PANORAMIC

LABOUR & EMPLOYMENT DISPUTES 2026

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LEXOLOGY

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Panoramic guide (formerly Getting the Deal Through) enabling side-by-side comparison of local insights into pre-action considerations; issuing a claim; case management; interim relief; trial; alternative dispute resolution (ADR); collective employment and labour rights; remedies and enforcement; appeals; and recent trends, including cases and technology developments.

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

There are no pre-action requirements for employees who wish to bring a claim.

However, employers are subject to certain restrictions when it comes to terminating an employment relationship. Giving notice to employees who are afforded special protection against dismissal (disabled; pregnant; on parental leave; works council members; initial phase of apprenticeship) requires prior consent of the labour court or other tribunal. In case of redundancies exceeding certain thresholds, employers must file a notification with the employment office, which then triggers a 30-day waiting period. Failure to comply in any of those cases renders a termination voidable.

Law stated - 1 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Typically, third parties funding the costs of employment litigation are either insurance companies or the Chamber of Employees. In Austria, each employee through commencing an employment relationship, becomes a member of the chamber by operation of law. Both insurance companies and the Chamber decide on funding based on their (internal) policies, but there are no statutory guidelines.

Funding of employment litigation by professional funders is almost unheard of, and Austria still has no procedural system of class actions. In rare cases, the Chamber of Employees undertook it to litigate on behalf of a class of plaintiffs, which is in line with their collective task of protecting the work force against violations of their rights.

Law stated - 1 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Austria does not allow contingency fees, that is claiming a certain percentage of the amount at issue as an attorney's fees. The contrarian principle is known as the prohibition on *quota litis*, since it is the lawyer who knows best what the law is and what the potential outcome of legal proceedings should be, talking the client into a fee arrangement that typically favours the lawyer, not the client. An alternative fee arrangement could set hourly rates depending

on the outcome of litigation, increasing the rates in case the client wins, but this is just another variety of a contingent fee.

Professional funders actually do operate on contingency fees because ethical rules prohibiting lawyers from accepting them do not also govern funders' business activities.

Law stated - 1 August 2025

ISSUING A CLAIM

Forum

4 | What is the appropriate forum for complaints concerning individual employment rights?

Complaints for individual employment rights are brought before the labour court. Each of the district courts across Austria has a panel for employment litigation, and Vienna, given the load of cases, has its own specialised labour court, dealing exclusively with employment cases.

Law stated - 1 August 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Individual employment rights can be brought before the labour court of employees' residence, or also at the venue of the employer's premises, and before the court of the actual place of work. Therefore, employees working remotely in Austria for foreign employers can also bring a claim in Austria.

Law stated - 1 August 2025

Standing

6 | Who can bring a claim?

Every employee of age can bring an individual employment claim (minors may require the consent of their parents/guardian) but also the works council on behalf of their work force if at least three employees are concerned.

Finally, employer and employee organisations authorised to conclude collective bargaining agreements (labour union; chamber of employees for employees and chamber of commerce for employers) can bring a claim before the Austrian supreme court for a declaratory judgment pertaining to employment issues that affect at least three employees or employers. The decision by the supreme court is unappealable, but also not enforceble and, in effect, amounts to a legal opinion handed down by the court, based on a fact pattern

that the plaintiff in such proceeding unilaterally determines and on which the supreme court is not authorised to take evidence. Often, the decision by the supreme court is thus ignored by losing defendant, asserting that plaintiff presented the wrong facts.

Law stated - 1 August 2025

Commencing claims

7 | How are claims commenced?

Plaintiff must file a complaint with the competent court.

Law stated - 1 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

Austrian courts don't issue a claim form, but court fees are payable for filing a claim, and the fee amount is staggered, depending on the amount at issue. If the plaintiff doesn't sue for money (but a declaratory judgment or injunctive relief, for instance), the subject matter must be assigned a certain amount of money by the plaintiff for the purpose of calculating court fees and attorney fees. Court fees can thus range from only a hundred euros to thousands of euros. Proceedings pertaining to collective employment law that concern labour relations between an employer and their staff (including certain types of dismissal challenges) are exempted from court fees. There is also no cost shifting in such collective cases if the defendant loses. In all other types of proceedings (including discrimination claims or claims for payment of damages), cost shifting rules under Austrian provisions on civil procedure mandate that the losing party of court proceedings reimburse the winner their court costs and attorney fees, based on an official tariff that is also staggered, depending on the amount at issue and the type of procedural activity involved (submissions, hearings, motions, etc).

Law stated - 1 August 2025

Service

9 | Is any qualifying service required?

Service of a stament of claim is ordered by the labour court and effected by hand delivery to defendant through the national mail service. In case of an absence of defendant from the delivery point on the day of delivery, the complaint will be deposited with the post office for collection by defendant within 2 weeks, and defendant will be notified accordingly. Complaints so deposited are deemed to have been delivered on that day, unless it turns out

that defendant was absent for a longer period, in which case delivery is deemed effected on the day following defendant's return.

Law stated - 1 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Claims can be brought against natural persons, corporations, partnerships, associations, quasi-governmental bodies (eg, employer and employee representative organisations, such as chamber of employees and chamber of commerce) and also the works council in a specific type of lawsuit that pertains to collective labour relations.

Law stated - 1 August 2025

Types of claims

11 | What types of claims can be brought?

Plaintiffs can bring all sorts of claims that are available under general Austrian procedural rules (performance claim, claim for declaratory judgment, claim for injunction, voidance claims), but also specific claims that are aiming at a reinstatement of a terminated employment relationship (discrimination claims; challenge of dismissal on social grounds) and claims that are pertaining to labour relations on the plant level (between works council and employer) or on an even broader scope concerning disputes between the parties to collective agreement (chamber of commerce and trade union).

Law stated - 1 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

Discrimination claims and other challenges of dismissal must be brought within two weeks following termination, claims pertaining to damages following unjustified dismissal are time-barred after six months from termination, and most other claims can be brought within three years, unless a forfeiture clause applies (collective bargaining agreements and also individual employment contracts do often contain such clauses, but a period of less than three months would not be permissible).

Law stated - 1 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Yes, counterclaims are generally permissible.

Law stated - 1 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Filing of a claim by the plaintiff is followed by a reply submission by defendant and then first preparatory court hearing (settlement talks; if they fail, judge sets procedural calendar). Depending on the scope of the claim, there may be further court hearings to take evidence. Then follows the closure of proceedings and a written decision, usually within six months from closure.

Employment disputes before the district court/labour court (court of first instance) usually take one to two years from making a claim until a written decision. Appeals can be filed within four weeks.

Law stated - 1 August 2025

Rules

15 | What rules apply to case management?

The first, preparatory court hearing serves the purpose of case management hearing. The parties to a dispute are meant to have made all relevant assertions of fact by then and presented/offered all evidence the court is supposed to take following that hearing (where settlement talks fail).

The judge has much discretion on how to structure proceedings (hearing calendar, etc), and the parties are expected to cooperate with the court and assist in dealing with the relevant issues efficiently.

Law stated - 1 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

Once a claim has been served upon the defendant, amendments to claims require the defendant's approval, unless the amended claim is directed at a limitation of the original claim.

Law stated - 1 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Bringing additional parties into a case after commencement would amount to additional claims that, generally, require additional lawsuits. Additional parties would also mean an amendment to the initial claim. Either party can, however, request a third party to join them in the proceedings and support their claim and assertions of fact as intervening party if the outcome of proceedings would also affect the (legal) interests of the intervening party (eg, potential recourse claims against intervening party).

Law stated - 1 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Yes, proceedings can be consolidated if they are pending before the same court and either plaintiff or defendant (or, typically, both) are identical. Consolidation need not result in a joint decision, because consolidation foremost only serves efficient case management. A joint decision can be handed down if all claims were ripe for decision at the same time.

Law stated - 1 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

Multi-party actions are permissible under general provisions of civil procedure without special considerations, but Austria still has no real legal framework for class actions and group litigation in an employment context. 'Collective' actions can be filed by or against the works council and representative groups (chamber of employees; chamber of commerce; trade unions) in specific proceedings that are aiming at facilitating litigation in cases pertaining to a majority of employers or employees. As such, those specific proceedings could be viewed as class actions in an employment context. The downside of both sorts of proceedings (by or against the works council; amongst employer/employee representative organisations) is that they only achieve a declaratory judgement and are therefore not enforceable. As such, they cannot resolve on individual employment claims and mostly serve the purpose of clarifying legal claims on a more collective level.

Law stated - 1 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

Austrian rules on civil procedure do not provide for a discovery process. Each party to an employment dispute must offer to the court all evidence proving their case (documents; witnesses; experts), and the court will then summon witnesses (who have a legal obligation to show up before court) and appoint expert witnesses, where required.

Also, there are no specific rules of evidence. Deciding judges can appraise all evidence at their own discretion and decide by themselves which assertions of fact, based on evidence presented, are proven with a preponderance of the evidence.

Law stated - 1 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes, witnesses must give evidence and if they (repeatedly) fail to show up before court without sufficient justification (eg, illness), the court can impose penalties and, ultimately, also have witnesses arrested and coerced to appear.

As a novelty, witnesses can also give their testimony from abroad by way of video-conferencing and with the assistance of the competent court at the foreign (EU-)residence of the witness (implementation of EU-Regulation on Taking of Evidence).

Law stated - 1 August 2025

22 | Is cross examination of a witness permitted?

Yes, the presiding judge and both parties can ask their questions to each of the witnesses presented, regardless of which side's witnesses they are.

Law stated - 1 August 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

Given the free appraisal of evidence and the rule that each party must prove their case, tactical advantages can mostly be achieved by sowing the seeds of doubt as to opposing party's evidence presented (eg, countering statement by opposing key witness through cross-examination or written evidence proving the opposite).

One common challenge by employees in case of redundancies is based on an assertion that the termination of the employment relationship lacks sufficient social justification, because the employee is more adversely affected than is usual. To prove this claim, employees must assert and offer evidence (opinion by court-appointed expert on the job market) that finding new gainful employment (comparable position; comparable income) takes much longer in their case (above nine months) than in the usual case (below six months). More often than not, however, employees find new employment faster than they feared and sometimes even faster than the court-appointed expert could foretell. Time thus often works to the detriment of plaintiff-employee, because once a comparable job was found, the case is essentially irrelevant. It is thus often not in defendants' interest to see such a case through quickly.

Law stated - 1 August 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Interim relief is mostly sought by employers in connection with a violation of post-termination restrictive covenants by former employees (non-compete provisions; non-solicitation, etc).

Law stated - 1 August 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

The requirements are not different from the general requirements for injunctive relief. Preliminary injunctions are only available for non-monetary claims, and only if (1) required to avert irreparable harm (2) that cannot be compensated through damage payments.

Law stated - 1 August 2025

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The number of hearings is set by the presiding judge, depending on the scope of the evidence required to decide on the merits. The final hearing, in a series of several hearings,

is not conducted differently from all other hearings, except for the first, preparatory hearing that is meant for the judge to help reach a settlement between the parties.

Law stated - 1 August 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Court hearings are open to the public, and an exclusion from public access to the court without sufficient justification would render the proceedings voidable. Public access can, as an exception from the rule, be denied if necessary to (1) maintain public order, (2) safeguard undisturbed proceedings and taking of evidence, and (3) keep certain aspects of family life and business secrets confidential.

Law stated - 1 August 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

Court reporting is permissible and also common in cases with widespread media attention. Live footage, live recordings and taking of pictures during hearings is prohibited. Filming and photographing outside the court room (but inside the court building), or in the court room during recess is allowed.

Law stated - 1 August 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

Austrian law on civil procedure does not provide for specific rules of evidence. To the contrary, evidence presented can be freely assessed by the judge. The burden of proof is a preponderance of the evidence.

Law stated - 1 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

ADR is not common in an employment context, which also has to do with statutory restrictions on such alternative mechanisms. Arbitration, for instance, can only be agreed for existing disputes. An arbitration clause in an employment contract would therefore not be enforceable.

Due to overworked courts, judges increasingly resort to mediation procedures by suggesting that one or, more often, two mediators take part during hearings and seek to negotiate a settlement in more complex cases with complex issues of evidence and an overly emotional case management by the parties.

Law stated - 1 August 2025

Requirements and expectations

31 | Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

No.

Law stated - 1 August 2025

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

N/A

Law stated - 1 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Collective employment rights are enforced by the elected works council and also by representative organisations on the employer side (chamber of commerce) and on behalf of employees (chamber of employees; trade unions).

Law stated - 1 August 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

The elected works council on behalf of their staff (where at least three employees are affected), and representative organisations authorised to engage in collective bargaining (chamber of commerce; chamber of employees/trade unions).

Law stated - 1 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

Payment orders, injunctive relief, declaratory judgements and judgements changing legal status (eg, voidance of dismissal) are all available.

Law stated - 1 August 2025

Assessing compensation

36 | How is any compensation assessed?

Compensation is generally assessed on the actual damage incurred. The concept of punitive damages is unknown in Austria.

Compensation for pain and suffering/non-material damage (eg, in connection with discrimination claims) is assessed within the statutory limits and based on case law. Awards rarely exceed €10,000 per case.

Law stated - 1 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

Judgments (unless merely declaratory) can be enforced through separate enforcement proceedings by way of various enforcement instruments.

Law stated - 1 August 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Judgments by the labour court can be appealed within four weeks from receiving the judgment. The other party can file a reply statement within another four weeks, the case is then referred to the competent appeals court. Decisions by the appeals court take three to 12 months, depending on the complexity of the case. Generally, the appeals court decides on the basis of the written file, there is usually no hearing before the appeals court. The decision by the appeals court can then be further appealed to the supreme court. Decisions there also take between three to 12 months.

There are only few exceptions: a judgment by the labour court on the parental part time-model of a parent that did not reach agreement with their employer on this issue and where therefore either party filed suit to have this clarified by the court is unappealable. Likewise, a judgment by the supreme court rendered as the court of first instance in a matter brought by one of the representative bodies authorised to collective bargaining (chamber of commerce; chamber of employees/trade unions) and requesting a declaratory remedy in connection with a collective employment matter is not appealable.

Law stated - 1 August 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

No.

Law stated - 1 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Major legislative and policy developments concerned:

- parental part time and parental leave (extension of scope);
- leave entitlements in case of care work and anti-discrimination concerning family life (family support package);
- amendments to partial retirement-models;
- new home-office and teleworking framework;
- amendments to educational leave and educational part-time models;
- implementation of EU-Whistleblowing Directive, and
- expected implementation of EU- Pay Transparency Directive.

Key cases decided by the Austrian supreme court included:

- entitlement to compensation payment for unused leave also in case of employee's immediate resignation without cause (following a preliminary ruling by the ECJ);
- data protection and access to a former employee's email-account (supreme court allowed access to safeguard employer's valid interest in a smooth transition from one employee to successor in position);
- justified dismissal in case of wrong time reporting by employee working remotely (home office);
- no violation of employee's obligations during sick leave in case of depression, if employee participates in 35-year anniversary of his motorcycle club; and
- request/instruction by employer to try on and wear a typical Austrian dress (Dirndl) does not amount to sexual harassment.

Law stated - 1 August 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Parties to employment legislation can access the complete court file from their desk, so to speak, by way of electronic file access. Also, service of process between parties and the court is made electronically, and screens at the benches and witness stand show exhibits that are relevant for the case or that a witness is supposed to explain.

In short, the paperless, electronic file has almost fully become reality.

Law stated - 1 August 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

No.

Law stated - 1 August 2025

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Cambodia

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

No. The Labour law does not set out any pre-action requirements for employment claims. Consequently, there are no penalties for non-compliance.

Article 385 of the Labour Law states that any labour disputes, including individual disputes and collective disputes, that cannot be settled through conciliation can be brought before the Labour Court. However, as the Labour Court has not yet been established, labour disputes are generally brought before the competent court in Cambodia.

Law stated - 14 October 2024

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

No. Cambodian law does not expressly restrict third parties from funding the costs of litigation or agreeing to pay adverse costs.

Law stated - 14 October 2024

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Yes. Lawyers are not restricted from acting on a contingency fee basis under the Law on the Bar, which regulates lawyers in Cambodia. Further, article 68 of the Law on the Bar allows lawyers to charge based on the results obtained, which suggests that contingency fees are acceptable. Any contingency fee arrangements should be clearly set out in an agreement between the lawyer and his/her client.

Law stated - 14 October 2024

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Under Cambodian law there are three potential forums for resolving complaints concerning individual employment rights: (1) mediation through the Ministry of Labour and Vocational Training (MLVT), (2) arbitration through the Arbitration Council, and (3) litigation through the courts of Cambodia.

Under the Labour Law, parties to a labour dispute may submit a complaint to the MLVT's labour inspector, who will attempt to mediate the dispute. In the event that the parties cannot settle their dispute, any reports or decisions rendered by the labour inspectors are not binding.

Following mediation, any party to the dispute may either file a complaint to the Arbitration Council or the courts of Cambodia.

The Arbitration Council is an arbitral body that only handles labour disputes. Parties can decide whether decisions of the Arbitration Council are binding.

Lastly, parties to a labour dispute may file a complaint in the relevant Cambodian court of first instance.

Law stated - 14 October 2024

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Article 1 of the Labour Law states that regardless of where the contract was made, and regardless of the nationality and residences of the contracted parties, the Labour Law governs relations between employers and workers resulting from employment contracts to be performed within the territory of the Kingdom of Cambodia.

Law stated - 14 October 2024

Standing

6 | Who can bring a claim?

Under the Labour Law, any party to a dispute, either the employer or the employee, can file a claim.

Law stated - 14 October 2024

Commencing claims

7 | How are claims commenced?

The process of initiating a claim depends on the forum selected:

-

Labour Mediation at the MLVT: a claim is initiated when the parties submit their case to the Labour Dispute Department of the MLVT.

- Arbitration Council: if mediation is unsuccessful, a party may submit a claim to the Arbitration Council.
- Courts of Cambodia: if the dispute remains unresolved after mediation or arbitration, the parties can file a claim with the relevant Cambodian court of first instance, and the claim is considered commenced once filed.

Law stated - 14 October 2024

Fees

8 | Are fees payable for the issuing of a claim?

Fees related to litigation in the Cambodian courts are payable based on the value of the claim. Under article 61 of the Civil Procedure Code, when an action is filed, the fee is calculated according to the below schedule:

- for the portion of the claim value up to 10 million Cambodian riel: 1,000 Cambodian riel for each 100,000 Cambodian riel;
- for the portion of the claim value exceeding 10 million Cambodian riel and up to 100 million Cambodian riel: 700 Cambodian riel for each 100,000 Cambodian riel;
- for the portion of the claim value exceeding 100 million Cambodian riel and up to 1 billion Cambodian riel: 300 Cambodian riel for each 100,000 Cambodian riel; and
- for the portion of the claim value exceeding 1 billion Cambodian riel: 100 Cambodian riel for each 100,000 Cambodian riel.

For mediation at the MLVT and arbitration at the Arbitration Council, no fees apply.

Law stated - 14 October 2024

Service

9 | Is any qualifying service required?

For litigation, under article 79, paragraph 1 of the Code of Civil Procedure of Cambodia, there is a requirement for serving notice of a claim, stating that the complaint must be delivered to the defendant.

For mediation and arbitration, Cambodian law does not specify a formal requirement for serving notice of a claim. However, in practice, once the MLVT or Arbitration Council receive a complaint, they typically issue a formal written notice to the other parties involved.

Law stated - 14 October 2024

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

There are no restrictions on whom a claim can be brought against. Therefore, a claim can be brought against both a natural person and a legal person.

Law stated - 14 October 2024

Types of claims

11 | What types of claims can be brought?

Cambodian law allows claims for both individual disputes and collective disputes:

- Individual dispute: claims relating to the interpretation or enforcement of the term of a labour contract or apprenticeship contract, or the provisions of a collective agreement as well as regulations or laws in effect (article 300 New of the Labour Law).
- Collective dispute: claims relating to work conditions, the exercise of the recognised rights of professional organisations, the recognition of professional organisations within the enterprise, and issues regarding relations between employers and workers. Such disputes could jeopardise the effective operation of the enterprise or social peacefulness (article 302 of the Labour Law).

Law stated - 14 October 2024

Time limits

12 | What are the time limits for bringing employment claims?

Any claims regarding the payment of wages must be brought within three years from the date of the wage payment, otherwise the claim will expire pursuant to article 120 of the Labour Law.

In the event of labour mediation at the MLVT, if the parties are unable to agree on a settlement, then the interested party must file a complaint in court within two months, otherwise the claim will lapse pursuant to article 301 of the Labour Law.

For other civil claims, the period for extinctive prescription (ie, statute of limitations) is five years under article 482 of the Civil Code.

For criminal claims, the statute of limitations is one year for petty offences, five years for misdemeanours, and 20 years for felonies under article 144 of the Criminal Code.

Law stated - 14 October 2024

Counterclaims

13 | Can any counterclaims be brought by an employer?

Under the Labour Law, an employer is not restricted from filing counterclaims.

Law stated - 14 October 2024

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Before initiating any of the procedures below, parties will typically send demand letters to the other party. In the event that a demand letter and any subsequent negotiations fail, then the parties may refer to the dispute to (1) mediation, (2) arbitration, or (3) the courts.

As mediation is free of charge, many employees initially refer their cases to mediation. Following mediation, the most common venue for resolving disputes would be the Arbitration Council. In practice, submitting disputes to the courts of Cambodia is not common, due to costs and transparency issues.

1. Mediation: any employee or employer can initiate a labour mediation by filing a claim to the Labour Dispute Department at the Ministry of Labour and Vocational Training (MLVT). Under the MLVT labour mediation process, the MLVT acts as a mediator and has no power to make a binding decision. Further, the MLVT can make a report on its findings in the case. The MLVT labour mediation process is fast and free of charge. Typically, this process takes approximately one to two months.
2. Arbitration Council: applicable for both individual and collective labour disputes, meaning that the dispute involves one employer and one employee or one employer and a group of employees or a union. Parties can appeal the Arbitration Council's decision within eight days; otherwise, the decision is final and must be implemented.
3. Court: Cambodia does not have a separate labour court; thus, all labour disputes are handled by civil or criminal courts, as the case may be.

Law stated - 14 October 2024

Rules

15 | What rules apply to case management?

No specific rules apply to mediation or arbitration. All cases brought to the courts of Cambodia are subject to the Civil Procedure Code of Cambodia.

Law stated - 14 October 2024

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

For litigation, the plaintiff is permitted to amend the action up until the conclusion of oral arguments, provided there is no change to the basis for the action. However, this permission does not extend to amendments that would significantly delay court proceedings.

Any amendments must be submitted in writing and served on the opposing party. If the court deems an amendment improper, it may, either upon motion or on its own initiative, issue a ruling prohibiting such an amendment (article 84, Civil Procedure Code).

Law stated - 14 October 2024

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Yes, additional parties can be involved in a case. If a third party has a legal interest in the outcome, they may intervene to support either side. Furthermore, if the rights and obligations in the case are to be determined jointly and unseverably for one of the parties and a third party, that third party can join the case as a co-party (article 43 and 49, Code of Civil Procedure).

Law stated - 14 October 2024

Consolidating proceedings

18 | Can proceedings be consolidated?

Yes. The proceeding can be consolidated upon discretion of the court or the judge in charge of the case when it deems the cases fit to do so.

The court can decide to separate or combine cases by issuing a ruling, and it can also cancel such a ruling. If, during oral arguments, the court combines cases involving different parties, and a party requests to examine a witness who was previously examined before the cases were combined and had no opportunity to do so, the court must re-examine that witness (article 99, Code of Civil Procedure).

Law stated - 14 October 2024

Class and collective actions – special considerations

19 Are there any special considerations for class actions, multi-party or group litigation?

In Cambodia, these are referred to as 'joint suits'. Multiple people can file or be subject to a suit together as co-parties if any of the following conditions are met:

- they share the same rights or obligations in the suit;
- their rights or obligations in the suit arise from the same facts or legal reasons; or
- their rights or obligations in the suit are similar and based on the same type of facts or legal reasons (article 39, Code of Civil Procedure).

Law stated - 14 October 2024

Evidence

20 | How is witness, documentary and expert evidence dealt with?

The court will determine facts based on evidence. However, it may also consider any matters and circumstances revealed during oral arguments. Facts admitted by a party in court, and facts that are obvious to the court, do not need to be proven with evidence. A party can retract an admission in the following situations:

- if the other party does not object;
- if the admission is false and was made by mistake; or
- if the admission was made due to another party's criminal act (article 123, Code of Civil Procedure).

Witnesses

The court may examine any person as a witness. The court may, via the issuing of a ruling, order the subpoena of a witness who fails to appear without justifiable grounds (article 132, Code of Civil Procedure).

Documentary Evidence

Documentary evidence shall be offered through the submission of a document in the possession of a party or by requesting the court to order the holder of a document to submit such document. Documentary evidence may be offered by requesting the court to entrust the holder of the document to send such document. Where the court finds it necessary, it may retain a document submitted or sent thereto (article 148, Code of Civil Procedure).

Expert Testimony

- The court may order expert testimony based on an offer thereof from a party.
- When offering expert testimony, a party who makes such offer shall submit a document stating the matters for which the expert testimony is being sought. It shall be sufficient to submit such document within the period specified by the court if there are unavoidable grounds thereof.

- The court shall hear the opinions of the counterparty regarding the offer described in paragraph 2.
- The court shall determine the matters for the expert testimony based on the document described in paragraph 2 while also giving consideration to the opinions described in paragraph 3. In such case, a document stating the matters for the expert testimony shall be sent to said expert witness.

(article 143, Code of Civil Procedure)

Law stated - 14 October 2024

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

A witness can be compelled to give evidence. The court can issue a ruling to subpoena a witness who fails to appear without a valid reason. If the witness still does not appear, and without a valid reason, the court can issue a ruling to fine the witness up to 1 million Cambodian riel.

A witness cannot give evidence from abroad, unless (1) the witness has no duty to appear before the court, or where the witness is unable to appear before the court for justifiable reasons, (2) where the witness would be required to spend undue expense or time to appear before the court in charge of the case; or (3) where neither party has any objection to such examination (article 132 & 136, Code of Civil Procedure).

Law stated - 14 October 2024

22 | Is cross examination of a witness permitted?

Yes. The cross-examination of a witness is permitted under the Civil Procedure Code. A party desiring to cross-examine a witness must make such request to the judge during the hearing. While a judge has the discretion to allow or deny a party the ability to cross-examine a witness, in practice, judges often proceed with a cross-examination whenever there is any witness in a case.

Law stated - 14 October 2024

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

After a complaint is filed, the court will assign a judge to handle the case. Typically, within 30 days, the judge will invite the parties to a preliminary meeting (preliminary stage). If

both parties appear at the preliminary meeting, the judge will initiate a mediation and try to propose a compromising resolution for the parties. However, if the parties cannot reach a resolution and want to proceed with further proceedings, the judge will then lead further proceedings and prepare a list of issues.

The preliminary stage is crucial for the parties to understand each other's positions, and to try and negotiate a successful resolution of the matter for their client. Being prepared for the preliminary meeting and having supporting evidence, including witnesses or documentary evidence, strengthens a party's negotiating position.

Law stated - 14 October 2024

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Yes. Under Cambodian law, employment disputes are not distinguished from general civil disputes.

Generally, interim relief can be sought in any civil proceeding, notably in relation to monetary claims under Chapter 2 of the Code of Civil Procedure. In practice, however, we are not aware of interim relief being granted by a Cambodian court in an employment dispute, and our view is that preserving an employee's employment pending resolution of a dispute is rare, in particular because Cambodian law generally allows for termination if statutory payments are made, even if termination is made with a lack of cause.

Law stated - 14 October 2024

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

Yes. There are requirements as follows:

1. A written motion for a ruling on preservative disposition must include the following information: (a) the names and addresses of the parties involved, as well as the names and addresses of their legal representatives or agents. (b) The specific contents of the preservative disposition being sought. (c) The rights or legal relationships that are intended to be preserved. (d) The necessity for the preservative disposition.
2. The moving party must make diligent efforts to provide specific details for Items (c) and (d) under paragraph 1, including stating evidence for each fact and the grounds that need to be proven.
3. A prima facie showing must be established concerning Items (c) and (d) of paragraph 1 (article 541, Civil Procedure Code).

Law stated - 14 October 2024

TRIAL

Hearings – conduct and typical time frames

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

Employment disputes are classified as civil disputes. The handling of such cases depends on the complexity of the outstanding case and/or on the discretion of the presiding judge. Typically, a hearing may be conducted one or two times, with each session lasting between two to four hours. A case may take from six months to one year overall at the court of first instance. It the case is appealed, the case may take from two to three years.

Law stated - 14 October 2024

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Cambodia does not have a dedicated chamber for employment disputes; therefore, these disputes are treated as general civil disputes.

All civil disputes are public unless the judge decides otherwise. Therefore, public access is granted to the court's hearing. However, no evidence is made publicly available outside of the court hearing, and evidence is only strictly shared with the parties of the case.

Law stated - 14 October 2024

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

Members of the media are permitted to attend court hearings, as these proceedings are open to the public. There are no restrictions on media reporting. In practice, we have observed media coverage of several notable collective labour disputes.

The presence of the media can ensure transparency and public awareness of the judicial process. It also holds the parties accountable and can influence the conduct of the proceedings. However, while the hearings are open to the public, it is important to note that no evidence presented during the trial is made publicly available outside of the court hearing. Such evidence is strictly shared only with the parties involved in the case to protect the confidentiality and integrity of the information.

Law stated - 14 October 2024

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

Cambodian law does not set out an explicit standard for burden of proof. The court evaluates the evidence submitted by the parties. However, it is at the judge's discretion to determine the weight and relevance of each piece of evidence. The Civil Procedure Code does not specify the required elements to rule in favour of a party; therefore, the decision relies on the judge's discretion, as deemed fit and reasonable.

Law stated - 14 October 2024

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Alternative dispute resolution (ADR), such as arbitration or conciliation/mediation, is encouraged under the Labour Law, as these mechanisms generally lead to quicker, cheaper, and less confrontational solutions than court proceedings. There are no specific non-arbitrable employment disputes.

ADR for employment disputes is typically handled through the two methods below:

- Conciliation/mediation: the Ministry of Labour and Vocational Training (MLVT) has conciliators who facilitate discussions between conflicting parties to reach an agreement. Mediation is the initial step to resolving a labour dispute.
- Arbitration: if the dispute cannot be resolved at the conciliation stage, it may be passed to the Arbitration Council. The Arbitration Council is an independent, national institution with quasi-judicial authority derived from the Labour Law of Cambodia.

Law stated - 14 October 2024

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

At the pre-action stage, the parties are generally encouraged to settle any disputes by involving a third-party conciliator/mediator like the MLVT. The parties may decide to bring the case to the Arbitration Council or the court if the conciliation fails. Failure to

engage in ADR is likely to result in the dispute being taken to court, which may be costly, time-consuming, and contentious.

Law stated - 14 October 2024

Enforcement

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Conciliation/mediation: Following the conclusion of the conciliation process, the Labour Inspector will provide a formal written report outlining the outcome of the conciliation. The report will be signed by the Labour Inspector and the parties. Any agreements made before the Labour Inspector are legally enforceable. If conciliation fails, the parties can submit the complaint to the court within two months. Otherwise, the possibility of initiating litigation will lapse (Article 301, Labour Law). However, collective labour disputes can be resolved by the Arbitration Council before bringing the case to court.

Arbitration:

- Binding awards: these decisions are enforced like court judgments, and non-compliance can lead to legal penalties. According to Prakas on Composition of the Arbitration Council dated 21 April 2004, an arbitration award can be binding unless the parties mutually agree or if no objection is made by the parties within eight calendar days. If the period for opposition has lapsed and a party refuses to abide by the award, the other party can request the court to recognise and enforce the award through compulsory execution in accordance with the Civil Procedure Code. In addition, the Arbitration Council may notify the Labour Inspectors of the award to help take measures for its implementation.
- Non-binding awards: the Arbitration Council will offer recommendations for resolving the labour dispute. However, if either party disagrees, they can take the dispute to court. The non-binding awards mostly depend on the intentions of the parties involved.

Law stated - 14 October 2024

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 How are collective employment rights enforced?

Collective employment rights are enforceable under the Labour Law and other relevant regulations.

In addition, employers and employees can enter into a collective bargaining agreement (CBA), which provides favourable terms for employees as compared to existing laws. However, those clauses must not be contrary to public order and Cambodian law. A

CBA must be registered with the Labour Inspector and posted in the workplace to be effective. The registered CBA will also be filed to the court's clerk's office for recordkeeping according to Prakas No. 287 on Procedures for Registering, Publishing and Monitoring the Enforcement of Collective Bargaining Agreements dated 5 November 2001.

Law stated - 14 October 2024

Standing

34 | Who can bring a claim in relation to collective employment rights?

Employers, employees, trade unions, or labour organisations can file claims for collective employment rights in Cambodia. However, even if the collective labour dispute has not been officially filed, the MLVT's Labour Inspectors are authorised to initiate legal conciliation proceedings upon learning of the dispute.

Law stated - 14 October 2024

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

Civil remedies or compensatory damages are available for labour disputes.

Law stated - 14 October 2024

Assessing compensation

36 | How is any compensation assessed?

If there is a CBA between the employer and the employee that specifies a mechanism for resolving labour disputes and compensation, the terms of the CBA will be followed. If not, the conciliators, arbitrators, or judges, may examine the facts and situation in accordance with the labour law and relevant regulations to make a fair decision. The compensation assessment may be based on several factors, including but not limited to unpaid wages, wrongful termination, damages, and other considerations.

Law stated - 14 October 2024

Enforcement mechanisms

37 | How can any judgment be enforced?

It is required to separately file a motion to enforce a judgment with the respective court after receiving the judgment and once it becomes final in accordance with the applicable law. However, this procedure is not required for enforcing ADR decisions or awards unless a party has any objections or refuses to abide by the award.

Law stated - 14 October 2024

APPEALS

Appeal procedure and time frames

38 How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

As an initial matter, it is important to highlight that if any party is not satisfied with the respective award issued by the Arbitration Council, such party may file an appeal with the Minister of the MLVT. While the arbitration proceeding is an ADR venue for labour disputes between employers and employees, the parties can initiate a court proceeding with the local competent court.

In Cambodia there are three levels of courts –the court of first instance, court of appeals, and Supreme Court. Depending on how the counterparty responds, a case may take approximately six months to one year to obtain a final decision from the court of first instance. An appeal can be made if a judgment/decision of the respective court in question (either court of first instance or court of appeals) is not final and binding.

After a judgment/decision from the court of first instance is announced, the parties involved have one month to submit an appeal to the court of appeals, starting from the date when the written judgment was served to the related party.

However, possible appeals could increase the timeframe to obtain a final judgment. Practically, it takes approximately two to five years to obtain a final judgment from the Supreme Court of Cambodia.

Law stated - 14 October 2024

Other means of challenge

39 Can a judgment be challenged other than through the appeal process?

There is no explicit procedure for challenging or reconsidering a judgment other than through the appeal process.

Law stated - 14 October 2024

UPDATE AND TRENDS

Recent cases and developments

40 What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Cambodia's Ministry of Labour and Vocational Training issued the Notification on Compensation for Terminating an Employment Contract on 21 March 2024, clarifying the compensation due to employees upon the termination of their employment contracts. The notification outlines different requirements depending on the nature of the termination and the type of employment contract, which may include the following compensation:

- wages that have not yet been paid;
- unused and unpaid annual leave through the termination date;
- severance payment equal to at least 5 per cent of the wages paid to the employee during the length of the contract;
- seniority indemnity for the semester (ie, half year period) in which the employee is terminated and total seniority back-payments that have not been paid (see definition below);
- compensation in lieu of notice if the employer did not give prior notice in accordance with the Labour Law;
- damages for being laid off before the expiration date of the fixed-duration contract, at least equal to the wages the employee would have received had he or she completed the original contracted term of employment; and
- damages for being laid off, in an amount equal to the seniority payment received during the employment contract.

