

Notice of Appeal/Petition Non-refoulement Claim

(**Important:** Insofar as a non-refoulement claim includes a torture claim as defined by Part VIIC of the Immigration Ordinance, Cap. 115, Laws of Hong Kong (“the Ordinance”), this form serves as a notice of appeal specified by the Chairperson of the Torture Claims Appeal Board pursuant to section 37ZS of the Ordinance. This form also serves as a notice of petition pursuant to paragraph 8.2 of the Practice and Procedural Guide of the Administrative Non-refoulement Claims Petition Scheme. An appeal/petition which is filed with the Torture Claims Appeal Board/Non-refoulement Claims Petition Office must use this form or it will not be accepted as a valid notice of appeal/petition.)

You must read the following instructions carefully before completing this Notice of Appeal/Petition (“this Notice”):

- You must lodge your appeal/petition within 14 days after notice of the decision of an immigration officer is given to you. If this Notice is filed after the expiry of the 14-day period, you must apply for late filing and include a statement of the reasons in Section 5 of this Notice, which must be accompanied and supported by all available evidence. The Torture Claims Appeal Board (“the Board”)/Adjudicator of the Non-refoulement Claims Petition Office (“the Petition Office”) will decide and inform you whether or not it will allow the late filing of this Notice.
- This Notice should be completed in English (block letters) or Chinese.
- You must attach a copy of the Director’s decision you are appealing or petitioning against.
- You must fill in ALL sections. Write ‘N/A’ if any part is not applicable. Where there is a check box , put a check (✓) in it to show your answer.
- It is important that you include ALL information you wish the Board/Adjudicator to consider in this Notice as you may not be allowed to submit further information subsequently unless with the permission of the Board/Adjudicator.
- If you need more space to fill in your information, you should do so on additional sheet(s) of paper by indicating clearly the section to which the information refers.
- Pursuant to section 42(1)(a) of the Ordinance, any person who makes or causes to be made to the Board any statement or representation which he knows to be false or does not believe to be true shall be guilty of an offence.

- Please keep a copy of the completed Notice for your own use. Duly complete and sign this Notice, and send the ORIGINAL of this Notice together with (i) a copy of the notice of the decision of the immigration officer being appealed/petitioned against; and (ii) other supporting documents (if any), by post or by hand to the following address:

**Torture Claims Appeal Board/Non-refoulement Claims Petition Office,
Rooms 3007-10, 30/F, Immigration Tower,
7 Gloucester Road, Wanchai, Hong Kong**

No action will be taken on an unsigned or not duly completed Notice.

- Applications to adduce new evidence must be made within 7 days after filing the notice of appeal/petition (or after late filing is allowed) by filing with the Board/Adjudicator a written notice to that effect; and serve a copy of the notice on the Director of Immigration. Otherwise, the Board/Adjudicator may not accept the application to adduce the new evidence.
- If a hearing is required, the Board/Petition Office will inform you of the details of the hearing in writing. However, if the Board/Adjudicator is satisfied that your appeal/petition can be justly determined without a hearing having regard to the material before it and the nature of the issues raised, the Board/Adjudicator will determine the appeal/petition without a hearing. If the Board/Adjudicator decides to determine your appeal/petition without a hearing, no further notice will be given to you before the determination, unless the Board/Adjudicator directs otherwise.
- The Board/Petition Office will send written communications to your last known address or that of your legal representative. It is therefore important that you keep the Board/Petition Office updated on any such changes and notify the Board/Petition Office in writing of any changes of telephone number, residential and/or correspondence address or legal representative.
- The Board/Adjudicator may confirm or reverse the decision of the immigration officer and will give reasons in writing after the appeal/petition has been determined. The Decision of the Board/Adjudicator is final.
- Your appeal/petition may be withdrawn by you at any time before the Board/Adjudicator determines the appeal/petition by filing of a written notice with the Board/the Petition Office. The Secretariat will, upon receipt of the written notice, inform you in writing that the appeal/petition has been withdrawn and that your non-refoulement claim is finally determined and no further action will be taken on your appeal/petition. Pursuant to section 37ZTA(2) of the Ordinance and paragraph 26 of

the Practice and Procedural Guide of the Administrative Non-refoulement Claims Petition Scheme, an appeal/petition against a decision is withdrawn once a notice to withdraw the appeal/petition is received by the Board/the Petition Office and no further notice of appeal/petition may be filed in relation to the decision. For the avoidance of doubt, where an appeal/petition is withdrawn (including by the appellant/petitioner's written notice and/or by his departure from Hong Kong), it is treated as withdrawn in its entirety on all the applicable grounds under the Unified Screening Mechanism.

