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LEGISLATIVE COUNCIL BRIEF

DE-DESIGNATION OF THE IMPORTATION OF FOREIGN DOMESTIC HELPERS AS LABOUR IMPORTATION SCHEME UNDER THE EMPLOYEES RETRAINING ORDINANCE (CAP. 423)

INTRODUCTION

At the meeting of the Executive Council held on 14 May 2013, the Council ADVISED and the Chief Executive ORDERED that the importation of foreign domestic helpers (FDHs) be de-designated as a labour importation scheme by virtue of section 14(3) of the Employees Retraining Ordinance (Cap. 423) and section 40(2)(c) of the Interpretation and General Clauses Ordinance (Cap. 1). The de-designation gives effect to the abolition of the Employees Retraining Levy (Levy) imposed on employers of FDHs when the suspension of its collection expires on 31 July 2013, as announced by the Chief Executive in his Policy Address delivered in January 2013.

JUSTIFICATIONS

2. It has been an established policy in Hong Kong that where there is a demonstrated need for low-skilled workers which cannot be met by the local labour market, importation of such workers could be allowed. By virtue of section 14(3) of Cap. 423 enacted in 1992, the Chief Executive in Council (CE in C) may, from time to time, approve a scheme, known as a labour importation scheme. The idea behind any such scheme is, on one hand, to permit the importation of lower skilled workers when needed, and on the other, to train or retrain local workers who become vulnerable to shifts in the economic structure. Employers who are permitted to turn to lower skilled imported labour should contribute to the cost of training or retraining local employees. A Levy is imposed on the employers for funding the training and retraining programmes provided under the Employees Retraining Board (ERB). The Levy has been set by Schedule 3 to Cap. 423 at $400 per month, and the total sum payable by the employer is $400 multiplied by the number of months specified in the relevant contract of employment between the employer and the imported employee.

3. The importation of FDHs was approved in 2003 by the then CE in C as a labour importation scheme under Cap. 423. However, the collection of the Levy was suspended for a period of five years with effect from 1 August 2008 by virtue of the Employees Retraining Ordinance (Amendment of Schedule 3)(No. 2) Notice 2008. This originated from a relief package with anti-inflationary initiatives which included, among others, a temporary suspension of the Levy to relieve the financial burden of the middle class. The five-year suspension is due to expire on 31 July 2013.

4. To ease the financial burden on families employing FDHs, the Chief Executive announced in his 2013 Policy Address the abolition of the Levy imposed on FDH employers when the suspension of its collection expired on 31 July 2013. To give effect to the abolition of the Levy on FDH employers, CE in C, at the meeting of the Executive Council held on 14 May 2013, de-designated the importation of FDHs as a labour importation scheme under section 14(3) of Cap. 423 and section 40(2)(c) of Cap. 1. The de-designation was an administrative act.

5. The Levy receipts from labour importation schemes have been the major financial source of ERB. It is noted that the Levy income has mainly come from FDH employers (as there are currently about 310 000 FDHs in Hong Kong). As at January 2013, the balance of the Employees Retraining Fund was $2.19 billion and should be able to sustain the current level of service of ERB until end-2015. To provide ERB with long-term support, the Financial Secretary proposed in the 2013-14 Budget to inject $15 billion into ERB as seed money. The annual expenditure of the ERB is about $790 million a year. The ERB is expected to sustain its current level of service and operation by generating investment income from the seed money. While it is expected that the investment income may in general be able to fully cover the cash flow requirements of ERB on an ongoing basis, there may be years in which the investment income generated may not be able to fully meet the training needs. In such a scenario, we may make use of part of the principal as appropriate to ensure a stable provision of training courses and services. We will explore the injection arrangements, future investment and management of the fund as well as monitoring mechanism with ERB and relevant parties including the Hong Kong Monetary Authority. Funding approval will be sought from the Finance Committee of the Legislative Council in due course.

IMPLICATIONS

6. The abolition of the Levy on FDH employers has financial, economic and family implications as set out at **Annex A**. The abolition will not result in staff savings for the Immigration Department on top of those realised upon the suspension of the Levy in 2008 under the current procedures.

7. The abolition of the Levy on FDH employers is in conformity with the Basic Law, including the provisions concerning human rights. It has no environmental, productivity or sustainability implications. It will not affect the current binding effect of Cap. 423.

PUBLICITY AND PUBLIC CONSULTATION

8. No public consultation is required as the abolition of the Levy on FDH employers was already announced by the Chief Executive in his Policy Address delivered in January 2013.

9. The de-designation will not affect the resumption of the Levy on employers under the Supplementary Labour Scheme (which was approved as a labour importation scheme in 1996 by the then CE in C) on 1 August 2013. A press release will be issued before the resumption of collection of the Levy on the employers under the Supplementary Labour Scheme.

ENQUIRIES

10. Enquiries on the brief should be made to Ms Lydia Lam, Principal Assistant Secretary for Labour and Welfare (Manpower), at telephone number 2810 3290.

Labour and Welfare Bureau
May 2013

Annex A

Implications of the Abolition of the Levy on FDH Employers

Financial Implications

Following the abolition of the Levy on FDH employers, the Levy receipt is estimated to be reduced by about $1.53 billion a year. The annual Levy receipt collected from employers under SLS is estimated to be around $11.6 million. To provide ERB with long-term support, the Financial Secretary has proposed to inject $15 billion into ERB for ERB to sustain its current level of service and operation by generating investment income from the seed money. Sufficient provision has been earmarked in the 2013-14 Estimates.

Economic Implications

2. The abolition of the Levy on FDH employers will help reduce the financial burden on households with FDHs, in particular when more households with relatively low income tend to hire FDHs to take care of their elderly family members amid an ageing society. Given that the collection of Levy has already been suspended for about five years, the impact of its abolition on the overall economy would be minimal.

Family Implications

3. The abolition of the Levy on FDH employers will alleviate the financial burden of families in employing FDH, especially for the lower-income ones or those with elderly and child care needs. From this perspective, the abolition of the Levy on FDH employers will indirectly help encourage elders to age at home and home-based babysitting.

<u>Annex B</u>

List of Abbreviations

CE in C	-	Chief Executive in Council
ERB	-	Employees Retraining Board
FDH	-	Foreign Domestic Helper
Levy	-	Employees Retraining Levy