Seniority payments refer to a payment made by an employer to an employee that is equal to 15 days of wages per year that is awarded to employees in June and December of each year (seven and a half days per six-month period). For persons employed before 2019, they also receive a seniority back-payment in the same amount for each year of service, subject to certain caps.

As for cases and decisions, few labour cases are actually submitted to court (and those that are are generally not made public), and most disputes are resolved through mediation, the Arbitration Council, and settlements.

Law stated - 14 October 2024

Technology developments

41 What impact is technology having on employment litigation in your jurisdiction?

The Cambodian courts still rely on a paper-based system for recording and keeping case materials. It includes all submissions of evidence and other legal filings. Digitalisation of court files and online access to the case materials is currently not available.

Law stated - 14 October 2024

Other issues

42 Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

None.

Law stated - 14 October 2024

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

No, there is no pre-action requirements for employment claims. Although when a labour dispute arises, the employee concerned may have a consultation with the his/her employer or invite the trade union or a third party to join in the consultation with the employer, in order to reach a settlement agreement, but the mediation is not the pre-action, the employee may apply to a labour dispute arbitration commission for arbitration straightly.

Law stated - 25 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

No, there is no rules or restrictions. Besides, it costs almost nothing for employment claims. In China, arbitration of labour disputes is free of charge and 10 yuan shall be paid for each labour dispute case in the litigation to a people's court.

Law stated - 25 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

No, it is prohibited to implement contingent fees for job-related injury compensation or labour remuneration.

Law stated - 25 August 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Where a labour dispute arises, the parties may apply for mediation, arbitration or litigation.

The mediation institutions includes (1) labour-dispute mediation commissions of enterprises; (2) people's mediation institutions at the grass-roots level established in

accordance with law; and (3) organisations with the function of labour-dispute mediation established in townships or neighbourhoods.

The organising mechanism for hearing labour disputes is the labour arbitration committee and the people's court. The parties can only initiate a litigation to a people's court if they are not satisfied with the arbitral award.

Law stated - 25 August 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

A labour dispute shall be under the jurisdiction of the labour-dispute arbitration commission at the place where the labour contract concerned is performed or where the employer is located. Where one of the two parties applies for arbitration to the labour-dispute arbitration commission at the place where the labour contract is performed and the other does so at the place where the employer is located, the labour dispute shall be subject to the jurisdiction of the former.

Law stated - 25 August 2025

Standing

6 | Who can bring a claim?

The employee and the employer both can bring a claim.

Law stated - 25 August 2025

Commencing claims

7 | How are claims commenced?

The parties should apply for arbitration first. To applying for arbitration, the applicant shall submit a written application for arbitration and submit duplicates of the application according to the number of the respondents.

The following matters shall clearly be stated in the application for arbitration:

1. name, gender, age, occupation, employer and domicile of the employee, name and domicile of the employer, and name and position of the legal representative or the principal leading person;
2. the claims for arbitration and the facts and reasons on which the request is based; and
3. evidence and the source thereof, and name and domicile of the witness.

Where the applicant has difficulty in writing an application for arbitration, he/she may make an oral application, which shall be transcribed by the labour-dispute arbitration commission and be made known to the other party.

Law stated - 25 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

It costs almost nothing for employment claims. In China arbitration of labour disputes is free of charge and 10 yuan shall be paid for each labour dispute case in the litigation to a people's court.

Law stated - 25 August 2025

Service

9 | Is any qualifying service required?

No.

Law stated - 25 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

The employees can bring a claim against the employers. In China, the employers refer to enterprises, individual economic organisations, private non-enterprise entities, etc in the People's Republic of China, not including natural persons.

Law stated - 25 August 2025

Types of claims

11 | What types of claims can be brought?

According to the article 2 of Law of the People's Republic of China on Mediation and Arbitration of labour Disputes, the types of claims include (1) disputes arising from the confirmation of labour relations; (2) disputes arising from the conclusion, performance, alteration, rescission or termination of labour contracts; (3) disputes arising from expulsion, dismissal, resignation or dimission; (4) disputes arising from working hours, the period of

rest and vacation, social insurance, welfare benefits, training and occupational protection; (5) disputes arising from labour remuneration, medical expenses for job-related injury, economic compensation or damages, etc; and (6) other labour disputes prescribed by laws and regulations.

Law stated - 25 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

According to the article 27 of Law of the People's Republic of China on Mediation and Arbitration of labour Disputes, The limitation period for application for arbitration of a labour dispute is one year, which shall be calculated from the date a party comes to know or is expected to know the infringement of its rights.

The limitation period for arbitration as prescribed in the preceding paragraph shall be discontinued when one party claims its rights against the other party or requests the relevant department for remedy, or when the other party agrees to perform its obligations. The limitation period for arbitration shall be calculated anew from the time of discontinuance.

Where, due to force majeure or for other justifiable reasons, the party fails to apply for arbitration within the limitation period for arbitration as prescribed in the first paragraph of this article, the limitation period for arbitration is suspended, calculation of the limitation period for arbitration shall continue from the date the reasons for suspension disappear.

Where, during the existence of the labour relations, a dispute arises over the default in payment of labour remuneration, application for arbitration by the employee concerned shall not be restricted by the limitation period for arbitration prescribed in the first paragraph of this article. However, where the labour relations are terminated, such application for arbitration shall be submitted within one year from the date the labour relations are terminated.

Law stated - 25 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Yes.

According to the article 36 of Rules for the Handling of Arbitration Cases Involving Labour and Employment Disputes (2017), the respondent may submit counterclaim within the pleading period. The arbitration committee shall decide whether to admit the counterclaim and notify the applicant within five days from receipt of the counterclaim.

If the arbitration committee decides to admit the counterclaim, the counterclaim and the application may be handled together.

If the counterclaim involves a dispute that should be filed for arbitration separately, the arbitration committee shall inform the respondent in writing thereof. The arbitration committee shall issue a notification of non-admission to the respondent if the counterclaim does not involve any disputes that falls within the jurisdiction of these Rules.

If the respondent files for counterclaim after the expiry of the pleading period, such counterclaim shall be filed in a separate arbitration.

The pleading period mentioned above shall be 10 working days.

Law stated - 25 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

According to the articles 4 and 5 of Law of the People's Republic of China on Mediation and Arbitration of Labour Disputes, when a labour dispute arises, the employee concerned may have a consultation with the his/her employer or invite the trade union or a third party to join in the consultation with the employer, in order to reach a settlement agreement. Where a labour dispute arises and the parties are not willing to have a consultation, or the consultation fails, or the settlement agreement reached is not performed, they may apply to a mediation institution for mediation. Where the parties are not willing to have mediation, or the mediation fails, or the mediation agreement reached is not performed, they may apply to a labour-dispute arbitration commission for arbitration. Where they are dissatisfied with the arbitral award, they may initiate a litigation to a people's court, unless otherwise provided herein.

Law stated - 25 August 2025

Rules

15 | What rules apply to case management?

Law of the People's Republic of China on Mediation and Arbitration of Labour Disputes.

Rules for the Handling of Arbitration Cases Involving Labour and Employment Disputes (2017).

Law stated - 25 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

According to the article 44 of Rules for the Handling of Arbitration Cases Involving Labour and Employment Disputes (2017), the applicant may add to or change his arbitration claims before the expiry of the period for producing evidence. Where the arbitration court takes that view after examining the claims to be added or changed that it is admissible, the court shall notify the respondent and provide a period for defence, except where the respondent has waived the period for defence in clear terms. Application for addition to or change of an arbitration claim after the expiry of the period for producing evidence shall be filed in a separate arbitration.

The period for producing evidence will be determined by the arbitration court depending on the specific circumstances of the case, which should be informed to the parties within five days from acceptance of the application.

Law stated - 25 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Usually, there is only one worker and one employer in a labour dispute. Therefore, it is neither necessary nor permitted to bring unrelated parties into the case. A third party that has an interest in the result of a labour dispute case to be handled may apply for participating in arbitration or be notified to do so by the labour-dispute arbitration commission. In additional there will be multiple parties under some special circumstances where additional parties can be brought into as co-parties.

For example:

- Where an employer in a dispute fails to obtain a business license, has its business license cancelled, continues to operate after expiry of its business license, or is ordered to wind up or is revoked, or it is unable to bear the related liability due to dissolution or business suspension, the employer and its capital contributor or founder or the competent authorities shall be taken as co-parties.
- Where a dispute arises between an employee and an individual contractor, and an application for arbitration has been filed in accordance with the law, both the organisation issuing the contract and the individual contractor shall be taken as co-parties.
- If the employee works for affiliated employers under cross-rotation, and the work contents are cross and overlapping, these several employers shall be taken as co-parties and bear joint liability in accordance with the law or as agreed by the parties.
- In labour dispatch relations, the labour secondment unit and the employer shall be taken as co-parties.

Law stated - 25 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Where a party or both parties to an arbitration or a lawsuit comprise(s) two or more persons, and the subject matter of litigation is common, or the subject matters of litigation are the same type, the labour-dispute arbitration commission or the People's Court deemed that the arbitration or lawsuit may be tried as a joint action, the arbitration commission or Court may try the arbitration or lawsuit as a joint action upon consent by the parties.

Law stated - 25 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

Where a dispute involves more than 10 employees on one party and they have common claims, these employees may elect three to five delegates to participate in the arbitration activities. The delegates' action in the arbitration shall become legally effective for the party concerned they represent; however, the delegates shall obtain the consent from the party concerned they represent at the time of altering and waiving the arbitration claims, admitting the arbitration claims of the other party concerned, or engaging in mediation.

If a labour disputes arising from the performance of collective contract cannot be settled through negotiation, the labour union may apply for arbitration according to law; and if the labour union has not been established, the delegates elected by the employees under the guidance of the labour union at the next higher level may apply for arbitration according to law.

Law stated - 25 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

1. Witnesses shall be required to appear in arbitration commission or court and testify, answer questions raised by arbitrators or judges and parties to an action. Where both parties to a case agree that a witness may give testimony in other ways and subject to the approval of the arbitration commission or the people's court, the witness is not required to testify in the arbitration commission or court. Otherwise, the testimony shall not be taken as the basis for ascertaining the facts in a case.
2. The parties shall produce the original document or item of the documentary evidence. Where the documentary evidence provided by a party concerned is formed outside the territory of the People's Republic of China, such evidence shall be notarised by a notary organ of the country where it is formed, or the

procedures for certification shall be completed according to the relevant treaty concluded between the People's Republic of China and the country. Any document or specification materials written in a foreign language submitted by any party to the people's court shall be accompanied with a Chinese translation.

3. A litigant may apply to the People's Court to notify one or two person with special expertise to be present in court to give opinions on the examination opinion or a specialised issue of the expert witness before expiration of the period for adducing evidence. Judges may question persons with expertise. Upon approval by the court, litigants may question the persons with expertise, and the persons with expertise applied by the respective litigants may confront the relevant issues in the lawsuit. Persons with expertise shall not participate in court trials other than those for cross-examination of expert opinions or expressing of opinions on professional issues. These rules may be applied in labour arbitration, but not often.

Law stated - 25 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes, witnesses shall be required to appear in arbitration commission or court and testify, answer questions raised by arbitrators or judges and parties to an action.

Witnesses from abroad can apply for testifying in court by audio-visual transmission technology if conditions allow.

Law stated - 25 August 2025

22 | Is cross examination of a witness permitted?

Witnesses shall be required to appear in arbitration commission or court and testify, answer questions raised by arbitrators or judges and parties to an action.

Law stated - 25 August 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

1. Find relevant laws and regulations, especially local regulations and guidelines;
2. Grasp the issue of each claims and understand the burden of proof associated with the claims

3. Organise evidence to support your own claims and refute the claims of the other side.

Law stated - 25 August 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

In respect of the cases involving the recovery of labour remuneration, payment of medical expenses for job-related injury, economic compensation or damages, the arbitral tribunal may, according to the application of the parties, make an award on advance execution and transfer it to the people's court for execution.

For the arbitral tribunal to make an award on advance execution, the following conditions shall be met:

- the relationship between both parties in terms of their rights and obligations are clearly defined; and
- the living standards of the applicant will seriously be affected, unless advance execution is awarded.

Where a worker applies for advance execution, no guarantee needs to be provided.

Law stated - 25 August 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

For the arbitral tribunal to make an award on advance execution, the following conditions shall be met:

- the relationship between both parties in terms of their rights and obligations are clearly defined; and
- the living standards of the applicant will seriously be affected, unless advance execution is awarded.

Law stated - 25 August 2025

TRIAL

Hearings – conduct and typical time frames

|

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

Firstly, the employees or employers apply to a labour-dispute arbitration commission for arbitration. Where the arbitral tribunal is to make an award of a labour dispute case, it shall finish making the award within 45 days from the date the labour-dispute arbitration commission accepts the arbitration application. If an extension is needed due to the complexity of the case, such extension shall be subject to approval by the director of the labour-dispute arbitration commission, and the parties shall be notified of the extension in writing; however, the period of extension may not exceed 15 days. If no arbitral award is made at the expiration of the time limit, the parties may initiate a litigation to a people's court with respect to the labour dispute.

Secondly, where they are dissatisfied with the arbitral award, they may initiate a litigation to a people's court, unless otherwise provided herein. Trial of a case for which a People's Court applies general procedures for trial shall be completed within six months from the date of establishment of case file. Where there is a need for extension of time under special circumstances, upon the approval of the president of the court, an extension of time of six months may be granted; where there is a need for further extension of time, the approval of the higher-level People's Court is required.

Thirdly, where a litigant disagrees with a judgement of first instance of a local People's Court, it/he has the right to file an appeal with the higher-level People's Court within 15 days from the date of service of the judgement letter, which is the final hearing. A People's Court trying an appeal case against a judgement shall complete the trial within three months from the date of establishment of case file for the trial of second instance. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required.

But for the following labour disputes, the arbitral award shall be final and the award shall take legal effect from the date the award is made, unless otherwise provided herein:

- disputes involving the recovery of labour remuneration, medical expenses for job-related injury, economic compensation or damages, and the amount involved does not exceed that of the standard local monthly wage rates multiplying 12 months; and
- disputes arising over working hours, the period of rest and vacation, and social insurance, etc., in the course of applying the occupational standards of the State.

Law stated - 25 August 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

The arbitration or litigation of labour disputes shall be conducted openly, unless where the parties agree otherwise, or where state secrets, commercial secrets or personal affairs are involved.

Evidence is not available to the public.

Law stated - 25 August 2025

Media reporting

28 | How is media interest dealt with? Are there any restrictions on media reporting?

There is no special restriction requirements in labour disputes.

Law stated - 25 August 2025

Elements of successful claims and burden of proof

29 | How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

The party shall bear the responsibility of producing evidence to support his claim. If the evidence relevant to the dispute is in the possession and management of the employer, the employer shall produce the evidence, and shall bear any adverse consequence if it refuses to do so. Where it is not provided by law, or the arbitration committee is unable to ascertain which party is to produce evidence, the arbitration committee shall determine which party shall bear the burden of proof under the principles of fairness and good faith and in comprehensive consideration of the party's ability to produce the evidence and other factors.

Law stated - 25 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 | What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Where a labour dispute arises, the parties may apply for mediation to the following mediation institutions:

- labour-dispute mediation commissions of enterprises;
- people's mediation institutions at the grass-roots level established in accordance with law; and
-

organisations with the function of labour-dispute mediation established in townships or neighbourhoods.

The labour-dispute mediation commission of an enterprise shall be composed of representatives of employees and of the enterprise. The representatives of employees shall be trade union members or be chosen by all employees, and the representatives of the enterprise shall be designated by the person in charge of the enterprise. The director of the labour-dispute mediation commission of the enterprise shall be a trade union member or a person chosen by both parties.

Where an employer, in violation of State regulations, defaults in the payment of labour remuneration or fails to pay the same in full, or defaults in the payment of medical expenses for job-related injury, economic compensation or damages, the worker concerned may make a complaint to the administrative department of labour, which shall handle the complaint in accordance with law.

Law stated - 25 August 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

The parties shall engage in ADR at the pre-action stage. Where the parties are not willing to have mediation, or the mediation fails, or the mediation agreement reached is not performed, they may apply to a labour-dispute arbitration commission for arbitration. Where they are dissatisfied with the arbitral award, they may initiate a litigation to a people's court, unless otherwise provided herein.

Law stated - 25 August 2025

Enforcement

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Where an agreement is reached after mediation, a mediation agreement shall be prepared.

The mediation agreement shall be signed or sealed by both parties, and be signed by the mediator and sealed by the mediation institution to take effect. It shall be binding on both parties and be performed by them.

Where no mediation agreement is reached within 15 days from the date the labour-dispute mediation institution receives the application for mediation, the parties may apply for arbitration in accordance with law.

Where, after the mediation agreement is reached, one of the parties fails to perform the agreement within the time limit prescribed in the agreement, the other party may apply for arbitration in accordance with law.

Where a mediation agreement is reached on the payment of labour remuneration, medical expenses for job-related injury, economic compensation or damages in arrears and the employer fails to perform the agreement within the time limit prescribed in the agreement, the worker concerned may, on the strength of the mediation agreement, apply to a people's court for a payment order in accordance with law. The people's court shall issue the payment order in accordance with law.

Law stated - 25 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Employers and employees may define collective rights by signing collective contracts or special collective contracts.

If a dispute arises in the course of collective consultation and it cannot be resolved by both parties through consultation, either party or both parties may apply in writing to the administrative department of labour security for coordination of handling. Where no application has been made, the administrative department of labour security may carry out coordination of handling if it deems such action necessary.

If the parties fail to resolve a dispute arising from the performance of a collective contract through consultation, they may apply to the labour dispute arbitration commission for arbitration in accordance with the law.

Law stated - 25 August 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

Either party or both parties to the collective contracts, that is the employer and the labour union, can bring a claim in relation to collective employment rights.

Law stated - 25 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

The usual labour disputes are about the termination of labour contracts and the payment of wages and compensation.

1. Where an employer rescinds or terminates a labour contract in violation of this Law and the worker requests for performance of the labour contract to be continued, the employer shall continue to perform the labour contract; where the worker does not request for performance of labour contract to be continued or where the performance of labour contract cannot be continued, the employer shall pay compensation pursuant to the provisions of article 87 of this Law.
2. If the employer fail to pay wages under the agreement or paying wages in an amount lower than the minimum wage rate of this municipality, or violate the regulations governing wage payment, the employees are entitled to report such acts to the labour security department, or apply for intermediation or arbitration and institute a suit pursuant to law and ask for payment.

Law stated - 25 August 2025

Assessing compensation

36 | How is any compensation assessed?

The provisions on compensation are relatively clear in China, which are mainly stipulated in the labour contract law. The amount of compensation is different in different cases. Here are some examples:

- Compensation is generally limited to the loss if there is no special provisions.
- Where the probationary period agreed in violation of the law has been performed, the employer shall pay compensation to the worker based on the monthly wage of the worker upon expiry of the probationary period for the excess probationary period performed.
- An employer which violates the provisions of this Law in rescission or termination of a labour contract shall pay compensation to the worker at two times the economic damages stipulated in
- An employer which violates the provisions of this Law in rescission or termination of a labour contract shall pay compensation to the worker at two times the economic damages.

Law stated - 25 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

A civil judgement or ruling which has come into legal effect and the property portion of a criminal judgement or ruling shall be enforced by the People's Court of first instance or

a People's Court at the location of the enforced property at the counterpart level of the People's Court of first instance.

Any other legal documents to be enforced by a People's Court pursuant to the provisions of the laws shall be enforced by a People's Court at the location of the enforcee's residence or the location of the enforced property.

Law stated - 25 August 2025

APPEALS

Appeal procedure and time frames

38 How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Where one of the parties at least is dissatisfied with the arbitral award, they may initiate a litigation to a people's court, unless otherwise provided herein. Trial of a case for which a People's Court applies general procedures for trial shall be completed within six months from the date of establishment of case file. Where there is a need for extension of time under special circumstances, upon the approval of the president of the court, an extension of time of six months may be granted; where there is a need for further extension of time, the approval of the higher-level People's Court is required.

Where a litigant disagrees with a judgement of first instance of a local People's Court, it has the right to file an appeal with the higher-level People's Court within 15 days from the date of service of the judgement letter, which is the final hearing. A People's Court trying an appeal case against a judgment shall complete the trial within three months from the date of establishment of case file for the trial of second instance. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required.

But for the following labour disputes, the arbitral award shall be final and the award shall take legal effect from the date the award is made, unless otherwise provided herein:

- disputes involving the recovery of labour remuneration, medical expenses for job-related injury, economic compensation or damages, and the amount involved does not exceed that of the standard local monthly wage rates multiplying 12 months; and
- disputes arising over working hours, the period of rest and vacation, and social insurance, etc, in the course of applying the occupational standards of the state.

Law stated - 25 August 2025

Other means of challenge

39 Can a judgment be challenged other than through the appeal process?

If the judgement has not yet taken effect, it is normally challenged through the appeal process. If the judgement has already taken effect, there are other ways to initiate a retrial than to initiate one by the parties.

1. Where the president of a People's Court at any level discovers an error in a judgment letter, ruling document or mediation document of this court which has come into legal effect and deemed that there is a need for re-trial, the matter shall be submitted to the Adjudication Committee for discussion and decision.
2. Where the Supreme People's Court discovers an error in a judgment letter, ruling document or mediation document of a Local People's Court at any level which has come into legal effect or where a higher-level People's Court discovers an error in a judgment letter, ruling document or mediation document of a lower-level People's Court which has come into legal effect, it shall have the right to arraign or order the lower-level People's Court to re-try the case.
3. Where the Supreme People's Procuratorate discovers that a judgment or ruling of a People's Court at any level which has come into legal effect falls under any of the circumstances stipulated in article 207 hereof or discovers that a mediation document harms national interest or public interest, or where a higher-level People's Procuratorate discovers that a judgement or ruling of a lower-level People's Court which has come into legal effect falls under any of the circumstances stipulated in article 207 hereof or discovers that a mediation document harms national interest or public interest, a protest shall be made.

Where a People's Procuratorate at any level at any locality discovers that a judgement or ruling made by a People's Court of counterpart level which has come into legal effect falls under any of the circumstances stipulated in article 207 hereof, or discovers that a mediation document harms national interest and public interest, the People's Procuratorate may make an attorney recommendation to the People's Court of counterpart level, and file record with the higher-level People's Procuratorate; or request the higher-level People's Procuratorate to make a protest to the People's Court of counterpart level.

The People's Procuratorate at any level shall have the right to make an attorney recommendation to the People's Court of counterpart level for any illegal act of a judge committed in any trial procedure other than the procedure for trial supervision.

Law stated - 25 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Every year, many courts across the country, including the Supreme People's Court, may publish typical cases. The Supreme People's Court has established a database of typical

cases of the people's courts this year which contains cases that are considered by the Supreme People's Court to have reference and model value for the type of cases.

There have been no new revisions to labour dispute laws in recent years.

The Supreme Court issued Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labour Dispute Cases (I) in 2021.

The Supreme Court issued Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labour Dispute Cases (II) in 7/31/2025 which shall come into force in 9/1/2025.

Law stated - 25 August 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Labour disputes can be filed online or held in court online.

Law stated - 25 August 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

Different provinces and cities will have different regulations and judgements, it is necessary to check the local regulations as much as possible and look at the local opinions of judgements through local cases.

Law stated - 25 August 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

Under Labour Law No. 14 of 2025, interim relief has been expressly recognised in employment disputes, particularly in cases of dismissal. The law empowers the judge of urgent matters at the competent Labour Court to issue temporary orders until the dispute is resolved.

For example, in dismissal disputes, the judge may order that the employee remain suspended with entitlement to partial wage payments during the proceedings. This balances the employer's right to remove the employee from the workplace with the employee's right to financial protection pending a final judgement.

Interim relief may also cover urgent measures to safeguard wages, benefits, or other entitlements if delay would cause irreparable harm. However, reinstatement through interim measures is not available, the final decision on reinstatement or compensation rests with the Labour Court.

Under the new Labour Law No. 14 of 2025, the time limit (statute of limitations) for filing labour claims is set at one year from the date the employment contract ends. This applies particularly to contractual claims arising from the employment relationship.

In Egypt, under Labour Law No. 14 of 2025 (the New Labour Law), the procedures for resolving employment disputes have been restructured. While amicable resolution through administrative labour committees remains encouraged, it is now mandatory for both employers and employees to first submit a complaint to the relevant labour office prior to initiating court proceedings. The complaint must be filed within 15 days of the dispute arising. The labour office has 30 days to facilitate a settlement between the parties. If no settlement is reached within this period, the case can be referred to the Labour Court by either party. Failure to submit the complaint before the labour office may result in the inadmissibility of the claim before the court.

This adjustment reflects the legislature's intent to promote mediation and administrative resolution as a first step in employment disputes. In practice, while amicable settlements are still relatively rare in complex claims, this process has become a necessary procedural step. Under the new Labour Law No. 14 of 2025, the Ministry of Manpower is also required to facilitate mediation efforts during this amicable period.

Law stated - 15 October 2024

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

This is not regulated under Egyptian laws and regulations. Accordingly, litigation cost is generally paid by the parties.

Law stated - 15 October 2024

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

According to the Egyptian Legal Profession Law No. 17 of 1983 (the Legal Profession Law), legal fee cannot be an in-kind share of the disputed rights. However, contingency may be agreed upon as an additional fee.

Law stated - 15 October 2024

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Reconciliation Committee Stage

Employees or employers may initiate a conciliation process by submitting a complaint to the competent Reconciliation Committee at the Ministry of Labour within ten working days from the date the dispute arises. This committee, composed of a Ministry official, a representative from the workers' union (if available), and a representative of the employer, will examine the case and attempt to resolve it amicably.

The committee must complete its work within 21 days. If no resolution is reached, either party can request that the dispute be referred to the Labour Court

Labour Court Stage

If no agreement is reached, either party may refer the dispute to the competent Labour Court. These courts are part of the judicial system and have exclusive jurisdiction over individual employment claims, including dismissals, entitlements, and compensation. The court examines the reconciliation report, and may appoint experts where necessary, before issuing binding and enforceable rulings. the proceedings are expected to be conducted efficiently.

Law stated - 15 October 2024

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Generally, the competent court shall be the Labour Court in the place where the contract was signed, or in the place where the employer is located, except if otherwise expressly agreed between the parties, as the location of the court is not considered public police and accordingly can be agreed upon between the parties.

In practice, the location of the competent court is usually stipulated in the employment contract.

Law stated - 15 October 2024

Standing

6 | Who can bring a claim?

The employer, the employee and any person entitled to claim the employee's civil rights, are entitled to bring claims before Labour Court.

In practice, employees bring claims against their employers/ex-employers, the heirs of the employees also bring claims against the employers for any employment entitlements.

Law stated - 15 October 2024

Commencing claims

7 | How are claims commenced?

According to the Egyptian Civil and Commercial Procedures Law No. 13 of 1986, claims are commenced through petitions that shall be drafted by a lawyer. The petition shall include substantial information like clarifying the facts of the dispute, the claims of the claimant and claims' legal basis.

In case of lack of any of the abovementioned information, the court may dismiss the case for the voidability of the petition.

Law stated - 15 October 2024

Fees

8 | Are fees payable for the issuing of a claim?

According to the Labour Law, labour disputes are exempted from judicial fees.

Law stated - 15 October 2024

Service

9 | Is any qualifying service required?

No, there are no qualifying services required to bring a labour claim.

Law stated - 15 October 2024

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

The claim can be brought against the employer or the employee.

If the claim is filed by the employee against the employer, The claim can be brought against the legal representative of the employer, if a company, against the employer personally in case of company termination, bankruptcy, and against the new owner in case of company ownership transfer. According to the rules of the Labour Law, both the former and current owner of the company shall be liable for the employment entitlements.

Law stated - 15 October 2024

Types of claims

11 | What types of claims can be brought?

In practice, the claims are usually monetary compensation and the annulment of penalties due to the lack of the required formal procedures.

Moreover, many employees bring claims of employment relationship recognition against their employers, this happens when employees does not have written employment contracts.

Law stated - 15 October 2024

Time limits

12 | What are the time limits for bringing employment claims?

Under the new Labour Law No. 14 of 2025, the time limit (statute of limitations) for filing labour claims is set at one year from the date the employment contract ends. This applies particularly to contractual claims arising from the employment relationship.

Law stated - 15 October 2024

Counterclaims

13 | Can any counterclaims be brought by an employer?

Yes, any counterclaims related to the original claims of the employee can be brought by the employer before the labour court. Related claims refer to employer's claims that legally affect the validity of the employee's claimed rights. A usual counterclaim is the non-performance of the work against a salary claim requested by the employee.

Law stated - 15 October 2024

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

If the employment dispute started by a submission of a complaint by the employee against the employer in the labour committee, then the employer will be summoned and shall respond to the complaint. If the employee and employer agree then the procedures end.

If no agreement was reached, then any of the parties shall request from the committee to refer the matter to the labour court, which review the complaint, the claims, the counterclaims and defences of each party, and render its judgment. If the case requires any additional review of documents or technical matters, then an expert might be appointed and delegated by court to perform the delegation before the render of the judgment.

Law stated - 15 October 2024

Rules

15 | What rules apply to case management?

Egyptian Civil and Commercial Procedures Law.

Law stated - 15 October 2024

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

The claims can be amended as long as the case is under the courts review and till the court set the case to adjournment. The amended claims must be related to the original claims.

In practice, usually claims are amended by the claimant as per the results of the expert or the witness statement.

Law stated - 15 October 2024

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Yes, any party to the case, as well as the court, can intervene a third-party. However, the court shall ensure that the third-party is related to the subject of the case.

Furthermore, third-party can intervene in the case solely, such intervention can be against both parties or with one of the parties against the other party.

Law stated - 15 October 2024

Consolidating proceedings

18 | Can proceedings be consolidated?

Yes, if cases are based on the same legal ground or are related, the earlier court may decide case consolidation. Consolidation is decided by each court on a case-by-case basis.

Law stated - 15 October 2024

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

There are collective actions with respect to employment arbitration. However, in practice, group litigation takes place in Labour Law when several employees of the same employer raise one case against the employer for the same cause, which is usually an employment right (ie, salary raise, profit margin, etc).

Law stated - 15 October 2024

Evidence

20 | How is witness, documentary and expert evidence dealt with?

According to the general rule of the Egyptian Evidence Law, the claimant is the person obliged to prove his claims. Accordingly, the claimant in court is obliged to present all the evidence that he can provide, whether witness statements, documents and/or any other kind of evidence.

In practice, employees request the court to hear witnesses from other employees, oblige employers to submit related documents and refer the dispute to an expert to examine any additional matters that the court may not be competent to examine.

Law stated - 15 October 2024

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes, a party can compel a person to give a statement. If the individual refuses, the court may impose penalties. Typically, the statement must be made in court; however, in exceptional circumstances, such as emergencies, the judge may visit the witness at their location to collect the statement.

Law stated - 15 October 2024

22 | Is cross examination of a witness permitted?

Yes, it is permitted, but not directly to the witness. Any comments on the statement of the witness by any party shall be addressed to the judge and the judge shall decide whether to reexamine the witness or not.

Law stated - 15 October 2024

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

Gaining a tactical advantage involves several key steps, beginning with a thorough analysis of the subject matter of the dispute and identifying the applicable rules. Understanding all the conditions for the application of these rules is essential. Next, it is crucial to determine the relevant evidence and the proper legal methods for presenting it in court. Finally, the defense memo must be clearly and logically drafted, incorporating all supporting rules and arguments in a concise and organised manner.

Law stated - 15 October 2024

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Under Labour Law No. 14 of 2025, interim relief has been expressly recognised in employment disputes, particularly in cases of dismissal. The law empowers the judge of urgent matters at the competent Labour Court to issue temporary orders until the dispute is resolved.

For example, in dismissal disputes, the judge may order that the employee remain suspended with entitlement to partial wage payments during the proceedings. This balances the employer's right to remove the employee from the workplace with the employee's right to financial protection pending a final judgment.

Interim relief may also cover urgent measures to safeguard wages, benefits, or other entitlements if delay would cause irreparable harm. However, reinstatement through interim measures is not available, the final decision on reinstatement or compensation rests with the Labour Court.

Law stated - 15 October 2024

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

Applications for interim relief under Labour Law No. 14 of 2025 are submitted to the judge of urgent matters within the competent Labour Court. The applicant (employee or employer) must demonstrate the existence of an urgent risk of harm if ordinary proceedings were to run their full course. This urgency element is the central requirement.

In dismissal disputes, the law allows the judge to suspend the employee from work while granting partial wage entitlement until a final ruling is issued. The application should therefore be supported by documents showing the dismissal decision and any immediate harm (such as loss of income or risk of irreparable prejudice).

No other formal preconditions are imposed by the law beyond establishing urgency and providing supporting evidence. The court has discretion to accept or reject the application depending on the balance of harm and the need to preserve the parties' rights pending judgement.

Law stated - 15 October 2024

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The final hearing is typically conducted in the same manner as previous hearings. The key difference is that both parties request the issuance of a judgment after submitting all their claims, counterclaims, and defences. However, the court may decide to issue a judgment

once the parties have presented their claims, counterclaims, and defences, even if no formal request for a judgment is made.

Law stated - 15 October 2024

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Under the Egyptian Judiciary Law, court hearings are typically open to the public unless the court decides otherwise. The court may close hearings to protect public order or address confidential matters.

Law stated - 15 October 2024

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

Court reporting is generally permissible and common in cases with significant media attention. While live footage, recordings, and photography during hearings are prohibited, the court may allow such activities under certain circumstances.

Law stated - 15 October 2024

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

In civil cases, the burden of proof rests with the claimant, who must provide sufficient evidence to support their claims. However, the court has the authority to assess the evidence, determine its validity. The court's evaluation of the evidence plays a critical role in deciding the outcome of the case.

Law stated - 15 October 2024

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Employment disputes remain non-arbitrate under Egyptian law. This principle is preserved in the new Labour Law, reflecting the public policy position that disputes arising from employment relationships, particularly those concerning wages, termination, and workers' rights, cannot be resolved through private arbitration agreements.

Law stated - 15 October 2024

Requirements and expectations

31 | Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

N/A.

Law stated - 15 October 2024

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

N/A.

Law stated - 15 October 2024

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Collective employment rights are enforced through claims filed with the Employment Court, representing a group of employees who have experienced the same treatment by their employer.

Law stated - 15 October 2024

Standing

34 | Who can bring a claim in relation to collective employment rights?

Employees/employers union.

Law stated - 15 October 2024

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

In labour disputes, the primary remedies include financial compensation and declaratory judgments.

Employers often seek the termination of the employment relationship, while employees typically claim compensation for unlawful termination, occupational accident or unused leaves. Other potential claims include requesting an experience certificate or formally recognising the employment relationship.

However, employment reinstatement is not permitted by law, except in cases where termination occurred due to the employee's involvement in union activities.

Law stated - 15 October 2024

Assessing compensation

36 | How is any compensation assessed?

Under Labour Law No. 14 of 2025, compensation is assessed based on the actual damage suffered by the employee and the circumstances of termination. If dismissal is found to be unlawful, the employee is entitled to an amount not less than two months of their full wage for each year of service, with the court having discretion to increase the award if greater harm is proven.

Employees are also entitled to compensation in lieu of notice where the employer fails to provide the required notice period, as well as payment for any unused annual leave. In addition, claims for occupational injuries or accidents are calculated under separate social insurance regulations. In practice, labour courts rely on expert reports and evidence to quantify the extent of damages, and employers who fail to document valid termination grounds typically face higher compensation awards.

Law stated - 15 October 2024

Enforcement mechanisms

37 | How can any judgment be enforced?

Judgments rendered in labour disputes are enforced under the same rules of enforcing civil judgments.

Law stated - 15 October 2024

APPEALS

Appeal procedure and time frames

38 How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Under Articles 176–182 of Labour Law No. 14 of 2025, labour litigation is now governed by a two-tier system. Disputes are first heard before the Labour First Instance Court, and its judgments may be appealed before the newly established Labour Appeal Court.

According to article 182, most of judgements issued by the Labour Appeal Court are final and not subject to further appeal before the Court of Cassation. This marks a significant change from the old system, where labour disputes could progress through the general civil judiciary up to the Cassation stage.

