



Guidance Notes
for Application for a Certificate of Exemption (“CoE”)

(I) General Information

- (1) Pursuant to section 54(1) of the Employment Ordinance (“EO”), the Commissioner for Labour (“the Commissioner”) may, upon application in such manner as may be prescribed, exempted an employment agency (“EA”) from obtaining a licence under section 52 of EO, subject to conditions as he/she may specify, if he/she is satisfied that the EA is non-profit making and should, in the public interest, be so exempted. EAs which possess a CoE are still subject to the regulations stipulated in Part XII of EO and the Employment Agency Regulations (“EAR”).
- (2) Applicant shall submit the application for a CoE **not later than two months before the intended date of commencement of business.**
- (3) Before submitting your application for a CoE, please send the proposed name of your employment agency and your telephone number to the Employment Agencies Administration (“EAA”) of Labour Department (“LD”) by e-mail (ea-ee@labour.gov.hk) or by fax (Fax number: 2115 3756) to confirm that the proposed name can be used for application.
- (4) An applicant (see★) must bring along the following documents and attend an interview **in person** with an officer at EAA :

- (1) Hong Kong Identity Card (“HKID”) (also the passport and visa /entry permit if not a Hong Kong permanent resident);
- (2) A recent passport photo of the applicant / nominated operator;
- (3) Photocopy of the EA’s valid Business Registration Certificate or tax exemption certificate owned by the intended holder of CoE;
- (4) Photocopy of the HKID of each of the directors of a limited company, or of each office-bearers of a society (photocopy of passport if the director / officer bearer is not the holder of HKID) # ;
- (5) Document signed by all directors / office-bearers confirming the appointment of nominated operator or relevant directors’ / office-bearers’ meeting minutes;
- (6) Photocopies of (i) the Certificate of Incorporation; (ii) Incorporation Form (NNC1) / Annual Return (NAR1) and (iii) Notice of change (in particulars) of company secretary and director (ND2A / ND2B)*, if applicable;
- (7) Information on the mode of operation, the fee-charging policy and the funding source of the EA;
- (8) Documentary proof showing that the EA is non-profit making; and
- (9) Information on Relationship with Financial Institution(s) (CoP-F2 (05/2024))

★ Where a limited company / society applies for a CoE, it has to nominate a natural person to be the operator of the EA. The operator will be responsible for attending the interview and signing the authorisation letter in connection with the application for a CoE.

Photocopy of the HKID / passport of the directors of a limited company / office-bearers of a society can be submitted through the nominated operator at the time of making application, or they may present their own HKID / passport to EAA in person.

* For documents which have been delivered to the Companies Registry on or after 24.10.2022, applicants are also required to submit:

- Incorporation Form (Company Limited by Shares) with protected information (PI-NNC1)
- Annual Return (NAR1) or Incorporation Form (Company Limited by Shares)(NNC1) delivered to the Companies Registry before 24.10.2022
- Notice of Change of Company Secretary and Director (Appointment/Cessation) with protected

information (PI-ND2A)

- Notice of Change in Particulars of Company Secretary and Director with protected information (PI-ND2B)

- (5) The **authorisation letter** attached in appendix of the application forms is a document required by the Hong Kong Police Force for the consent of the applicant/nominated operator/other related person(s) to the release to LD of all information of any criminal record against the applicant/nominated operator/other related person(s) within the preceding 5 years, concerning conviction of an offence against the person of a child, young person, or woman or of an offence involving membership of a triad society, fraud, dishonesty or extortion.
- (6) In accordance with regulation 13(1)(b)(ii) of the EAR, applicant may be required to provide any other relevant information as the Commissioner thinks necessary.
- (7) EAA will process the application for a CoE in accordance with section 53(1) of the EO. The Commissioner may refuse to issue a CoE upon the occurrence of the following situation:

	Licensee	Related Person(s)	Employed Individual(s)
is an undischarged bankrupt	✓		
has, within the preceding 5 years, been convicted of an offence against the person of a child, young person or woman or of an offence involving membership of triad society, fraud, dishonesty or extortion	✓	✓	
has knowingly furnished any false or misleading information in connection with the application for a licence / CoE	✓		
has contravened any provision of Part XII of the EO or EAR	✓	✓	✓
has not complied with the Code of Practice for Employment Agencies	✓	✓	✓
is not, for any other reasons, a fit and proper person to operate an EA	✓		

- (8) Please refer to Annex for the Personal Information Collection Statement.

