

# How to Apply under the Enhanced Supplementary Labour Scheme



## Introduction



On the premise of ensuring employment priority for local workers, employers with genuine difficulties in recruiting suitable staff locally may apply to the Enhanced Supplementary Labour Scheme (ESLS) for importation of workers at technician level or below. To safeguard the employment opportunities for as well as wages and benefits of local workers, employers must accord priority to filling available job vacancies with local workers, and take active efforts to train local workers to fill the vacancies.

Employers wishing to apply for importation of labour under ESLS should follow the application procedures as set out in this pamphlet.

## Who can Apply



Employers carrying on business in Hong Kong with genuine difficulties in recruiting suitable staff locally.

## How to Apply



Interested employers may obtain the application form (Form ESLS-1) from the Supplementary Labour Division (SLD) of the Labour Department (LD) of the Government of the Hong Kong Special Administrative Region (HKSAR) or download the application form from LD website ([www.labour.gov.hk](http://www.labour.gov.hk)).

Employers may submit the completed application form together with the required documents by mail or by hand to SLD. Employers may also e-mail the digitally signed e-form and the required documents to SLD at [eform@labour.gov.hk](mailto:eform@labour.gov.hk).

The wages offered by the applicants should be at least the prevailing median monthly wages of comparable positions in the market. SLD will, after all the required information is provided by the applicants, consult relevant government bureaux and/or departments/ training bodies/ professional organisations, etc. as appropriate, and will then inform the applicants of whether the wages offered measure up to the median monthly wages, and whether the stipulated requirements of the vacancies are acceptable. Employers may make reference to the “List of Common Posts” distributed together with the application form. To expedite the processing of applications, if an employer applies for importing workers to fill a post covered by the “List of Common Posts” and fully adopts the information contained in the “List of Common Posts” in the application form, the aforesaid consultation may be dispensed with.

After passing the screening stage, an employer must undertake a four-week local recruitment exercise (local recruitment) for each vacancy under application. During the first 14 days of the recruitment period, employers must place at least 4 recruitment advertisements in local newspaper(s) or on online recruitment platform(s). The advertisements must include the job title, monthly wages offered, working hours, district of workplace, entry requirements and LD's phone number to facilitate LD's arrangement of all job interviews. Concurrently, LD will provide active job matching for the vacancies to identify suitable local job seekers for referral to the employers for interview. If necessary, employers will be asked to organise training programmes for local workers with the assistance of the Employees Retraining Board. At the end of the recruitment period, employers have to provide detailed information on their local recruitment efforts (Form ESLS-9) to SLD, including the reasons for not interviewing or employing the job seekers. If the employer concerned (i) fails to comply with the local recruitment requirements (e.g. employing local workers with a monthly salary less than that agreed by LD), or (ii) refuses to employ qualified local job seekers without reasonable grounds, the Government will immediately suspend the processing of the application, and the employer will be debarred from participation in ESLS for one year.

Notwithstanding the fulfilment of the aforesaid requirements and completion of the relevant procedures, applicants should not assume that their applications would be approved automatically.

SLD will assess the employer's request and invite members of the Labour Advisory Board (LAB) to give views on LD's recommendation. LAB comprises an equal number of employer and employee representatives. Taking into account the views of LAB members, the Government will decide whether to approve or refuse each application. All applications will be considered on their own merits, such as the genuine need for importation of labour, the size of the employer's local workforce, etc. Applications will normally be rejected if:

- (a) employers are being debarred from participation in ESLS owing to administrative sanction imposed by LD;
- (b) wages offered are below the median monthly wages;
- (c) there are restrictive or excessive job requirements such as age, sex, education, experience or skill; or
- (d) employers does not show sincerity in making efforts to give priority to recruiting or training local workers to fill vacancies.

Upon approval, employers may make an application to the Immigration Department of the Government of the HKSAR (Immigration Department) for the visa/entry permit of the prospective imported worker. Transfer of the approval to import labour to another employer is not permitted. Moreover, approval of an employer's application under ESLS does not represent a commitment by the Immigration Department to allow the entry of any specific individual into Hong Kong. The Director of Immigration may refuse to issue visas/entry permits to individual workers.

Employers whose applications for labour importation are refused may apply in writing to SLD within three months from the date of the notification for reconsideration of their cases.