- The information provided in this Notice and in the proceedings of the appeal/petition will be used for arriving at a Decision upon your appeal/petition and will not be disclosed to any government or country in respect of which you make a non-refoulement claim on any applicable grounds, including risk of torture under Part VIIC of the Ordinance; risk of violation of your absolute and non-derogable rights under the Hong Kong Bill of Rights (e.g. right to life under Article 2 and right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment under Article 3) as set out under section 8 of the Hong Kong Bill of Rights Ordinance, Cap. 383; or risk of persecution with reference to the non-refoulement principle under Article 33 of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, unless you give an express consent to such disclosure. Notwithstanding the aforesaid, the information may be disclosed to other government departments/bureaux of the Hong Kong Special Administrative Region, agencies, international organisations or other bodies if such information is necessary for immigration or nationality purposes, or to enable them to carry out their functions, or to secure entry facilities for repatriation should the appeal/petition fail.

Section 1: Personal Information

(A) Surname or Family Name: _____

(B) Given Name: _____

(C) Date of Birth: _____ / _____ / _____
Day Month Year

(D) Gender: Male Female

(E) Nationality or Citizenship:
(If more than one, state all) _____

(F) Language(s) Spoken: _____

(G) Day Time Contact Telephone
Number: _____

(H) Residential Address: _____

Correspondence Address
(if different from above): _____

(I) Non-refoulement Claim Reference
Number with the Immigration
Department: _____

(J) Are you accompanied by any members of your family in this appeal/petition?

Yes

No

If yes, please provide details:

Name	Relationship	Date of Birth

(K) Do you have any special needs (e.g. a signer or an interpreter of the preferred gender)?

Yes

(Please specify:

_____)

No

Section 2: Appeal/Petition

(A) I appeal/petition against the decision of the immigration officer as contained in the attached notice of decision.

Note: This Notice must be accompanied by a copy of the notice of the decision being appealed/petitioned against before the appeal/petition can be further processed.

(B) Grounds of Appeal/Petition:

You must set out ALL grounds of your appeal/petition. Please give reasons in support of these grounds – that is, why you disagree with the decision of the immigration officer being appealed/petitioned against. Where appropriate, please refer to the specific paragraphs of the immigration officer’s written decision and/or country of origin information materials relied upon. Give as many details as possible. Use additional sheets of paper if necessary.

Section 3: Details of Legal Representative

(A) Do you have a legal representative to assist/represent you in lodging this appeal/petition?

Yes

No (Go to Section 4)

(B) Name of the Representative: _____

(C) Name of the Representative's
Legal Firm (if applicable): _____

(D) Telephone Number: _____

(E) Correspondence Address: _____

(F) Email Address: _____

(G) Fax Number: _____

Section 4: Hearing (if required by the Board/Adjudicator)

If the Board/Adjudicator decides that a hearing will be held to determine your appeal/petition, a hearing will be arranged. The hearing will be held in private unless the Board/Adjudicator directs otherwise. A notice of hearing setting out the date, time and place will be served on you normally not less than 28 days before the date of hearing. Despite the above, the Board/Adjudicator may give less than 28 days' notice if it considers appropriate to do so in a particular case, but in any event the notice period must not be less than 7 days. To avoid doubt, this does not apply to a hearing that is rescheduled due to your absence from hearing or a further hearing of an appeal/petition.

(A) If a hearing is arranged, will you have any witness(es)?

Yes

No

If yes, please list details of all witnesses attending the hearing and ask each of them to prepare a witness statement (the witness statement should include the witness' full name, address and contact telephone number(s) and set out facts only, not opinions or legal submissions, and should be submitted together with this Notice).

Name of Witness	Relationship	A short description of the evidence to be given

(B) Do you or your witness(es) require an interpreter?

Yes (Please specify the language/dialect requested:

)

No

Note: The Board/Petition Office may direct the Appellant/Petitioner and witnesses, if any, to address the Board/Petition Office in a language that the Board/Petition Office reasonably considers the Appellant/Petitioner and witnesses are able to understand and communicate in.

Section 5: Application for Late Filing of Notice of Appeal/Petition

A person who wishes to appeal/petition against the decision of the immigration officer must file this Notice within 14 days after notice of such decision is given to the person. If you are filing this Notice after the expiry of the aforesaid 14-day period, you **must include below a statement of the reasons for late filing. You must also submit all available evidence in support of such reasons.**

Section 6: Declaration by Appellant/Petitioner

I declare that:

- I verily believe that the information I have supplied on or with this Notice is complete, correct and up-to-date in every detail.
- I understand that the Board/Adjudicator may determine an appeal/petition without a hearing if, having regard to the material before it and the nature of the issues raised, the Board/Adjudicator is satisfied that the appeal/petition can be justly determined without a hearing.
- I undertake to promptly inform the Board/Petition Office of any changes of my telephone number, residential and/or correspondence address and legal representative while my appeal/petition is being processed.

Appellant/Petitioner's Signature: _____

Appellant/Petitioner's Name: _____

Date: _____