GOVERNMENT OF BERMUDA

Ministry of Economy and Labour

PROCEDURAL GUIDANCE FOR THE NAMING REGISTER FOR UNPAID TRIBUNAL AWARDS PURSUANT TO THE EMPLOYMENT ACT 2000, AS AMENDED BY THE EMPLOYMENT AMENDMENT (NO. 2) ACT 2026

Note: This Procedural Guidance is subject to the provisions of the legislation and subject to change from time to time.

1.0 PURPOSE

- This Procedural Guidance explains the statutory framework governing the establishment, administration and publication of the Naming Register for Unpaid Tribunal Awards ("the Naming Register").
- The Employment Amendment (No. 2) Act 2026 amends the Employment Act 2000 to strengthen the procedural and enforcement framework governing the Employment and Labour Relations Tribunal ("the Tribunal"). The amendments include measures to address continued non-compliance with Tribunal awards and civil penalties, including the establishment of a public Naming Register.
- This Procedural Guidance sets out the requirements relating to notices of continuing non-compliance, entry on the Naming Register, objections, correction and annotation of entries and removal from the Naming Register.
- This Procedural Guidance is intended to promote consistent administration of the Naming Register, support compliance with Tribunal awards and ensure that the statutory procedures are applied fairly and accurately.

2.0 RELEVANCE

This Procedural Guidance is relevant to:

- Employers and other parties against whom a Tribunal award has been made or a civil penalty imposed against under the Employment Act 2000.
- Employees seeking action in respect of an unpaid Tribunal award.
- Persons who may be materially affected by an entry on the Naming Register.
- Representatives and advisers assisting parties in matters concerning the Naming Register.

This Procedural Guidance is intended to explain the rights and responsibilities of affected parties and the procedures to be followed by the Department of Labour.

3.0 LAW

The principal legislation governing the Naming Register is the Employment Act 2000 ("the Act"), as amended by the Employment Amendment (No. 2) Act 2026 ("the Amendment Act").

The principal provisions relating to the Naming Register are:

- **Section 44LA** — Notice of continuing non-compliance.
- **Section 44LB** — Naming Register for Unpaid Tribunal Awards.
- **Section 44LC** — Objection to entry on Naming Register.
- **Section 44LD** — Correction, annotation or removal from Naming Register.

The legislation should be consulted for the full statutory requirements. This Procedural Guidance does not replace or amend the provisions of the Act.

4.0 NAMING REGISTER FOR UNPAID TRIBUNAL AWARDS

4.1 Purpose of the Naming Register

- Section 44LB(1) provides for the Director to establish, maintain and publish a register known as the Naming Register for Unpaid Tribunal Awards.
- The Naming Register forms part of the statutory framework intended to encourage compliance with Tribunal awards, promote accountability and address continued non-compliance with obligations imposed by the Tribunal.
- The Naming Register is intended to inform the public of a party's continued non-compliance with awards and civil penalties imposed by the Tribunal under the Act.
- The Naming Register is not a general record of employment complaints, allegations or Tribunal proceedings.

4.2 Persons who may be entered on the Naming Register

- Under section 44LB(2), a party may be entered on the Naming Register where:
  - (a) an amount due under an award or civil penalty remains unpaid after 14 days have elapsed from the date of service of a notice under section 44LA(1); and
  - (b) no stay of enforcement or objection is in place.
- The requirements must be considered together. Entry is subject to the applicable notice and objection procedures and any relevant stay of enforcement.

4.3 Right to object to entry on the Naming Register

- Section 44LC(1) provides that a party may object to a proposed entry on the Naming Register within 14 days after service of a notice under section 44LA(1).
- An objection must be made in writing, identify the disputed entry and the ground for objection and include supporting evidence.
- Section 44LC(4) provides that a party must not be entered on the Naming Register until an objection under section 44LC(1) has been determined by the Director and the Director has given written reasons for the decision.