(II) Points-to-note for receipt of CoE by email

- (9) An applicant may choose to receive the CoE in paper form by post or in electronic form by email. The choice can only be made at application for the main CoE. Duplicate CoE for branch offices and CoE with alterations made (e.g. due to a change of place of business) shall be issued in the same manner as the main CoE at application.
- (10) An applicant who chooses to receive the CoE by email **must first register an account with electronic Employment Agencies Services (“e-EAS”) and verify the email address through e-EAS.** An applicant who fails to do so by the time the application is approved by the Commissioner shall receive the CoE in paper form by post.
- (11) While an applicant may indicate the preferred manner of receiving the CoE, **the Commissioner reserves the right to make the final decision.**

- (12) Upon receiving an electronic CoE by email via e-EAS, the applicant shall retain the email throughout the validity period of the CoE.
- (13) In accordance with sections 52(2A) and 52(2B) of the EO, a licensee shall cause the licence to be displayed at all times in a conspicuous position at the place of business. According to section 61 of the EO, the aforementioned stipulations of the law shall apply to holders of CoE in the same manner as they apply to licensees. **A holder of CoE who chooses to receive an electronic CoE must print out the electronic CoE on a new white A4 paper for proper display in accordance with the law.**
- (14) Irrespective of whether a holder has received the CoE by post or email, the holder must return the CoE to the Commissioner in the following circumstances:
- when applying for a change of the employment agency's place of business;
 - when applying for an alteration of particulars on the CoE;
 - when applying for/ cancelling a duplicate CoE for a branch office of the employment agency;
 - when the employment agency has ceased to operate as a business; and
 - when the Commissioner has revoked the CoE.

Notes requiring attention

- (a) Applicant should **NOT** commence employment agency activities before the CoE is issued. Contravention may render you liable on conviction to a maximum fine of \$350,000 and imprisonment for 3 years.
- (b) In accordance with sections 55(2) and 53(1)(c)(iii) of the EO, the Commissioner may refuse to issue or withdraw a CoE if the applicant has knowingly furnished to the Commissioner any false or misleading information in connection with his application for the CoE. Section 60(5) of the same Ordinance stipulates that any person who in connection with any application to the Commissioner furnishes any information which he knows or reasonably ought to know to be false or misleading shall be liable on conviction to a maximum fine of \$50,000.
- (c) **Warning Against Bribery:** It is an offence under the Prevention of Bribery Ordinance for any person to solicit, offer or accept any advantages including money and gifts in connection with the processing of any EA licence or CoE application.

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Labour Department

Employment Agency
Application Form for a Certificate of Exemption
Issued under section 54(1) of the Employment Ordinance, Chapter 57

Please tick ☒ where appropriate to indicate the chosen option(s).

1. Name of applicant or applicant organisation **as holder of the certificate of exemption**:

☐ Mr. / ☐ Miss / ☐ Mrs. / ☐ Organisation :

2. Address of applicant / organisation :

.....
District : ☐ HK ☐ KLN ☐ NT

3. Name of employment agency (English) :

(Chinese) :

4. Address of employment agency* (English) :

.....
District : ☐ HK ☐ KLN ☐ NT

(Chinese) :

地區 : ☐ 香港 ☐ 九龍 ☐ 新界

** I undertake that the address of employment agency can be used for commercial purpose, and in case the premises (e.g. residential buildings / industrial buildings) in which the employment agency is located is not allowed for commercial use, and that the certificate of exemption granted has to be withdrawn as a result, the holder of the certificate and nominated operator shall bear the relevant consequences.*

5. The above-mentioned location is the ☐ main office / ☐ branch office of this employment agency.

6. For display of certificate of exemption during its valid period at the place of business, this employment agency

☐ opts for receiving paper certificate /

☐ has already registered an electronic Employment Agencies Services(“e-EAS”) account and opts for receiving e-certificate via e-EAS.