Law stated - 15 October 2024

Other means of challenge

39 Can a judgment be challenged other than through the appeal process?

The only options available to the parties are limited procedural remedies. First, the issuing court may correct material or clerical errors in its judgement, either on its own initiative or at the request of a party. This ensures that mistakes in wording, calculations, or drafting do not prejudice the execution of the ruling.

Second, a party may raise oppositions during the enforcement stage, particularly if the judgment is enforced in a manner inconsistent with its operative part, or if the debtor can establish valid procedural objections to enforcement.

These limited mechanisms do not reopen the merits of the case but serve as safeguards to ensure that the judgement is applied accurately and fairly.

Law stated - 15 October 2024

UPDATE AND TRENDS

Recent cases and developments

40 What are the key cases, decisions, judgments and policy and legislative developments of the past year?

The most significant legislative development in Egypt in the past year has been the enactment of Labour Law No. 14 of 2025, which came into force on 1 September 2025. This law repealed and replaced the long-standing Labour Law No. 12 of 2003 and introduced a comprehensive restructuring of the employment framework.

Key reforms include the creation of specialised Labour Courts and Labour Appeal Courts (Articles 176–182), which replace the former labour chambers within civil courts. Most judgments of the Labour Appeal Courts are now final and not subject to cassation, ensuring faster finality in employment disputes. The law also strengthened employee protections in cases of unlawful dismissal, updated compensation rules, and expanded rights related to working hours, leave, and equal treatment.

From a judicial standpoint, Egyptian courts have begun to apply these provisions to pending disputes, with particular emphasis on dismissal cases and wage claims, where interim relief measures (such as partial wage entitlements during suspension) are already being invoked.

Law stated - 15 October 2024

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Employment courts have not yet adopted electronic systems for filing, presenting evidence, or conducting hearings.

Law stated - 15 October 2024

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

The key to resolving labour disputes lies in a thorough understanding of the Egyptian Labour Law, along with the procedural and evidentiary rules outlined in the Laws of Procedures and Evidence.

Law stated - 15 October 2024

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Finland

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

In civil disputes involving private sector employees and employers, there are no pre-action requirements mandated by law. However, the Finnish Bar Association's guidelines mandate attorneys to notify the opposing party of forthcoming claims and provide a reasonable time for consideration and amicable solution, unless there is a specific reason to deviate from this. Non-compliance may result in disciplinary actions against the attorney. It is also common and typically in the parties' best interest to engage in correspondence before taking legal action in a dispute.

Adherence to a negotiation protocol under the applicable collective bargaining agreement may be required prior to filing a claim in the Labour Court. Non-compliance may result in the Labour Court not investigating the claim. However, the individual employee and employer involved in the dispute are not necessarily obliged to adhere to such provisions and may also file the claim with a competent district court.

Law stated - 27 June 2024

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Third-party funding is not explicitly governed by law. Consequently, such arrangements are generally permissible, as well as arrangements where a third party covers the costs of the adverse party. The Finland Chamber of Commerce's 2024 Arbitration Rules have introduced a new provision, Article 21.5, that requires parties to disclose third-party funding.

The prevalence of commercially driven third-party funding in employment disputes remains very limited, but it is common for employee unions to provide their members with legal expense insurances or to otherwise cover their legal costs. Such arrangements may also extend to cover adverse costs, which the employee who loses the case would be required to compensate to the employer.

If an employer covers their employee's legal costs in work-related legal proceedings, such payments may be treated as taxable income for the employee, leading to significant tax implications. A notable case confirming this is the Supreme Administrative Court ruling 2023:116, where a media company paid for the legal defence of its employee facing criminal charges related to their work as a journalist.

Law stated - 27 June 2024

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Lawyers are generally not prohibited from working on a contingency fee basis. However, for members of the Finnish Bar Association, contingency fee arrangements are only permitted if there is a 'special reason' for it, and such arrangements should be agreed upon in writing. Before entering into a contingency fee arrangement, several factors should be considered, including the nature and complexity of the case. It's also essential to have a clear understanding of the fee structure and other terms of the agreement.

Law stated - 27 June 2024

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

The appropriate forum depends on the nature of the claim and its grounds. In terms of civil disputes and court proceedings, many claims fall under the jurisdiction of the general courts, with the district courts acting as the court of first instance. However, for certain claims based on collective bargaining agreements, the Labour Court has jurisdiction, which can be exclusive.

Law stated - 27 June 2024

Territorial jurisdiction

5 Are there any limitations on territorial jurisdiction?

The Finnish Code of Judicial Procedure contains general provisions regarding territorial jurisdiction in civil disputes, while specific regulations can be found in acts such as the Act on Equality between Women and Men. In accordance with these regulations, employment disputes are typically resolved by general courts, with the district court of the defendant's domicile or the district court having jurisdiction over the area where the work is typically performed serving as the first instance. However, the Labour Court has jurisdiction over certain claims, and its jurisdiction is not limited territorially.

Law stated - 27 June 2024

Standing

6 Who can bring a claim?

In civil disputes concerning individual employment rights, only individual employers and employees may bring claims in general courts. For example, an employee union cannot independently file a claim in these instances, and Finnish law does not permit class actions for employment disputes.

However, for certain claims based on a collective bargaining agreement (CBA) falling under the jurisdiction of the Labour Court, the signatories of the applicable CBA, typically the employee and employer unions, have the primary right to bring such claims.

Law stated - 27 June 2024

Commencing claims

7 | How are claims commenced?

Civil claims in court proceedings are initiated by submitting a written application for a summons to the competent court.

Law stated - 27 June 2024

Fees

8 | Are fees payable for the issuing of a claim?

Courts charge a fee, which is collected after the case is concluded. The amount of the fee depends on whether the case is handled by the Labour Court or a general court, with the district court acting as the first instance. For example, the fee in a district court is 530 euros in a typical employment dispute.

In arbitration, fees and other costs are determined by the applicable rules and regulations. For instance, under the 2024 Arbitration Rules of the Finland Chamber of Commerce, a filing fee of 3,000 euros must be paid. In addition, the Arbitration Institute will determine an advance payment on costs, the amount of which depends on the dispute being handled.

Law stated - 27 June 2024

Service

9 | Is any qualifying service required?

In court proceedings, compliance with requirements under the Chapter 11 of the Code of Judicial Procedure regarding service is required. Generally, the court is responsible for serving the summons, which is first attempted through mail with acknowledgement of receipt. If this is not successful, a bailiff will serve the summons, and if necessary, other methods will be used.

Law stated - 27 June 2024

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Claims can be brought against both individuals and corporations, depending on the circumstances and the nature of the claim.

Most civil claims by employees, such as those concerning termination of employment, pay claims, and claims concerning discrimination and equal treatment, are brought against the employer, which is usually a corporation.

It's worth noting that violation of certain employment-related regulations may also result in criminal liability. In criminal proceedings, charges are brought against natural persons. However, for certain types of offences and under specific conditions, provisions for corporate criminal liability also apply. Consequently, the employer company may also end up being a party to the proceedings and face claims. This scenario may arise, for example, in cases concerning occupational safety and health offences.

Law stated - 27 June 2024

Types of claims

11 | What types of claims can be brought?

In civil disputes, various types of claims can be brought depending on the situation and parties involved. For instance, claims for damages and other types of compensation, injunctions, and declaratory judgments may also be sought to clarify the legal rights and obligations of the parties involved.

Typical employment disputes initiated by employees involve an employee seeking financial remedies related to, for example, termination of employment, layoffs, changes to the terms and conditions of employment, discrimination, or unequal treatment. In addition, claims related to remuneration, such as salary, bonuses, and other incentives, are common. It should be noted that there is no legal remedy available for claims seeking the reinstatement of an employment relationship or claims to prevent employers from terminating the employment relationship under Finnish legislation.

Civil claims initiated by employers can relate, for example, to injunctions and financial remedies such as damages and contractual penalties in relation to breaches of post-termination restrictive covenants and the employer's trade secret rights, along with other types of damages caused by the employee.

Law stated - 27 June 2024

Time limits

12 | What are the time limits for bringing employment claims?

Applicable regulation for civil claims is characterised by fragmentation due to its dependence on various laws, which results in variations in time limits based on the nature of the claim and the status of the employment relationship.

Generally, during the employment relationship, the time limit for civil claims typically ranges from two to five years, but depending on the claim, the statute of limitations may be interrupted also informally, without the need to bring a claim to court. After the expiry of employment, claims must generally be brought within two years. However, there are exceptions for certain claims related to, for example, discrimination and personal injuries.

Law stated - 27 June 2024

Counterclaims

13 | Can any counterclaims be brought by an employer?

A counterclaim, as defined in Section 1 of Chapter 18 of the Code of Judicial Procedure, may be brought if it relates to the same or a related matter as the original claim, or if it can be offset against the original claim.

Law stated - 27 June 2024

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

An employment dispute typically begins with the plaintiff filing a claim with the court. The court then serves the claim to the respondent, who is requested to provide a written response. A preparatory hearing in court typically follows. Additional written preparation may follow the preparatory hearing, ultimately leading to a final hearing.

Law stated - 27 June 2024

Rules

15 | What rules apply to case management?

In court proceedings pertaining to civil disputes, case management is governed by the Code of Judicial Procedure as a general law and, where applicable, by the Act on the Labour Court.

Employment disputes are considered 'dispositive matters', which means that the court is generally unable to rule on any remedy that has not been appropriately claimed by the party during the preparation phase. Additionally, the court cannot base its judgment on circumstances or evidence that have not been invoked during the preparation phase appropriately. Therefore, it is crucial for the parties to properly formulate their claims and ensure that any relevant facts and evidence are invoked in a timely and appropriate manner.

Law stated - 27 June 2024

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

In court proceedings pertaining to civil disputes, a general prohibition against amending the claim during proceedings applies. Nonetheless, Section 2 of Chapter 14 of the Code of Judicial Procedure provides exceptions, allowing for certain amendments based on changed circumstances or newly discovered information. Another exception involves the right to demand that the court confirm a disputed legal relationship between the parties if obtaining clarity of the relationship is required to resolve other parts of the case. Additionally, a party has the right to claim interest or present another subsidiary claim or even a new claim, provided it is based on the same underlying grounds as the original claim.

Law stated - 27 June 2024

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

In accordance with Sections 8-10 of Chapter 18 of the Code of Judicial Procedure, it is possible for additional parties to participate in the proceedings, subject to certain limitations regarding their right to affect to the subject matter of the dispute. Consequently, a third party has the right to join the proceedings if they claim that the matter pertains to their legal rights and provide plausible reasons to support their claim. In practice, such situations are infrequent in employment disputes.

Law stated - 27 June 2024

Consolidating proceedings

18 | Can proceedings be consolidated?

Consolidation of proceedings is possible, and specific regulations can be found in Chapter 18 of the Code of Judicial Procedure. Consequently, consolidation is mandatory in certain situations when the cases derive from the same grounds. In certain situations, consolidation is discretionary, where it would result in procedural efficiencies. Additionally, consolidation requires that the cases have been brought before the same court, which has the jurisdiction to hear the consolidated cases, and the cases can be adjudicated in accordance with the same procedure.

Law stated - 27 June 2024

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

Class actions are not permitted in employment disputes. However, multi-party proceedings are possible, with each party acting in their own name. In practice, such proceedings may arise, for instance, in cases related to collective redundancies, incentive schemes, or employees' actions related to competing activities or violations of employer's trade secret rights.

Law stated - 27 June 2024

Evidence

20 | How is witness, documentary and expert evidence dealt with?

Although the Finnish legal system does not have a concept of 'discovery of documents', parties are obligated to disclose, upon request from the opposing party during the preparatory phase, whether they possess a document that has been sufficiently identified by the opposing party and may be relevant to the case. Additionally, upon a party's request, the court may order the opposing party or even a third party to provide a sufficiently identified document in their possession if it may be relevant as evidence.

In civil disputes, courts generally will not consider any evidence that a party has not invoked and submitted appropriately and in a timely manner during the preparation phase.

Legal proceedings in a court strongly adhere to the principle of oral and direct presentation of evidence, requiring witnesses to be heard and evidence to be presented generally in the oral final hearing. Written witness testimonies are only admissible in limited circumstances. While experts provide their statements in writing, they are typically also heard in the final hearing as well.

Law stated - 27 June 2024

Witnesses

21 |

Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Witnesses have a duty to testify in court proceedings, and courts have various coercive measures at their disposal to enforce this duty. There are situations where a witness has the right or obligation to decline to testify, as outlined in Sections 10-23 of Chapter 17 of the Code of Judicial Procedure.

Depending on the witness's location and other circumstances, it may be possible to hear a witness residing abroad, for example, in a local court via video link. Parties should raise the need for such arrangements early in the preparation phase with the court and be prepared for the possibility that the arrangement may not be feasible.

Law stated - 27 June 2024

22 | Is cross examination of a witness permitted?

Cross examination of a witness is permitted.

Law stated - 27 June 2024

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

Tactical advantage may be achieved for instance through various procedural actions, including counterclaims, interim measures, and document production requests. In addition, the jurisdictional delineations in individual employment disputes can be intricate, which can present tactical opportunities to determine the most favourable forum for initiating proceedings or contesting the jurisdiction of a forum selected by the adverse party.

Furthermore, violations of certain employment-related regulations may result in criminal liability, in addition to civil remedies. These include prohibitions against discrimination, as well as violations of the employer's trade secret rights, to name a few. As a result, a party may gain a tactical advantage by initiating investigations and criminal proceedings led by authorities and the prosecutor before or without taking civil action. Pursuing a case solely as a civil or criminal matter can be a tactically sound approach in some situations, while in others, concurrent proceedings may also provide a tactical advantage.

Law stated - 27 June 2024

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Interim measures can be sought with claims specified in Sections 1-3 of Chapter 7 of the Code of Judicial Procedure. In practice, a common scenario is an employer seeking an interim injunction against an employee breaching post-termination restrictive covenants. Under Finnish law, there are no grounds for an employee to use interim measures to prevent their employer from terminating the employment relationship, nor are there grounds to claim reinstatement of the employment relationship.

Law stated - 27 June 2024

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

Enforceable interim measures are sought from the competent court, and the application must include the applicant's claim and its grounds. The evidentiary threshold is generally lower compared to the main action trial, but the court still assesses whether the claim is justified with sufficient probability depending on the specific nature of the claim. Generally, the court cannot approve the application without giving the opposing party an opportunity to be heard. However, under certain circumstances, the court may deviate from this at the applicant's request and issue a temporary order.

If an interim measure is granted, the applicant must file the main action within one month of the decision date. In general, enforcement of the interim measure requires the applicant to provide security. Obtaining unnecessary interim measures may result in the applicant being held liable for damages caused by the interim measure and its enforcement, as well as for any expenses incurred by the opposing party.

Law stated - 27 June 2024

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

A final hearing typically lasts between one to two days and begins with the parties' claims and opening statements. This is followed by the presentation of any evidence, culminating in closing arguments from both parties.

Law stated - 27 June 2024

Confidentiality and public access

27 | How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

The principle of a public trial is a fundamental aspect of court proceedings. Therefore, parties' submissions, evidence, hearings, as well as any court decisions and judgments are generally accessible to the public unless otherwise provided by law. The Act on the Publicity of Court Proceedings in General Courts includes general provisions regarding the publicity of court proceedings. As an example, the court may limit public access to documents and hearings to preserve the confidentiality of the employer's trade secrets.

Arbitration offers certain advantages over court proceedings, one of which is the confidentiality of the procedure.

Law stated - 27 June 2024

Media reporting

28 | How is media interest dealt with? Are there any restrictions on media reporting?

While the media has wide-ranging freedom to report on public court proceedings, there are limitations on activities such as photography and filming, and access to documents and hearings is restricted when certain confidential matters are involved. Proceedings may also involve elements that are required to be kept confidential by law or a court decision.

Ordinary employment disputes rarely generate interest from mainstream media. However, in cases where media attention is expected, it is advisable for employers to develop a communication plan as part of their overall strategy, which should also take into consideration applicable privacy laws and regulations. It's also worth noting that employee unions may report on proceedings concerning their members through their own channels and media.

Law stated - 27 June 2024

Elements of successful claims and burden of proof

29 | How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

The basic principle is that the court must determine what has been proven or not proven after conducting a thorough and equitable evaluation of the evidence. The courts apply the so-called free evaluation of evidence, meaning that the court is not bound by specific rules determining the probative value of evidence.

Generally, if a fact is left unproven, the party that bears the burden of proof for that fact will suffer adverse consequences. In civil claims, the party initiating the claim typically bears the burden of proof. However, in employment disputes, the burden of proof may also fall on the employer, who acts as the respondent in the case. For example, in cases involving termination of employment, generally the employer must prove sufficient grounds for termination. If the employer fails to do so, the employee's claim will succeed. For certain claims, such as those related to discrimination, the reversed burden of proof principle

applies. This means that if, based on evidence presented by the employee, it can be assumed that the employee was subjected to discrimination, the burden of proof will shift to the employer to prove that the employee was not discriminated against.

Generally speaking, if there is a lack of evidence regarding relevant circumstances, courts tend to resolve such disputes more often in favour of the employee. From the employer's perspective, this emphasises the importance of presenting strong enough evidence and effective advocacy to achieve a successful outcome in the case.

Law stated - 27 June 2024

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Arbitration and mediation can be used to resolve employment disputes. However, in certain cases, an arbitration clause between an employer and an employee may be deemed unreasonable from the employee's perspective, and therefore unenforceable. This depends on the specific circumstances of the case, the terms of the arbitration agreement, and the employee's position. In practice, arbitration clauses are rather commonly included in the employment contracts of employees in executive positions.

Law stated - 27 June 2024

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

Parties are not by law required to engage in ADR.

An arbitration agreement between the parties may preclude the case from being brought before a court. Furthermore, adherence to a negotiation protocol under the applicable collective bargaining agreement may be required before filing a claim in the Labour Court. However, the individual employee and employer involved in the dispute are not necessarily obliged to adhere to such provisions and may also file the claim with a competent district court.

Mediation is a widely used for resolving employment disputes, with court mediation, where a judge acts as the mediator, becoming increasingly popular. In most cases, the court will inquire about the parties' willingness to participate in mediation at the outset of the dispute. However, participation is voluntary, and declining should not result in any adverse consequences.

In disputes that are being adjudicated in a court, the presiding judge is also obligated to attempt to facilitate an amicable solution between the parties during the preparation phase.

In practice, there is great variation in judges' activity in this regard, and a settlement is of course voluntary for the parties involved.

Law stated - 27 June 2024

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

In practice, it is common for a losing party to voluntarily comply with the arbitral award. However, an application for enforcement can be filed with a competent district court if needed. In normal circumstances, this is a straightforward and fast process. After the court has issued a decision on enforcement, the arbitral award can be enforced in the same way as a court judgment with the enforcement authority.

Settlement between parties are not enforceable as such. The parties may request the court to confirm the settlement, making it enforceable like a court judgment. However, since a settlement confirmed by a court can generally be publicly accessed, this procedure is not commonly used in employment disputes, as parties often prefer to keep the settlement and its terms confidential. It is also possible to confirm a settlement through an arbitral award where applicable. However, a well-drafted settlement agreement provides a foundation for a party to file a civil claim for breach of contract and secure an enforceable judgment. In practice, enforcement is seldom necessary, as parties usually comply with agreed-upon settlements voluntarily.

Law stated - 27 June 2024

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Disputes related to collective employment rights typically fall within the jurisdiction of the Labour Court, and its decisions and judgments can be enforced through the enforcement authority. A matter related to collective employment rights may also be subject to arbitration.

Law stated - 27 June 2024

Standing

34 | Who can bring a claim in relation to collective employment rights?

Claims pertaining to collective employment rights are typically initiated by the signatories to the relevant collective bargaining agreement, which generally includes the respective

employee and employer unions. Interim injunctions may be sought by employers in general courts in connection with industrial actions.

Law stated - 27 June 2024

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

In civil disputes, various types of remedies can be available depending on the situation and parties involved. For instance, damages and other types of compensation claims, injunctions, and declaratory judgments may also be sought to clarify the legal rights and obligations of the parties involved.

In practice, typical employment disputes involve an employee seeking financial remedies related to, for example, termination of employment, discrimination, or equal treatment. In addition, claims related to compensation, such as salary, bonuses, and other incentives are common. There is no legal remedy available for claims seeking the reinstatement of an employment relationship or claims to prevent employers from terminating the employment relationship under Finnish legislation.

Civil claims initiated by employers can relate, for example, to injunctions and financial remedies such as damages and contractual penalties in relation to breaches of post-termination restrictive covenants and the employer's trade secret rights, along with other types of damages caused by the employee.

Law stated - 27 June 2024

Assessing compensation

36 | How is any compensation assessed?

Generally speaking, in civil disputes related to individual employment rights, various types of compensation may come into play, with amounts and assessment criteria that vary depending on the type of compensation. It is also common for a dispute to involve several different compensation claims based on the same circumstances. Some typical examples include the following.

Compensation for unlawful termination is determined through a scale-based system, which by law ranges from three to 24 months' salary of the employee, with some exceptions. In practice, the upper end of the scale is rarely applied, and the actual amount is influenced by several factors outlined in Section 2 of Chapter 12 of the Employment Contracts Act. These include, for example, the loss of income suffered by the employee, their re-employment possibilities, the length of the employment relationship, the conduct of the employer upon termination, and whether the employee has given cause for termination. Furthermore,

any compensation awarded, for instance, under the Non-discrimination Act for the same conduct is also be considered.

Regarding discrimination, compensations under the Act on Equality between Women and Men and the Non-discrimination Act are assessed based on factors such as the type and extent of the discrimination, its duration, and any other compensation awarded to the employee for the same conduct (such as compensation for unlawful termination).

Breaching consultation obligations related to collective redundancies, layoffs, and certain other measures by the employer may entitle the employee to compensation under the Co-operation Act, up to approximately 35,000 euros. The actual amount of compensation depends on several factors, including the nature and scope of the breach, the employer's efforts to rectify the situation, and the measure taken against the employee. In practice, the upper end of the scale is rarely applied.

General liability for damages is also subject to specific provisions, such as in Section 1 of Chapter 12 of the Employment Contracts Act and provisions of the Tort Liability Act. These provisions also determine the employee's general liability for damages towards the employer.

Law stated - 27 June 2024

Enforcement mechanisms

37 | How can any judgment be enforced?

Generally, court judgments form the grounds for enforcement, and a party may request enforcement from the enforcement authority.

Law stated - 27 June 2024

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

In the general court system, there are generally two levels of appeal: district court judgments may be appealed to the competent court of appeal, whose judgments may be appealed to the Supreme Court. At the court of appeal stage, the party must first express their dissatisfaction with the district court judgment within seven days of its issuance. The deadline for filing the actual appeal is 30 days from the district court judgment. The duration of the appeal process varies between courts, but, for example, in the Helsinki Court of Appeal, it is on average from nine to 12 months. It is important to note that a full examination of an appeal at either level is not automatic in civil disputes. At the court of appeal level, a 'leave for continued consideration' must be requested and granted based on certain grounds. The Supreme Court primarily serves as a precedent-setting court and requires

a 'leave to appeal' which is granted only to a small number of cases, usually those with significant precedent value.

The judgments of the Labour Court are final and non-appealable. However, under specific circumstances, other means of challenge through the Supreme Court are possible, although such circumstances rarely arise in practice.

Law stated - 27 June 2024

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

In addition to the regular appeal process, there are instruments available to challenge a judgment, such as in cases of certain procedural errors and manifestly erroneous application of the law. In practice, the scope of application for these instruments is limited.

Law stated - 27 June 2024

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Over the past year, the Supreme Court has issued several precedents in employment law, such as decision 2023:83, in which the Supreme Court confirmed that employers can seek interim injunctions to prevent employees from breaching a post-termination non-competition agreement. In decision 2024:36, the Supreme Court evaluated the validity of an arbitration clause in the context of an employment relationship and determined that, in this specific case, the clause was deemed unreasonable for the employee and thus unenforceable. Key factors in this determination included the employee's non-managerial position and low monthly salary of approximately 2,000 euros, as well as the unpredictable costs associated with the agreed-upon arbitration process and the employee's weak financial situation.

Significant changes to the labour peace legislation came into effect in May 2024. The revised legislation increased fines for illegal strikes, restricted disproportionate sympathy strikes, and set a maximum duration for political strikes. Notably, the reform also allows for individual employees to be fined if they continue to participate e.g. in a work stoppage that has been deemed illegal by the Labour Court.

At the time of writing, the current government has brought up several significant amendments in employment legislation in its government program, which aim to remove barriers to employment and improve the operating conditions of companies. These planned amendments include, for example, changes to statutory protection against termination, whereby individual reasons for termination would only require a 'proper reason' instead of

the current requirement for a 'proper and weighty reason'. Amendments to regulation of fixed-term employment contracts would allow such contracts to be made without a specific reason for up to one year, whereas currently, a 'justified reason' is generally required regardless of the duration of the contract. It is not yet clear whether these amendments will take effect, in what form, or on what timeline.

Law stated - 27 June 2024

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

In court proceedings, witness hearings are generally held in the court where the case is being adjudicated. However, remote hearings via video link or even phone are permissible under certain conditions, and in recent years, courts have become more flexible in their application.

Although the parties do not have direct electronic access to case materials in the court, the courts operate largely electronically, with email being the primary means of communication and document processing. Paperless hearings are commonplace.

An ongoing reform is being implemented whereby video and audio recordings will be made of oral testimonies received in district courts. In the event of an appeal, the court of appeal and the Supreme Court would review the recorded testimonies, and witnesses and other individuals being heard would not be heard again in the appeal stage, except in certain exceptional situations. This reform is anticipated to take effect from early 2025.

Law stated - 27 June 2024

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

For example, in the Helsinki metropolitan area, handling an employment dispute in a district court can take up to two years. Court of appeal proceedings usually take up to one year. This trend has increased the significance of alternative dispute resolution methods, as parties typically seek quicker resolutions to their disputes.

Generally, in case of lack of evidence regarding relevant circumstances, courts tend to resolve such disputes more often in favour of the employee. This underscores the need for comprehensive evidence and high-quality advocacy to mount a successful defence. The losing party is generally required to compensate the winning party for all reasonable legal costs. However, there are exceptions, and it is possible for courts to reduce the amount of legal costs that the losing employee is required to pay to the employer.

Violations of certain employment regulations may result in criminal liability in addition to civil remedies, such as prohibitions against discrimination, and certain employee

representatives' protection against termination. Additionally, various authorities oversee compliance with employment regulations and can investigate events through administrative proceedings. As a result, multiple legal processes may be initiated at different times or simultaneously, including administrative proceedings as well as civil and criminal proceedings, regarding the same circumstances, such as termination of employment. Managing multiple ongoing or threatened proceedings and coordinating across different legal streams requires a carefully thought-out strategy.

Law stated - 27 June 2024

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

There are no pre-action requirements for employment claims. A plaintiff, whether an employer or an employee, may file the claim in court without any pre-action requirements.

Law stated - 17 July 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

There are no rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs. A person whose income and assets are below the threshold may use the Civil Legal Aid system, administered by the Japan Legal Support Centre (*Houterasu*) to hire a lawyer for a reasonable fee, possibly in instalments.

Law stated - 17 July 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Lawyers can act on a contingency fee basis. Especially, on the employee's side, it is quite common for lawyers to take the case on a contingency fee basis. As for an employer, the hourly fee basis is also commonly acceptable.

For the contingency fee arrangement, the legal fee is usually calculated based on the financial profit; thus, the definition and calculation formula for such financial profit should be clarified beforehand. Although it has been abolished, many lawyers tend to refer to the Lawyer's Fee Standard Codes of the Japan Federation of Bar Associations.

Law stated - 17 July 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

There are two main forums for resolving labour disputes: administrative conciliation and judicial procedures. The latter includes labour tribunal and civil litigation.

For relatively minor disputes or cases that are not complex, one-day conciliation – a quick and simple administrative dispute resolution process – is preferable. When a swift resolution and the possibility of a flexible settlement are prioritised, labour tribunal conducted by the court is suitable. On the other hand, in cases that are complex or where conflict between the parties is deep and a negotiated resolution is unlikely, civil litigation will be a more appropriate forum.

Law stated - 17 July 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

The Code of Civil Procedure (Act No.109 of 1996) contains provisions in relation to territorial jurisdiction, and in general, (1) the defendant's domicile (article 4), (2) the place of performance of obligation (article 5, clause 1, item 1), (3) the location of the business office (article 5, clause 1, item 5) have general jurisdiction. Specifically, the location of the business office has jurisdiction for claims relating to wages, and the employee's domicile has jurisdiction for claims relating to severance pay.

Law stated - 17 July 2025

Standing

6 | Who can bring a claim?

Either an employee or an employer can bring a claim.

However, an employee mainly brings a claim against his/her employer for unpaid wages, damages for harassment, and to confirm the invalidation of the dismissal. An employer can bring a claim against its employee for confirmation of the non-existence of debts and obligations. Third-party claims are less common.

Law stated - 17 July 2025

Commencing claims

7 | How are claims commenced?

A plaintiff must file a complaint with the court, in order to commence civil litigation (article 134, clause 1 of the Code of Civil Procedure). In addition, the plaintiff must submit a duplicate copy of the complaint to be served on the defendant, as well as a duplicate copy of important evidence (article 138, clause 2 of the Code; article 58, clause 1 and article

55, clause 2 of the Rules of Civil Procedure (Rules of the Supreme Court No. 5 of 1996)). In practice, the plaintiff usually submits all of the evidence related to the complaint.

In addition, if the plaintiff is represented by a lawyer, the power of attorney should be attached; furthermore, if the plaintiff and/or the defendant is a legal entity, the certificate of incorporation of such a legal entity should be attached.

Law stated - 17 July 2025

Fees

8 | Are fees payable for the issuing of a claim?

Yes, a plaintiff must pay fees to issue a claim, by affixing the fiscal stamp to the complaint, along with the postage stamp. Electronic payment is available if the plaintiff registers the procedure beforehand.

Law stated - 17 July 2025

Service

9 | Is any qualifying service required?

Since the court can serve the complaint on the defendant, as mentioned in 2(4), the plaintiff does not need to serve the defendant directly, as is required in common law countries. For such court service, the plaintiff must submit a duplicate copy of the complaint to the court, for service on the defendant.

Law stated - 17 July 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

An employee can bring a claim against his/her employer, usually a company, but sometimes against his or her supervisor (ie, a natural person). For example, in the case of harassment, an employee may bring a claim against both his/her supervisor, based on a tort claim, and the company, based on the vicarious liability provided for in article 715, clause 1 of the Civil Code (Act No.89 of 1896).

Law stated - 17 July 2025

Types of claims

11 What types of claims can be brought?

The claim to confirm the invalidity of the dismissal to receive compensation of the unpaid salary and the claim for payment of the unpaid salary and overtime wages are the two typical types of claims by employees.

In addition, an employee may bring a claim to confirm an employer's action including transfer, demotion, and punitive actions; furthermore, the employee may bring a claim for damages for harassment. In relation to the salary and overtime wages, the court has the discretion to order the surcharge (ie, to double the amount (article 114 of the Labour Standards Act (Act No.49 of 1947))).

Law stated - 17 July 2025

Time limits

12 | What are the time limits for bringing employment claims?

Regarding the claim to confirm the invalidity of dismissal, there is no time limit for bringing employment claims. Regarding the claim of unpaid salary and overtime wages, the statute of limitations is currently three years (article 115 and article 143, clause 3 of the Labour Standards Act; it shall be extended to five years); and for a claim for severance payment, the statute of limitations is five years.

For other civil claims, the statute of limitations is five years from the time of the creditor's recognition and ten years from the time when the creditor can objectively assert the claim (article 166, clause 1 of the Civil Code).

Law stated - 17 July 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

An employer can bring a counterclaim against its employees.

However, there are requirements for the counterclaim (eg, the counterclaim should relate to the allegation or defence in the principal claim (article 146, clause 1 of the Code of Civil Procedure)). And the court is generally reluctant to admit an employer's claim against its employee, especially a tort claim.

Law stated - 17 July 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Most cases of employment disputes start with negotiations, then proceed to (a) a labour tribunal, (b) civil litigation, or (c) conciliation. A labour tribunal is a popular option as it offers the same effect as a judicial settlement or judgment in less than three hearing dates (article 15, clause 2 of the Labour Tribunal Act (Act No. 45 of 2004)). The average length of proceedings is 81.2 days, and 66.9 per cent of the cases end within three months from petition.

It is advisable to file a civil lawsuit if the case is complex and difficult to settle at an early stage.

Law stated - 17 July 2025

Rules

15 | What rules apply to case management?

Conciliation is managed by the labour bureau under the Act on Promoting the Resolution of Individual Labour-Related Disputes (Act No. 112 of 2001).

Civil litigation is managed under the Code of Civil Procedure and the Rules of Civil Procedure.

The labour tribunal is managed under the Labour Tribunal Act and the Rules of Labour Tribunals, and some provisions in the Code of Civil Procedure and the Rules of Civil Procedure shall apply *mutatis mutandis* to the Labour Tribunal Procedure.

Law stated - 17 July 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

It is possible to increase the amount of the claim, or to add or change the claim as long as the basis of the claim remains unchanged (article 143, clause 1 of the Code of Civil Procedure). Although such changes of claims are acceptable until the conclusion of oral argument, they are not allowed if they would significantly delay the proceedings.

Newly adding issues or evidence after the appropriate time has elapsed may potentially be dismissed by the court at its discretion (article 157).

Law stated - 17 July 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

It is not permitted to add a new defendant to the existing litigation (Supreme Court, 17 July 1987, Minshu Vol. 41 No. 5 p1402). It is possible for the existing plaintiff to file a new lawsuit against a new defendant, or a new plaintiff may file a new lawsuit against the existing defendant; furthermore, they may request that the court consolidate oral arguments (article 152, clause 1 of the Code of Civil Procedure). However, it is at the court's discretion to decide whether to consolidate the claims.

Law stated - 17 July 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

As mentioned in 3(4), proceedings may be consolidated, but a decision shall be made at the court's wide discretion; therefore, there is no guarantee that the parties' application for consolidation shall be approved. However, if the judge decides not to consolidate the proceedings, the proceedings may be carried out by the same judge on the same date simultaneously.

Law stated - 17 July 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

There is no special system for class action, multi-party or group litigation, in relation to labour and employment disputes. Related cases (eg, dismissal for the same reasons such as corporate restructuring) may be consolidated. However, the necessity for consolidation shall be decided in accordance with the general rules of the Code of Civil Procedure, and there is no special consideration for consolidation.

Law stated - 17 July 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

Documentary evidence shall be presented to the court by submitting the document (article 219 of the Code of Civil Procedure); in practice, documentary evidence will be accepted if it is necessary and relevant to the claim. A petition for ordering the document holder to submit documents to court (article 221); and for commissioning the document holder to send the documents to court (article 226) can be used.

The examination of witnesses and the parties themselves is conducted in as focused a manner as possible after the arrangement of issues and evidence is completed (article 182). In most cases, only one or two witnesses from each party are examined.

Expert testimony, examining expert, and submission of the written opinions of experts as documentary evidence are used for expert evidence.

Law stated - 17 July 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Witnesses that the court has summoned must appear on the examination date, and witnesses owe obligations of appearance, swearing an oath, giving testimony (articles 190, 200, and 201 of the Code of Civil Procedure). In certain cases, such as those involving professional confidentiality or privilege, a witness is entitled to refuse to testify.

A witness can give evidence from abroad if the court decides to conduct examination abroad by commissioning the competent government agency of that country or to the Japanese ambassador, minister, or consul stationed in that country (article 184, clause 1). However, this procedure is almost never used, and typically, a witness is requested to be present in court for examination.

Law stated - 17 July 2025

22 | Is cross examination of a witness permitted?

Cross-examination of a witness is permitted (article 202 of the Code of Civil Procedure, article 113, clause 1, item (ii) of the Rules of Civil Procedure). However, unlike court practice in common law countries, cross-examination in Japan will not take longer than hours to complete. After the cross-examination, there is also a supplemental examination by the court (article 113, clauses 3 and 4 of the Rules of Civil Procedure).