Under ESLS, the approval granted to an employer to import workers will not be automatically renewed. An employer wishing to continue employing imported workers upon the expiry of their contracts are required to submit an application afresh to SLD in advance, and the application will be considered on its own merits.

If the prospective imported workers are Mainland residents, the employer must recruit the imported workers through Mainland labour service enterprises\*.

\*enterprises approved by the relevant competent authority in commerce of the Mainland and granted the permission to operate business on labour service cooperation with the HKSAR. The list of enterprises can be found at the website of the Ministry of Commerce of the Mainland: [http://zsmcorp.mofcom.gov.cn/zsmbgacommon/zsmbga\\_innerCorp\\_hk\\_list](http://zsmcorp.mofcom.gov.cn/zsmbgacommon/zsmbga_innerCorp_hk_list).

To enhance dissemination of the application information, LD will organise briefings for employers to explain the information needed for submitting applications, points-to-note and application procedures as well as to answer enquiries on the spot. For enrolment, please visit the webpage of LD (<https://www.labour.gov.hk/eng/plan/iwSLS.htm>).

Importation of labour aims to ease the existing manpower shortage to meet business needs of employers. Employers are expected to make vigorous efforts in training up local workers to fill the vacancies in the long run. To uphold the cardinal principle of ensuring employment priority given to local workers, the Government will give due consideration to the training efforts of employers when assessing individual applications for importation of labour.

## **Visa/Entry Permit Application Procedures**

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- (a) The employer is required to enter into a Standard Employment Contract with the imported workers. The duration of the contract will be capped by the period as specified in the approval-in-principle letter issued by LD, the longest being two years. The Standard Employment Contract Forms (LD294) for an employee recruited from outside Hong Kong under ESLS may be obtained at the Information and Liaison Section of the Immigration Department or SLD. The contract should be completed in quadruplicate.
- (b) The employer shall arrange for his/her prospective imported worker to submit a visa/entry permit application to the Immigration Department within the period specified in the approval-in-principle letter. (Please refer to “Submission of Visa/Entry Permit Application” section). Late applications will not be accepted and the approval-in-principle for importing workers will lapse after the specified period. If the employer still intends to import workers, he/she should submit an application afresh to SLD.
- (c) Imported workers should possess valid travel documents with ample returnability. For workers from the Mainland, they should be in possession of valid Exit-entry Permits for Travelling to and

from Hong Kong and Macau with relevant exit endorsement issued by the Mainland Public Security Bureau Office.

- (d) The entry of all imported workers is subject to the normal immigration requirements being met.
- (e) After entry, the imported worker must remain under the direct employment of the same employer for the specified post, job duties and in the specific workplace(s) as stipulated in the Standard Employment Contract. Change of employer, post or job duties is not permitted.
- (f) The imported worker is required to return to his/her place of origin on completion of his/her employment contract. If there is pre-mature termination of the contract, the worker is only permitted to remain in Hong Kong for two weeks from the date of termination of contract or until the end of the permitted stay, whichever is shorter. Breach of a condition of stay is an offence under the Immigration Ordinance, Chapter 115 of the Laws of Hong Kong.
- (g) No person who has entered Hong Kong as a visitor may be hired to work here.
- (h) If an imported worker is unable to come to Hong Kong or complete his/her contract, the employer may make a request for replacement worker by submitting a completed Notification of Termination of Employment Contract with Imported Workers (for ESLs) within seven days from the date when (i) the employer is notified that the worker will not come to Hong Kong, or (ii) the contract of the worker is terminated (prior to its expiry). Notification of approval for replacement of imported worker will be issued to the employer upon successful application. The employer shall arrange for his/her prospective imported worker to submit a visa/entry permit application to the Immigration Department within the period specified in the notification. Late applications will not be accepted. An employer who has exploited or ill-treated his/her imported workers will not be granted approval to bring in replacement workers.