7. Office telephone no. :
8. Facsimile machine no. :
9. Email address :
10. Description of organisation:
.....
11. Reasons for applying for a certificate of exemption :
.....
12. Target group of placement service rendered :
.....
13. Purposes of the placement service :
.....
14. Mode of Operation :
.....
15. Fee Charged :
16. Particulars of applicant / nominated operator of organisation :

Name (English) :

(Chinese) :

Nationality : HKID no. : Identity codes :

Permanent Hong Kong resident : ☐ Yes ☐ No

Mobile phone no. :

Residential address :

Residential telephone no. :

For nominated operator of organisation, please indicate whether he/she is also a director of the organisation / office-bearer of the society: ☐ Yes ☐ No

17. Information and Declaration of **Related Person**¹

- (1) I / We hereby undertake and warrant that I / we shall comply with section 57 of the Employment Ordinance which stipulates that an employment agency must not directly or indirectly receive from any person in connection with obtaining employment for him / her, any reward of any kind, or any payment or other advantage in respect of expenses or otherwise, except the prescribed commission. I / We understand that contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine of \$350,000 and to imprisonment for 3 years.
- (2) I / We declare that I / we have not, within the preceding 5 years, been convicted of an offence against the person of a child, young person or woman or of an offence involving membership of a triad society, fraud, dishonesty or extortion.
- (3) I / We understand that the Commissioner for Labour may refuse to issue or withdraw the CoE on grounds of my / our contraventions of Part XII of the Employment Ordinance, the Employment Agency Regulations, the Code of Practice for Employment Agencies or convictions of the offences listed in item 17(2) above.
- (4) I / We consent to the release of my / our records of contraventions of Part XII of the Employment Ordinance, the Employment Agency Regulations, the Code of Practice for Employment Agencies or conviction of the offences listed in item 17(2) above (if applicable) by the Employment Agencies Administration of the Labour Department to the employment agency I / we belong or am / are employed.

	Name of related person (same as the identity document)	HKID no. (Passport no. and nationality for non-HK resident)	Position	Date of joining (dd / mm / yyyy)	Signature*
1.	(English) (Chinese)				
2.	(English) (Chinese)				
3.	(English) (Chinese)				
4.	(English) (Chinese)				

****All of the related person(s) have to sign on the table above to confirm that the information provided therein is true and correct, and agree to the above declaration. Moreover, each related person has to sign the authorisation at Appendix to give consent to this department to check with the Hong Kong Police Force of his / her criminal conviction records listed in item 17(2) above. Applicant has to submit the original authorisation letter(s) to this department together with the application form(s).***

¹ According to section 50(1) of the Employment Ordinance, a related person means –

- (a) if the employment agency is a company, it includes any director, manager, secretary or other similar officer of the company; or
- (b) if the employment agency is a partnership, it includes any partner or another person concerned in the management of the partnership.

18. Information and Declaration of **Employed Individual (Other than Related Person)**

- (1) I / We hereby undertake and warrant that I / we shall comply with section 57 of the Employment Ordinance which stipulates that an employment agency must not directly or indirectly receive from any person in connection with obtaining employment for him / her, any reward of any kind, or any payment or other advantage in respect of expenses or otherwise, except the prescribed commission. I / We understand that contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine of \$350,000 and to imprisonment for 3 years.
- (2) I / We understand that the Commissioner for Labour may refuse to issue, or may withdraw the CoE on grounds of my / our contraventions of Part XII of the Employment Ordinance, the Employment Agency Regulations or the Code of Practice for Employment Agencies.
- (3) I / We consent to the release of my / our records of contraventions of Part XII of the Employment Ordinance, the Employment Agency Regulations or the Code of Practice for Employment Agencies (if applicable) by the Employment Agencies Administration of the Labour Department to the employment agency I / we belong or am / are employed.