Law stated - 17 July 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

It is advisable to adhere strictly to the submission deadline set by the court and to respond in good faith to any clarifications or questions from the judge. Failure to meet the submission deadline or to respond to the court's questions may give a potentially negative impression to the court, as a party in a strong position tends to be responsive.

It is also considered more advantageous to present evidence in a comprehensive manner at the early stages of the litigation because the court judge will be reluctant to change

his/her impression of the case at a later stage. However, the court basically tends to protect employees, and in many cases the court will tend to issue a harsh adverse to the employers.

Law stated - 17 July 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

An interlocutory judgment can be sought, when an independent allegation or piece of evidence or any other interlocutory dispute has been sufficiently developed for the court to reach a judicial decision (article 245 of the Code of Civil Procedure).

However, it is not so common for employment disputes.

Furthermore, an employee who has been dismissed may file for a civil provisional remedy to temporarily determine the tentative status (article 23, clause 2 of the Civil Provisional Remedies Act (Act No. 91 of 1989)) in order to secure the salary payment from the company.

Law stated - 17 July 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

For an interlocutory judgment, the parties do not have the right of application, and it is rendered at the court's discretion.

For civil provisional remedies (provisional disposition for provisional payment), a prima facieshowing of (a) the probability that the right to be preserved exists (probability of invalidity of dismissal), and (b) the necessity for preservation (that life cannot be maintained without provisional payment) is required. A security deposit is usually not required; however, it is not required for a provisional disposition for provisional payment of wages.

Law stated - 17 July 2025

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The litigation takes from six months to a year to complete the arrangement of issues and documentary evidence, thereafter, witnesses and the parties themselves are examined.

The oral argument procedure will be concluded on the court hearing date of the witness examination or the next court hearing date. Roughly speaking, civil litigation in the first instance will usually take approximately one and a half years.

Law stated - 17 July 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Basically, all records including evidence are publicly accessed (article 91, clause 1 of the Code of Civil Procedure), and court hearings are required to be open to the public (article 82, clause 1 of the Constitution).

In practice, arrangement of issues and evidence, and procedures for the settlement are often conducted closed to the public (article 169, clause 2 of the Code of Civil Procedure). Placing a screen (between the observer and the witness, between one party and the witness, or both, article 203-3), or examining a witness in another room or another court through video-link (article 204) are possible in exceptional cases.

In addition, in cases with certain confidential information, the court, upon being petitioned by the relevant party, may rule to limit the persons that may access the records (article 92, clause 1).

Law stated - 17 July 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

There are no specific restrictions on media reporting.

There are media reports even during litigation.

Law stated - 17 July 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

The burden of proof lies with the party that seeks to establish a legal effect in its own favour.

In labour disputes, although this burden often lies with the employee, a judgment may still be rendered in the employee's favour even if their evidence is not entirely sufficient. This is primarily due to two factors: (i) the court tends to be pro-employee because labour laws are generally designed to protect employees; and (ii) employers sometimes fail to present

appropriate or sufficient evidence even though relevant evidence is typically within their possession or control.

Law stated - 17 July 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

A labour tribunal and civil mediation are available for ADR, which are administered by the court; however, unlike civil litigation, they are closed to the public.

The labour tribunal aims to resolve disputes through discussion; and if an agreement is not reached, the tribunal makes a decision based on the parties' rights and the progress of the proceedings. If an objection to the tribunal's decision is filed, such a decision shall lose effect; in that case, the dispute is transferred to the civil litigation procedure.

In addition, there are some administrative dispute resolution systems in Japan, such as mediation, conciliation, and arbitration for individual labour-related disputes established by prefectural labour bureaus and the Central Labour Relations Commission. All procedures of the administrative system mentioned above are closed to the public.

Law stated - 17 July 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

ADR is not a prerequisite for filing a claim with the court, and it is not legally required at the pre-action stage. However, it is worth considering an ADR procedure as it will expedite early settlement.

Law stated - 17 July 2025

Enforcement

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Labour tribunal decisions and civil mediation agreements can be enforced through the civil execution procedure governed by the Civil Execution Act (Act No. 4 of 1979), once they become final and binding (article 22, item 4).

The conciliation cannot be enforced 'as is', but it can be enforceable if it is accompanied by a notarial deed containing the statement that the obligor will immediately accept compulsory execution (article 22, item 5).

Law stated - 17 July 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

In the Labour Union Act (Act No.174 of 1949), prohibition of unfair labour practices is provided (article 7); and labour unions can dispute unfair labour practices in court or other proceedings. Furthermore, the Central Labour Relations Commission and Prefectural Labour Relations Commissions (article 19) can review unfair labour practice cases and coordinate labour dispute resolution, such as conciliation, mediation, and arbitration. Through these proceedings, labour unions' collective employment rights can be enforced.

In addition, if a labour union and the employer reach an agreement through collective bargaining, certain conditions that contradict the agreement will be nullified and replaced by the agreement (articles 14 and 16). The legal effect of a collective agreement is regulated by the Labour Union Act.

Law stated - 17 July 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

Only one employee may decide to belong to a labour union, and a union brings a claim in relation to collective employment rights, usually through collective bargaining.

In civil litigation cases, individual labour union members often file an action to confirm invalidity and related benefits (backpay and damages) for having been treated unfavourably due to their union activities.

In addition to the above, labour unions can (a) file independent claims for damages on the grounds that their reputation and social reputation have been damaged due to their failure to live up to the trust of union members in refusing to sever diplomatic relations, (b) file a lawsuit to confirm the status for collective bargaining on specific matters, and (c) request elimination of interference based on the right to organise.

Law stated - 17 July 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

Employees can seek the remedies of (a) reinstatement, (b) damages, and (c) backpay (unpaid wages up to that time).

Rights to claim for wage payment are a general statutory lien (article 308 and article 306, item 2 of the Civil Code), and it is possible to file a petition for seizure of the employer's property, even without a final and binding judgment, showing the high probability that the employee has the right to claim for wage payment.

Law stated - 17 July 2025

Assessing compensation

36 | How is any compensation assessed?

The backpay is the total wages that would definitely have been paid under the labour contract if the employee had not been dismissed. If the dismissed employee worked for another company and earned income between dismissal and settlement of the dispute, income from that company is partially deducted from the backpay.

Mental damage is determined with thorough consideration, taking into account factors such as the length of service, the length of the illegal act, the severity of the act, and the degree of disadvantage and damage suffered.

Law stated - 17 July 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

The judgment can be enforced through civil execution procedures based on the Civil Execution Act, without voluntary payment after the judgment.

A declaration of provisional execution is usually attached to the judgment of a monetary claim at first instance, and the employee may seek civil execution even before the result of the second instance (See article 259 of the Code of Civil Procedure).

Law stated - 17 July 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Appeals against the judgment of first instance or second instance must be filed with the court in writing within two weeks from the date of receipt of the judgment (articles 285, 286, 313, and 314 of the Code of Civil Procedure), and Japan has a three-instance trial process.

Appeals are often concluded in only one court hearing (the average number of court hearings is one and a half) for high court proceedings, and the average trial period is about six and a half months. The average trial period in the Supreme Court is about three and a half months.

Law stated - 17 July 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

If there is a miscalculation, clerical error, or other similar obvious error in a judgment, a correction order may be issued upon petition or ex officio (article 257, clause 1 of the Code of Civil Procedure). If there is an omission in a judgment, an additional judgment may be issued (article 258).

Furthermore, it is possible to file a retrial for a judgment that has already become final and binding; however, retrials are extremely limited from the standpoint of legal stability (article 338).

Law stated - 17 July 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

The Supreme Court Judgment of 17 April 2025 was held that the retirement benefit authority not to pay any retirement benefits (approximately ¥12 million) was within the scope of its discretion and therefore lawful, in a case where a bus driver employed by a local government was disciplinary dismissed mainly for embezzling a fare of mere ¥1,000.

The Code of Civil Procedure was amended in 2022 concerning digitalisation, and the Act on the Development of Laws to Promote the Utilisation of Information and Communications Technology in Civil Proceedings (Act No. 53 of 2023) was enacted in 2023 and shall be enforced gradually. The details are described in the following question.

The Freelance Act (Act on Ensuring Proper Transactions Involving Specified Entrusted Business Operators (Act No.25 of 2023)) was enacted and came into effect on 1 November 2024 to promote fair transactions between the entrusting business operator and the entrusted business operator, ie, freelancers, in order to protect fair and sound working environment for freelancers. Under the Freelance Act, the entrusting business operators

are now required to clearly specify the terms and conditions of transactions with freelancers in writing or through electronic or magnetic means. In addition, unfair treatment for freelancers, such as unilateral changes to contracts or unjust reductions in compensation, is prohibited under certain circumstance. Simultaneously, the freelancers may consult with the government agency, in relation to violation of the Freelance Act and a worker classification matter, ie, applicability of the employment law protection.

Law stated - 17 July 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

With the amendment of the Code of Civil Procedure in 2022, the civil litigation system has moved towards digitalisation as a whole. From March 2023, the parties can participate in preparatory proceedings and settlement dates via web conference; and from March 2024, the parties can participate in oral arguments via web conference. By May 2026, online filing, online service, digitalisation of case records, and access to digitalised records will be fully available. It is important to note that, under this system, representing lawyers in a case will be required to file the lawsuit and other related procedural matters online, including making court fee payments electronically. Furthermore, due to the Act on the Development of Laws to Promote the Utilisation of Information and Communications Technology in Civil Proceedings (Act No. 53 of 2023), all procedures, including mediation, labour tribunals, and enforcement based on the Civil Execution Act will be online in recent years.

Some procedures have already been processed online, and parties can participate in proceedings online and submit documents online in civil trials under certain conditions.

In addition, the Act on the Promotion of the Use of Civil Judgment Information was enacted on 23 May 2025 and is scheduled to be fully enforced by May 2027. Through the system, all judgments in digital format will be disclosed to the public with anonymisation processing. However, it is expected that past judgments not in digital format will not be available in the said database system.

Law stated - 17 July 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

Statutory provision of labour and employment regulations is usually set in favour of employees. In addition, since evidence generally belongs to the employer's side, even when the burden of proof falls on the employees, it is in practice on the employer's side, which benefits the employees in court proceedings.

For example, in a dismissal case, it may be desirable to settle the matter with money as soon as possible because if the dismissal is invalidated as a result of the judgment, the employee will be reinstated and be entitled to backpay for periods after the dismissal.

Law stated - 17 July 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

Under Philippine jurisdiction, employment claims may be based on either a violation of labour standards or labour relations. Labour standards refer to the legally mandated benefits and conditions of employment that all employers in the Philippines are required to provide to their employees while labour relations refer to the rules governing the interactions between employers and employees in joining, forming and assisting labour organisations.

Before an employment claim is raised before a labour tribunal, whether for violation of labour standards or labour relations, the aggrieved party must first exhaust internal grievance procedure and mechanism, if there is any. This is found in a Collective Bargaining Agreement in workplaces whose employees are unionised, as well as in employment contracts and company policies. When there is no resolution or settlement reached at this stage, then an employment claim is allowed to be filed before the labour tribunals. If any of the parties fail or refuse to exhaust the internal grievance procedure provided and decide to bring the employment claim directly with the labour tribunals, the complaining party runs the risk of having the claim dismissed by the labour tribunals and referred back to the internal grievance mechanism in place.

If there are no internal grievance procedure or mechanisms in place, the complaining party may directly proceed to the National Conciliation and Mediation Board (NCMB), for employment claims on labour relations, or the National Labour Relations Commission (NLRC), for employment claims on labour standards, for the filing of a Request for Assistance form under the Single-Entry Approach (SEnA) where the parties will undergo a mandatory conciliation-mediation conference in order to explore the possibility of an amicable settlement. The SEnA is an administrative approach to provide a speedy, impartial, inexpensive, and accessible settlement procedure of all labour issues or conflicts to prevent them from ripening into full-blown labour disputes. As a general rule, going through the Single-Entry Approach is a requirement before a complaint may be brought before the labour tribunals and failure to do so will prohibit a party from filing an employment claim with the labour tribunals.

The SEnA does not apply for (1) notices of strikes or lockouts, or preventive mediation cases, which shall remain with the NCMB, (2) issues on the interpretation of collective bargaining agreements and company personnel policies, which shall be processed through the grievance machinery and voluntary arbitration, and (3) issues involving special permits and licenses issued by the Department of Labour and Employment (DOLE) or its attached agencies. In such cases, the party may proceed with the filing of an employment claim before the labour tribunals.

Law stated - 27 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

There is no law categorically prohibiting third parties funding the costs of litigation or agreeing to pay the adverse costs. However, a litigation financing arrangement between a seafarer and a domestic corporation offering consultancy services, whereby the corporation would finance the litigation expenses in exchange for a portion of the proceeds of the claim, was declared void by the Philippine Supreme Court for being contrary to public policy. [*Rodco Consultancy and Maritime Services Corporation v Ross,* G.R. No. 259832 (06 November 2023)]

Law stated - 27 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

A contingency fee agreement has been generally rendered as valid and binding in Philippine jurisdiction, but this shall be subject to close supervision of the court, so as to protect clients from unjust charges. The same should be reasonable under all the circumstances of the case including the risk and uncertainty of the compensation. If the lawyer acts on a contingency fee basis, the court has allowed a higher compensation because of the risk that the lawyer gets nothing if the suit fails. [*Masmud v NLRC,* G.R. No. 183385 (13 February 2009)] Although lawyers may be engaged under a contingency fee arrangement, they are not permitted to enter into champertous contracts, which are considered void for being contrary to public policy. A champertous contract is one where an unrelated party pursues another's legal claim in return for a portion or share of the proceeds recovered through the judgment. [*Canillo v Atty. Angeles,* A.C. No. 9899 (04 September 2018)]

Law stated - 27 August 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

The National Labour Relations Commission (NLRC) is the appropriate forum for complaints concerning individual employment rights, specifically on unfair labour practice cases, termination disputes, claims relating to conditions of employment if accompanied by a claim for reinstatement, claims for damages arising from employer-employee relations, and cases arising from collective bargaining agreements. [Article 224 of the Labour Code] Meanwhile, labour relations concerns, such as inter-union or representation disputes and

intra-union disputes, are within the jurisdiction of the Bureau of Labour Relations (BLR). [Article 232 of the Labour Code]

Law stated - 27 August 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Employment claims shall be brought before the Regional Arbitration Branch of the NLRC, National Conciliation and Mediation Board (NCMB) or the BLR, as applicable, which has jurisdiction over the place where the employer principally operates, or in cases where the filing party is a union or federation representing a local chapter, where the union or local chapter is registered.

Law stated - 27 August 2025

Standing

6 | Who can bring a claim?

Any aggrieved worker, union, or group of workers may bring an employment claim. Employers may also file civil cases before regular courts to enforce provisions of employment contracts. These may include actions to enforce minimum service requirements in consideration of expenses incurred by the employer [*Esico v Alphaland Corporation,* G.R. No. 216716 (17 November 2021)] or to uphold employment restrictive covenants, such as non-compete clauses [*Tiu v Platinum Plans Phil. Inc.,* G.R. No. 163512 (28 February 2007)].

Law stated - 27 August 2025

Commencing claims

7 | How are claims commenced?

Employment claims are commenced with the filing of a Request for Assistance form under the Single-Entry Approach (SEnA) of the NLRC. The SEnA is a 30-day mandatory conciliation-mediation proceeding that is a speedy, impartial, inexpensive, and accessible settlement procedure of all labour issues or conflicts to prevent them from ripening into full-blown labour disputes. The SEnA likewise aims to encourage the use of conciliation-mediation in the settlement of all labour cases and only unresolved issues shall be referred either for voluntary arbitration, if both parties so agree, or compulsory arbitration to the NLRC. All issues arising from labour and employment shall be subject to the Single-Entry Approach. These issues may include, but are not limited to, the following: (1) termination or suspension of employment, (2) claims for any sum of money regardless of

amount, (3) intra-union and inter-union issues, after exhaustion of administrative remedies, (4) unfair labour practice, (5) closures, retrenchments, redundancies, and temporary lay-offs, (6) Overseas Filipino Workers' cases, and (7) any other claims arising from employer-employee relationship.

The Request for Assistance is filed in the SEnA Desk or unit in the region/provincial/district/field office of the NLRC where the employer principally operates. In case of a union or federation representing a local chapter, the Request for Assistance shall be filed at the region/provincial/district/field office where the union or local chapter is registered. In case the requesting party files the Request for Assistance with the SEnA Desk most convenient to him or her but outside the region where the employer principally operates, the SEnA Desk Officer may entertain the same and proceed with the conciliation-mediation as long as the same is not objected to by the employer. If the employer objects, the SEnA Desk Officer shall immediately refer the Request for Assistance to the appropriate agency.

In case of failure to reach an agreement within the 30-day period, the SEnA Desk Officer shall issue a Referral, referring the unresolved issues to the appropriate office or agency of the Department of Labour and Employment which has jurisdiction over the dispute. Once the Referral has been issued, the aggrieved party may proceed with the filing of a Complaint with the Regional Arbitration Branch of the NLRC.

Note, however, that SEnA does not apply for (1) notices of strikes or lockouts, or preventive mediation cases, which shall remain with the NCMB, (2) issues on the interpretation of collective bargaining agreements and company personnel policies, which shall be processed through the grievance machinery and voluntary arbitration, and (3) issues involving special permits and licenses issued by the Department of Labour and Employment or its attached agencies.

Law stated - 27 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

There are no fees to be paid in the filing of labour standards and labour relations disputes before the NLRC and the BLR. It is when a case is appealed from the Labour Arbiter to the NLRC that an appeal fee and legal research fee is required, and such requirement is mandatory and jurisdictional. [*St. Louis University v Cobarrubias,* G.R. No., 187104 (03 August 2010)]. If an employer chooses to appeal to the NLRC the decision of the Labour Arbiter involving a monetary award, the perfection of the appeal requires the posting of a bond, which may be in the form of cash deposit, surety bond, or property bond.

Law stated - 27 August 2025

Service

9 | Is any qualifying service required?

In the Philippines, there is no qualifying service insofar as instituting a claim or rendering a service to prosecute a claim. Nevertheless, a complainant may be assisted by counsel in asserting the claim.

Law stated - 27 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Employment claims may be brought against the employer or the entity responsible for employing the employee, both natural persons and corporations alike.

Law stated - 27 August 2025

Types of claims

11 | What types of claims can be brought?

All issues arising from labour and employment can be brought, including: (1) unfair labour practice cases, (2) termination disputes, (3) those involving wages, rates of pay, hours of work and other terms and conditions of employment, (4) claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations, (5) cases involving the legality of strikes and lockouts, (6) wage distortion disputes in unorganised establishments, (7) enforcement of compromise agreements, and (8) money claims arising out of employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment.

Law stated - 27 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

Illegal dismissal claims, including actions for reinstatement and full backwages, may be brought within four years from the accrual of the cause of action. [Article 1146 of the Civil Code of the Philippines and *Arriola v Pilipino Star Ngayon, Inc.*, G.R. No. 175689 (13 August 2024)] Offenses penalised under the Labour Code of the Philippines and its Implementing Rules and Regulations shall prescribe in three years. [Article 305 of the Labour Code of the Philippines]

All money claims arising from employer-employee relations, ie, overtime pay, holiday pay, service incentive leave pay, bonuses, salary differentials, illegal deductions by an employer, and money claims arising from seafarer contracts, shall be filed within three years from the

time the cause of action accrued. [Article 306 of the Labour Code of the Philippines and *Arriola v Pilipino Star Ngayon, Inc.*, G.R. No. 175689 (13 August 2024)]

Actions for unfair labour practice may be brought within one year from the accrual of the cause of action. [Article 305 of the Labour Code of the Philippines]

Cases of simple illegal recruitment cases prescribe in five years, while illegal recruitment cases involving economic sabotage prescribe in 20 years. [Section 12 of Republic Act No. 8042, as amended by Republic Act No. 10022]

Law stated - 27 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Employers may present counterclaims and defenses. These may be raised and claimed in the pleadings to be submitted to the Labour Arbiter. Such counterclaims may include financial claims for damage to property, breach of contract, financial loss due to employee's action, unpaid debts, moral and exemplary damages, and attorney's fees.

The Labour Code provides that the NLRC has the jurisdiction over all claims arising from employer-employee relations. It has been clarified in one case that the jurisdiction of the NLRC is comprehensive enough to include claims of an employer for actual damages against its dismissed employee, when the claim is connected to the fact of termination, and if this is entered as a counterclaim in an illegal dismissal case. [
Banez v Hon. Valdevilla,

G.R. No. 128024 (09 May 2000)]

Law stated - 27 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Labour Standards

The employment dispute begins with the conduct of a 30-day mandatory conciliation-mediation conference under the Single-Entry Approach (SEnA) before the SEnA Desk Officer of the National Labour Relations Commission (NLRC). In case of failure to reach an agreement within the 30-day mandatory conciliation-mediation period, the SEnA Desk Officer shall issue a Referral, referring the unresolved issues to the appropriate office or agency of the Department of Labour and Employment which has jurisdiction over the dispute. Once the Referral has been issued, the aggrieved party may proceed with the filing of a Complaint with the Regional Arbitration Branch of the NLRC. The case will

be raffled to a Labour Arbiter who will eventually decide on the case. Once the case has already been raffled to a Labour Arbiter, the case will be set for another round of mandatory conciliation-mediation conference which will now be presided by the Labour Arbiter for the purpose of amicably settling the case upon a fair compromise. If the parties are still unable to reach any settlement or agreement during the mandatory conciliation-mediation proceedings before the Labour Arbiter, the Labour Arbiter will then order the parties to submit their respective Position Papers within 10 calendar days from the date of termination of the mandatory conciliation-mediation conference. The Position Papers of the parties shall cover the claims and causes of action stated in the complaint, accompanied by all supporting documents, including the affidavits of witnesses. The Labour Arbiter may likewise require the parties to file their respective Replies to each other's Position Papers within 10 days from receipt of the Position Papers. Immediately after the submission by the parties of their Position Papers or Replies, the Labour Arbiter shall determine whether there is a need for a hearing or clarificatory conference. At the Labour Arbiter's discretion, he or she may ask clarificatory questions to further elicit facts or information, including but not limited to the *subpoena* of relevant documentary evidence from any party or witness.

Should the Labour Arbiter determine that there is a need, a hearing or clarificatory conference will be set. The Labour Arbiter may ask questions for the purpose of clarifying points of law or facts involved in the case. The Labour Arbiter may also allow the presentation of testimonial evidence with the right of cross-examination by the opposing party. Should the Labour Arbiter determine that there is no need for a hearing or clarificatory conference, or after the termination of a hearing or clarificatory conference, the case shall be deemed submitted for decision.

Once the Labour Arbiter issues a Decision or Order and no appeal is filed, said Decision or Order shall become final and executory after 10 calendar days from receipt thereof by the counsel or authorised representative or the parties. The Labour Arbiter shall issue a certificate of finality.

Labour Relations

Labour relations disputes must first be processed through the grievance procedure provided for in the collective bargaining agreement. If the grievance is not resolved internally, it may be submitted to voluntary arbitration. The voluntary arbitrator or panel has the power to conduct hearings and render a final and executory decision. If voluntary arbitration is not stipulated or fails, the dispute may be brought before the NLRC.

Law stated - 27 August 2025

Rules

15 | What rules apply to case management?

Complaints and petitions filed with the docket unit of the Regional Arbitration Branch concerned are raffled and assigned immediately to a Labour Arbiter upon receipt. Submissions are forwarded to the assigned Labour Arbiter within 24 hours from receipt

thereof. Once the case is assigned to a Labour Arbiter, the case and any or all of its incidents shall be considered assigned to the same Labour Arbiter.

A Labour Arbiter may, in writing, voluntarily inhibit from the case. A party may also move for the inhibition of the Labour Arbiter on the ground of relationship within the fourth civil degree of consanguinity or affinity with a party or a counsel, or on question of partiality or other justifiable grounds.

Law stated - 27 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

The amendments to claims may include the addition or removal of parties to the case, as well as the addition or removal of claims in the Complaint brought about by supervening events. Amendments to claims may be brought at any time before the filing of the position papers since no amendment of the complaint is allowed after the filing of positions papers, unless with the permission of the Labour Arbiter.

Law stated - 27 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Additional parties may be brought into a case after its commencement through the amendment of the Complaint. However, amendments to the Complaint may only be brought before the submission of Position Papers. Thus, parties may only be added until before the parties submit their Position Papers.

Law stated - 27 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Consolidation of cases and complaints are allowed where there are two or more cases or complaints before different Labour Arbiters in the same Regional Branch which involve either (1) the same employer and common principal causes of action, or (2) the same parties with different causes of action. In such instances, the subsequent cases or complaints shall be consolidated with the case or complaint first filed, in order to avoid unnecessary costs or delay. The consolidated cases or complaints shall be disposed of by the Labour Arbiter to whom the first case was assigned. Any objection to the consolidation shall be resolved by the Executive Labour Arbiter, and an order resolving a motion or objection to consolidation shall be in appealable.

Law stated - 27 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

Philippine labour law, rules, and jurisprudence do not provide for any special considerations for class actions, multi-party or group litigation. The same rules shall apply as if there is only one complainant and one respondent. However, the Complaint must indicate all of the names of the complainants and respondents, should there be multiple.

A class action is an action where one or more persons sue or defend on behalf of a larger group when: (1) the subject matter is of common or general interest to many persons, (2) the group is so numerous that it is impracticable to bring them all before the court, and (3) the parties before the court are sufficiently numerous and representative to protect all interests. In class action suits, the existence of a common right or cause of action is essential, and the complaint must allege facts showing the class is so numerous that joinder is impracticable. [*Banda et al. v Ermita,* G.R. No. 166620 (20 April 2010)].

Meanwhile, multi-party/group litigation refers to cases where multiple plaintiffs are joined in a single action because their claims arise from the same transaction or involve common questions of law or fact. In regular courts, this is allowed provided the requirement for joinder of causes of action are met.

Specifically for labour relations cases, one of the rights granted by the Labour Code to a legitimate labour organisation is the right to sue and be sued in its registered name. This right authorises a legitimate labour organisation to file a 'representative suit' for the benefit of its members, since there is no more need to join all union members individually and separately in the complaint. [
Liana's Supermarket v NLRC,

G.R. No. 111014 (31 May 1996)].

Law stated - 27 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

As a general rule, labour tribunals are not strictly bound by the technical rules of evidence applied by regular courts. [*JR Hauling Services v Solamo*, G.R. No. 214294 (30 September 2020)] All pieces of evidence, be it documentary, testimonial, and object, are already required to be attached to the paper submissions of the parties, ie, Position Paper and Reply. For testimonial evidence, affidavits of witnesses must be submitted, and such affidavits will already take the place of their direct testimony.

The standard of proof in labour cases is substantial evidence, ie, that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion [*Aro*

v NLRC, G.R. No. 174792 (07 March 2012)]. Expert evidence, if credible and relevant, may help meet this standard, but is not required in every case. In practice, expert evidence may be especially relevant on cases involving dismissal based on disease or on claims under the employees' compensation program.

Law stated - 27 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

A witness may be compelled to testify or to give evidence when the Labour Arbiter, in his or her discretion, issues a *subpoena* for the same. A witness who fails to comply with the *subpoena* may be adjudged guilty of indirect contempt for disobedience of, or resistance to, the *subpoena* issued by the Labour Arbiter.

A witness may likewise testify from abroad since the testimony will be in the form of an affidavit. The affidavit to be executed by the witness from abroad shall be properly apostilled in order to be considered a valid document in the Philippines. Further, the NLRC has permitted the conduct of conciliation and mediation conferences and other hearings through videoconferencing or other electronic means.

Law stated - 27 August 2025

22 | Is cross examination of a witness permitted?

Generally, parties in a case before the NLRC are heard through their verified Position Papers with supporting documents and affidavits of witnesses, which shall take the place of their direct testimony. *[Tay v Apex 8 Studios,* G.R. No. 241360 (06 July 2021)] The opposing party may controvert, refute, and answer the testimonies of the witnesses who submitted affidavits through the submission of their own affidavits narrating their versions of the facts. While the same cannot be considered as cross-examination in the strict sense, the parties are still given the opportunity to refute the testimonies of each other's witnesses.

There are instances, however, when the Labour Arbiter deems it necessary to conduct a hearing or clarificatory conference. In said conference, the cross-examination of a witness is permitted. Note, however, the conduct of a hearing or clarificatory conference is not mandatory in the Philippine jurisdiction. The Labour Arbiter has the authority to determine whether the conduct of a hearing or a clarificatory conference is necessary. Should the Labour Arbiter determine that there is no need for one, then there will be no hearing or clarificatory conference set.

Law stated - 27 August 2025

Tactical considerations

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23 What steps can a party take during proceedings to achieve tactical advantage in a case?

Proceedings in the NLRC are designed to be faster than proceedings in regular courts. The Labour Arbiter is given only 30 calendar days to render a decision, after the submission of the case by the parties for decision. A key consideration in this expedited timeline in the NLRC is the heavy reliance on Position Papers. A Position Paper is required to be submitted to the Labour Arbiter within 10 calendar days from the date of the termination of the mandatory conciliation and mediation conference. Thus, a key tactic is to ensure that all witnesses and documentary evidence are readily available so that the same can be incorporated in the Position Papers once required to be submitted.

Law stated - 27 August 2025

INTERIM RELIEF

Availability

24 Can interim relief be sought in employment disputes? If so, in what types of claims?

A party may apply for the issuance of a preliminary injunction or restraining order by filing a verified petition with the National Labour Relations Commission. He or she shall establish in the said petition the acts complained of involving or arising from any labour dispute may cause grave or irreparable damage to any party or render ineffectual any decision in favour of such party. The petition shall be accompanied by a certification of non-forum shopping, together with all the necessary substantiating evidence to support the relief prayed for.

The writ of preliminary injunction or temporary restraining order shall become effective only upon posting of the required cash bond in the amount to be determined by the Commission to answer for any damage that may be suffered by the party enjoined, if it is finally determined that the petitioner is not entitled thereto.

Law stated - 27 August 2025

Requirements

25 Are there any particular requirements relating to applications for interim relief?

There are no particular requirements relating to applications for interim relief provided under Philippine labour laws, rules, and jurisprudence.

However, the petitioner of the application for interim relief must prove, by substantial evidence the following: (1) that prohibited or unlawful acts have been threated and will be committed and will be continued unless restrained, (2) that substantial and irreparable injury to the petitioner's property will follow, (3) that greater injury will be inflicted upon the petitioner by the denial of the relief that will be inflicted upon respondents by the granting of relief, (4) that the petitioner has no adequate remedy at law, and (5) that the public officers

charged with the duty to protect the petitioner's property are unable or unwilling to furnish adequate protection.

Law stated - 27 August 2025

TRIAL

Hearings – conduct and typical time frames

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The conduct of a hearing or clarificatory conference in employment disputes is discretionary upon the Labour Arbiter. Immediately after the submission by the parties of their Position Papers or Replies, the Labour Arbiter shall determine whether there is a need for a hearing or clarificatory conference. At the Labour Arbiter's discretion, he or she may ask clarificatory questions to further elicit facts or information, including but not limited to the *subpoena* of relevant documentary evidence from any party or witness.

Should the Labour Arbiter determine that there is a need for a hearing or clarificatory conference, he or she shall set the same. The Labour Arbiter may ask questions for the purpose of clarifying points of law or facts involved in the case. The Labour Arbiter may also allow the presentation of testimonial evidence with the right of cross-examination by the opposing party.

In practice, the Labour Arbiters no longer set the cases for clarificatory conference. because all of the evidence to be presented, as well as the arguments of each party, are already exhausted through the filing of several pleadings, ie, Position Paper, Reply, and in some instances, Rejoinder. The parties are given multiple opportunities to present their evidence and to explain their sides. Hence, considering that the records of the case are almost already complete and as a speedy way to resolve the employment claims, the Labour Arbiters opt to not have clarificatory conferences anymore.

The hearing or clarificatory conference shall be terminated within 30 calendar days from the date of the initial clarificatory conference.

Law stated - 27 August 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Labour proceedings before the National Labour Relations Commission, including the documents and pleadings filed therein, are, to a certain extent, treated as confidential.

Information and statements given in confidence at the conciliation-mediation proceedings under the Single-Entry Approach shall be treated as privileged communication and shall not be used as evidence in any arbitration proceeding, except for those included in the

stipulation of facts which form part of the settlement and facts which are of common knowledge. Confidentiality of the same may nevertheless be waived by the parties.

All decisions, resolutions and orders of the National Labour Relations Commission shall be open to the parties to the case and their counsel or authorised representative. Access to pleadings and other documents filed by parties to a case are restricted. However, reports, drafts of decisions, records of deliberations or documents of the Commission involving private rights shall be confidential.

Law stated - 27 August 2025

Media reporting

28 | How is media interest dealt with? Are there any restrictions on media reporting?

Philippine laws, rules, and jurisprudence do not provide any restrictions on media reporting. However, it is implied that the confidentiality of conciliation-mediation proceedings applies as well to the media.

Law stated - 27 August 2025

Elements of successful claims and burden of proof

29 | How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

In illegal dismissal cases, the burden of proof primarily rests on the employer to demonstrate that procedural and substantive due process has been complied with in the termination of the employee [*Atienza v Saluta*, G.R. No. 233413 (17 June 2019)]. Procedural due process pertains to the manner by which the termination of the employee was carried out. Philippine laws and jurisprudence require that an employee be served two notices, ie, Notice to Explain and Notice of Decision, before he or she may be terminated. As for substantive due process, it is required that an employee be terminated only for just or authorised cause as provided under the laws. However, the employee must first prove that he or she was dismissed by the employer.

In monetary claims, the burden of proving entitlement to the same is on the employee. The employee shall prove that he or she is entitled to his or her monetary claim under either the Labour Code of the Philippines or company policy, and that the employer unjustifiable failed to pay or withheld the same from him or her.

The quantum of proof required in labour disputes is substantial evidence which is that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise. [*Surigao del Norte Electric Cooperative, Inc. v Gonzaga*, G.R. No. 187722 (10 June 2023)]

Law stated - 27 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Labour disputes are excepted from the coverage of the Philippine ADR Act 2004. These are resolved and governed instead by specific labour laws and rules.

ADR modes in labour disputes typically involve mediation and conciliation, mediation-conciliation. Arbitration is either voluntary or compulsory. There are also certified cases.

There is ADR both at National Labour Relations Commission (NLRC) and National Conciliation and Mediation Board (NCMB) cases. Single-Entry Approach is a form of ADR, propelled by negotiation and mediation.

Employers and employees are allowed to submit employment disputes, both regarding labour standards and labour relations, to voluntary arbitration. Voluntary arbitration, as contemplated by the Labour Code, is one wherein a third party is elected by both the employer and the employee to resolve their dispute.

The agreement between the employer and the employee to submit employment disputes concerning labour standards is usually already embodied in the employee's contract. As for employment disputes concerning labour relations, said agreement is usually found in the Collective Bargaining Agreement.

It is crucial to note, however, that the language of the provision in the contract and/or the Collective Bargaining Agreement regarding the submission of employment disputes to voluntary arbitration must be clear and unequivocal in declaring the parties' intention to have a third party render a decision to resolve a dispute. In one case, the Supreme Court of the Philippines did not consider as a valid agreement to submit employment disputes to voluntary arbitration a provision that reads, in part, 'the matter shall be settled amicably with the participation of the Labour Attaché' because said provision showed that the designated person is tasked merely to participate in the amicable settlement, and not to decide the dispute. [*Augustin International Center, Inc. v Bartolome*, G.R. No. 226578 (28 January 2019)]

Law stated - 27 August 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

If the parties have an agreement to submit employment disputes concerning both labour standards and labour relations to voluntary arbitration embodied in an employment contract or a Collective Bargaining Agreement, they are required to engage in said voluntary arbitration. By agreeing to submit employment disputes to voluntary arbitration, the parties

vest upon the Voluntary Arbitrator or Panel of Voluntary Arbitrations original and exclusive jurisdiction to hear and decide said disputes. These arbitrators are accredited and certified by the NCMB.

