取這間有限公司的《註冊辦事處座落地點通知書》，用以填寫該有限公司的註冊辦事處；以及向商業登記署索取這間商號的《商業登記申請書》，用以核實該商號的營業名稱。

1.2 申索人應該帶備上述查冊結果出席簡短提訊以供查核。

2. 提交表格1和表格2

2.1 搜集了上述有關被告人的資料後，申索人應該填寫表格1和表格2，這些表格可以向本審裁處的登記處索取。申索人也可以到司法機構的網址下載上述表格，或透過本審裁處的互動音頻電話錄音系統經由傳真取得上述表格。

2.2 申索人應該在表格1(申索書標題：通用表格)填寫下列資料：

- 申索人(無論是個人、法團、獨資或合夥經營的商號)的全名和地址。請注意，上述地址應該是在香港境內的地址，本審裁處不接納郵箱地址或轉交地址。
- 被告人(無論是個人、法團、獨資或合夥經營的商號)的全名和地址。請注意，上述地址應該是在香港境內的地址，本審裁處不接納郵箱地址或轉交地址。

2.3 申索人應該在表格2(申索書)列出以下資料：

- 以港幣計算的申索款額
- 申索理由
- 申索款額的分類和每項分類的計算方法
- 如果有需要的話，可以另加附頁

- 2.4 如果申索人以個人名義提出申索，便應該親自簽署表格2；如果申索人是一間合夥經營的商號，便應該由其中一名合夥人簽署表格2；如果申索人是一個法團，便應該由一名董事、公司秘書或其他獲授權的高級人員簽署表格2。
- 2.5 表格1和表格2必須由申索人親自到本審裁處的登記處提交，不可以用郵遞、傳真、電郵等其他方式提交。不過，申索人可以委派代表代為提交表格。
- 2.6 請注意，如果申索人在提交表格1和表格2之後欲修改申索資料，便須要以書面形式向審裁官申請許可。申請獲審裁官批准後，申索人便須要再次到本審裁處的登記處修改申索資料和繳付法例訂明的費用。為了節省時間和費用，申索人應該確保他在提交申索時所提供的資料正確無誤。
- 2.7 本審裁處的登記處備有已填妥的表格1和2的樣本以供參閱。申索人也可以到司法機構的網址下載上述樣本，或透過本審裁處的互動音頻電話錄音系統經由傳真取得上述樣本。但須注意，此等表格樣本只可作參考用途，並未能盡錄所有申索訴因或事實，也不一定適合你的案件。你應該就你的案件所需而作出適當的取捨修改。如有任何疑問，你應該諮詢你自己的律師。司法機構不會就這些表格樣本的內容承擔任何責任。

3. 提交費

- 3.1 申索人在提交申索書時，須要繳付法例訂明的提交費。
- 3.2 申索人如果想知道關於法例訂明的提交費的詳細資料，可以聯絡本審裁處的登記處，或瀏覽司法機構的網頁。

4. 申索書的送達程序

- 4.1 申索人提交申索書和繳付法例訂明的提交費之後，本審裁處登記處的職員會把一份表格3(《聆訊日期地點通知書》)發給申索人，該表格上會註明：
- 簡短提訊的日期、時間和地點
 - 法庭號數和地址
- 4.2 法庭執達主任會以平郵方式把表格1、2和3郵寄給每一名被告人。
- 4.3 如果申索書未能送達被告人，本審裁處便會在簡短提訊時要求申索人提供被告人的正確地址，以及必要時要求申索人核實被告人的地址。如果之後申索書仍然未能送達被告人，本審裁處可能會准許申索人以其他方式送達申索書。如果最終仍然未能把申索書送達被告人，本審

裁處便無法再處理這項申索。因此，申索人在提交申索書時必須確保被告人的資料(例如姓名和地址)是最新及正確無誤的，這是十分重要的。

司法機構
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How to start a claim

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1. Search into the defendant's particulars

1.1 Before issuing a claim, the claimant should ascertain the full name of the defendant and his last known address.

(1) If the defendant is a corporation (e.g. ABC Company Limited), the claimant should make a company search to obtain updated information about its name and its registered office. The claimant can obtain this at the Companies Registry.