Procedural Guidance:

- The notice under section 44LA(1) will identify the relevant award or civil penalty and provide sufficient information for the recipient to understand the outstanding obligation and the action proposed.
- A recipient who believes that the amount stated in the notice is incorrect or that the award or civil penalty has been paid should provide the relevant information and supporting evidence within the prescribed period.
- The Director will verify the relevant award or civil penalty, the outstanding amount and the date on which the notice was served before proceeding with an entry on the Naming Register.
- The Department will also establish whether an objection or stay of enforcement is in place and ensure that the requirements of sections 44LA to 44LC have been satisfied.
- An entry will not be made solely because a person has been involved in Tribunal proceedings or because an award has been made. The statutory conditions governing continued non-compliance must be met.

- The Director will consider an objection in accordance with the statutory grounds and the information submitted by the party.
- The purpose of the objection process is to determine whether the proposed entry is permissible under the Act. It is not an opportunity to rehear the original Tribunal proceedings or to reconsider the merits of the award.
- Where an objection is received, the Department will not proceed with the proposed entry before the objection has been determined and written reasons have been given.

5.0 CORRECTION, ANNOTATION OR REMOVAL FROM THE NAMING REGISTER

5.1 Application to correct, annotate or remove an entry

- Section 44LD(1) provides that a party or other person materially affected by an entry on the Naming Register may apply to the Director in writing for its correction, annotation or removal and section 44LD(2) sets out the grounds on which an application may be made.
- An application should identify the entry concerned, specify the action sought and provide supporting evidence.

5.2 Payment in full

- Section 44LD(3) provides that, where an award or civil penalty has been paid in full, the Director shall, within 30 days after receiving satisfactory proof of payment:
  - remove the entry relating to the party; or
  - annotate the entry to show that it has been paid.
- The Department will verify evidence of payment before updating the Naming Register.
- Where payment is confirmed in full, the Director will remove the entry unless the party requests that the entry be annotated to show that the award or civil penalty has been paid in full. The annotated entry will then be removed within 30 days after it has been made.

5.3 Partial payment

- Where a party has made a partial payment, the Department will verify the payment and update the outstanding balance and status of the entry as appropriate.
- Partial payment does not, by itself, satisfy the full obligation or require removal of the entry.

5.4 Stay of enforcement

- Section 44LD(4) provides that, where liability or enforcement is stayed by the Supreme Court after an entry has been made, the entry must be temporarily removed or annotated as stayed pending appeal.
- The Department will verify the relevant court order and ensure that the Naming Register reflects the effect of the order.

5.5 Correction of errors

- Section 44LD(5) requires the Director to correct any material error relating to an entry without unreasonable delay, whether or not an application has been made.
- Where information is brought to the Department's attention that may indicate a material error, the information will be reviewed promptly and any necessary correction made in accordance with the Act.

5.6 Appeal to the Supreme Court

- Under section 44LD(6), a person aggrieved by a decision concerning entry on the Naming Register may appeal to the Supreme Court.
- Section 44LD(7) provides that the Supreme Court may order the correction, annotation or removal of an entry or make any other order it considers appropriate.
- Section 44LD(8) provides that an appeal does not automatically stay the issuance of a notice under section 44LA(1) or entry on the Naming Register where the Supreme Court allows an appeal out of time, although the Supreme Court may make such orders as it considers appropriate.
- A person seeking to challenge a decision should have regard to the applicable statutory provisions and obtain independent legal advice where necessary.
- The Department must comply with any relevant court order and update the Naming Register accordingly.

6.0 TRANSITIONAL PROVISIONS

- This Procedural Guidance applies to an award that was made or became payable before commencement of the Amendment Act and remains outstanding at commencement of the Amendment Act, as if the award had been made or become payable on or after commencement of the Amendment Act, for the purposes of:
  - Service of a notice of continuing non-compliance under section 44LA; and
  - Entry on the Naming Register under section 44LB.
- Accordingly, an award that predates commencement is not automatically excluded from the Naming Register if it remains outstanding when the Amendment Act comes into operation.
- The statutory notice and entry requirements will nevertheless be followed. For further information concerning the Naming Register for Unpaid Tribunal Awards, please contact:

Department of Labour
Ministry of Economy and Labour
Government of Bermuda
48 Church Street
Hamilton HM12, Bermuda

Telephone: (441) 297-7716
Email: departmentoflabour@gov.bm
Website: www.gov.bm/department/labour

The Employment Act 2000, as amended, should be consulted for the full statutory requirements.

1 November 2026