In case any or both of the parties fail or refuse to undergo voluntary arbitration and instead file the employment claim before the NLRC, its Regional Offices, or the Regional Directors of the Department of Labour and Employment directly, the Labour Code mandates that the employment claim be immediately disposed of and that the same be referred to voluntary arbitration. On the other hand, if the parties do not have an agreement to submit employment disputes concerning both labour standards and labour relations to voluntary arbitration, they are neither required nor expected to engage in voluntary arbitration. Instead, they are merely expected and required to comply with the internal grievance procedure as provided for in company policies, employment contract, or Collective Bargaining Agreement, if there is any. However, they are not precluded from doing submitting their employment disputes to voluntary arbitration.

Law stated - 27 August 2025

Enforcement

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

The enforcement of decisions of the Voluntary Arbitrator/Panel of Voluntary Arbitrators begins with the filing of a Motion to Enforce/Execute the Award by the prevailing party once said decisions become final and executory. A decision of the Voluntary Arbitrator/Panel of Voluntary Arbitrators becomes final and executory after 10 calendar days from receipt of the copy of the decision by the counsel or authorised representatives of the parties, if no motion for reconsideration is filed by the losing party.

Generally, upon receipt of the Motion to Enforce/Execute Award and determination that the decision has indeed become final and executory, the Voluntary Arbitrator/Panel of Voluntary Arbitrators shall then issue a Writ of Execution. However, the Voluntary Arbitrator/Panel of Voluntary Arbitrators, in their discretion, may schedule a pre-execution conference to thresh out matters relevant to the execution.

The Sheriff or duly designated officer shall enforce the execution of the award by levying on personal and real properties, not exempted by law from execution, of the losing party sufficient enough to cover the amount of the award. In order to satisfy the award, the Sheriff or duly designated officer shall sell the levied properties via auction, and the proceeds thereof shall be deposited with the cashier of the National Labour Relations Commission. The losing party may likewise voluntarily tender payment by depositing the same with the cashier of the National Labour Relations Commission. The amounts deposited with the National Labour Relations Commission shall then be released to the prevailing party upon order of the Voluntary Arbitrator.

It is important to note that the filing of an appeal with the Court of Appeals or the Supreme Court does not stay the execution of the decision of the Voluntary Arbitrator/Panel of

Voluntary Arbitrators, unless a temporary restraining order or injunction is issued by the Court of Appeals or the Supreme Court.

Law stated - 27 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

In Philippine jurisdiction, collective employment and labour rights include the rights of employees to self-organisation and collective bargaining. These rights are enshrined in no less than the Constitution of the Philippines, as well as the Labour Code of the Philippines. It is the policy of the state to promote and emphasise the primacy of free collective bargaining and negotiations as modes of settling labour disputes, to foster the free and voluntary organisation of a strong and united labour movement, and to ensure the participation of employees in decision and policy-making processes affecting their rights and welfare.

Employees' right to self-organise and collectively bargain are exercised through the formation of unions. A labour or trade union is an organisation in the private sector formed for the purpose of, among others, collective bargaining. As a result of collective bargaining, the parties come up with a Collective Bargaining Agreement which is the negotiated contract between a legitimate labour organisation or union and the employee concerning wages, hours of work, and all other terms and conditions of employment in a bargaining unit. This includes the mode of settlement of disputes arising from the foregoing.

Collective employment and labour rights are enforced in accordance with the Collective Bargaining Agreement between the union and the employer. The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions, and this is done through establishing a machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their Collective Bargaining Agreement or company personnel policies.

Law stated - 27 August 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

The representative of the union, on behalf of its member-employees, may bring a claim in relation to collective employment rights.

Law stated - 27 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

There following are the remedies available to enforce collective employment and labour rights: (1) through the exhaustion of the internal grievance mechanism agreed upon in the Collective Bargaining Agreement; (2) through the submission of the collective rights claim to voluntary arbitration; and (3) through the filing of a collective rights claim with the Bureau of Labour Relations where the union is registered.

Before any action for a collective rights claim may be brought before the Bureau of Labour Relations, the aggrieved party must first exhaust internal grievance procedure and mechanism laid down in the Collective Bargaining Agreement. It is only after a deadlock is reached, or when no agreement is reached by the parties at the internal level, when the employment claim is allowed to be brought for conciliation-mediation or arbitration with the Voluntary Arbitrator of the National Conciliation and Mediation Board (NCMB). The Voluntary Arbitrator of the NCMB has exclusive and original jurisdiction over all unresolved grievances arising from the interpretation or implementation of a Collective Bargaining Agreement or company personnel policies, as well as all wage distortion issues.

Collective rights claim may likewise be subject to voluntary arbitration upon agreement by the parties either in the Collective Bargaining Agreement or during the conduct of the internal grievance mechanism. The conduct of voluntary arbitration will be discussed further in the succeeding sections.

Finally, after exhausting the internal grievance procedure and mechanism and the parties do not agree to settle at the level of the Voluntary Arbitrator of the NCMB or to submit the collective right claim for voluntary arbitration, a collective rights claim may be filed with the Bureau of Labour Relations where the union is registered. The Bureau of Labour Relations has the original and exclusive jurisdiction to resolve inter-union and intra-union conflicts, as well as all disputes, grievances, or problems arising from or affecting labour-management relations in all workplaces.

Law stated - 27 August 2025

Assessing compensation

36 | How is any compensation assessed?

In Philippine jurisdiction, the Labour Arbiter's assessment of compensation that will be awarded to parties in employment claims depend on a multitude of factors affecting the claim. The Labour Arbiter will determine the nature of the employment claim, the facts of the case, and the circumstances surrounding the claims in coming up with the proper compensation to award the winning party.

By way of illustration, in illegal dismissal cases, the Labour Arbiter takes into consideration the employer's compliance with procedural due process requirements for terminating employees, the method and manner in which the employee was terminated, and the

employee's length of service and performance, among others. If the Labour Arbiter determines that the employee was not afforded procedural due process but there was a valid substantive ground for his termination, the Labour Arbiter will uphold the employee's dismissal but will order the employer to pay the employee a reasonable amount to compensate for the employer's violation of the employee's right to due process and security of tenure. [*Sebuguero v National Labour Relations Commission*, G.R. No. 115394 (27 September 1995)]

In cases where the Labour Arbiter determines that an employee's dismissal is tainted with bad faith or done contrary to morals, good customs, or public policy, it may likewise order the award of moral and exemplary damages in addition to the judgment award of reinstatement or separation pay and other money claims of the employee. [*Lopez v Hon. NLRC Commissioners*, G.R. No. 102874 (22 January 1996)]

Law stated - 27 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

A judgment is enforced through an execution upon the issuance of a Writ of Execution. A Writ of Execution is issued by the Labour Arbiter or by the National Labour Relations Commission, in cases of appeal, once the judgment has become final and executory. The Writ of Execution directs the Sheriff to enforce, implement, or satisfy the final and executory judgment. A copy of the Writ of Execution is required to be served upon the losing party.

In cases of monetary judgments, the Sheriff shall enforce the same by demanding the immediate payment of the full amount stated in the Writ of Execution and all lawful fees from the losing party. In the event of failure or refusal of the losing party to pay the monetary judgment award, the Sheriff shall enforce the judgment award in the following order: (1) cash bond, (2) bank deposits, and (3) surety bond.

Should the cash bond or surety bond be insufficient, the Sheriff shall execute the monetary judgment by levying on the personal property not exempt by law from execution of the losing party. If the personal property is not sufficient, the Sheriff shall likewise enforce on the real properties of the losing party not exempted by law from execution. If the losing party has no properties or if his or her properties are insufficient and the bonding company refuses to comply with the Writ of Execution, the Sheriff shall proceed to levy on the personal and real property of the bonding company.

In cases of reinstatement judgments, as in the case of illegal dismissals, the Sheriff shall serve the Writ of Execution upon the employer and to submit a report as to the fact of the employee's reinstatement not later than 10 working days from receipt of the same.

It is important and crucial to note that a Labour Arbiter's decision to reinstate a dismissed employee is immediately executory even pending appeal. The Supreme Court clarified that even the posting of a bond by the employer shall not stay the execution for reinstatement [*International Container Terminal Services, Inc. v National Labour Relations Commission*, G.R. No. 115452 (21 December 1998)] In practice, what employers do is to reinstate the

dismissed employee through payroll reinstatement. In such case, the employee is paid his monthly salary but is not made to report to work throughout the pendency of the appeal.

Writ of executions are also issued by Voluntary Arbitrators or Panel of Voluntary Arbitrators under the auspices of the NCMB to execute their Decisions. This writ is enforced by Sheriffs of the NLRC via a coordination between NCMB and NLRC.

Law stated - 27 August 2025

APPEALS

Appeal procedure and time frames

38 How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

There are three (3) levels of appeal from the decision, award, or order of the Labour Arbiter: (1) to the NLRC; (2) to the Court of Appeals; and finally (3) to the Supreme Court.

Appeal to the National Labour Relations Commission

The first stage of an appeal from the decision of the Labour Arbiter is with the NLRC. An appeal from the decision of the Labour Arbiter may be filed with the National Labour Relations Commission, through the Regional Arbitration Branch or Regional Office where the case was heard and decided, if any of the following are present: (1) there is *prima facie* evidence of abuse of discretion on the part of the Labour Arbiter, (2) the decision, award, or order was secured through fraud or coercion, including graft and corruption, (3) made purely on questions of law, and/or (4) serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

The appeal shall be brought within 10 days from receipt of the decision, award, or order of the Labour Arbiter, and within five calendar days from receipt of the decision or resolution of the Regional Director of the DOLE in simple recovery of wages, money claims, and other benefits. No motion or request for extension of the period within which to perfect an appeal shall be allowed. An employer appealing the decision of the Labour Arbiter or the Regional Director involving a monetary award is required to post a cash or surety bond equivalent to the monetary award, exclusive of damages and attorney's fees. In case of surety bond, the same shall be issued by a reputable bonding company duly accredited by the Commission.

The National Labour Relations Commission shall resolve the appeal from the decision, order, or award of the Labour Arbiter within 20 calendar days from receipt of the answer of the appellee or upon the filing of the last pleading or memorandum required. In case of an appeal from the decision of the Regional Director of the DOLE, the same shall be resolved within 10 calendar days.

The party adversely affected by the National Labour Relations Commission's decision on the case as appealed to it may file a Motion for Reconsideration. [*Wesleyan University-Philippines v Maglaya, Sr.*, G.R. No. 212774 (23 January 2017)]

Petition for Certiorari to the Court of Appeals

The second stage of an appeal from the decision of the Labour Arbiter is with the Court of Appeals. The losing party, after a denial by the NLRC of its Motion for Reconsideration, may file a special civil action for *certiorari* under Rule 65 of the Rules of Court with the Court of Appeals. Note, however, that there is only one (1) ground acceptable: that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in the issuance of its decision and resolution. [*St. Martin Funeral Home v National Labour Relations Commission*, G.R. No. 130866 (16 September 1998)]

The special civil action for *certiorari* shall be filed not later than 60 days from notice of the denial of the National Labour Relations Commission's denial of the Motion for Reconsideration.

The party adversely affected by the Court of Appeals' decision on the petition for *certiorari* may file a Motion for Reconsideration of the same within fifteen (15) days from receipt thereof.

The Court of Appeals shall resolve the case within 12 months from the date of submission for resolution, which is upon the filing of the last pleading, brief, or memorandum required by the Court of Appeals or by its Rules.

Appeal by Certiorari to the Supreme Court

The third and final stage of an appeal from the decision of the Labour Arbiter is with the Supreme Court. The losing party, after a denial by the Court of Appeals of its petition for *certiorari*, may file a petition for review on *certiorari* under Rule 45 of the Rules of Court with the Supreme Court within 15 days from receipt of the denial of the petition for *certiorari*. The appealing party shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of PhP500.00 for costs at the time of the filing of the petition.

The Supreme Court shall decide or resolve the case within 24 months from the date of submission for resolution, which is upon the filing of the last pleading, brief, or memorandum that the Supreme Court or its Rules require.

For cases decided by the Voluntary Arbitrators and Panel of Voluntary Arbitrators under the auspices of the NCMB, their decisions are subject to a Motion for Reconsideration before them. Thereafter, the same can be elevated to the Court of Appeals and Supreme Court, successively. [*Guaggua National Colleges v Court of Appeals*, G.R. No. 188492 (28 August 2018)]

Law stated - 27 August 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

The losing party may, instead of going through the appeal process, file a verified petition to annul or modify the order or resolution of the Labour Arbiter when said order or resolution will cause injustice if not rectified, there is no other plain, speedy, and adequate remedy in

the ordinary course of law, and any of the following grounds are present: (1) there is *prima facie* evidence of abuse of discretion on the part of the Labour Arbiter, (2) serious errors in the findings of facts are raised which, if not corrected, will cause grave or irreparable damage or injury to the petitioner, (3) a party, by fraud, accident, mistake, or excusable negligence has been prevented from taking an appeal, or (4) made purely on questions of law.

The petition to annul or modify the order or resolution of the Labour Arbiter shall be filed with the National Labour Relations Commission within 10 calendar days from receipt of the order or resolution. The verified petition may be accompanied by an application for the issuance of a temporary restraining order and/or a writ of preliminary or permanent injunction to enjoin the Labour Arbiter, or any person acting under his or her authority, to desist from enforcing said resolution or order.

Law stated - 27 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 What are the key cases, decisions, judgments and policy and legislative developments of the past year?

In the year 2024, the Supreme Court of the Philippines promulgated several significant rulings pertaining to labour and employment.

In *Bison Management Corporation v AAA*, G.R. No. 256540 (14 February 2024), the Supreme Court held that termination of an employee on the sole basis of their HIV status is a discriminatory act and thus, unlawful and violative of the employee's right to security of tenure. It was clarified therein that while disease is a ground for termination under Article 299 of the Labour Code, being HIV positive is not yet an illness or disease.

In *Abad v San Roque Metals*, G.R. No. 255368 (29 May 2024), the Supreme Court reiterated that compromise agreements must be closely scrutinised because they are also quitclaims which the law looks upon with disfavor. In order to determine whether a quitclaim is valid, the following elements must be present: (1) that the employee executes the quitclaim voluntarily, (2) that there is no deceit on the part of any of the parties, (3) that the consideration of the quitclaim is credible and reasonable, and (4) that the contract is not contrary to law, public order, public policy, morals or good customs, or prejudicial to a third person with a right recognised by law.

In*Bartolome v Toyota Quezon Avenue, Inc.*, G.R. No. 254465 (03 April 2024), the Supreme Court held that acts of disdain and hostile behaviour such as demotion, uttering insulting words, asking for resignation, and apathetic conduct toward an employee constitute constructive illegal dismissal when by reason thereof, one's employment becomes so unbearable that he or she is left with no choice except to resign.

On 21 January 2025, the Department of Labour and Employment issued Department Order No. 248 Series of 2025 which provides for the New Rules and Regulations on the Employment of Foreign Nationals in the Philippines. Under Department Order No. 248

Series of 2025, the new period to file an Alien Employment permit application is within 15 calendar days from the execution of the employment contract or issuance of appointment. It also clarified that an Alien Employment Permit application may be filed and processed while the foreign national to be hired is still outside the Philippines.

Law stated - 27 August 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Technology has made it more accessible for aggrieved parties to bring their labour and employment concerns to the proper authorities. Requests for Assistance under the Single-Entry Approach (SEnA) may now be filed online, through the website of the NLRC, instead of having the aggrieved party personally appear before the SEnA Desk in the region/provincial/district/field office of the NLRC where the employer principally operates. The conciliation-mediation conferences under the SEnA can now likewise be conducted online through videoconferencing.

Law stated - 27 August 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

In defending an employment claim in the Philippines, one must take note of one of the unique features of Philippine labour law – its bias in favour of labour. No less than the Constitution of the Philippines mandates the full protection of labour, local and overseas, organised and unorganised. In cases of doubt, all labour legislation and contracts shall be construed in favour of the safety and decent living of labourers. This extends to labour proceedings in that all doubts in the implementation and interpretation of Philippine labour laws shall be resolved in favour of labour.

In employment disputes, whether the same involve violations of labour standards or labour relations, the constitutionally enshrined bias in favour of labour applies in the form of tilting the scales of justice in favour of the employee. If doubt exists between the evidence presented by the employer and that presented by the employee, Thus, it is crucial and important for the employer to strictly comply with labour laws, rules, and regulations and to document the same in order to successfully resist employment claims.

To illustrate, Philippine labour laws impose the twin-notice requirement in termination of employees. First, a Notice to Explain which lays down the specific actions and company policies or rules violated by the employee must be served upon the employee and a reasonable opportunity to answer the same must be afforded him or her. Second, a Notice of Decision shall be issued by the employer laying down its findings and conclusion, based on the information and evidence available to it, with regards to the termination

of the employee. Any flaw in the twin-notice requirement may invalidate the employee's termination and make the employer liable to pay the employee separation pay, full backwages, and damages. Therefore, employers have to make sure that they properly and strictly comply with Philippine labour laws in all stages of engagement with the employee.

Law stated - 27 August 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

The Rules of Court 2021 require parties to consider amicable resolution of the dispute (ADR) before commencing action in the Singapore courts. Specifically, a party must make an ADR offer before commencing an action, unless there are reasonable grounds not to do so. The failure to do so may result in adverse costs orders.

Law stated - 28 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Third-party funding is available for Singapore International Commercial Court (SICC) proceedings, international and domestic arbitration proceedings, and mediation and court proceedings arising from or connected with such SICC and arbitration proceedings: Civil Law (Third-Party Funding) Regulations 2017.

There are professional conduct rules for lawyers involved in proceedings in Singapore funded through third-party funding, which deal with conflicts of interest amongst practitioners and funders, such as disclosure obligations in relation to the use of third-party funding and the prohibition against the lawyer having any financial interest in the third-party funder: Legal Profession (Professional Conduct) Rules 2015; Legal Profession (Representation in Singapore International Commercial Court) Rules 2014.

Law stated - 28 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Contingency fee arrangements are available for Singapore International Commercial Court (SICC) proceedings, international and domestic arbitration proceedings, and mediation and court proceedings arising from or connected with such SICC and arbitration proceedings: Legal Profession (Conditional Fee Agreement) Regulations 2022.

Clients should seek independent legal advice before entering into contingency fee arrangements.

Law stated - 28 August 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Civil Litigation

Parties may choose to bring their employment disputes before the Singapore courts. Claims not exceeding S$60,000 are filed in the Magistrates' Court, while claims of more than S$60,000 and not exceeding S$250,000 are filed in the District Court. Claims exceeding S$250,000 are filed in the High Court.

Employment Claims Tribunal

The Employment Claims Tribunal (ECT) provides an alternative, low-cost forum for employees and employers to resolve salary-related claims or wrongful dismissal disputes. All proceedings before the ECT are conducted in private. The parties must act in person and cannot be represented by lawyers.

For claims to be heard in the ECT, the following preconditions must be satisfied:

- if the claimant is an employee, the claim must either be a specified statutory or contractual salary-related dispute or a wrongful dismissal dispute;
- the claim cannot exceed the prescribed claim limit of S$20,000, or S$30,000 if the claimant goes through the Tripartite Mediation Framework or mediation assisted by unions recognised by the Industrial Relations Act 1960;
- a mediation request must first be lodged with the Tripartite Alliance for Dispute Management (TADM), and the dispute is unresolved after mediation and a claim referral certificate has been issued by the mediator;
- if the claimant is an employer, the claim must relate to a salary in lieu of notice of termination dispute; and
- the claimant is claiming against a party who is residing, or has a registered office or place of business, in Singapore.

If an employee has multiple types of claims against the employer, the employee can bring the eligible claims to the ECT while separately bringing the other claims to the civil courts – even if the claims arise from the same facts or underlying event.

Seafarers, domestic workers and public officers are not allowed to bring claims before the ECT and employers are similarly not allowed to bring claims against such employees before the ECT.

Law stated - 28 August 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

A Singapore court may decline jurisdiction where it takes the view that Singapore is not the appropriate forum for the dispute to be heard.

In addition, Singapore is a party to the Hague Convention on Choice of Court Agreements. The Singapore courts will stay or dismiss proceedings in an international case if there is a choice of court agreement that does not designate any Singapore court as a chosen court: Choice of Court Agreements Act 2016.

Law stated - 28 August 2025

Standing

6 | Who can bring a claim?

Any parties to an employment contract can bring claims on the employment contract.

Law stated - 28 August 2025

Commencing claims

7 | How are claims commenced?

In the case of civil claims brought in the Singapore courts, claimants must file an Originating Claim (or an Originating Application where the material facts are not in dispute).

In the case of ECT claims, claimants must first lodge a mediation request, and attempt mediation. A claim can only be filed if the dispute is unresolved after mediation and a claim referral certificate has been issued by the mediator.

Law stated - 28 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

Yes. The issuing of claims in the civil courts is subject to the applicable filing fees depending on the court in which the action is commenced as set out in the Rules of Court 2021. ECT claims are subject to filing fees as set out in the Employment Claims Rules 2017.

Law stated - 28 August 2025

Service

9 | Is any qualifying service required?

In civil claims filed in court, the claims must be served by way of personal service within three months from the date of issue.

In ECT claims, the employment claims must be served on the respondent within seven days from the date of filing the claims by way of personal service or by registered post to the respondent individual's last known residential address or registered address, or to the respondent business entity's registered address or principal place of business.

Law stated - 28 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Claims can be brought against any other party to the employment contract and, depending on the nature of the claims, against a third-party. Claims can be brought against both natural persons and corporations.

Law stated - 28 August 2025

Types of claims

11 | What types of claims can be brought?

All employment claims can be filed in the Singapore courts such as salary-related claims, wrongful dismissal claims, and other claims for breach of the employment contract, including for the enforcement of post-employment obligations like non-competition and non-solicitation clauses. Claims not exceeding S$60,000 are filed in the Magistrates' Court, while claims not exceeding S$250,000 are filed in the District Court. Claims exceeding S$250,000 are filed in the High Court.

The ECT hears salary-related claims and wrongful dismissal claims of up to S$20,000 per claim, or S$30,000 if a claimant goes through the Tripartite Mediation Framework or mediation assisted by unions recognised by the Industrial Relations Act 1960.

Law stated - 28 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

All employment claims filed in the Singapore courts based on an employment contract are subject to a limitation period of six years.

For ECT claims, a mediation request must be lodged within the following time limits:

- Salary-related claims must be lodged within one year from the first date of owed salary or, if the employee has left the employment, within six months of the last date of employment.
- Wrongful dismissal claims must be lodged within one month from the last date of employment or, if the employee was dismissed during pregnancy, any time after the last date of employment but within two months from the date of delivery.

Law stated - 28 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Yes. In the civil courts, a defendant can file a counterclaim together with the defence. At the ECT, a respondent with an eligible claim against the claimant may file a counterclaim.

Law stated - 28 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Litigation

In the Singapore courts, a party starts a civil claim by filing an originating claim (or an originating application with a supporting affidavit where the material facts are not in dispute).

To contest an originating claim, the respondent must file and serve a notice of intention to contest or not contest within 14 days after receiving service of the statement of claim, or within 21 days if the respondent is served outside of Singapore. The respondent must also file and serve its defence within 21 days after receiving service of the statement of claim, or within five weeks if the respondent is served outside of Singapore. The respondent may also file and serve a counterclaim.

To contest an originating application, the respondent must file and serve an affidavit within 21 days after receiving service of the originating application, or within five weeks if the respondent is served outside of Singapore.

A case conference is generally held eight weeks after the originating claim or originating application is issued, or 12 weeks where the respondent is served outside of Singapore.

The purpose of a case conference is for the court to give directions for the conduct of the proceedings.

Generally, the court will order parties to file a single application pending trial (SAPT), which must deal with all interlocutory matters that are necessary for the case to proceed expeditiously. In an appropriate case, the court may order parties to file and exchange Affidavits of Evidence-in-Chief before any exchange of documents and before the court considers the need for any interlocutory application.

After all the pre-trial matters have been dealt with and the parties are ready for trial, the case will be set down for trial.

Employment Claims Tribunal

For Employment Claims Tribunal (ECT) proceedings, employment claims can be filed if the dispute is not resolved at the Tripartite Alliance for Dispute Management (TADM) mediation and the mediator issues a claim referral certificate.

If the dispute is not resolved by mediation, the parties must attend a case management conference (CMC) where the registrar will manage the case and give parties an opportunity to resolve the dispute. If the matter cannot be resolved at the CMC, the case may be fixed for an ECT hearing before a tribunal magistrate.

ECT orders may be enforced in the same way as District Court orders.

Law stated - 28 August 2025

Rules

15 | What rules apply to case management?

For civil litigation claims, the case management rules are set out in the Rules of Court 2021, supplemented by the Supreme Court Practice Directions and the State Courts Practice Directions.

At the ECT, the case management rules are set out in the Employment Claims Regulations 2017 and the Employment Claims Rules 2017.

Law stated - 28 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

In the Singapore courts, claims may be amended by written agreement between the parties but not less than 14 days before the commencement of the trial. The court may also allow claims to be amended but not less than 14 days before the commencement of the trial, except in a special case.

At the ECT, claims may be amended only once without permission of a tribunal or the Registrar of the ECT before the claim is served. If the claim has already been served, the claim may be amended only with the consent of the other party, or if allowed by a tribunal or the Registrar.

Law stated - 28 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Yes. For civil litigation claims, the court may add parties into a case in its discretion. For ECT claims, a joinder of parties may be allowed if it appears to the tribunal or Registrar that doing so is convenient, a common question of law or fact arises in all the claims, or all rights to relief claims are in respect of or arises out of the same transaction or series of transactions; and such a joinder does not prejudice any party to any of the claims.

Law stated - 28 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Yes. The Singapore courts may order two or more actions to be consolidated if the court is of the opinion that there is some common question of law in the actions; the reliefs claimed in the actions concern or arise out of the same factual situation; or it is appropriate to do so.

At the ECT, a tribunal or the Registrar of the ECT may order that two or more claims involving two or more persons be heard together if it appears to the tribunal or Registrar that doing so is convenient, a common question of law or fact arises in all the claims, or all rights to relief claims are in respect of or arises out of the same transaction or series of transactions; and that this does not prejudice any party to any of the claims.

Law stated - 28 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

In civil court proceedings, where numerous persons have a common interest in any proceedings, such persons may sue as a group with one or more of them representing the group if all members in the group give their consent in writing to the representative(s) to represent all of them in the action and they must be included in a list of claimants attached to the originating process.

Law stated - 28 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

In the Singapore courts, the evidence of witnesses is given by way of affidavit. Prior to trial, parties must file and exchange the Affidavits of Evidence-in-Chief (AEIC) of all witnesses in accordance with the timelines set by the court. In appropriate cases, the court may order the parties to file and serve their lists of witnesses and AEICs early in the proceedings, even before the stage of document production. Expert evidence is permitted with the court's approval, with the court retaining significant oversight of the process to keep litigation costs under control.

For ECT claims, all documentary evidence must be submitted when the claims are filed. The tribunal will also give directions on the giving of evidence, whether orally or in writing, on oath or affirmation, which usually involves the filing of witness statement(s) and the witness(es) must attend the ECT hearing to give evidence in person. There are prescribed time limits for the examination of witnesses, including cross-examination.

Law stated - 28 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes, in both civil litigation and ECT claims, a witness may be compelled by the court/tribunal to give evidence. The court/tribunal may allow the giving of evidence through a live video or live television link.

Law stated - 28 August 2025

22 | Is cross examination of a witness permitted?

Yes. In ECT claims, there is a prescribed time limit of 60 minutes for the cross-examination of each witness, which can be varied by the tribunal as it deems fit.

Law stated - 28 August 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

In civil court proceedings, there are procedural steps that parties can take for summary judgment, default judgment, disposal of case on point of law, judgment on admission of facts, and the striking out of actions either on the merits of the case or for non-compliance with procedural steps. These procedures have the tactical advantage of resolving a matter early and at a lower cost than a full trial. In summary judgment applications, the court can also grant conditional permission to defend to the defendant, such as by requiring the defendant to provide a costs undertaking.

There is no equivalent procedure in ECT claims for summary judgment or striking out. However, a tribunal or Registrar may dismiss claims and strike out responses for procedural non-compliance.

Law stated - 28 August 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

For civil litigation claims, parties may be able to seek interim relief such as interim injunctions and interim payment. Having said that, the court is generally slow to grant an interim mandatory injunction requiring an employer to reinstate the employee to his or her former position because it would be undesirable to force the continuance of a personal relationship on an unwilling party. The court may grant an injunction to enforce post-employment obligations such as non-competition or non-solicitation clauses, if they are reasonably necessary to protect the employer's legitimate proprietary interest(s) (eg, trade secret, trade connection, stable workforce).

Interim relief cannot be sought at the Employment Claims Tribunal.

Law stated - 28 August 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

For interim *prohibitory* injunctions, the applicant must show that there is a serious question to be tried, and that the balance of convenience lies in favour of granting the interim injunction (eg, if damages would not be an adequate remedy if claimant were successful at trial). However, for interim *mandatory* injunctions, the application must meet a much higher threshold and show that it is a clear case or there is a high degree of assurance that the interim injunction will appear at trial to have been rightly granted.

For interim payment, the application must be supported by affidavit stating (1) the amount of the claimant's claim; (2) whether the defendant has admitted liability or has been found liable for any part of the claim, and if not, why the claimant believes he has a strong case against the defendant; and (3) why the claimant requires an interim payment to be made

at this stage of the proceedings. The court may then order interim payment of any amount to be made by the defendant after taking into consideration all the above factors, any contributory negligence, set-off or counterclaim that the defendant has relied on and the defendant's ability to make the interim payment.

Law stated - 28 August 2025

TRIAL

Hearings – conduct and typical time frames

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

In civil litigation claims, the length of the trial will depend on the complexity of the subject matter and the number of witnesses involved. Parties will file their written opening statements ahead of the trial and the hearing will mainly consist of the examination of witnesses and, in some cases, the court may hear oral closing submissions instead of written closing submissions.

For claims at the Employment Claims Tribunal (ECT), the following time limits apply in the conduct of proceedings before a tribunal, although this may be varied as the tribunal deems fit.

- for the examination in chief of a witness – 10 minutes per witness
- for the cross-examination of a witness – 60 minutes per witness
- for the re-examination of a witness – 10 minutes per witness

for closing submissions – 30 minutes per party

Law stated - 28 August 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

In the Singapore courts, trials are generally open to the public but may be closed to the public in exceptional circumstances, such as a hearing involving the testimony of a vulnerable witness. A person may apply to inspect case files and court documents, subject to approval and payment of the applicable fees.

At the ECT, the proceedings are conducted in private, and members of the public are not allowed to be present. However, subject to the tribunal's discretion, any individual may be allowed to observe the proceedings.

Law stated - 28 August 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

Civil trials are as a general rule heard in open court, which the media can attend and report on. The court may impose restrictions on media reporting in appropriate cases, such as where a gag order has been issued to protect the identity of witness(es).

For claims at the ECT, the proceedings are private and media personnel are not allowed to be present.

Law stated - 28 August 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

All claims and allegations must be proven on a balance of probabilities by the parties that assert such claims and allegations. For salary-related claims, the successful claimant must prove that he or she is entitled to the payment and has not received such payment. For wrongful dismissal claims, the successful claimant must prove that he or she was dismissed without just cause or excuse.

Law stated - 28 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

All types of employment disputes can be referred to mediation and/or arbitration.

Law stated - 28 August 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

Parties are required to engage in ADR at the pre-action stage. For civil claims, a party must consider amicable resolution of the dispute (ADR) and make an ADR offer before commencing action, unless there are reasonable grounds not to do so. The failure to do so

may result in adverse costs orders. At the Employment Claims Tribunal (ECT), employment claims can only be filed after unsuccessful mediation.

Law stated - 28 August 2025

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

A party to a mediated settlement agreement may with the consent of all the other parties to that agreement apply to record the agreement as an order of court under the Mediation Act 2017. Arbitral awards may be enforced in the same manner as a judgment or order of the court under the Arbitration Act 2001 and the International Arbitration Act 1994.

For ECT claims, a settlement agreement recorded at the Tripartite Alliance for Dispute Management can be registered with the District Court to make it enforceable as a District Court order.

Law stated - 28 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Disputes arising out of collective agreements may be submitted to the Industrial Arbitration Court.

Law stated - 28 August 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

The employer and the recognised trade union who are parties to the collective agreement may submit a dispute to the Industrial Arbitration Court.

Law stated - 28 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

The main remedy is generally monetary compensation. The courts are generally slow to order reinstatement in the former employment because it would be undesirable to force the continuance of a personal relationship on an unwilling party.

For civil claims, injunctions may be granted to enforce certain contractual obligations, such as non-competition or non-solicitation clauses, if they are reasonably necessary to protect the employer's legitimate proprietary interest(s) (eg, trade secret, trade connection, stable workforce).

Law stated - 28 August 2025

Assessing compensation

36 | How is any compensation assessed?

Compensation is assessed based on the loss suffered by the claimant. In wrongful dismissal cases, this is usually the salary that an employer would have to pay in lieu of notice to terminate the employment.

Law stated - 28 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

The enforcement of court orders involves the filing of a Single Enforcement Application, including for the seizure and sale of property and/or the attachment of debt. There is also the option of applying for an Order for Examination of Enforcement Respondent, which may provide information on what assets the defaulting party has. Employment Claims Tribunal orders may be enforced in the same way as District Court orders.

Law stated - 28 August 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

In the Singapore courts, appeals may be brought from the state courts to the High Court and up to the Appellate Division of the High Court, although this may be subject to permission given by the relevant court. In exceptional cases, permission may be granted to bring an appeal to the Court of Appeal but only if it will raise a point of law of public importance.

From the Employment Claims Tribunal, appeals may be brought to the High Court on any ground involving a question of law or on the ground that the claim was outside the jurisdiction of the tribunal, subject to permission given by a District Court. Any such appeal to the High Court is final.

Law stated - 28 August 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

An order or judgment may, without an appeal, be corrected to the extent necessary to rectify clerical mistakes, or errors arising from any accidental slip or omission.

Law stated - 28 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

On 8 January 2025, the Singapore Parliament passed the Workplace Fairness Act, which will prohibit discrimination or the making of an adverse employment decision based on any protected characteristic, that is, age, nationality, sex, marital status, pregnancy, caregiving responsibilities, race, religion, language ability, disability, and mental health condition. A second bill providing for the rights and procedures for individuals to make private claims is expected to be tabled in 2025. The Workplace Fairness Act and the second bill are intended to come into effect in 2026 or 2027.

The Singapore High Court recently clarified that, if an employee has multiple types of claims against the employer, the employee can bring the eligible claims to the Employment Claims Tribunal (ECT) while separately bringing the other claims to the civil courts – even if the claims arise from the same facts or underlying event. In *Goh Hui En Rebecca v IG Asia Pte Ltd* [2025] SGHCR 20, the Singapore High Court held that it was not an abuse of process for an employee to bring other contractual and tortious claims in the High Court after having succeeded in a claim for salary in lieu of notice at the ECT, which found the employer liable because it was unable to substantiate the allegations of misconduct for which the employee was dismissed. Given the limited jurisdiction of the ECT, the employee could not have brought to the ECT the other contractual and tortious claims for unpaid commissions, defamation in publishing a misconduct report, and negligence in failing to withdraw the misconduct report.

Law stated - 28 August 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Proceedings are regularly conducted via video-conferencing, except for those involving the examination of witnesses which continue to be conducted in person. Almost all case materials are filed and can be accessed electronically.

Law stated - 28 August 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

In defending employment claims, it may be useful to note that, while the Singapore High Court has in various cases in the past accepted that employment contracts contain an implied term of mutual trust and confidence, the Appellate Division of the High Court has observed that the status of such an implied term has not been clearly settled in Singapore and remains an open question for the Court of Appeal to resolve: *Dong Wei v Shell Eastern Trading (Pte) Ltd* [2022] 1 SLR 1318.

Separately, the Ministry of Manpower and the tripartite partners are currently developing a set of tripartite guidelines to shape norms and provide employers with further guidance on the inclusion of restrictive covenants in employment contracts. The Ministry has said that employers should generally avoid including restrictive covenants in employment contracts for lower-paying jobs.