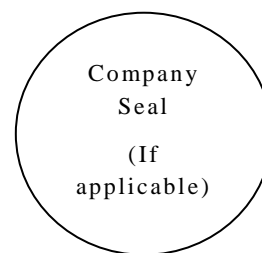
To be completed by <u>ALL</u> employed individuals					
	Name of Employed Individual (same as the identity documents)	HKID No. (Passport no. and nationality for non-HK Resident)	Position	Date of Joining (dd / mm / yyyy)	Signature
1.	(English) (Chinese)				
2.	(English) (Chinese)				
3.	(English) (Chinese)				
4.	(English) (Chinese)				
5.	(English) (Chinese)				

Note: All the employed individual(s) have to confirm that the information provided on the table above is true and correct, and they agree to the above declaration. When EA submits application(s), information of all employed individuals has to be provided in the above table.

19. Signature of applicant / director(s) of organisation / office-bearer(s) of society

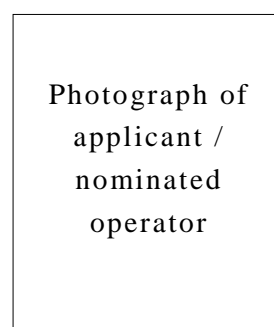
Name of applicant / director(s) of organisation / office-bearer(s) of society:

(For limited company with more than 1 director, this application form shall be signed by any 2 directors / any 1 director and company secretary / any 1 director with company seal)



20. Signature of nominated operator

Name of nominated operator:



21. Date:

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AUTHORISATION

I _____ hereby authorise the Commissioner of Police, or his representative, to release full particulars of any and all criminal convictions recorded against me to Employment Agencies Administration of the Labour Department. I also agree to my fingerprint impressions being taken by the Police in connection with this application, if required for the purpose of verifying my criminal record. My personal particulars are as follows: -

Name _____

Date of Birth _____

HK Identity Card No. _____

Passport No. _____

Chinese Commercial Code Nos. _____ / _____ / _____ / _____

(as recorded on the applicant's HK Identity Card – where applicable)

Place of Birth _____

(Signature of Applicant)

Date _____

Personal Information Collection Statement

Purpose of Collection

The personal data collected in this form is used by the Labour Department (“LD”) for the purposes of considering whether to issue/ renew an employment agency (“EA”) licence, a duplicate licence or certificate of exemption, public viewing of licensed employment agencies through the search function of the EA Portal and administering/ enforcing Part XII of the Employment Ordinance (“EO”), Employment Agency Regulations and Code of Practice for Employment Agencies. The relevant information may also be used to assist in the enforcement of relevant laws by other government bureaux/ departments.

2. The name of licensee of an EA/ the name of holder of a certificate of exemption and other relevant information will be published in the Gazette so that members of the public can ascertain whether a person or a company has been granted an EA licence / certificate of exemption.

3. Where an EA or a person has been convicted of the offence of overcharging job-seekers under Section 57(1)(a) of EO or the offence of unlicensed operation under Section 51(1) of EO, or where an EA has its licence revoked or refused renewal or has been issued written warnings by the Employment Agencies Administration (“EAA”) of LD, the following information will be published on the website of the EA Portal of LD –

- the name and address of the EA concerned;
- the date and nature of conviction;
- the date and reason for revocation/ refusal of renewal of licence; and/ or
- the date and reason for issuing the written warning.

4. Furthermore, LD will publish information in the form of press release when an EA or a person has been convicted of overcharging job-seekers or unlicensed operation, or when an EA has its licence revoked or refused renewal.

5. The provision of personal data by means of this form is voluntary. If you do not provide sufficient information, we may not be able to process your application/ complaint.

Classes of Transferees

6. The personal data provided may be disclosed to other government bureaux/ departments for the purposes mentioned in paragraph 1 above.

Access to Personal Data

7. You have the right of access and correction with respect to your personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of the personal data you have provided. You can make such requests by filling in the “Personal Data Access/ Correction Request Form” which is available at the office of EAA of LD.

Enquiries

8. For enquiries on the collection, access and correction of your personal data, please contact EAA at 2115 3667, or write to the Labour Officer of EAA of LD at Unit 906, 9/F, One Mong Kok Road Commercial Centre, 1 Mong Kok Road, Kowloon.