## **Submission of Visa/Entry Permit Application**

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- (a) The prospective imported worker shall complete application form (ID 1001A). The employer shall complete application form (ID 1001B). The completed application forms (ID 1001A and ID 1001B), and the following supporting documents should be submitted by the applicant by post directly or through the employer in the HKSAR to the Receipt and Despatch Unit, 2/F, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong:
  - (i) photocopies of the imported worker's travel document containing his/her personal particulars, date of issue, date of expiry and/or details of any re-entry visa held (if applicable); Chinese resident of the Mainland who has not been issued with a travel document may submit a photocopy of his/her People's Republic of China resident Identity Card;
  - (ii) details, with proofs, of the imported worker's academic qualifications and experience relevant to the post, e.g. photocopies of diplomas, certificates and testimonials;
  - (iii) four original copies of the Standard Employment Contract signed between the employer

and the imported worker;

- (iv) photocopy of the approval-in-principle letter issued by LD; and
  - (v) original copy of the Declaration and Authorisation Form (Form ESLS-11) duly completed by the imported worker.
- (b) For Mainland Chinese workers wishing to work in the HKSAR under ESLS, applications must be submitted to the Immigration Department through their prospective employers. Direct applications by the Mainland Chinese workers are not accepted.
- (c) Even if the applicant and the employer have already furnished the documents and information required, the Immigration Department may still request them to submit further supporting documents and information in connection with the application when necessary.
- (d) Decisions on individual applications will be conveyed to the imported worker through the employer.
- (e) Visa/entry permit fee for each imported worker should be paid by the employer.

## **Permitted Stay of Visa/Entry**

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- (a) Visa/entry permit is generally granted for a period of 24 months or the entire employment contract period of the Standard Employment Contract, whichever is shorter.
- (b) Generally, extension of stay will not be granted to imported workers after the completion/termination of their employment contract. Imported workers are required to return to their place of origin before the end of the permitted stay.

## **Terms and Conditions of Employment**

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Workers recruited from outside Hong Kong are entitled to the same protection under the labour laws of Hong Kong as local workers. The imported worker must be engaged under a Standard Employment Contract (for an employee recruited from outside Hong Kong under ESLS) (LD294). The employer's major responsibilities are listed below.

### **Employment Contract**

The employer must give the imported worker, free of charge, one of the four original copies of the Standard Employment Contract. The employer should prepare an acknowledgement list which contains the name and Hong Kong Identity Card number (or passport number) of each imported worker and the date on which the contract is received by the worker. This list should be sent to SLD by mail or by fax (fax number: 2542 2742) within four weeks after the arrival of each worker.

### **Briefing Session**

The employer must grant leave to the imported worker to attend a briefing organised by LD within eight weeks of his/her arrival. No deduction of wages shall be made from the worker's wages for his/her absence from work for the purpose of attending the briefing. Such paid leave shall be in addition to the rest days, statutory holidays and annual leave days to which the worker is entitled under the Standard Employment Contract.

### **Wages**

The employer is required to make payment of wages to each imported worker by way of auto-payment and to ensure that wages are paid directly into the worker's bank account in Hong Kong. The employer must not keep the worker's bank book, bank statement or automatic teller machine cards.

The employer must provide each imported worker, on a monthly basis, with details of his/her earnings which include wages and where applicable, hours of overtime work, amount of overtime pay, amount and nature of deductions, amount of allowances or bonus, etc. The employer must also obtain the imported worker's acknowledgement of the information on the receipt.

The employer shall not make deductions from the imported worker's wages for the purpose of paying any dues or fees charged on the worker by authorities or agents in the worker's country of origin, or for paying the Employees Retraining Levy payable by the employer.

The employer, or any other person acting on his/her behalf, shall not, directly or indirectly, enter into any agreement with the imported worker requiring the imported worker to surrender to the employer all or part of the wages or any sum to which the imported worker is entitled under his/her contract of employment; or demand or receive any such rebates from the imported worker.

### **Maximum Working Hours**

The employer must not require the imported worker to work for more than 12 hours, overtime work included, in a continuous period of 24 hours.

### **Overtime Pay**

The employer must give overtime pay to the imported worker in accordance with the Standard Employment Contract if the worker is required to work more than the normal number of hours as stated therein.

### **Accommodation and Meals**

Generally speaking, the employer is required to provide accommodation for his/her imported worker(s) in compliance with the standard as stipulated in the Schedule to the Standard Employment Contract and the standard of accommodation should be maintained at all times. If prospective imported workers are Mainland residents, employers may opt to (a) provide accommodation in Hong Kong for imported workers; (b) provide accommodation on the Mainland for imported workers; or (b) arrange imported workers to reside in their residential premises on the Mainland. The accommodation provided by employers on the Mainland should also comply with the standard as stipulated in the Schedule to the Standard Employment Contract.