Law stated - 28 August 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

In South Korea, there are generally no mandatory pre-action procedures that must be exhausted before bringing an employment-related claim to court. However, in certain cases, particularly those concerning unfair dismissal or unfair labour practices, employees are encouraged to first seek redress through the Labour Relations Commission (LRC), a quasi-judicial administrative body established to handle labour disputes efficiently and cost-effectively. Although initiating a claim with the LRC is not a strict legal prerequisite, it serves as a critical gatekeeping function for unfair dismissal and unfair labour practice cases.

Additionally, parties may consider several non-mandatory but useful steps, such as internal grievance procedures, voluntary dispute resolution via labour-management councils, and mediation services offered by the Ministry of Employment and Labour (MOEL). While these informal mechanisms are not legally binding, they can help resolve issues quickly, with lower litigation costs.

Law stated - 25 July 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Third-party litigation funding as a form of investment is not expressly regulated under Korean law yet, and is rare in employment-related disputes. The Korean legal system does not recognise doctrines like champerty or maintenance as in common law jurisdictions. Funding arrangements that improperly assign litigation rights or promote frivolous lawsuits could potentially be deemed against social order and therefore unenforceable under Article 103 of the Civil Act. Further, sharing profits arising from litigation funding could violate the Attorney-at-Law Act, which prohibits gaining benefits by introducing a litigation case to an attorney.

However, third-party funding as a form of aid is not generally restricted. In practical terms, most individual employment litigants rely either on personal funds or legal aid services, including support from the Korea Legal Aid Corporation (KLAC), which provides representation and financial assistance to qualifying low-income individuals. But if a company funds its director or employee for litigation, it could be deemed a breach of trust, thus violating Article 356 of the Criminal Act, unless funding the litigation is beneficial to the company.

Law stated - 25 July 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Contingency fee arrangements are legally permitted in South Korea and are commonly used in employment litigation. These agreements are especially attractive to employees who may lack the resources to pay upfront legal fees, and are often used in disputes over unpaid wages, severance pay, or unfair dismissal.

There is no statutory ceiling on the amount recoverable under a contingency fee arrangement, but courts have the authority to reduce fees they deem excessive or unfair. A typical structure involves a modest base fee combined with a success fee calculated as a percentage of the amount awarded by the court.

However, for criminal cases, the Supreme Court's 2015 decision rendered any contingency fee agreement void, as it is considered to be against the social order under Article 103 of the Civil Act.

Law stated - 25 July 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Employment-related claims in South Korea may be pursued through several forums, depending on the nature of the dispute. The Labour Relations Commission (LRC) has jurisdiction over claims involving unfair dismissal, unfair labour practices, and certain disputes relating to collective bargaining such as labour mediation. The LRC operates under an inquisitorial model and is typically more expedient than the formal court process. But if either party appeals to the LRC's decision, the Administrative Court reviews whether the decision was appropriate.

Civil courts handle claims for unpaid wages, severance, bonuses, unjust dismissal, damages due to breach of employment contracts, or tortious acts in the workplace such as defamation or harassment. Where the claim value is less than 30 million won, the case is decided in the Small Claims Division, which offers simplified procedures and expedited rulings. In disputes involving public employees or governmental agencies, the Administrative Court is the appropriate forum.

Law stated - 25 July 2025

Territorial jurisdiction

5 Are there any limitations on territorial jurisdiction?

Territorial jurisdiction in South Korea, governed by the Civil Procedure Act, generally lies with the court having authority over the defendant's residence or the place where the obligation (e.g. wage payment or the provision of work) was to be carried out. In employment disputes, this often means the employee's everyday workplace.

Cross-border or expatriate arrangements may raise jurisdictional questions, particularly when the employment contract is silent on jurisdiction. Where work is habitually performed in Korea or the employer has a business presence or address in Korea, jurisdiction for the Korean court is approved when an employee wishes to file an employment lawsuit against the employer in Korea. When an employer attempts to file a lawsuit against the employee, the employer can only do so in Korea if the employee lives in Korea or habitually provides work in Korea. Any agreement over international territorial jurisdiction is allowed only when a dispute has already occurred or when the agreement allows the employee to file a lawsuit in other countries.

Law stated - 25 July 2025

Standing

6 | Who can bring a claim?

In general, standing is granted to any individual or legal entity whose rights or obligations are directly affected by the employment relationship. This includes full-time, part-time, fixed-term, and dispatched workers. Interns, probationary workers, and independent contractors may also have standing if they can demonstrate that the substance of their work arrangement meets the criteria of de facto employment under Korean labour jurisprudence.

Because 'employee' under the Labour Standards Act (LSA) and 'worker' under the Labour Union Act have different definitions, a worker may also bring a claim regarding labour union issues even though he/she is not necessarily considered as 'an employee'.

Labour unions have derivative standing to bring claims on behalf of their members in relation to unfair labour practices or breaches of collective bargaining agreements. In cases of mass layoffs or group claims involving collective issues, class-based procedural mechanisms are limited, but joint litigation is allowed where claims share a common factual and legal basis.

Courts interpret standing broadly in employment matters to ensure access to justice, especially for workers in vulnerable or asymmetrical power relationships.

Law stated - 25 July 2025

Commencing claims

7 | How are claims commenced?

A claim is commenced by submitting a written complaint to the relevant court or the LRC, depending on the type of dispute. The complaint must include basic identifying information

of the parties, a statement of relevant facts, the legal grounds supporting the claim, and a specific claim for relief.

Electronic litigation is now the standard in civil courts and is strongly encouraged by the judiciary. South Korea's e-litigation platform enables parties and their counsel to file pleadings, monitor case progress, and receive documents electronically.

Law stated - 25 July 2025

Fees

8 | Are fees payable for the issuing of a claim?

Filing with the court incurs certain fees, but court fees in South Korea are modest by international standards and are calculated based on the amount in dispute. For example, in wage claims or severance disputes, the claimant pays a filing fee proportional to the amount claimed, in addition to a fixed amount for service charges.

In contrast, proceedings before the LRC are free of charge. This fee structure reflects the Commission's role in promoting swift and accessible resolution of labour disputes. Parties may, however, incur additional costs for legal representation, expert opinions, or translation and interpretation services where necessary.

In addition, it is common for the courts to order the losing party to pay for the litigation costs.

Law stated - 25 July 2025

Service

9 | Is any qualifying service required?

There is no requirement for a minimum period of employment to bring a claim unless specified by a particular statute. For instance, some protections under theLSA require three months of continuous service, but wage or contract-based claims may be filed regardless of the length of the service.

Law stated - 25 July 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Under Korean labour law, a proper defendant must qualify as the statutory 'employer', meaning the person or entity that exercises actual control, supervision, and direction over the employee's work. In most cases, it is the corporate entity that has entered into the

employment contract and governs the employment relationship in practice. A claim could be brought against a natural person if such a person has employed the employee.

Individual claims may be brought personally against executives, supervisors, or HR personnel in cases involving defamation, assault, or sexual and workplace harassment, where the claim does not require its defendant to be an employer.

In the public sector, the appropriate government agency or administrative office should be specified as the defendant.

Law stated - 25 July 2025

Types of claims

11 | What types of claims can be brought?

Common claims include demands for unjust dismissal/disciplinary measures, unpaid wages, and severance pay, which are protected under the Labour Standards Act and relevant collective agreements.

Dismissal and disciplinary measure-related claims take up a significant proportion of employment litigation. These may involve challenges to disciplinary terminations, non-renewal of fixed-term contracts, or dismissals during probation. Employees may allege that the termination was procedurally unfair, substantively unjust, or based on discrimination.

Other claim types include allegations of workplace harassment, sexual harassment, discrimination based on gender, age, or disability, as well as violations of working hours regulations and annual leave. Claims may also arise from breaches of employment contracts, and misclassification of independent contractors (recognition of employee status).

In addition, claims regarding unfair labour practices—such as discriminatory treatment against union members, refusal to engage in collective bargaining, or unlawful employer interference with union activities—are also frequently litigated before the LRC and the courts.

Law stated - 25 July 2025

Time limits

12 | What are the time limits for bringing employment claims?

Statutory limitation periods apply to most employment-related claims in South Korea. Under the LSA, claims for unpaid wages, severance pay, and annual leave must be filed within three years. This period may be interrupted by initiating legal proceedings.

Claims for unfair dismissal must be submitted to the LRC within three months of the date of dismissal. For tort cases, such as those involving harassment or mental distress, the

Civil Act prescribes a limitation period of three years from the date the claimant becomes aware of the harm and the responsible party, or ten years from the date the wrongful act took place, whichever is earlier.

Law stated - 25 July 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Employers may bring counterclaims against employees in the same proceeding where the subject matter is sufficiently related to the original claim. Typical counterclaims include demands for repayment of overpaid wages, indemnification for company property damage, or restitution for unauthorised absences.

Law stated - 25 July 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

The procedural flow of employment litigation in South Korea follows a structured sequence, although the exact proceedings may vary depending on the forum—whether a civil court, administrative tribunal, or the Labour Relations Commission (LRC). In civil courts, the process typically begins with the submission of the complaint and supporting evidence. Once the submission is completed, the defendant is allowed to respond by filing a written answer; an exchange of briefs with evidence and legal arguments follows.

After initial pleadings, the court may hold one or more hearings to review the issues, check the evidence, and examine witnesses when necessary. Depending on the complexity of the case, multiple hearings may be held before the court declares the close of hearings and moves to judgment. Hearings may be held in person or, increasingly, through video conference, in accordance with digital court protocols.

In the LRC, case management is more expedited than in civil courts, and the Commission adopts an inquisitorial approach. Although the LRC also requires written briefs like the courts, oral proceedings are central to the process, with the Commission directly questioning the parties and witnesses to establish the facts. While legal representation is not required, parties commonly seek assistance from legal professionals such as attorneys. Hearings are typically held once or twice, and written rulings are issued within a month after the final session.

Notably, while South Korea does not operate a dedicated labour court, the LRC system functions as a quasi-judicial mechanism with a two-stage structure: the Regional LRC and the Central LRC. If a party is still dissatisfied with the outcome at the Central LRC, it may then file a lawsuit at the administrative court, which follows a

three-instance structure—district court, high court, and the Supreme Court. As a result, certain employment disputes—particularly those involving unfair dismissal or unfair labour practices—could go through up to five separate stages of review before a final, binding decision is rendered.

Law stated - 25 July 2025

Rules

15 | What rules apply to case management?

The rules applicable to case management in employment litigation derive primarily from the Civil Procedure Act for civil cases, the Administrative Litigation Act for disputes involving public authorities, and the Labour Relations Commission Act for cases before the LRC. These statutory frameworks set out procedural timelines, evidentiary rules, and the authority of judges or commissioners to manage proceedings.

In addition to statutory law, courts may issue standing orders or procedural guidelines governing submissions, witness scheduling, and adjournments. Judges possess broad discretion to consolidate or bifurcate issues or require supplemental briefing. In practice, Korean courts favour efficiency and may encourage parties to narrow down the issue and explore mediation at early stages.

At the LRC, proceedings are governed by administrative efficiency, and while formal rules of evidence under the Civil Procedure Act do not strictly apply, parties are expected to cooperate fully and submit documents within prescribed time frames. The LRC may even take initiative in gathering evidence or directing investigative inquiries.

Law stated - 25 July 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

Amendments to claims are generally permitted unless they do not fundamentally alter the nature of the original claim or cause undue delay or prejudice to the opposing party. In civil court proceedings, claimants may seek to amend their complaint prior to the close of arguments by filing a motion.

The court typically allows such amendments where they clarify factual allegations, add legal grounds already implied in the original pleadings, or revise the amount of damages claimed based on new evidence discovered during the litigation. However, attempts to introduce entirely new causes of action or parties at a late stage may be rejected on grounds of procedural unfairness.

Law stated - 25 July 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Under the Civil Procedure Act, additional parties may be joined to an existing case if their legal interests are sufficiently connected to the subject matter of the litigation. Joinder is generally permitted, particularly where multiple employees assert claims based on the employer's common policies or practices.

The process requires court approval, and the initiating party must file a motion detailing the reasons for the joinder along with any necessary amendments to the complaint. The added party must be properly served and provided an opportunity to respond.

Law stated - 25 July 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

South Korean courts have the discretion to consolidate two or more proceedings where they involve the same questions regarding fact or law. Consolidation is particularly useful in employment litigation involving multiple claimants asserting the same rights—such as unpaid wage claims from a number of employees against the same company—or where counterclaims and original claims are separately filed but closely interrelated.

To consolidate, a party must file a motion detailing the related cases and justifying why a unified proceeding would promote judicial efficiency and prevent inconsistent outcomes. The court may also initiate consolidation sua sponte. Once granted, the cases proceed as a single case, with shared evidence, unified scheduling, and a single judgement.

Consolidation may also occur before the LRC when multiple cases involve the same employer and substantially identical facts.

Law stated - 25 July 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

South Korea does not maintain a certified class action framework for employment disputes like the United States. However, the Civil Procedure Act permits joint litigation where multiple plaintiffs assert rights arising from the same transaction or legal basis. These proceedings are managed collectively but adjudicated based on each individual's specific claim.

In employment litigation, this form of collective action is commonly used by groups of employees alleging similar violations—such as unpaid overtime or discriminatory practices.

While these claims are joined procedurally, the court must make individualised findings for each claimant.

Law stated - 25 July 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

Evidence in employment litigation may take the form of written documents, oral testimony, audio-visual recordings, expert reports, and electronic communications.

It is common for a party to submit witness statements to supplement their arguments. Either party may request oral testimony for a witness, but the court may not grant it if deemed unnecessary. Once an oral testimony is approved, the other party is guaranteed to have an opportunity for a cross-examination.

Documentary evidence—such as payslips, employment contracts, work schedules, and internal HR communications—often plays a pivotal role. In Korean employment litigation, courts take into account the structural imbalance between employers and employees with respect to access to evidence. As such, where facts are primarily within the employer's control—such as working hours, wage payments, or grounds for dismissal—sometimes the burden of proof may, in practice, seem to shift to the employer. The courts may also draw adverse inferences from an employer's failure to submit relevant documents without a justifiable reason, pursuant to the Civil Procedure Act.

Where technical issues arise (eg, occupational health assessments), expert evidence may be allowed.

Although the rules of evidence are more relaxed at the LRC, parties are still expected to support their assertions with credible proof. The Commission may also request additional evidence on its own initiative.

Law stated - 25 July 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes. Witnesses may be compelled to give evidence if requested by either party and deemed necessary by the court. The court may issue a subpoena to enforce attendance. Failure to appear without just cause may lead to penalties.

Testimony from abroad is also permitted under the Civil Procedure Act, which allows the examination of witnesses via video or online transmission systems when the court finds it appropriate and after consulting both parties. This is typically considered in situations where the witness resides far from the court, is ill, or faces other legitimate difficulties attending in person.

Law stated - 25 July 2025

22 | Is cross examination of a witness permitted?

Yes. Cross-examination is permitted under the Civil Procedure Act. A witness is first examined by the party who requested the witness, followed by cross-examination by the opposing party. The presiding judge may also examine the witness at any time and may, if necessary, adjust the order of questioning or restrict repetitive or irrelevant questions to ensure procedural efficiency.

Law stated - 25 July 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

Parties may employ various procedural tools. One such tool is a motion for dismissal on procedural grounds, such as lack of standing, jurisdictional defects, or expiry of the statute of limitations.

While Korean law does not provide for summary judgement in the same manner as common law jurisdictions, certain simplified procedures—such as small claims proceedings or payment orders—may serve a similar function in clear-cut cases.

Parties may also seek a settlement by requesting a mediation session to close the litigation as early as possible. The courts also often prefer closing the case by mediation.

Law stated - 25 July 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Interim relief is available in South Korean employment litigation. Interim injunctions may be sought to suspend dismissals, preserve employment status, or prevent enforcement of disciplinary measures during the litigation proceedings. For example, an employee may apply for an injunction to suspend the effect of disciplinary actions such as dismissal, demotion, or wage reduction until a final judgement is rendered.

On the other hand, employers may also seek interim relief in the form of injunctions to prevent obstruction of business operations, especially in cases involving collective actions such as strikes and sit-ins, and confidential information/trade secrets. These injunctions against interference with business are often pursued alongside compensation claims or criminal complaints, depending on the nature and the severity of the disruption.

Law stated - 25 July 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

To obtain interim relief, the applicant must show probable grounds and that it is necessary to avoid significant harm. Courts assess whether the measure is appropriate and urgent, and may require the applicant to provide a security deposit under the Civil Execution Act. Documentary evidence is essential to support the application. Interim measures generally remain effective until a final judgement or settlement.

Law stated - 25 July 2025

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

Final hearings in civil courts are conducted before a panel or a single judge, depending on the case. Hearings in employment cases typically last from a few months to a year.

Hearings before the Labour Relations Commission (LRC) are generally quicker and may be resolved within one to two months. A notable feature of LRC hearings is the active questioning by the panel members, who often intervene directly to clarify facts.

Law stated - 25 July 2025

Confidentiality and public access

27 | How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Civil hearings are generally open to the public, but parties may request closed sessions to protect trade secrets, personal data, or reputational interests. Written submissions and evidence can be accessed by all parties in the litigation unless reasonable grounds not to disclose are sufficiently proved.

In practice, courts often accept requests for confidentiality in disputes involving sensitive interpersonal matters, such as workplace harassment, medical conditions, or internal disciplinary actions.

Law stated - 25 July 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

There are no special rules for media in employment cases. Standard defamation, privacy, and contempt of court rules apply. Courts may prohibit media coverage to protect sensitive information or individuals involved in the case, especially in high-profile or harassment-related claims.

Law stated - 25 July 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

The claimant must prove the essential elements of the claim. For example, in dismissal cases, once the employee proves the existence of dismissal, the burden shifts to the employer to prove the just cause. In practice, South Korean courts often demand that the employer provide necessary evidence, considering their exclusive control over relevant documents or internal information.

A successful claim typically depends on well-documented evidence such as employment contracts, pay statements, and internal communications. Where claims involve mental distress or bullying, corroborative witness statements or medical records can significantly strengthen the case.

Law stated - 25 July 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

ADR in employment disputes includes voluntary mediation, conciliation, and arbitration. The Labour Relations Commission (LRC) offers structured mediation services before escalating to adjudication. Civil courts may refer parties to court-annexed mediation councils, either upon the parties' request or on the court's own initiative.

Law stated - 25 July 2025

Requirements and expectations

31

Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

ADR is not mandatory but encouraged. Under South Korean law, parties are not penalised for refusing mediation recommended by the court. If mediation fails, the case proceeds to trial. The LRC and the courts increasingly promote mediation.

Law stated - 25 July 2025

Enforcement

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Settlements reached through mediation are enforceable as judicial decisions. Although arbitration is not commonly used in employment disputes, arbitration awards are enforceable under the Arbitration Act.

Law stated - 25 July 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 How are collective employment rights enforced?

Collective labour rights in South Korea are protected by the Constitution and the Trade Union and Labour Relations Adjustment Act (TLA). These rights encompass the freedom of association, the right to organise and join unions, the right to bargain collectively, and the right to take industrial action. Enforcement of such rights typically involves oversight by the Labour Relations Commission (LRC), which has the jurisdiction to hear cases concerning unfair labour practices, including employer interference with union activities, refusal to bargain in good faith in collective bargaining, or discriminatory treatment against union members.

If the LRC finds that the employer has committed an unfair labour practice, it may issue a corrective order requiring the employer to cease the offending conduct, reinstate workers dismissed in retaliation for union activities, or post public notices acknowledging the violation. These orders are binding and may be enforced through administrative litigation if contested.

In addition to LRC proceedings, civil courts may play a supplementary role in enforcing collective agreements. If an employer violates the collective bargaining agreement, such as work hours, wage scales, or grievance procedures, the affected union members may bring claims for breach of contract.

A lawful strike must be preceded by a majority vote of union members and may not be undertaken during the period of obligatory mediation for essential public services.

Unlawful strikes may expose union executives and members to civil or even criminal liability, including damages claims for economic loss. As a result, unions are advised to ensure full procedural compliance before engaging in industrial action.

The Ministry of Employment and Labour also monitors compliance with collective rights. Government inspectors may intervene to mediate disputes or enforce labour laws where systemic violations are suspected.

Law stated - 25 July 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

The standing to enforce collective labour rights lies primarily with trade unions, which are recognised legal entities under the TLA. They may act in their own name to protect their organisational interests or to represent individual members in disputes concerning union-related matters.

Individual workers may also bring claims where their personal rights arising from a collective agreement or as a trade union member are infringed. In such cases, the individual's standing is grounded in their membership of the union and their status as a party to the employment relationship.

Law stated - 25 July 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

South Korean employment law provides a range of remedies aimed at compensating damaged employees. These include reinstatement for unfair dismissal, back pay for lost wages, and compensation for damages resulting from breach of contract or statutory violations.

Reinstatement accompanied by back pay is the primary remedy in cases of unfair dismissal handled by the Labour Relations Commission (LRC). Civil courts also handle monetary claims for unjust dismissal, unpaid wages, bonuses, severance pay, and overtime. In certain cases, particularly involving harassment or discrimination, compensation for mental suffering may also be awarded.

Corrective orders may be issued in LRC proceedings, requiring employers to cease unfair labour practices or comply with statutory obligations. Punitive damages are not available, but administrative fines may be imposed for such breaches.

Law stated - 25 July 2025

Assessing compensation

36 | How is any compensation assessed?

Compensation is assessed based on actual financial loss. Courts and the LRC will examine payslips, employment contracts, and other documentation to calculate amounts owed. In dismissal cases, back pay is calculated from the dismissal date to the date of judgement, while excluding any income earned in the meantime.

In addition to civil remedies, South Korean labour law imposes criminal liability on employers for certain violations, such as unpaid wages, unfair labour practices, and breaches of occupational safety regulations. In such cases, company representatives may face criminal penalties.

Law stated - 25 July 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

Once a judgement is final, it may be enforced through the Civil Execution Act. This includes seizure of assets, garnishment of wages, or freezing of bank accounts. The LRC enforces its decision through the order for implementation and criminal prosecution.

Law stated - 25 July 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

In South Korea, most employment-related judgements may be appealed. For civil cases, an appeal to the High Court and the Supreme Court must be filed within two weeks of receiving the lower court's written decision.

The Labour Relations Commission's (LRC) decision may also be appealed. The decision by the Regional LRC may be appealed to the Central LRC, and the Central LRC's decision could further be challenged through the Administrative Court. Subsequent appeals to the High Court and the Supreme Court are also permitted. As a result, the full process may involve up to five stages of review, making it substantially longer and more layered than ordinary civil litigation. Appeal proceedings typically take several months, and courts may request additional written submissions or evidence during the process.

Law stated - 25 July 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

Apart from standard appeals, limited opportunities exist to challenge decisions through reconsideration. These include correction of clerical errors and retrial requests in exceptional circumstances. Retrial may be sought where serious procedural violations or newly discovered decisive evidence come to light after the final judgement has been rendered. It serves as an extraordinary remedy and must be filed separately before the court that issued the original judgement. Such procedures are strictly interpreted and rarely granted.

Law stated - 25 July 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Recently, the Supreme Court revised the definition of 'ordinary wage', clarified the standard for establishing workplace harassment, and strengthened protections for non-regular employees. In particular, the Court has relaxed the requirement for ordinary wages, leading to the inclusion of various bonuses and allowances that were previously excluded when calculating additional wages such as overtime. Employers are facing expanded wage obligations, and the number of wage litigation cases has significantly increased in recent years.

In addition, recent court rulings have broadened the scope of 'employee' under the Labour Standards Act, especially in industries involving freelance-type arrangements, platform work, and the sports sector. This trend has led to a noticeable increase in claims such as severance pay, annual leave, and unpaid wages, as more individuals formerly regarded as independent contractors are now recognised as employees. Courts are increasingly willing to look beyond contractual forms to determine the substance of the relationship. For example, the Supreme Court and several lower courts have recently recognised personal trainers, golf caddies, and football scouts as employees, thus providing statutory labour protections. This shift reflects a substantive approach that prioritises the actual nature of the working relationship over its formal designation.

Law stated - 25 July 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

South Korea introduced a comprehensive electronic litigation system in 2011, and today nearly all civil cases, including employment-related disputes, are filed, managed, and accessed electronically through the court's online platform. Attorneys routinely use the system for submitting briefs, receiving court notices, and reviewing case records. While fully paperless trials are not yet standard, digital procedures are firmly established in everyday practice.

Remote hearings and video testimony have become increasingly common in civil proceedings since the covid-19 pandemic. Courts continue to expand the use of video conferencing technology, particularly for procedural hearings or when parties are unable to appear in person.

Law stated - 25 July 2025

Other issues

42 Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

It is notable that employee rights are expanding rapidly.

Recently elected President Lee Jae myung campaigned on an unequivocal platform of 'respecting labour and guaranteeing workers' rights', with key promises including a reduction in the statutory workweek to 4.5 days, expanded paid leave, enforcement of 'equal pay for equal work', elimination of disguised overtime through fixed-salary bans, and stronger protections for non regular and subcontracted workers. He also pledged to raise the retirement age to 65, bring small firms under core labour protections, and promote industry-level collective bargaining.

In line with this agenda, a series of legislative actions are already anticipated, including the 'Yellow Envelope Law', which would allow unions of subcontracted workers to bargain directly with parent companies—significantly broadening the scope of collective labour rights. Regulatory enforcement is also expected to intensify, particularly in the areas of wage-and-hour compliance and protections for non-regular workers.

Thus, employers should put efforts to analyse their HR policies thoroughly and heed to any policy changes in order to prevent any possible labour litigations. Proactive compliance strategies will be essential to mitigate legal and reputational risk in what is shaping up to be a more assertively regulated labour environment.

Law stated - 25 July 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

In Thailand, there are generally no pre-action requirements for filing an employment claim with the Labour Court. However, for certain types of employment claims, the plaintiff must satisfy certain actions before he/she can file a claim with the Labour Court. Failure to comply with such requirements would result in the Labour Court's dismissal of the complaint. For instance, an employee filing a claim for unfair treatment pursuant to sections 121 or 123 of the Labour Relations Act BE 2518 (1975) must file a labour claim with the Labour Relations Committee first. The employee can then file a claim for revocation of the Labour Relations Committee's order if he/she disagrees with the order.

Law stated - 21 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

There are no Thai laws or regulations that specifically mention third-party funding. However, third-party funding may not be recognised by Thai courts and may be deemed contrary to 'public order or good morals' (ie, public policy) and thus legally unenforceable. According to Supreme Court precedent, an agreement where a third party receives benefits in return for funding litigation or arbitration without their involvement in the dispute is considered an act of seeking benefit from the legal proceedings of others. The Supreme Court views such funding arrangements where the funder has no interest or involvement in the case as contrary to public order and good morals.

Law stated - 21 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

There are no Thai laws or regulations that specifically prohibit contingency fee agreements. However, contingency fee arrangements may be deemed contrary to 'public order or good morals' (ie, public policy) and thus legally unenforceable if the courts find that such arrangements result in the lawyer sharing a financial interest in the case outcome that would not have existed otherwise.

Law stated - 21 August 2025

ISSUING A CLAIM

Forum

4 | What is the appropriate forum for complaints concerning individual employment rights?

Complaints concerning employment rights must generally be filed with the Labour Court. However, for certain types of labour claims, the law requires a specific forum in which the labour claims must be made. For instance, an employee filing a claim for unfair treatment pursuant to sections 121 or 123 of the Labour Relations Act BE 2518 (1975) must file a labour claim with the Labour Relations Committee first. The employee and the employer can then file a claim for revocation of the Labour Relations Committee's order if the party disagrees with the order.

Furthermore, for some labour claims, employment laws provide the alternative of filing a labour claim with the labour authority under the applicable employment law instead of with the Labour Court. For instance, an employee making a labour claim against its employer for any payment under the Labour Protection Act BE 2541 (1998), namely wages, severance pay, and/or payment in lieu of advanced notice, may file their claim with the Labour Inspector instead of with the Labour Court.

Law stated - 21 August 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Labour claims generally must be filed with the Labour Court in the territory in which the underlying claim arises, which, in most cases, will be the location of the employee's workplace. Alternatively, the plaintiff in such claim may instead file a labour claim with the Labour Court in the territory in which the plaintiff or the defendant's domicile is located. In such case, the plaintiff must submit a petition for the Court's permission, proving that the trial at such alternative Labour Court will be more convenient. The Labour Court has the discretion whether to grant the plaintiff's petition.

Law stated - 21 August 2025

Standing

6 | Who can bring a claim?

Any person whose rights under an employment agreement or employment law have been violated or any person who wishes to exercise his/her rights under an employment agreement or employment law is entitled to file a labour claim with the Labour Court or the competent labour authorities, depending on the nature of the underlying claims.

Law stated - 21 August 2025

Commencing claims

7 | How are claims commenced?

Any person whose rights under an employment agreement or employment law have been violated or any person who wishes to exercise his/her rights under an employment agreement or employment law can file a labour claim directly with the Labour Court. However, for some specific types of labour claims, the employment laws require a specific forum in which the labour claims must be made. For instance, an employee filing a claim for unfair treatment pursuant to sections 121 or 123 of the Labour Relations Act BE 2518 (1975) must file a labour claim with the Labour Relations Committee first. The employee and the employer can then file a claim for revocation of the Labour Relations Committee's order if he/she disagrees with the order.

Furthermore, for some labour claims, the employment laws provide the alternative of filing a labour claim with the labour authority under the respective employment laws instead of with the Labour Court. For instance, an employee making a labour claim against its employer for any payment under the Labour Protection Act BE 2541 (1998), namely wages, severance pay, payment in lieu of an advanced notice, may file such labour claim with the Labour Inspector instead of with the Labour Court.

Law stated - 21 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

There are no court fees for filing a labour claim with the Labour Court and for any subsequent court procedures, including filing fees and fees for the service of summons on the defendant. However, for certain types of claims, the employment laws require the plaintiff to deposit money as a condition for filing such labour claims with the Labour Court. For instance, section 125 paragraph 3 of the Labour Protection Act BE 2541 (1998) requires an employer filing a claim for a revocation of the Labour Inspector's order to deposit the same amount that he/she is owed under the Labour Inspector's order to the Labour Court in order for the Labour Court to accept his/her complaint.

Law stated - 21 August 2025

Service

9 | Is any qualifying service required?

At the time of filing a labour claim, the plaintiff must submit a request for the Labour Court to serve a summons and a copy of the complaint to the defendant's domicile. The Labour

Court has the discretion to require the plaintiff to submit any statement or supporting evidence for the purpose of such service. Failure to comply with such order of the Labour Court may result in the Labour Court striking the case from the Labour Court's records. However, after any labour court accepts any labour claim, the labour courts will serve the summons to the other party without any fees charged to the plaintiff.

Law stated - 21 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

A labour claim can be brought against both natural persons and juristic persons.

Law stated - 21 August 2025

Types of claims

11 | What types of claims can be brought?

Claims that can be brought to the Labour Court are generally those concerning the rights or duties under an employment agreement or labour laws. Section 8 of the Thai Labour Court and Labour Procedure Act BE 2522 (1979) provides the following list of types of claims that can be brought to the Labour Court:

1. Claims regarding the rights or duties under an employment agreement or an agreement related to employment conditions.
2. Claims regarding the rights under the laws of labour protection, labour relations, state enterprise's labour relations, job seeker protection, social security, or workmen's compensation.
3. The cases where a person wishes to exercise his/her rights under the laws of labour protection, labour relations, or state enterprise's labour relations to the Labour Court.
4. Appeals against an order of the labour authorities under the labour protection law, the Labour Relations Committee or the Minister of Labour under the labour relations law, the Appeal Committee under the social security law, or the Committee of the Workmen's compensation Fund under the workmen's compensation law.
5. Claims arising from a wrongful act between an employer or an employee in consequence of a labour dispute or a performance according to an employment agreement, as well as a wrongful act between employees occurring in the course of employment.
6. Labour disputes that the Minister of Labour requests the Labour Court to consider according to the labour relations law, the state enterprise's labour relations law, or the job seeker protection law.

7. Claims that the law stipulates to be in the Labour Court's jurisdiction.

Law stated - 21 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

The time limits for filing a labour claim with the Labour Court vary depending on the nature of the labour claim. For example, claims for wages under the Labour Protection Act BE 2541 (1998) must be filed within two years. Claims for severance pay under the Labour Protection Act BE 2541 (1998) and claims for an unfair termination compensation under the Labour Court and Labour Procedure Act BE 2522 (1975) must be filed within 10 years. Claims for interest payment must be filed within five years.

Furthermore, there are also different time limits for commencing certain specific employment claims. For instance, section 125 of the Labour Protection Act BE 2541 (1998) requires that a claim for a revocation of the Labour Inspector's order be filed with the Court within 30 days from when the plaintiff becomes aware of the order. Claims for an unfair practice under sections 121 and 123 of the Labour Relations Act BE 2518 (1975) must be filed with the Labour Relations Committee within 60 days of the unfair treatment.

Law stated - 21 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Defendants can file a counterclaim together within an answer to the complaint, provided that the counterclaim pertains to the original complaint. The defendant's counterclaim must also meet the substantive requirements of the complaint, including elaborating clear underlying grounds and reliefs sought.

Law stated - 21 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

Once a labour claim has been filed with the Labour Court, the court will normally schedule a hearing for mediation first. If the parties reach an agreement, the case would typically be resolved by either the plaintiff's withdrawal of the claim or the parties' reaching of a compromise agreement and the Court's consent to such compromise agreement.

However, if the mediation fails, the Court would proceed to schedule a pre-trial hearing and order the defendant to submit an answer to the complaint, with possible extensions of time upon request and the C's permission, which would typically be granted to until the pre-trial hearing.

At the pre-trial hearing, the court would determine the disputed issues based on the complaint and the answer and would determine the witness examination (trial) arrangements, including the number of witnesses, the parties' allocated time to present their witnesses, and the witness examination hearing dates. The court would also enter orders for the parties to submit written witness statement(s) and relevant documentary and object evidence to the court before the witness examination hearing dates.

After the witness examination hearing, the court will schedule a judgment hearing typically one to two months after the last witness examination hearing in order to allow the parties' submission of a closing statement.

The losing party has the right to appeal the lower court's judgment, only on legal issues, within 15 days, with possible extensions upon request and the court's permission. The appeal court's judgment is subject to a final appeal to the Supreme Court by the losing party within one month, with possible extensions upon request and the court's permission. The final appeal must be submitted together with a petition for the Supreme Court's permission to accept the final appeal for consideration, elaborating on how the claim pertains issues that are worthy of the Supreme Court's consideration.

Alternatively, in the event that a labour claim is commenced by filing a labour claim with the respective labour authority, once the labour claim has been filed, the labour authority will generally call the alleged party to provide statements of facts and to provide supporting evidence in response to the complaint. After determining that there are sufficient facts and evidence, the labour authority will issue an order. The labour authority's order is subject to appeal to the competent Labour Court (by way of filing a claim for the revocation of the labour authority's order) in accordance with the requirements under the respective employment laws.

Law stated - 21 August 2025

Rules

15 | What rules apply to case management?

The provisions of the Labour Court and Labour Procedure Act BE 2522 (1979) and Regulation of the Labour Court are the primary rules that govern proceedings in the Labour Court. In the absence of specific provisions under the Labour Court and Labour Procedure Act BE 2522 (1979), the provisions of the Civil Procedure Code shall apply in so far as it does not contradict with the provisions of the Labour Court and Labour Procedure Act BE 2522 (1979).

Law stated - 21 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

Plaintiffs may petition the Labour Court for permission to amend the complaint before the hearing for the Court's determination of the disputed issues or at least seven days before the witness examination hearing dates where there is no hearing for the determination of disputed issues. The permitted scope of amendments generally includes increasing or lowering the claim amount, waiving certain claims, providing further elaboration on the complaint, or amending the underlying allegations or claims. The plaintiff may petition the court for permission to amend the complaint after the foregoing periods of time if there were reasonable grounds preventing the plaintiff from submitting such petition earlier or the amendment involves an issue concerning public order or a slight mistake.

