
2B. Employees' Compensation Ordinance

The Employee's Compensation Ordinance (ECO) specifies the rights and obligations of the employers and employees in respect of injuries or death caused by accidents arising out of and in the course of employment, or by prescribed occupational diseases under the Ordinance.

2B.1 Overview

Application of Employees' Compensation Ordinance

a. The Ordinance is applicable to

- ✦ All full-time and part-time employees who are employed under contracts of service or apprenticeship, irrespective of length of employment
- ✦ Employees employed in Hong Kong by local employers who are injured while working outside of Hong Kong
- ✦ Crew members of a Hong Kong ship, and any person employed in any capacity on board of a Hong Kong ship

b. However, the Ordinance is not applicable to

- ✦ Outworkers (these are workers, by their contract of employment, agree to work for the organization but whose place of work is not within any of the organization's vicinity)
- ✦ Employer's family members living with him or her and without insurance cover
- ✦ Casual employees (with some exceptions) - casual employees are temporary workers or independent contractors

c. Notification of Accidents/Occupational Disease

i. Responsibility of Employee

An injured employee should give the employer notice of the accident as soon as possible. Failure to give prompt notice may jeopardize and delay the claim of employees' compensation.

Notice may be given orally or in writing to the employer or to the employee's supervisor. The employer is presumed to have had notice of an accident if the employee dies on the employer's premises.

ii. Responsibility of Employer

An employer must notify the Commission for Labour of any accident or prescribed occupational disease, irrespective of whether the accident or the occupational disease gives rise to any liability to pay compensation.

If an employee sustains an injury or dies as a result of an accident arising out of and in the course of his/her employment, his/her employer is in general liable to pay compensation under the Employees' Compensation Ordinance even if the employee might have committed acts of faults or negligence when the accident occurred.

Refer to Table 1 below for a summary of notice period required for notifying accidents/ occupational disease and methods of claims settlement.

	Resulting in	Notice Period	Settlement of Claims
Work Injury	Temporary incapacity for a period not exceeding 3 days	Within 14 days	Direct payment by employer (ie. periodical payment for sick leave required) and also pay the medical expenses concerned.
	Temporary incapacity for a period exceeding 3 days but not more than 7 days		Employer may directly agree with the employee as to the compensation payable under the Ordinance and also pay the medical expenses concerned.
	Incapacity for a period exceeding 3 days		The Commissioner for Labour will assess the compensation payable under the Ordinance and issue to the employer and the employee a Certificate of Compensation Assessment stating the amount of compensation payable.
	Death	Within 7 days	<u>Temporary Incapacity:</u> the certificate will be issued after medical clearance. <u>Permanent Total or partial Incapacity:</u> the employee concerned will be referred to the Employees' Compensation Assessment Board for assessment and a Certificate of Compensation Assessment will be issued after the Certificate of Assessment is issued by the Assessment Board.
Occupational Disease	Incapacity	Within 14 days	
	Death	Within 7 days	

Table 1 Summary of Notice Period Required for Notifying Accidents/Occupational Disease and Methods of Claims Settlement

An employee suffering incapacity arising from an occupational disease is entitled to receive the same compensation as that payable to an employee injured in an accident arising out of and in the course of employment, if the disease is one due to the nature of any occupation in which they were employed at any time within the prescribed period immediately preceding the incapacity caused.

Before employing an employee in a trade or industry in which an occupational disease is prone to be contracted by employees, the employer may, at its own cost, require the employee to be medically examined by a registered medical practitioner. An employee refusing to undergo the medical examination may forfeit his/her entitlement to compensation in the event of death or incapacity caused by an occupational disease.

2B.2 Compulsory insurance

According to the Employees' Compensation Ordinance, all employers (including contractors and sub-contractors) are required to take out insurance policies to cover their liabilities both under the Ordinance and at common law, for injuries at work, in respect of all their employees, irrespective of the length of employment contract or working hours, full-time or part-time, permanent or temporary employment.

The minimum insurance cover should be for an amount:

No. of Employees	Amount of Insurance Cover per Event
not more than 200	not less than HK\$100 million
more than 200	not less than HK\$200 million

An insured employer is required to display, in a conspicuous place on each of their premises where any employee is employed, a notice in both English and Chinese, showing the name of the employer, the name of the insurer, the policy number, the issue date of policy, the commencement and expiry dates of the period of insurance, the number of employees insured and the amount of liability insured under the policy.

An employer who fails to comply with the Ordinance to secure an insurance cover commits an offence and is liable, on conviction, to a maximum fine of HK\$100,000 and imprisonment for 2 years.

If an employer experiences difficulties in acquiring employees' compensation insurance cover, they may apply to join the Employees' Compensation Insurance Residual Scheme. Please visit the following website for more details: <http://www.ecirsb.com.hk>

For detailed information on the provisions of Employees' Compensation Ordinance and details on compulsory insurance under the Ordinance, please visit the Labour Department website <http://www.labour.gov.hk> > Labour Legislation > Overview of Major Labour Legislation > Employees' Compensation Ordinance, Chapter 282 <http://www.labour.gov.hk/eng/legislat/content1.htm>

"A Concise Guide to the Employees' Compensation Ordinance with Frequently Asked Questions on Common Employees' Compensation Issues" published by the Labour Department, will set out the main provisions of the Employees' Compensation Ordinance and explain procedures and administrative procedures adopted by the Department in handling and processing claims. The booklet is available from the Labour Departments' offices while soft copies can be downloaded from the Labour Department website <http://www.labour.gov.hk> > Publications > Employees' Compensation: <http://www.labour.gov.hk/eng/public/ecd/pco360.pdf>