(2) If the defendant is a sole proprietorship (e.g. Chan Tai Man trading as XYZ Company) or a partnership (e.g. Chan Tai Man and Chan Siu Man trading as XYZ Company), the claimant should obtain 'Business Registration Application' of the defendant to ascertain its trade name and the principal place of business and/or the residential address of the proprietor or partners. The claimant can obtain this at the Business Registration Office of the Inland Revenue Department.

(3) If the defendant is a corporation trading in a 'trade name' (e.g. ABC Company Limited trading as XYZ Company), the claimant should obtain both 'Notice of Situation of Registered Office' at the Companies Registry to fill in its registered office AND 'Business Registration Application' at Business Registration Office to verify its trade name.

1.2 The claimant should bring along such search results of the defendant to court at call-over for verification.

2. Filing of Forms 1 & 2

2.1 After collecting the above information of the defendant, the claimant should fill in Forms 1 and 2. The forms can be obtained at the Tribunal Registry. They can also be downloaded from the Judiciary's website or obtained by fax via the Interactive Voice Recording System of the Tribunal.

2.2 In Form 1 (Title to Claim: General Form), the claimant should fill in:

- the full name(s) and address(es) of the person(s), corporation, sole proprietorship or partnership making the claim. Please note that the address should be a Hong Kong address. P.O. Box address and care of address are not acceptable.
- the full name(s) and address(es) of the person(s), corporation, sole proprietorship or partnership of the defendant. Please note that the address should be a Hong Kong address. P.O. Box address and care of address are not acceptable.

2.3 In Form 2 (Form of Claim), the claimant should:

- state the amount of the claim in Hong Kong Dollars
- the reason of the claim
- how the amount is calculated with breakdown
- use a separate sheet of paper if necessary

- 2.4 If the claimant is an individual, the claimant should sign Form 2 personally. A partner should sign if the claim is made by a partnership. A director, company secretary or other authorised officer should sign if the claim is made by a corporation.
- 2.5 Forms 1 and 2 have to be filed at the Tribunal Registry in person. They cannot be filed by any other means such as post, fax or email. The claimant may appoint a representative to file the claim on his behalf.
- 2.6 Please note that if the claimant wishes to amend his claim particulars after filing Forms 1 and 2, he needs to apply in writing for permission to amend from the Adjudicator. After the Adjudicator has approved the application, the claimant needs to attend the Tribunal Registry again to make the amendment and pay the prescribed fee. To save time and costs, the claimant should make sure the information provided is correct at the time of filing.
- 2.7 Sample completed Forms 1 and 2 are displayed at the Tribunal Registry. They can also be downloaded from the Judiciary's website or obtained by fax via the Interactive Voice Recording System of the Tribunal. But please note that these sample forms are for reference only and are not meant to be exhaustive. They are not meant to be the samples that suit your case. You should make adjustments or variations to them to suit your own case. If you have any doubt, you should consult your own lawyer. The Judiciary cannot be held responsible for the content of these sample forms.

3. Filing fee

- 3.1 When the claim is filed, the claimant is required to pay prescribed filing fee.
- 3.2 The claimant may approach the Tribunal Registry or browse into the Judiciary's website for details of prescribed filing fee.

4. Service of claim

- 4.1 After the claimant has filed his claim and paid the prescribed filing fee, the Tribunal Registry staff will give the claimant a Form 3 (Notice of Place and Day fixed for Hearing) showing:
- the place, time and date of call-over
 - the court room number and address
- 4.2 The court bailiff will send copies of Forms 1, 2 and 3 to each defendant by ordinary post.
- 4.3 If the claim cannot be served on the defendant, the claimant will be asked at call-over to provide the defendant's correct address, and if necessary, to verify it. If the claim still cannot be served, the Tribunal may allow other means of serving it. If, in the end, the claim still cannot be served, then the Tribunal cannot deal with the claim. So, it is very important for the claimant to make sure that the particulars of the defendant

(such as name and address) is correct and updated at the time of filing the claim.

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