Law stated - 21 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Any third parties related to the case may be brought into the case as co-plaintiffs, co-defendants, or interpleaders after the case commences. Interpleading may occur either by the third-party's voluntary petition to the court or by the court's summons upon the party's petition or at the court's own initiative upon its discretion.

Law stated - 21 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Pending court proceedings which contain the same set of parties, whether in the same or different courts, including those in the Labour Courts, may be consolidated. The consolidation may occur upon either party's petition before the lower court's judgment or at the court's own initiative, subject to the court's determination that the cases are related to one another and that the consolidation will cause the proceedings to be more convenient.

Law stated - 21 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

For certain types of claims, including labour claims, the Civil Procedure Code allows the plaintiff to petition the court to conduct class action proceedings. The court shall permit such petition only if the plaintiff is able to prove to the court's satisfaction that there is a class of persons sufficiently sharing the same specific characteristics, interests, and underlying claims with those of the plaintiff's, and that the class action proceedings will be more efficient and convenient than ordinary proceedings. In the event that the court permits the class action proceedings, the court's judgment will be binding upon the class members even though they are not direct parties to the case.

However, it is more common in Thailand for disputed parties, which in most cases would be employees, to join together as co-plaintiffs to file a labour claim against their employer with the competent Labour Court instead of petitioning for class action proceedings. In the case of multiple employee-plaintiffs, the Labour Court may designate the plaintiffs' representative(s) to act on behalf of the employee-plaintiffs for the purpose of court proceedings in the case.

Law stated - 21 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

The Labour Court has the unique power to take the initiative in seeking evidence by requiring the parties or any related persons to produce relevant documentary evidence, statements, or expert testimony or evidence that the Labour Court deems relevant to the case. The Labour Court also has the authority to question all witnesses. The parties or lawyers may question the witnesses only with the Labour Court's permission.

Furthermore, similar to an ordinary civil claim in Thailand, it is also common for the Labour Court, upon the parties' agreement, to require the parties to submit written witness statements in lieu of witness questioning to the court before the witness examination. Any documentary and object evidence, and translations thereof, must also be submitted to the court before the witness examination hearing dates.

Law stated - 21 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

The Labour Court has the power to summon any persons to testify as a witness or to issue a subpoena order to any persons requiring their production of documentary or object evidence that the Labour Court deems relevant to the case. The Labour Court also has the power to issue summonses or subpoenas upon the parties' request or at the Court's own initiative.

Law stated - 21 August 2025

22 | Is cross examination of a witness permitted?

A witness may testify from abroad upon the Labour Court's permission. In the event that the court permits such testimony, the testimony would typically be by virtual means, and the Court can also impose requirements for such virtual testimony. For instance, the Court may require the witness to be in an appropriate place (for instance, a court or an official office), and to be accompanied by another person who can verify the witness' identity.

Law stated - 21 August 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

The Civil Procedure Code, which applies to Labour Court proceedings, provides legal tools that the parties may utilise to achieve a tactical advantage in their case. For instance, either party can petition for the court to enter a preliminary order on a legal issue that, if decided in their favour, may resolve all or certain issues of the case without a full hearing. However, in practice, the Court tends to defer these issues to consideration and decision at a later stage instead of deciding the issues straightaway. Furthermore, the parties have the option of reaching a settlement and concluding an in-court compromise agreement. This option would result in the Court's consent judgment in accordance with the compromise agreement, resolving the case without a full hearing.

Law stated - 21 August 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

Interim relief can generally be sought in employment disputes. For instance, in a labour claim where an employee-plaintiff claims any payments under the Labour Protection Act BE 2541 (1998) from an employer-defendant, the plaintiff may petition for the court's order for a seizure or attachment of the defendant's assets. In the labour claim where the plaintiff alleges that the defendant breaches the employment agreement, the plaintiff may petition for the court's order refraining the defendant from repeating or continuing the acts constituting such breach.

Law stated - 21 August 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

Plaintiffs seeking interim relief must submit a petition to the court proving to the Court's satisfaction that the complaint has a preliminary basis and there is sufficient grounds for requested interim relief to be applied, the circumstances for which vary depending on the nature of the claims and are on a case-by-case basis.

Law stated - 21 August 2025

TRIAL

Hearings – conduct and typical time frames

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The final hearing in an employment dispute is the judgment hearing. At this hearing, the Labour Court would read the judgment to the parties and issue an order for the defendant's compliance with the court's judgment if the judgment requires the defendant's performance. The judgment hearing typically takes approximately one to two hours, depending on whether there is any other case on the same schedule as the employment disputes in question and the length of the court's judgment. The official copy of the court's judgment is typically available to the parties within seven to 10 business days.

Law stated - 21 August 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

As a general rule, only the parties to the case can access or review the case file, which includes the parties' pleadings and submissions, evidence, mediation reports, and court's memoranda. Any related persons who are not parties to the case may be granted access to the case file only upon a written request and the court's permission. Particularly, mediation reports and mediation discussions are kept confidential and typically in a separate file from the case file. Similarly, the Labour Court conducts all trials openly, except when the court issues an order for conducting a case confidentially based upon special reasons. However, the public has a limited right to access some very limited information (such as the names of the parties and some very brief details regarding the claims) via the court's computer database.

Law stated - 21 August 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

The Labour Court normally allows the parties, lawyers, related persons and the public to be in a courtroom during court proceedings. It is also a general rule that any form of recording, whether by picture, video, or voice recording is not permitted in the courtroom. Any person violating such rule may be found in contempt of court. Nevertheless, the Civil Procedure Code does not impose restrictions on media reporting of court cases and court proceedings, but there may be potential liabilities relevant to defamation, both civil and criminal, associated with such reporting.

Law stated - 21 August 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

In a labour claim, both parties generally bear the burden of proof for their claims and defences, the standard of which is preponderance of evidence.

Law stated - 21 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Labour claim filed with the Labour Court must undergo at least one session of mediation. Even if this mandatory mediation session fails, the parties can still engage in a mediation session and the Labour Court can engage the parties to do so at any stage of the court proceedings up until the reading of the lower court's judgment. If the parties are able to reach a settlement, the parties can conclude an in-court compromise agreement and the Labour Court would render a judgment in accordance with such compromise agreement to resolve the claim. Alternatively, the plaintiff can withdraw the claim to enter into an out-of-court compromise agreement to resolve the claim.

Labour claims are also subject to arbitration upon the parties' agreement, whether by an arbitration clause in the employment agreement or by a separate agreement between the parties to refer the claims to an arbitration.

However, certain types of labour cases, particularly those related to labour protection laws, may not be eligible for alternative dispute resolution methods. This restriction is because these cases involve disputes concerning legal rights under laws related to public order or good morals.

Law stated - 21 August 2025

Requirements and expectations

31 | Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

Once a labour claim has been filed with the Labour Court, the labour claim must undergo at least one mandatory session of mediation before the Labour Court could conduct any further proceedings. Labour Court proceedings conducted without a mediation session would be deemed improper. In the event that such labour claim proceeds to the appeal court or the Supreme Court, the appeal court or the Supreme Court has the power to revert the case file back to the lower court to engage the parties in a mediation first and to conduct court proceedings again after the mediation session.

Law stated - 21 August 2025

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

In Thailand, ADR decisions and awards are enforced through filing a claim with the court. A party seeking to enforce an out-of-court compromise agreement must file a civil claim for breach of contract with the court. On the other hand, since an in-court compromise agreement typically contains a clause permitting a commencement of an immediate legal execution upon breach, a party seeking to enforce such in-court compromise agreement can typically initiate legal execution procedures upon the debtor without the need to file a separate civil claim. A party seeking to enforce an arbitral award rendered in Thailand or in foreign jurisdictions must file a claim with the Thai court within three years.

Law stated - 21 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

In Thailand, collective employment rights are reflected in a collective bargaining agreement pursuant to the Labour Relations Act (LRA) BE 2518 (1975). The collective bargaining agreement is a product of the exchanges of demands and negotiations between the employer and the employee in accordance with the provisions of the Labour Relations Act BE 2518 (1975). In the event that no agreement could be reached, thereby constituting a labour dispute, the employee and the employer will have to notify the Conciliation Officer, the officer must conduct a mediation for both parties and both parties must proceed with the LRA's process until they determine that a settlement cannot be reached. Thereafter, the employee and the employer will generally have the right to strike and to lock-out,

respectively, in accordance with the requirements under the LRA BE 2518 (1975). Once a collective bargaining agreement is concluded and a dispute concerning such agreement arises, the parties can file a labour claim with the competent Labour Court to enforce such agreement.

Law stated - 21 August 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

The parties to a collective bargaining agreement, typically the employee and the employer, as well as their representatives, can bring a claim to the competent Labour Court.

Law stated - 21 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

The remedies available in a labour claim vary depending on the nature of the claim. The remedies include payments for claims for outstanding payments under employment laws, an order requiring the employer to reinstate the employee and/or compensation for an unfair termination claim, or contractual performance for a claim for breach of an employment contract.

Law stated - 21 August 2025

Assessing compensation

36 | How is any compensation assessed?

The determination of compensation amount is a factual issue and is subject to the Labour Court's sole discretion based on the evidence. In a labour claim, the Labour Court is required to take into account the work conditions, the living costs, the employee's distress, the amount of wages, or any other benefits that the employees in the same type of business receive, as well as the financial condition of the employer's business and the economic and social circumstances in general when considering a labour claim. Specifically, in a claim for unfair termination, the Labour Court is required to consider the employee's age, length of service, the employee's distress as a result of the termination, the grounds for termination, and severance pay to which the employee is entitled, when assessing and determining compensation to be awarded to the employee.

Law stated - 21 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

In labour claims, court judgments are typically enforced through legal execution procedures. If the judgment requires the defendant's payment, and the defendant fails to comply with the judgment, the plaintiff may petition for enforcement to collect such payment via public auction of defendant's assets.

Law stated - 21 August 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

In labour claims, the lower court's judgment is subject to appeal only on issues of law by the losing party within 15 days, with possible extensions upon request and the court's permission. The timeframe for the appeal court's consideration until the appeal court's judgment could take approximately six to 12 months, depending on the amount of evidence and facts and the case complexity.

The appeal court's judgment is subject to a final appeal to the Supreme Court by the losing party within one month, with possible extensions upon request and the court's permission. The final appeal must be submitted together with a petition for the Supreme Court's permission to accept the final appeal for consideration, elaborating on how the claim pertains to issues that are worthy of the Supreme Court's consideration. The timeframe for the Supreme Court's stage could take approximately six to 12 months or more, depending on the amount of evidence and facts and the case complexity.

Law stated - 21 August 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

In Thailand, a judgment, including in a labour claim, generally cannot be challenged other than through the appeal process.

Law stated - 21 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Thailand has recently enacted regulations to implement the Employee Welfare Fund, under the Labour Protection Act B.E. 2541. This fund provides financial support to employees in cases such as employment termination and death. Employers with over ten employees must register the employees with the fund if no provident fund or similar assistance is provided to such employees.

According to the Royal Decree Determining the Period for Starting the Collection of Savings and Contributions to the Employee Welfare Fund, contributions to the Employee Welfare Fund will commence on 1 October 2025.

The Ministerial Notification Specifying the Rate of Savings and Contributions stipulates the required rates for contributions to the Employee Welfare Fund and establishes a five-year initial period with reduced contribution rates. From 1 October 2025, to 30 September 2030, employers and employees are each required to contribute 0.25 per cent of wages to the Employee Welfare Fund. Starting 1 October 2030, employers and employees will each be required to contribute 0.5 per cent of wages.

It is worth noting that employers who fail to submit a form listing the employees who are entitled to be members of the Employee Welfare Fund, fail to notify in writing to request changes or amendments to the information within the stipulated time frame, or provide any false information may be subject to imprisonment for up to six months, a fine of up to 10,000 baht (approx. US$300), or both.

Law stated - 21 August 2025

Technology developments

41 What impact is technology having on employment litigation in your jurisdiction?

The Court Integral Online Service (CIOS) is one of the key features that have been introduced to facilitate litigation. Applicable to most cases, including labour claims, the CIOS serves as a one-stop-service online platform, allowing parties and lawyers to submit pleadings and evidence and to request a copy of documents without the need to personally appear before the court. Specifically, for a labour claim, the CIOS provides a shortcut for the parties to request for the Labour Court to conduct a virtual hearing instead of a traditional petition to the Labour Court.

Law stated - 21 August 2025

Other issues

42 Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

The primary purpose of Thai employment law is generally to protect the interest of employees who, in the eyes of the law, are deemed to be at a disadvantage in terms of costs and knowledge compared to their employers. This shifts the burden of proof in labour claims to employers to prove to the Labour Court's satisfaction that their claim is admissible and holds more weight than the opposing employee. In order to maximise their chances of success, the employer has to substantiate and demonstrate that the actions they took were necessary and reasonable. The employer must be able to address potential questions or arguments from the court and the opposing employee with sufficient and concrete evidence, while also negating the opposing employee's purported claim or defence and evidence.

Law stated - 21 August 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

Yes. Since 6 May 2014 a mandatory Advisory, Conciliation and Arbitration Service (ACAS) early conciliation procedure has been in force and must be followed by claimants who present claims in the majority of employment tribunal proceedings. There are a few limited exceptions to this mandatory requirement (namely when a claimant is making or joining a claim and there is already a valid ACAS early conciliation certificate in place, where the employer started early conciliation and where the proceedings are not deemed to be relevant proceedings as per the statutory list). When conciliation is completed a claimant is provided with an ACAS early conciliation certificate and number that must be entered on to the claim form. If the claim form does not include this early conciliation number it can be rejected by the Employment Tribunal.

Law stated - 18 July 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Third party funding for legal fees and any costs awarded is permitted but not common in employment tribunals claims, unless they are group actions brought by multiple parties. There are no rules or restrictions albeit there are some other considerations to be taken into account such as: conflicts of interest, confidentiality and legal privilege and champerty (where a party continues litigation in return for a share of the proceeds).

Law stated - 18 July 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Contingency fee arrangements (CFAs) are permitted in employment tribunal litigation. In such circumstances, where the client loses the case they are usually not liable to pay their legal fees and in some cases other expenses incurred, subject to the terms of the agreement. If the client wins the case, they will be liable to pay all fees and expenses incurred sometimes this will also include a success fee, subject to the terms of the agreement. Most commonly fees are deducted on a percentage basis from the amount awarded up to a maximum of 29 per cent plus VAT. In employment tribunal cases costs are rarely recovered from the losing party, so claimants must be aware they are unlikely to be

able to recover such fees when entering into CFAs. CFAs usually do not protect against adverse costs order against a client who is being provided with legal services under a CFA.

Law stated - 18 July 2025

ISSUING A CLAIM

Forum

4 | What is the appropriate forum for complaints concerning individual employment rights?

The Employment Tribunal is the most appropriate forum for individual employment disputes. However, claims for breach of contract are limited to £25,000. As such, if the value of a breach of contract claim is more than this it is usual commenced in the civil courts.

Law stated - 18 July 2025

Territorial jurisdiction

5 | Are there any limitations on territorial jurisdiction?

Employment tribunals in England and Wales only have jurisdiction to hear claims in the following circumstances:

- The respondent (or one of them) resides or carries on business in England or Wales.
- One or more of the acts or omissions complained of took place in England or Wales.
- The claim relates to a contract under which the work is or has been performed partly in England or Wales.
- The tribunal has jurisdiction to determine the claim by virtue of a connection with Great Britain and the connection in question is at least partly a connection with England or Wales.

Very similar rules apply in Scotland also.

Law stated - 18 July 2025

Standing

6 | Who can bring a claim?

Who can make a claim depends on their status. There are three main categories to consider: employees, workers and self-employed contractors. Each category is afforded different levels of employment law protection. Employees have the most protection, and self-employed contractors the least with workers being in the middle. Only employees have the right to claim unfair dismissal and redundancy pay. Workers do not have these rights but

do benefit from discrimination legislation, working time regulations and national minimum wage regulations.

Law stated - 18 July 2025

Commencing claims

7 | How are claims commenced?

As per question one, a mandatory precursor to litigation in most cases is Advisory, Conciliation and Arbitration Service Early Conciliation process. Following that, a claim is commenced by submitting an ET1 claim form either online or by post.

Law stated - 18 July 2025

Fees

8 | Are fees payable for the issuing of a claim?

Tribunal fees were original introduced in 2013 and were subsequently abolished following a successful legal challenge. Fees are not currently payable on issue of an employment tribunal claim. However, the Ministry of Justice commenced a consultation on the re-introduction of fees in 2024, albeit there has been no further action taken since the consultation closed.

Law stated - 18 July 2025

Service

9 | Is any qualifying service required?

Most claims do not have the any service requirements. Claims for unfair dismissal currently require employees to have a minimum of two years' complete service to enable them to bring a claim. When the labour government were elected they promised to make unfair dismissal a day one right, albeit the House of Lords have just amended the Employment Rights Bill, which was introduced to give right to this and other employment law changes, to suggest a nine month qualifying period, which will now be considered by the House of Commons.

Law stated - 18 July 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

Employment Tribunal claims are mainly made against corporate bodies that employ or engage an employee or worker. However, some claims such as for discrimination and detriment arising from whistle-blowing can be made against individuals too.

Law stated - 18 July 2025

Types of claims

11 | What types of claims can be brought?

The employment tribunal has a broad jurisdiction to a wide range of employment disputes. This includes claims for unfair dismissal, discrimination, health and safety, holiday pay, unlawful deductions of wages, claims relating to working time, trade union rights and whistle-blowing. It can also hear claims for breach of contract but only when the employment relationship has ended and where the value of the claim is less than £25,000. An employment tribunal does not have jurisdiction to deal with claims relating to intellectual property, breach of confidentiality or post termination restrictive covenants. These claims need to be brought in the civil courts (High Court or the County Court depending on the value of the claim).

Law stated - 18 July 2025

Time limits

12 | What are the time limits for bringing employment claims?

Most claims need to be brought within three months of the act complained of except for claims for redundancy pay and equal pay where a claim can be brought within six months of the effective date of termination. In most cases the employment tribunal has jurisdiction to allow an out of time claim to proceed if certain statutory tests are met. Claims for discrimination can be accepted out of time if the Tribunal finds that it is just and equitable to do so. Other types of claims such as those for unfair dismissal and whistle-blowing can only be accepted if the claimant can satisfy the Tribunal that it was not reasonably practicable for them to bring a claim in time. The Employment Rights Bill which is currently passing through Parliament is looking at increasing the time limits for those claims which must be brought within three months to six months.

Law stated - 18 July 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

An employer can only bring a counterclaim where an employee has brought a claim for breach of contract.

Law stated - 18 July 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

The procedural steps will vary according to the type of claim. For more straightforward claims such as those for unfair dismissal, breach of contract, payment of wages and holiday pay, the employment tribunal will list the matter for hearing and issue standard case management orders for the provision of a schedule of loss, disclosure of documents, agreeing a bundle for hearing and exchange of witness statements. In cases relating to discrimination and whistle-blowing the employment tribunal will normally list the matter for a private preliminary hearing (case management) to clarify the claims, agree a list of issues, list the case for final hearing and to issue case management orders. Equal pay claims relating to equal value have a completely separate prescribed procedure.

Law stated - 18 July 2025

Rules

15 | What rules apply to case management?

The Employment Tribunal Procedure Rules 2024 set out detailed rules on all aspects of employment tribunal claims including case management orders which are contained in Rules 30 to 39 (inclusive).

Law stated - 18 July 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

Applications can be made to amend a claim to add, substitute or remove a party or to include a new claim. Applications must be made in writing to the employment tribunal and copied to the other party who has to be notified that they have the right to object to any application to amend a claim and set out the process for making such objections. Where objections are made the employment tribunal will often list the matter for a public preliminary hearing to determine an amendment application. A Respondent may also make a written application to amend its Response in the same way. The employment tribunal may also, of its own volition order the addition, substitution or removal of a party to the proceedings.

Law stated - 18 July 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

As mentioned above parties can make an application to add, substitute or remove a party to any proceedings. The employment tribunal has the power to do so of its own volition when, for example, there is a transfer of an undertaking and it is not clear whether any potential liability rests with the transferor or transferee. The employment tribunal will have as a standard agenda item for any case management hearing the issue of whether the claim has been brought against the correct parties and if not whether any other person or entity should be joined to the proceedings.

Law stated - 18 July 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

The Rules do not contained a specific provision in relation to consolidation. However, proceedings can be consolidated where the parties agree or under the employment tribunal's general case management powers where an employment judge determines that there is are common issues or facts to be tried. The parties are usually given the opportunity to make representations on the question of consolidation before a decision is made.

Law stated - 18 July 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

An employment tribunal is more likely to consolidate class actions, multi-party or group litigation. Such claims are likely to be assigned to a single judge for the purpose of case management and where claims have been issued in different employment tribunals they are likely to be transferred to one location. In addition, the parties will be expected to agree test cases for the trying of key legal issues which will act as a precedent for related cases rather than trying each case individually.

Law stated - 18 July 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

The position varies according to whether a claim has been brought in England or Wales or in Scotland. In England and Wales witness evidence must be provided in a witness statement which be exchanged prior to the hearing. Such statements comprise the witness evidence in chief. As such, permission may be required from the judge hearing the claim to ask supplemental questions. By contrast, in Scotland the use of witness statements is not the norm and evidence in chief is given orally at the hearing. Documentary evidence must be provided in an indexed, paginated bundle which must be agreed by the parties prior to exchange of witness statements. Where a party wishes the employment tribunal to consider any documentary evidence the relevant page number of the document should be referred to in the witness statement as the tribunal will not automatically read the whole of the bundle unless it has been referred to particular pages. Where the bundle is particularly big it is normal practice to provide the tribunal with an agreed reading list. In relation to expert evidence the employment tribunal will normally issue case management orders for the parties to agree the name of the expert and for a joint report to be produced. Such experts are not always called to give evidence on their report. Indeed, the employment tribunal may order that leave of the tribunal is required to call the expert as a witness. There is a separate procedure to be followed in equal value claims.

Law stated - 18 July 2025

Witnesses

21 Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

Yes, a witness can be compelled to give evidence. Under Rule 34 of the Employment Tribunal Rules of Procedure 2024, the Tribunal has the authority to issue a Witness Order requiring any person within Great Britain to attend a hearing to give evidence, produce documents, or to provide information. A Witness Order can be made either on the tribunal's own initiative or upon the application of a party. Where an Order is made, the tribunal must notify the parties in writing that the Order has been made, and the name of the person required to attend the hearing.

On 27 January 2025, the Presidents of the Employment Tribunals in England and Wales and in Scotland issued new Presidential Guidance regarding the giving of evidence from abroad. This new guidance followed an acknowledgement from the Foreign, Commonwealth and Development Office (FCDO) that employment tribunals are civil and commercial tribunals, rather than administrative tribunals, bringing them within the scope of the *Hague Convention*. Therefore, it was decided that employment tribunals should follow the procedure adopted by the civil courts in relation to giving evidence from abroad.

Scotland Courts have adopted a different approach to that in England and Wales. As a result, previous guidance has been withdrawn and replaced by separate presidential guidance documents, one for England and Wales and one for Scotland.

Both guidance documents refer to thecase of *Agbabiaka (Evidence from Abroad: Nare Guidance: Nigeria), Re [2021] UKUT 286 (IAC)* which confirmed that permission is necessary from a foreign state in advance of a witness giving oral evidence to a UK immigration tribunal from that foreign state.

Following the *Agbabiaka* case, theFCDOset up a Taking of Evidence Unit to deal with requests for permission to give evidence from abroad. The Taking of Evidence Unit helpfully collates information from overseas governments and lists requirements regarding the giving of evidence from each Taking and giving evidence by video link from abroad - GOV.UK (www.gov.uk). Parties to a claim should check this website for details on the country in question to see whether advance permission has been provided. If your specific country is not provided for, permission must be sought. The process for seeking permission differs depending on whether the country in question is subject to the Hague Convention. Detailed guidance on the permission process is set out on the Taking of Evidence Unit website.

In Scotland, the Lord President has provided guidance which confirms that hearing oral evidence from abroad (only in circumstances where the witness has not been compelled to give evidence) does not amount to the exercise of the Court's power in a foreign territory. Therefore, there is no need to seek the relevant state's permission.

Notwithstanding the position described above, in both jurisdictions, the decision as to whether to allow oral evidence from a witness abroad, even where the relevant state has given permission, remains a matter for the employment tribunal's discretion. Therefore, parties should seek permission from the tribunal as soon as possible.

Law stated - 18 July 2025

22 | Is cross examination of a witness permitted?

Yes, opposing parties are given the opportunity to cross examine each other's witnesses. The main aim of cross examination is to elicit evidence favourable to the other party and to attempt to highlight inaccuracies in their evidence. One key aspect of cross examination is to ensure that the entirety of a party's case is put to that witness (ie, they are asked questions about every allegation involving within the scope of their evidence). This is because an employment tribunal may refuse to admit evidence from a party regarding a particular allegations as their opposing witness has not had an opportunity to respond. A failure to challenge any aspect of a witness' evidence is lead the Tribunal to make the assumption that a particular aspect of a witness' evidence was accepted.

Law stated - 18 July 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

Tactics for each claim will largely depend on the specific facts of the individual litigation. However, steps parties can take to improve the possibility of obtaining tactical advantage for all claims are as follows:

- Parties should ensure they have identified the issues (both factual and legal) as early as possible at the outset of the claim; this will often require pragmatism and

cooperation between parties to understand and record the issues. Ultimately this will assist both parties assess either the case they are advancing or the case against them. Clearly identifying issues will assist with the assessment of prospects and case preparation.

- Both parties should identify their witnesses at an early stage placing them on notice of the litigation and their likely required assistance. This will ensure any hearing is listed at a time they are able to attend.
- The early drafting of witness statements is encouraged to best preserve the evidence regarding the events in question and to understand the parties strengths and weaknesses and also to ensure that memories do not fade.
- Parties should consider the financial value of the claim at an early stage. Having an assessment of loss will assist both sides in any settlement negotiations/assessment of strategy options regarding the progression of litigation.

Law stated - 18 July 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

An employee may only seek interim relief in the employment tribunal if the alleged or principle reason for their dismissal is one of the following automatically unfair reasons:

1. A dismissal related to union membership or activity;
2. Making a protected whistleblowing disclosure; or
3. Activities related to acting as a health and safety representative, a working time representative, a pension scheme trustee, or an employee representative for the purposes of collective redundancy or Transfer of Undertakings (Protection of Employment) Regulations.

Interim relief is not available in discrimination cases.

Law stated - 18 July 2025

Requirements

25 | Are there any particular requirements relating to applications for interim relief?

Yes, there are strict time requirements for applications for interim relief to be made. Employees must make their applications before the end of the seventh day following their effective date of termination of employment. If the employees is dismissed with notice, the

employee can also make their application during their notice period – see section 128(2) of the Employment Rights Act 1996.

All applications for interim relief will be heard at a preliminary hearing under Rules 52 to 54 of the ET Rules. The employment tribunal is required to determine the application as soon as practicable however the employment tribunal must give the employer at least seven days' notice of the hearing and include with any notice a copy of the application. Any applications to postpone a listed interim relief hearing can only be granted should the employment tribunal decide there are special circumstances to do so.

Law stated - 18 July 2025

TRIAL

Hearings – conduct and typical time frames

26 How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

Following a consultation by the Senior President of Tribunals in early 2023, The Employment Tribunals and Employment Appeal Tribunal (Composition of Tribunal) Regulations 2024 (SI 2024/94) came into force on 27 January 2024. The Composition of Tribunal Regulations give the Senior President of Tribunals the power to determine who should hear cases in the employment tribunals and EAT. There was a subsequent Practice Direction issued in October 2024 which sets out that for substantive hearings in employment tribunals, a judge will decide, on a case-by-case basis, whether the case will be heard by a panel or a judge sitting alone. There is an exception to this, if a case is undefended, when the default will be that the case will be heard by a judge alone. Cases may be heard by two judges for training and development purposes. Preliminary Hearings remain unchanged, the default being that they are heard by a Judge sitting alone with discretion of the Judge whether to sit with a Panel.

Where applicable, a panel will consist of a legally qualified employment judge and one panel member from an employee background (such as a trade union representative); and one from an employer background (such as a human resources practitioner).

In usual circumstances, the party who has the burden of proof will call their witnesses first however the employment tribunal has overall discretion on the order of parties and witnesses.

Hearings can be heard in person at employment tribunal venues. Alternatively they can be heard wholly or in part by the use of electronic communication.

In terms of hearing timings, this can vary dependant on the amount of evidence to be considered. A simple wage dispute may be resolved in two hours whereas a complex discrimination dispute may take upwards of five days to consider. The length of the hearing necessary for the claim is considered at an early case management stage by the tribunal and the relevant parties. Under Rule 45 of the Employment Tribunals Rules, the employment tribunal may impose limits on the time that a party may take in presenting

evidence, questioning witnesses or making submissions to ensure cases are heard and considered within the hearing time allotted.

Law stated - 18 July 2025

Confidentiality and public access

27 How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

The starting position for all final hearings within the employment tribunal is that the hearings are heard in public. Rule 44 of the Employment Tribunals Rules provides that the written witness statements must be available for inspection during the course of the hearing by members of the public who attend. The Employment Tribunal Presidential Guidance states that an extra copy of each statement, and the hearing bundle, should be prepared and made available to members of the public attending the hearing.

Since 20 November 2023 and following a Practice Direction issued by the Presidents of the Employment Tribunals, HMCTS aims to record all employment tribunal hearings where the technical facility exists to do so and where such recordings can be securely retained.

The Practice Direction provides that anyone can apply to obtain a transcript of an audio recording by completing Form EX107, Request for transcription of court or tribunal proceedings within six months of the final date of the relevant hearing. There is a charge for the transcript however this charge may be waived if it is necessary in the interests of justice to ensure the effective participation of a vulnerable party or witness, or by way of reasonable adjustment for a person with a disability.

The Employment Tribunals Rules (Rule 49) provides that an employment tribunal may at any stage of the proceedings make an order to prevent or restrict the public disclosure of any aspect of the litigation. The tribunal only has the power to do so if it considers it to be necessary in the interests of justice or in order to protect the rights of any person under the European Convention on Human Rights. Rule 93 provides that the employment tribunal as a general duty to ensure that in exercising its functions, information is not disclosed contrary to the interests of national security. Where matters are considered in the interests of national security, the employment tribunal may conduct all or part of the proceedings in private; exclude a person from all or part of the proceedings or take steps to conceal the identity of a witness in the proceedings.

Law stated - 18 July 2025

Media reporting

28 How is media interest dealt with? Are there any restrictions on media reporting?

Most, but not all, employment tribunal final hearings are heard in public and the press are welcome to attend. Outside of the hearing, there is no obligation on parties to speak or engage with the media.

In limited circumstances, the Tribunal can make a restricted reporting order restricting the public's access to a hearing which would include the press under Rule 49 of the Employment Tribunals Rules. Before making any restricted reporting order, the employment tribunal may allow representations from any party or 'other person with a legitimate interest' which includes members of the press (Rule 49(4)).

Law stated - 18 July 2025

Elements of successful claims and burden of proof

29 How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

After consideration of all of the documentary and witness evidence, the employment tribunal is then required to make an assessment on whether a fact or event did or didn't happen as alleged. The employment tribunal will consider whether something did or didn't happen on the balance of probabilities.

Different types of legal claim in the employment tribunal have different burdens of proof.

For an unfair dismissal claim, the burden of proof lies with the employer to show that the dismissal was for a fair reason .

For a constructive unfair dismissal claim, the burden of proof is reversed with the employee having to show that there has been a fundamental breach of their contract of employment causing them no option but to resign.

For discrimination claims, there are a number of difference stages in which the burden can shift between the employee and employer parties as follows:

- Initially the employee will need to present evidence to the employment tribunal that there are facts from which an employment tribunal could decide, in the absence of any other explanation that a breach of the Equality Act 2010 has occurred.
- Assuming the employee does establish facts to support a breach of the Equality Act 2010, the employment tribunal will consider whether the employer has presented a sufficient explanation of the facts to discharge the burden by proving that there has been no discrimination (i.e. what was its reasons for acting in the way it did).

Law stated - 18 July 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

There are four methods of ADR in the Employment Tribunal:

- conciliation via Advisory, Conciliation and Arbitration Service (ACAS);
- Judicial Mediation;
- Judicial Assessment; and
- dispute resolution appointments.

The Presidential Guidance on Alternative Dispute Resolution issued on 7 July 2023 (the Guidance) discusses these methods.

The Guidance confirms that ACAS is independent of the judiciary and that parties are encouraged to use ACAS' services throughout the claim.

The Guidance confirms that judicial mediation is a consensual, confidential and facilitative process conducted by an Employment Judge which is usually available for complex case that will be listed for a final hearing of three or more days.

The Guidance confirms that judicial assessment is a consensual, confidential and evaluative process conducted by an Employment Judge which is available for any type of claim were an Employment Judge provides a view of the prospects of the case and potential outcomes based on the information available at the time.

The Guidance confirms that a dispute resolution appointment is a non-consensual, confidential and evaluative process conducted by an Employment Judge for the most complex claims of discrimination and whistle-blowing detriment and focuses on claims that are listed for five or more days. The Employment Judge provides a view of the prospects of the case and potential outcomes based on the information available at the time (which is after exchange of witness statements). The process can narrow the issues in a claim, encourage the parties to think more realistically about their claims thereby encouraging settlement of some or all of the claims thereby reducing the final hearing length. It is only the appointment that is non-consensual. There is not mandatory outcome from the appointment.

Law stated - 18 July 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

Claimants must comply with the ACAS early conciliation procedure, however, this does not require a Claimant to engage in settlement discussion with a Respondent. Failure by a Claimant to comply with ACAS early conciliation can result in their claim being rejected by the Employment Tribunal.

Parties must comply with a dispute resolution appointment (this is a non-consensual process). If a party fails to attend the appointment without good reason, The Presidential Guidance on Alternative Dispute Resolution confirms that the party's conduct may amount to unreasonable behaviour for the purpose of considering a costs award being made against them in accordance with the Employment Tribunals Rules of Procedure.

Parties are encouraged to conciliate via throughout the claim, however, there is no consequence for failing to engage in settlement discussions via ACAS.

Law stated - 18 July 2025

Enforcement

32 | How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

If a settlement is reached via ACAS using ACAS conciliation or via judicial mediation it is usually concluded with a COT3 settlement agreement. Judicial assessment and a dispute resolution appointment can be concluded with a COT3 agreement, settlement agreement or a consent judgment.

If a party does not pay any sum owed under a COT3 agreement, the agreement can be enforced using the government's employment tribunal penalty enforcement and naming scheme.

If a party is in breach of a settlement agreement, the agreement can be enforced by the injured party pursuing a claim in the civil courts.

Law stated - 18 July 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 | How are collective employment rights enforced?

Collective employment rights are enforced by a claim being pursued in the Employment Tribunal on behalf of a group of claimants that have suffered the same treatment by their employer.

Law stated - 18 July 2025

Standing

34 | Who can bring a claim in relation to collective employment rights?

A claim can be pursued by an individual on behalf of themselves or others who have received the same treatment by their employer. Alternatively, a representative can purse the claim on behalf of the group.

A claim for failing to collectively consult under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and under the Transfer of Undertakings (Protection of Employment) Regulations 2006 can be pursued by a recognised trade union or an appropriate (elected) representative of the affected employees.

Law stated - 18 July 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 | What remedies are available?

For all claims, Claimants can seek financial compensation subject to any applicable limits for the type of claim pursued.

For unfair dismissal claims, Claimants can also seek reinstatement (where they get their old job back) or re-engagement (where they get a job with their same employer or an associated employer).

For discrimination claims, Claimants can also seek a recommendation (ie, that an employer takes steps to minimise the effect of the discrimination on the claimant and others).

In certain unfair dismissal claims, such as where the Claimant alleges that they have been dismissed for whistle-blowing, exercising their right to be accompanied to a meeting, trade union reasons and being a worker representative, Claimants can claim interim relief. If interim relief is granted the Claimant's employment legally continues until the claims has been decided at a final hearing. In this period, the Claimant continues to receive their salary which is not repayable even if the Claimant does not succeed in the final hearing. Claimants, must make this claim within seven days of their dismissal.