The accommodation in compliance with the requirements should be available before the arrival of the imported worker(s). Employers will be requested to make arrangements for the Labour

Inspectors of LD to inspect the imported workers' accommodation in Hong Kong during their stay.

The accommodation fee, in respect of a period that the imported worker occupies the accommodation, deductible from the wages payable to the imported worker for provision of accommodation shall be equal to the actual cost of the accommodation or 10% of the wages (excluding any overtime pay) payable to the imported worker for the corresponding period calculated in accordance with the Standard Employment Contract, whichever is the less.

The employer is not obliged to provide meals for imported workers. If the employer provides the meals, they shall be provided free of charge.

### **Free Medical Care**

The employer must provide free medical care for the imported worker if he/she suffers from illness or injury, no matter whether it is attributable to the employment or not. However, employers are not responsible for providing free medical treatment during the period when the imported worker leaves Hong Kong of his/her own volition and for his/her personal purposes (other than for returning to the accommodation provided by the employer on the Mainland in accordance with Clause 12(a) or to his/her residential premises on the Mainland referred to in Clause 12(b)). Free medical care includes medical consultation, hospital stay and urgent dental treatment.

### **Passage and Visa/Entry Permit Fee**

Expenses for passage to and from Hong Kong on commencement and termination or expiry of the contract, visa/entry permit fees (including extension fees, if applicable) shall be paid by the employer.

### **Passport, Exit-entry Permit for Travelling to Hong Kong and Macau and Hong Kong Identity Card**

The employer shall not keep the imported worker's passport or Exit-entry Permit for Travelling to and from Hong Kong and Macau. The employer shall arrange for the imported worker to register for an identity card with the Immigration Department within 30 days upon his/her arrival. Likewise, the employer shall remind the worker to return his/her identity card to the Immigration Department for cancellation upon expiry or termination of the employment contract and before the worker leaves Hong Kong.

### **Termination of Contract Prior to its Expiry**

The employer or the imported worker may terminate the employment contract prior to its expiry by giving to the other party notice in writing or payment in lieu of notice as stipulated in the Standard Employment Contract. The employer shall mail or fax the completed Notification of Termination of Employment Contract with Imported Workers to SLD (fax number: 2542 2742) and the Admission of Labour Section of the Immigration Department (fax number: 2824 2067) within seven days before the date of termination. If the contract is terminated without prior notice, the employer shall send the completed Notification to the above two departments within one working day after the termination. The name of the imported worker in English and Chinese as the case may be, his/her Hong Kong Identity Card number, the date of termination, Immigration Department's reference number and whether replacement worker is required shall be included in the Notification.

### **No Displacement of Local Workers by Imported Workers**

The employer shall not displace local workers in employ with imported workers. In the event of

redundancy, imported workers should be retrenched first.

## **Employees Retraining Levy**

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Successful employers are required to pay a levy that goes to the Employees Retraining Board to augment the provision of training and retraining for local workers. The levy payable in a lump sum in respect of each imported worker is \$400 multiplied by the number of months covered by the employment contract up to a maximum of 24 months. It will be collected after the approval for importing workers and before the issue of visa/entry permit by the Director of Immigration. The levy is not refundable under any circumstances.

## **Withdrawal of Approval Granted to Employers**

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- (a) Employers who breach the Laws of Hong Kong will be liable to prosecution.
- (b) Administrative sanction in the form of withdrawal of approval for importation of labour will be taken against an employer who is found to have breached relevant statutory provision(s) (including the Employment Ordinance, the Employees' Compensation Ordinance, the Immigration Ordinance and the occupation safety and health legislation), or relevant requirement(s) of ESLS or the Standard Employment Contract. The employer will also be debarred from participation in ESLS for up to two years.

## **Where to Apply or Enquire**

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For applications for importation of worker(s) under ESLS:

Supplementary Labour Division  
Labour Department, the Government of the HKSAR  
Room 929, 9/F, Cheung Sha Wan Government Offices  
303 Cheung Sha Wan Road, Kowloon  
Telephone: 2150 6363  
Fax: 2504 3160  
Website: [www.labour.gov.hk](http://www.labour.gov.hk)

For visa/entry permit applications:

Admission of Labour Section  
Immigration Department, the Government of the HKSAR  
6/F, Immigration Tower  
7 Gloucester Road, Hong Kong



Telephone: 2829 3220  
Fax: 2824 2067  
Website: [www.immd.gov.hk](http://www.immd.gov.hk)

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