Law stated - 18 July 2025

Assessing compensation

36 | How is any compensation assessed?

An ordinary unfair dismissal claim has two elements of compensation (1) a basic award which is calculated based on a Claimant's age, length of service and weekly pay (subject to a statutory cap, currently £719) with the maximum basic award capped at £21,570; and (2) a compensatory award which is financial loss flowing from the dismissal (loss of earnings, bonus, commission) and is subject a maximum of one years' salary or the statutory cap (currently £118,223) whichever is the lower. Where a claim is for automatic unfair dismissal (such as whistle-blowing and discrimination) the statutory cap does not apply.

Financial compensation is uncapped in discrimination claims. Claimants can also claim damages for personal injury as part of their compensation for discrimination. Employment Tribunals can also make an award for non financial loss which is typically an award for injury to feelings. Injury to feelings awards have three bands: lower, middle and upper (the *Vento* bands). The current *Vento* bands are: Lower (£1,200 - £12,100); Middle (£12,100 - £36,400); and Upper (£36,400 - £60,700). The level of award is assessed based on the severity of the effect of the respondent's discriminatory conduct on the Claimant and in very serious cases, an award for aggravated damages can be made.

Claimant's have a duty to mitigate their loss in the Employment Tribunal usually by taking steps to look for and secure alternative employment and seek benefits.

Remedy for wages claims involve a calculation of the salary owed to the claimant.

Where a respondent has failed to collectively consult on redundancies and/or changes to terms and conditions, the Tribunal can make a protected award of up to 90 days' pay per affected employee. Where there has been a failure to consult on a Transfer of Undertakings (Protection of Employment) Regulations transfer, the protected awards is up to 13 weeks' gross pay. The Tribunal assesses the amount of the award based on the severity of the Respondent's breach of its obligations.

Law stated - 18 July 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

Where there is a judgment for a financial remedy, and that award is unpaid, there are various ways to enforce the judgement. All enforcement methods are pursed pursued through the civil court.

In the Employment Tribunal the best method is to use the employment tribunal fast track system. This is fast track system to exercise a writ or warrant of control. Claimant's can complete a form located on the government website. The court fee for using the scheme is £80 and this cost is added to the tribunal award in the judgment. The claimant's application will be sent to the relevant county court who will register the judgement as a county court judgment for debt. The respondent will then be written to to give them an opportunity to pay the debt. If the respondent does not pay by the deadline site, the claimant can then complete a further form for a warrant to recover the debt. A bailiff is then sent to the respondent to collect the award. This method can also be used by a party to enforce a judgment for costs.

In addition, parties can use apply for an attachment of earnings orders; third party debt orders; charging orders; or issue a statutory demand.

If a judgment is against a claimant as a former employer of the respondent, this method of enforcement makes the claimant's new employer deduct the award from their employer (i.e. the Claimant's salary) over a period of time.

A third party debt order are rare. This is where the sums owed are frozen for an applicants benefit and are usually made against a bank. An interim order can be obtained where the bank account is not frozen and the sums owed under the judgement is paid to the applicant.

An application for a charging order secures a charge over a respondent's assets. However, this is a slow method of enforcing a judgement as it requires a claimant to first obtain the charging order and then obtain an order to sell the assets over which the charge is imposed to recover the sums due under the judgment.

In addition to the four main methods of enforcement, if a respondent company owes more than £750 pursuant to a judgment, a statutory demand can be served for the sum. If the company does not paid with in 21 days, the claimant can apply to wind the company up.

Law stated - 18 July 2025

APPEALS

Appeal procedure and time frames

38 How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

There are three stage of appeal, in the following order: Employment Appeal Tribunal (EAT), Court of Appeal (CA) and Supreme Court (SC).

1. Appeal to the EAT

An appeal to the EAT can only be made of there has been an error of law which includes an appeal on the grounds that the ET misapplied the law; the EAT's assessment and findings on the evidence means the judgment is perverse; the Tribunal has not exercised its discretion properly; adequate reasons for a decision have not been provided; and the Tribunal delayed in promulgating is judgement.

The Practice Direction of the Employment Appeal Tribunal 2024 provides the following examples of an error of law, in that the Employment Tribunal:

1. applied the wrong legal test;
2. incorrectly applied the correct legal test;
3. reached a decision of fact for which there was no evidence;
4. reached a decision which no reasonable Employment Tribunal, directing itself properly on the law, could have reached;
5. failed to take into account a relevant matter or took into account an irrelevant matter;
6. The Employment Tribunal decided a point that was not argued;
7. gave reasons that do not, in broad terms, enable you to understand why you lost;
8. did not follow the correct procedure in a way that affected the outcome; and
9. conducted the hearing in an unfair way.

An appeal to the EAT must be made within 42 days of (1) the written record of judgment being sent to the parties or (2) when written reasons were sent to the parties in limited circumstances which are written reasons were requested orally at the hearing, or requested within 14 days of the date the written record of judgment was sent to the parties, or the judgment or reasons were reserved and given in writing

2. Appeal to the Court of Appeal (CA)

A party who wishes to appeal an EAT judgment must apply for permission to appeal. This is called being granted leave to appeal. Leave can be granted by the EAT, or if the EAT refuses leave, from the CA. Leave must be requested from the EAT within seven days of receiving the EAT's decision. If leave is refused from the EAT, leave from the CA must be requested within 21 days of a party losing their case or when they were refused leave from the EAT. An appeal to the CA can only be pursued if there has been an error of law and the party for apply for leave to appeal has to identify the error in law and demonstrate that it has prospects of succeeding.

3. Appeal to the Supreme Court (SC)

An appeal to the SC is only permitted with permission granted by the CA, or if this permission is refused with permission from the SC. There are a number of restrictions in respect of appealing the SC, most importantly, if the CA has refused permission for an appeal to it, this decision cannot be appealed to the SC. See the SC guidance – A guide to bringing a case to the Supreme Court - UK Supreme Court

An application to the SC must be filed within 28 days from the date of the order from the lower court. Permission to appeal will only be granted if the appeal is one on an arguable point of law and is of general public importance.

Since 2016, it is possible for a party to apply to the EAT to by-pass the CA and appeal straight to the SC. This is called a Leapfrog appeal. The Practice Direction of the Employment Appeal Tribunal 2023 sets out the process.

The EAT can grant a certificate for party to appeal directly to the SC, however, as set out in the Practice Direction, the EAT must be satisfied that the appeal involves 'a point of law of general public importance' (and this satisfies the conditions set out in section 37ZA (4) or (5) of the Employment Tribunal's Act 1996) and 'and a Judge of the EAT is satisfied that a sufficient case for an appeal to the Supreme Court is made out'.

The conditions set out in section 37ZA (4) or (5) of the Employment Tribunal's Act 1996 are that the point of law either:

1. relates wholly or mainly to the construction of legislation that ha s been fully argued in the proceedings and considered in the appeal proceedings; or
2. relates to a decision which binds the EAT and which was fully considered by the CA or SC in previous proceedings.

The EAT Practice Direction provides that an application to leapfrog to the SC'must be made at the hearing or when a reserved judgment is handed down (if the Judge who heard the appeal is available and agrees) or in writing within 7 days thereafter.'

Once a certificate has been granted, a party must apply to the SC within in one month from the date of the certificate or within such timeframe as the SC may allow.

The EAT Practice Direction is located here - Practice Direction of the Employment Appeal Tribunal 2023 (judiciary.uk)

There is not set timeframe for any stage of appeal. The length of the appeal process can depend on a number of factors including the complexity of the case and the caseload within any given court.

Law stated - 18 July 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

A judgment in the Employment Tribunal can be reconsidered. Rule 68 of the Employment Tribunal rules 2024 provides that a judgment can be reconsidered on the Tribunal's only initiative (which includes on request from the EAT) or if a party applies for a reconsideration. An application for reconsideration must be made in a hearing or within 14 days of the date the written recorded was sent to the parties or written reasons were sent to the parties. On reconsideration, the judgment may be confirmed, varied or revoked.

Law stated - 18 July 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

The most significant legislative developments are contained in the Employment Rights Bill. The Bill is making its way through the parliamentary system, with Royal Assent anticipated in autumn of 2025, with a staged implementation between 2025 to 2027. The Bill seeks to introduce significant reforms in employment law in England and Wales including:

- making unfair dismissal a day one right;
- making dismissal for failing to agree contract variations automatically unfair;
- introducing a requirement for employers with over 250 employees to publish an equality action plan on addressing gender pay gaps;
- requiring employers will be required to take all reasonable steps to prevent workplace sexual harassment and third party harassment;
- making any provision in an agreement between an employer and a worker void if it seeks to prevent the worker from making certain allegations or disclosures of information;
- making it a requirement that it must be reasonable for an employer to refuse a flexible working request on any of the statutory grounds and explaining why it considers it reasonable;
- banning the dismissal of women who are pregnant, on maternity leave, and during a six-month return-to-work period, except in 'specific circumstances'.
- making paternity and unpaid parental leave day one rights and removing the restriction on taking paternity leave after shared parental leave;
- making significant trade union related changes such as:

- requiring an employer to inform all employees of the right to join a trade union;
- a right for trade unions to request, negotiate and enforce workplace access;
- changes to the recognition procedure;
- deregulating industrial action by repealing the thresholds for ballots, reducing the timeframe for notification of industrial action, extending the expiry of the ballot mandate of industrial action to 12 months; repealing the 2016 picking provisions; and introducing electronic balloting;
- introducing a new right of protection against detriment for taking part in industrial action and extending rules on automatic unfair dismissals;
- introducing new rights for union representatives;
- repealing the 2024 changes to public sector employers' check-off duties and the 2023 minimum service levels legislation

- making changes to how businesses can use overseas talent through changes to the Skilled Worker and other routes access;
- establishing a new enforcement body, the Fair Work Agency, to enforce underpayments for workers;
- increasing the time limit for making claims to the Employment Tribunal from three to six months;
- requiring employers to keep adequate records to who compliance with statutory annual leave entitlements;
- creating a single status of worker except for the genuinely self-employed;
- subjecting umbrella companies to regulation;
- requiring employers to offer qualifying workers on zero hours contracts and those with a 'low' number of guaranteed hours, who work more than these hours, a guaranteed hours contract which reflects the hours they work over a reference period;
- removing national minimum wage age bands;
- requiring employers to consult with trade union or worker representatives before implementing a policy on tipping and to review the policy at least once every three years;
- making statutory sick pay available form day one of sickness;
- reinstating and strengthening the Transfer of Undertakings (Protection of Employment) Regulations two-tier Code of Practice;
- widening the duty to collectively consult on redundancies;
- reviewing and modernising health and safety regulation.

Key cases include:

For Women Scotland Ltd v The Scottish Ministers, the Supreme Court ruled that the words 'sex', 'woman' and 'man' in the Equality Act 2010 (EqA) mean biological sex, biological woman and biological man. The judgment is highly significant and has complex practical

implications in an employment context is the provision of toilets and washing/changing facilities in the workplace. Employers also have the *potential* risk of claims from different protected groups under the EqA. Other issues relate to genuine occupational requirements where employers wish to appoint a woman to a role; comparators in equal pay cases; protections relating to pregnancy and maternity applying to trans men; and practicalities in reporting on the gender pay gap.

USDAW v Tesco Stores the SC upheld a High Court decision granting an injunction to prevent an employer proceeding with its dismissal and re-engagement proposals to remove a pay enhancement which had been agreed as a 'permanent' contractual entitlement.

De Bank Haycocks v ADP RPO UK Ltd the Court of Appeal confirmed that there is no requirement for 'general workforce consultation' where an employer is proposing to make redundant fewer than 20 employees in a 90 day period at one establishment (and is non-unionised).

Law stated - 18 July 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Generative AI carries accuracy risks and there has been an increase in claimants using AI to draft pleadings in Employment Tribunal claims which are not accurate.

In relation to legal professionals, in June 2025, the Divisional Court issued judgment in the case of *R (Ayinde) v London Borough of Haringey & Al-Haroun v Qatar National Bank* and raised serious concerns about the use of AI in legal proceedings where the cases relied on referred to fabricated case law and misstated law. The outcome of the cases is that all documents that use AI must be verified before submitting to a court.

Law stated - 18 July 2025

Other issues

42 | Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

Litigants in Person (LIP) are common in the Employment Tribunal. Professional parties need to understand the Tribunal's duty to help LIPs take part in and understand the process and in particular the application of the Equal Treatment Bench Book to proceedings.

Solicitor representatives also need to be mindful of the SRA's Strategic Lawsuits against Public Participation (SLAPPs) Notice to prevent parties from misusing the legal system including bringing or threatening claims that are unmeritorious or characterised by abusive tactics.

Law stated - 18 July 2025

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PRE-ACTION CONSIDERATIONS

Key Requirements

1 Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

Yes. For labour claims, the parties must undergo the conciliation procedure by labour conciliators before filing any lawsuit with the court or the labor arbitration council, unless the dispute is an individual labor dispute regarding termination of employment, the payment of termination entitlements, involving a domestic worker and his/her employer, regarding the payment of statutory insurance or benefits in respect of an occupational accident or disease, regarding Vietnamese guest workers or regarding the dispute between an employee an a client enterprise (articles 188, 191 and 195 of the Labor Code).

Law stated - 28 August 2025

Third-party funding

2 Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Vietnamese laws are silent on the funding of litigation costs by third parties. However, such funding may be allowable to the extent that it is not contrary to any principles of civil law. If such funding is allowable, the third-party funders would not be directly liable for any costs incurred by the other side under a judgment because they are not the involved parties participating in the proceedings.

Law stated - 28 August 2025

Contingency fee arrangements

3 Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Vietnamese laws are unsettled on contingency fee arrangements. In particular, there are four ways to charge lawyer fees which include hourly fees, fixed fees, retainer fees, and fees equivalent to a percentage of the claim amount/contract value (article 55.2 of the Law on Lawyers 2006). In other words, contingency fee arrangement is not clearly permitted or prohibited insofar as a civil dispute is concerned.

The typical options for contingency fees are a fixed percentage of contingency fees (ie, lawyers will receive the percentage of the award after the proceeding completes), and

staged contingency fees (ie, lawyers will receive the percentage of the award depending on the stage at which the matter is resolved).

Prior to entering into a contingency arrangement, the following aspects should be taken into consideration: the fee typically charged in the locality for a similar legal service, the amount of work to be involved and the results to be obtained, any time limitations imposed by either the client or circumstances, the professional relationship between client and lawyers, the experience, reputation and skill of those performing the services.

Law stated - 28 August 2025

ISSUING A CLAIM

Forum

4 What is the appropriate forum for complaints concerning individual employment rights?

Most individual labour disputes must first be subject to the conciliation procedure by labor conciliators, unless the dispute fits into one of these exceptions: a dispute regarding termination of employment, the payment of termination entitlements, involving a domestic worker and his/her employer, regarding the payment of statutory insurance or benefits in respect of an occupational accident or disease, regarding Vietnamese guest workers or regarding the dispute between an employee an a client enterprise (article 188 of the Labor Code). After this conciliation step (or immediately if the dispute is subject to an exception), the employee may file a lawsuit in the labour court or, if both parties agree, they may submit their dispute to the labour arbitration council.

Law stated - 28 August 2025

Territorial jurisdiction

5 Are there any limitations on territorial jurisdiction?

Yes. There are certain limitations on territorial jurisdiction that apply to civil cases (eg, labour disputes) involving foreign elements. A civil case involving foreign elements means a civil case falling in any of the following cases under the Civil Code (article 464 of the Civil Code):

1. At least one party is a foreign individual, agency, organisation;
2. All parties are Vietnamese citizens, agencies, organisations but the relationship is established, changed, developed or broken up in a foreign country;
3. All parties are Vietnamese citizens, agencies and organisations but the parties of such civil relationship are overseas.

In relation to the governing law, subject to the governing law as agreed under a labour contract, labour disputes arising from such labour contract will be subject to the regulations of the chosen governing law (either Vietnamese laws or foreign laws) (article 664 of the Civil Code), provided the application of this law is not contrary to the fundamental principles of Vietnamese law (article 670.1 of the Civil Code). In practice, labour contracts in Vietnam are typically governed by Vietnamese laws, and the court would likely find that a foreign law governing the labour relationship that varied from Vietnamese law was contrary to the fundamental principles of Vietnamese law so would instead apply Vietnamese law. Concerning the dispute resolution authority, Vietnamese courts will have the general and exclusive authority in resolving a civil case involving foreign elements under the Civil Procedure Code (articles 469 and 470 of the Civil Procedure Code). If Vietnamese courts are chosen by the involved parties to settle a labour dispute under Vietnamese laws or international treaties to which Vietnam is a member, such labour dispute will be subject to the exclusive authority of Vietnamese courts.

Law stated - 28 August 2025

Standing

6 | Who can bring a claim?

Either employees/employee representatives or employers/employer representative organisations can bring a labour claim to the competent authorities to settle such claim (Article 182 of the Labor Code).

Law stated - 28 August 2025

Commencing claims

7 | How are claims commenced?

A labour claim will commence after it is requested by a disputing party or by another competent authority or person and is agreed by the disputing parties (article 180 of the Labor Code).

Law stated - 28 August 2025

Fees

8 | Are fees payable for the issuing of a claim?

Not applicable under Vietnamese law.

Law stated - 28 August 2025

Service

9 | Is any qualifying service required?

Under article 70.9 of the Civil Procedure Code, a plaintiff is required to send other involved parties or their lawful representatives photocopies of the petition and materials and evidence related to their lawsuit. However, in practice, many plaintiffs fail to do so. Instead, most defendants will learn about the claim against them by receiving a notification from the court stating that it has accepted the plaintiff's case for handling, and after receiving this notice, will go to the court to obtain copies of the petition and all relevant materials.

Law stated - 28 August 2025

Defendants and legal personality

10 | Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

A labour claim can be brought against both natural persons and legal entities (articles 179.1 and 182 of the Labour Code).

Law stated - 28 August 2025

Types of claims

11 | What types of claims can be brought?

There are two main types of labour claims under the Labor Code including (article 179 of the Labor Code):

- Individual labour disputes between an employee and an employer, between the employee and the organisation that sends the employee to work overseas, and between an outsourced worker and a labour-hire client; and
- Rights-based or interests-based collective labour disputes between one or several employee representative organisations and an employer or one or several employer representative organisations.

Law stated - 28 August 2025

Time limits

12 | What are the time limits for bringing employment claims?

While Vietnamese laws do not regulate the time limits for bringing interest-based collective labour disputes, the time limits for bringing individual labour claims and right-based collective labour claims are the same as follows, (articles 190 and 194 of Labor Code):

- Labour conciliation: Within six months from the date on which a party discovers the infringement of its lawful rights and interests;
- Bringing the labour claims to the Labor Arbitration Council: Within nine months from the date on which a party discovers the infringement of its lawful rights and interests;
- Filing the lawsuit to the competent court: Within one year from the date on which a party discovers the infringement of its lawful rights and interests.

Law stated - 28 August 2025

Counterclaims

13 | Can any counterclaims be brought by an employer?

Yes. Counterclaims can be brought by an employer (as a defendant) if a labour claim is referred to the resolution of the competent court under the Civil Procedure Code (article 200 of the Civil Procedure Code).

Law stated - 28 August 2025

CASE MANAGEMENT

Procedure

14 | What is the typical sequence of procedural steps in an employment dispute?

In general, most types of labour disputes must go through the labour conciliation if required by laws before such labour disputes are referred to the competent court or the labour arbitration council (there are only a few exceptions, as mentioned above). The labour dispute process includes the following steps:

- Conciliation by labour conciliators (for individual labour disputes, right-based collective labour disputes and interest-based collective labour disputes, unless the labour conciliation is not required in certain cases by laws) (Articles 188 and 192 of the Civil Procedure Code): Within five working days from receiving the conciliation request, the labour conciliators shall complete the conciliation process with the involved parties. The labour conciliators will then put forward a settlement proposal for consideration by the involved parties:
    - If the parties agree to the settlement proposal, the labour conciliator will prepare the minutes of settlement, and both parties shall comply with the agreements recorded in the minutes of settlement.

- If the parties do not agree to the settlement proposal, or if either party is not present to draw up the minutes of settlement without proper reason after being validly summonsed for the second time, the labour conciliators shall prepare the minutes of unsuccessful conciliation. In the event of an unsuccessful conciliation, or if either party fails to implement the minutes of settlement, or if the labour conciliators have not resolved the matter on expiry of the time limit for resolution, each party has the right to bring the dispute to the Vietnamese court (except for interest-based collective labour disputes) or the labour arbitration council.

- Dispute settlement by the labour arbitration council (for individual labour disputes, right-based collective labour disputes and interest-based collective labour disputes) (Articles 189, 193 and 197 of the Civil Procedure Code):

  - Within 07 working days from the receipt of the request of the labour dispute settlement, an arbitral tribunal shall be established.

  - Within 30 working days from the establishment of the arbitral tribunal, the arbitral tribunal shall issue a decision on the settlement of the labour dispute and send it to the disputing parties.

With respect to interest-based collective labour disputes, the employee representative organisation that is the disputing party has the right to carry out the procedures of strike-off under the laws, if, within the statutory timeline, the arbitral tribunal is not established, or a decision on the settlement of the labour dispute is not issued by the arbitral tribunal, or a disputing party fails to comply with the decision of the arbitral tribunal.

- Dispute settlement by the competent court (for individual labour disputes and right-based collective labour disputes) (articles 189 and 193 of the Civil Procedure Code): The disputing parties can bring the case to the court if, within the statutory timeline, the arbitral tribunal is not established, or a decision on the settlement of the labour dispute is not issued by the arbitral tribunal, or the employer fails to comply with the decision of the arbitral tribunal. The litigation process of the court shall follow the regulations of the Civil Procedure Code.

Law stated - 28 August 2025

Rules

15 | What rules apply to case management?

The principles of labour dispute settlement under Vietnamese laws are as follows (article 180 of the Labor Code):

- To respect the parties' autonomy through negotiation throughout the process of labour dispute settlement;

- To prioritise labour dispute settlement through mediation and arbitration on the basis of respect for the rights and interests of the involved parties, and respect for the public interest of the society and conformity with the law;
- To settle the labour dispute publicly, transparently, objectively, promptly and lawfully;
- To ensure the participation of the representatives of each party in the labour dispute settlement process; and
- To initiate the labour dispute settlement by a competent authority or person after a labour claim is requested by a disputing party or by another competent authority or person and is agreed by the disputing parties.

Law stated - 28 August 2025

Amendments to claims

16 | Under what circumstances can amendments to claims be made?

With respect to the labour claims that are subject to the court's settlement, amendments to the labour claims can be approved by the competent court if such amendments do not exceed the scope of the initial claims at the first-instance trial (article 244 of the Civil Procedure Code). Besides, there is no regulation specifying the basis on which the labour claims can be amended during the process of the labour conciliation or settlement by the labour arbitration council.

Law stated - 28 August 2025

Adding parties to proceedings

17 | Can additional parties be brought into a case after commencement?

Yes. If the labour claims are referred to the court's settlement, any third parties having interests or obligations related to a civil suit could request the court to be allowed to participate in the proceedings. Further, at the request of an involved party, or at its own discretion, the court can summons the third parties to participate in the proceedings. In principle, the participation of any third parties must be decided during the trial preparation period (article 68 of the Civil Procedure Code).

Law stated - 28 August 2025

Consolidating proceedings

18 | Can proceedings be consolidated?

Consolidating two or more sets of proceedings is allowed under Vietnamese law if such consolidation ensures compliance with the law or if different plaintiffs sue the same defendant in separate lawsuits under Vietnamese laws (article 42.1 of the Civil Procedure Code).

Law stated - 28 August 2025

Class and collective actions – special considerations

19 | Are there any special considerations for class actions, multi-party or group litigation?

Vietnamese laws are silent on class actions, multi-party or group litigation. The Civil Procedure Code only recognises the right to file a lawsuit by a representative organisation of employees in order to protect their lawful rights and interests (article 187 of the Civil Procedure Code).

Law stated - 28 August 2025

Evidence

20 | How is witness, documentary and expert evidence dealt with?

Regarding witnesses, at the request of an involved party or based on the opinion of the judge, procedures to obtain witness testimony may be carried out. Witness testimony is made in writing and may be obtained at or outside the office of the court (article 99 of the Civil Procedure Code).

Concerning documentary evidence, at the request of an involved party or based on the opinion of the judge, on-site inspections/appraisals may be conducted in the presence of representatives of the local People's Committees or Police Department where the objects which will be inspected/appraised are located. The on-site inspections/appraisals must be notified in advance so that the involved parties know and witness such inspections/appraisals, and made in writing (article 101 of the Civil Procedure Code).

Relating to expert evidence, an involved party may request the court to, or may by itself (if the court rejects its request), obtain an expert opinion/assessment. If the involved party obtains an expert opinion/assessment by itself, it may only do so before the court issues its decision on the first-instance trial. The court may also decide to obtain an expert opinion/assessment as it deems necessary (article 102 of the Civil Procedure Code).

Law stated - 28 August 2025

Witnesses

21 | Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

After being summoned by the court, a witness is required to give testimony at or outside the office of the court (article 99 of the Civil Procedure Code). Vietnamese laws are silent on whether the witness testimony can be carried out overseas.

Law stated - 28 August 2025

22 | Is cross examination of a witness permitted?

Yes. A cross-examination may also be conducted at the request of an involved party or if the judge finds that there are conflicts in the involved parties' or witnesses' testimony. In addition, the witnesses may be required to deliver their testimonies at the hearing (article 100 of the Civil Procedure Code).

Law stated - 28 August 2025

Tactical considerations

23 | What steps can a party take during proceedings to achieve tactical advantage in a case?

In order to gain a tactical advantage, parties often assert that the nature of the dispute is not a 'labour dispute', and/or that the parties have included an arbitration clause in their agreement, therefore the dispute should not be subject to the labour court. This often arises in cases where the contract between the parties is not clear, where the parties entered into an independent contractor agreement but the worker was treated like an official employee or where the parties had entered into a Non-disclosure Agreement, separate from the employment agreement. If the defendant can succeed in denying the existence of a labour relationship, the plaintiff must then bring a new petition at the court.

Law stated - 28 August 2025

INTERIM RELIEF

Availability

24 | Can interim relief be sought in employment disputes? If so, in what types of claims?

The interim relief can be sought in labour disputes (for both individual labour disputes and collective labour disputes) at the request of the involved parties or under the court's decisions during the process of labour dispute settlement (article 111 of the Civil Procedure Code).

Law stated - 28 August 2025

Requirements

'

25 | Are there any particular requirements relating to applications for interim relief?

A party requesting the application of the interim relief shall send a written request to the competent court when filing a lawsuit to the court, before the opening of the trial or at the trial. As the interim relief request for labour claims does not require security measures by laws, the in-charge judge or trial panels shall consider such request and issue decisions on the application of the interim relief if the request is accepted (article 133 of the Civil Procedure Code).

Law stated - 28 August 2025

TRIAL

Hearings – conduct and typical time frames

26 | How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The employment disputes will need to go through the conciliation process first (except for some statutory cases where the disputes can be immediately referred to the court or employment arbitration council). After that, the parties can agree to settle the dispute at a competent court or at the labour arbitration council. (article 188.1 of the Labor Code)

For the final hearing at the court, after accepting the petition from concerned party, the court will prepare for the first instance court by organizing meetings for checking the handover or, access to and disclosure of evidence by the parties and mediation. Upon completing the preparation stage, the court will issue a decision to bring the case to the first instance trial, where the parties and their authorized representatives will orally argue to defend themselves.

The timeline for completing a first instance trial from the petition of the lawsuit to the issuance of the judgment will vary depend on each case. Normally, it may take around three to eight months for an employment dispute.

Law stated - 28 August 2025

Confidentiality and public access

27 | How is confidentiality treated? Can all evidence be publicly accessed? How are sensitive employment issues dealt with? Is public access granted to the courts?

Agencies and persons conducting proceedings must maintain occupational secrets, trade secrets, and privacy and family secrets of the litigants upon their legitimate request (article 13.3 of the Civil Procedure Code). Evidence is normally not publicly accessible. The court shall not disclose publicly the content of data and evidence relating to professional secrets, trade secrets, private secrets or family secrets of individuals at the legitimate request of the concerned parties but must notify the concerned parties of the data and evidence which is

not publicly disclosed. Based on the aforesaid general rules, sensitive employment issues can be kept confidential upon legitimate requests of relevant parties.

Normally, the court shall conduct open hearings. However, relevant parties may request the court to carry out closed hearings if they deem necessary to protect their occupational secrets, trade secrets, and privacy and family secrets.

Law stated - 28 August 2025

Media reporting

28 | How is media interest dealt with? Are there any restrictions on media reporting?

The concerned parties may request the court to carry out the closed hearings to protect privacy and personal information of the employees (article 15 of the Civil Procedure Code).

Law stated - 28 August 2025

Elements of successful claims and burden of proof

29 | How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

A court decides if the claims or allegations are proven based on the evaluation of the evidence provided by concerned parties or collected by the courts. By laws, evidence can be collected from different sources, including readable, audible or visible materials, and electronic data, physical evidence, testimony of concerned parties, results of examination by experts, and other sources stipulated by law (article 94 of the Civil Procedure Code). Evidence must satisfy criteria and standard applicable for each type of evidence. For instance, physical evidence must be the original object relating to the affairs, or readable materials must be original copies, notaried copies or authenticated lawfully or certified or provided by the competent agency or organization. (article 95 of the Civil Procedure Code)

Elements required to find in favour: Specific elements required to find in favour of a party shall depend on each claim or allegation. These elements may include factual elements, meaning the facts of the claims or allegations that must be proven. For instance, if the employee initiates a lawsuit against the employer for failure to pay salary, such employee must prove that there is actual violation by the employer for not making salary payment to the employee. Other than factual elements, the court will also rely on particular laws and regulations to identify the violation by a party.

Burden of proof: In most cases, the burden of proof lies with the party making the claim, ie, the plaintiff. The defendant is required to provide evidence in case of rebutting the plaintiff's claim. Except for the following cases: (article 91 of the Civil Procedure Code):

1. a litigant being an employee who fails to provide or deliver evidence to the court because such evidence is being controlled or held by the employer, then such employer is responsible for providing or delivering such evidence to the court;

2. if an employee initiates a legal proceeding about unilateral termination of a labour contract in cases where the employer is not permitted to unilaterally terminate such labour contract or to impose disciplinary action on an employee as stipulated by the labour law, then the employer has the obligation to substantiate.

Law stated - 28 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

30 What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Alternative dispute resolution (ADR) for employment disputes includes labour arbitration council subject to agreement between the parties (article 188.7 of the Labor Code). Other than that, before referring the employment dispute to the court or arbitration council, the employment dispute must, except for some statutory situations, go through the labour conciliation process. (article 188.1 of the Labor Code)

The labour arbitration council can resolve individual employment disputes, collective employment disputes about rights and collective employment disputes about benefits. (articles 188, 191 and 195 of the Labor Code) There is no specifically non-arbitrable employment dispute.

Law stated - 28 August 2025

Requirements and expectations

31 Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

No. Except for some statutory cases, the employment disputes must go through the conciliation process first. On the basis of consensus, the parties have the right to request the labour arbitration council to resolve the dispute if a conciliation was unsuccessful or if on expiry of the deadline for the conciliation the conciliator fails to carry out a conciliation or one of the parties fail to implement the agreement outlined in the minutes of the successful conciliation. (articles 188.1 and 188.7 of the Labor Code)

In case of failure to engage the ADR, the employment dispute can be referred to be resolved by the competent court.

Law stated - 28 August 2025

Enforcement

I

32 How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Generally, the enforcement mechanism applicable for ADR decisions in Vietnam is not well-regulated. In case a disputing party fails to comply with the arbitral awards, the parties are entitled to bring the case to a competent court (article 193.6 of the Labor Code).

Law stated - 28 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

33 How are collective employment rights enforced?

Collective employment rights are generally enforced through legal frameworks and the employees' representative organisations comprising of grass-root trade unions and employees' organisations. The employees' representative organisations are established by employees to protect employees' legitimate rights and interests in labour relationship with the employer through collective bargaining or other methods under the applicable laws (article 3.3 of the Labor Code).

Law stated - 28 August 2025

Standing

34 Who can bring a claim in relation to collective employment rights?

Either the employees' representative organisations or the employer can bring a claim against matters relating to collective employment rights (article 179.1(b), article 193.1 and article 192.2 of the Labor Code).

Law stated - 28 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

35 What remedies are available?

If the dispute resolution authority finds there has been a breach of the applicable employment regulations by the employer, the following remedies can be applied: compensation, receiving the employment back to work, contribution of mandatory insurance, payment of severance and other amounts subject to labour contracts and policies of the employer (article 41 of the Labor Code).

Law stated - 28 August 2025

Assessing compensation

36 | How is any compensation assessed?

The assessment of compensation is subject to certain factors including particular violation of the employer, salary of the employees under the labour contract, work arrangement between the employee and the employer.

Law stated - 28 August 2025

Enforcement mechanisms

37 | How can any judgment be enforced?

The laws of Vietnam encourage involved parties to voluntarily execute judgments. If any party fails to execute the judgment, the other party is entitled to request the coercive enforcement of judgments by submitting an enforcement request to the civil judgment enforcement authorities (article 9 and article 13 of the Law on Enforcement of Civil Judgments).

Law stated - 28 August 2025

APPEALS

Appeal procedure and time frames

38 | How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Any first-instance judgements can be appealed by the relevant parties. Within 15 days from the issuance of the first-instance judgement, the parties or their authorized representatives can lodge an appeal to the competent court for rehearing the dispute (article 271 and article 273.1 of the Civil Procedure Code). The appeal can go through the following stages:

Resolution of the dispute at the appellate court: The appellate court directly rehears the case in which the judgement or decision of the court of first instance is not yet legally enforceable and is being appealed or protested against. (article 270 of the Civil Procedure Code) Total timeline for the resolution at the appellate court shall vary depend on each specific case. Normally, it will take several months from receipt of the appeal until the issuance of the appeal judgement.

Law stated - 28 August 2025

Other means of challenge

39 | Can a judgment be challenged other than through the appeal process?

Other than the rehearing of the dispute at appellate courts, the legally enforceable judgement can be reviewed according to (1) judicial review/cassation process or (2) retrial process. The cassation and retrial proceedings will be handled by the Judge Committee of the High Court or the Council of Justices of the Supreme Court (article 325 and article 350 of the Civil Procedure Code). These processes can be triggered if there is error in the application of the law or if there is appearance of newly detected details that may fundamentally change the contents of the judgments or decision (article 326 and article 352 of the Civil Procedure Code).

Law stated - 28 August 2025

UPDATE AND TRENDS

Recent cases and developments

40 | What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Vietnam has been undergoing a reorganisation of administrative divisions (being effective from 1 July 2025), in which provinces have been merged, district levels have been eliminated and wards' names have been changed. Accordingly, the organisation of the People's Court system has been consequently changed. In particular, 355 new regional People's Courts have been established in replacement of previous People's Courts of District level. The provincial People's Courts of several provinces have also been merged following the merger of administrative boundaries (Resolutions No. 81/2025/UBTVQH15 and Resolutions No. 01/2025/NQ-HDTP). As a result, the first instance courts for employment disputes from 1 July 2025 are regional People's Courts (except for cases under authority of the provincial People's Courts)

Law stated - 28 August 2025

Technology developments

41 | What impact is technology having on employment litigation in your jurisdiction?

Electronic materials such as audible or visible materials can be considered evidence if they are presented to the court together with a document explaining its origin. Electronic data message such email, fax, telegraph and other similar forms under applicable e-transactions law can also constitute evidence (article 195.2 and 195.3 of the Civil Procedure Code). However, paperless hearings are not common in Vietnam.

Law stated - 28 August 2025

Other issues

42 Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

In case of a collective employment dispute, the employees' representative organisations can organise strikes aimed at achieving interests-related demands during the process of resolution of the disputes (article 198 of the Labor Code).

Law stated - 28 August 2025

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