

**Recommendations on the Government's Enhanced Supplementary Labour Scheme
by Hong Kong Retail Management Association
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The Hong Kong Retail Management Association (HKRMA) welcomes the implementation of the Enhanced Supplementary Labour Scheme (ESLS) by the Government. The scheme allows for the importation of labour in 26 job categories and unskilled/low-skilled positions, including retail. HKRMA sees the ESLS as an initial step towards addressing the chronic manpower shortages faced by the retail industry.

We appreciate the Government's efforts in organizing workshops and briefing sessions to familiarize stakeholders with the scheme. Our representatives attended these events. However, due to the complexity of retail work and operations, our retail members found it challenging in complying with certain ESLS requirements and there are also aspects of the scheme which remain unclear to them. Based on the feedback from our members, we have summarized their concerns/challenges with respective recommendations which we think will enhance the practicality and effectiveness of ESLS. Apart from the concerns, there are further inquiries which we would like to seek further clarifications from Government. All are summarized below for the consideration of the Labour Department:

Stipulations in the ESLS	Concerns / Challenges	Recommendations
Recruitment Procedures	<ul style="list-style-type: none">• 4 weeks of recruitment advertisements for locals are required before the employers apply for the importation of labour.• The recruitment package for the imported labour is required to state in the job advertisements. This will confuse the local applicants because of different packages for locals and the imported labour.• Detailed work locations should be stated in the	<ul style="list-style-type: none">• Employers' pre-application job advertising history should be accepted as a proof of its real intention on recruiting candidates; or• With reference to Macau, employers could provide proof of local recruitment details and results to support the application, instead of having to place recruitment advertisements for locals for four weeks.• The package for the import labour is irrelevant to the local candidates and may confuse the locals.

	<p>recruitment advertisements. This is not feasible because many retailers are running many outlets across the city, i.e. there may be over 100 possible work locations under 1 single company.</p>	<ul style="list-style-type: none"> • Putting all work locations in the job advertisement is not practical because of the many work locations of a retailer. Employers may put HK Island, Kowloon and New Territories instead. • The best option is to allow employers to use their standard job advertisement template and job offer historical records to prove the local recruitment efforts.
Application Procedures	<ul style="list-style-type: none"> • Hong Kong companies have to carry out the recruitment of imported labour via 14 Mainland agencies. Some companies commented that some agencies on the list were not responsive and their service terms varied. For example, some charge employers for fees while some others do not. One agency replied over the phone that it does not refer candidates to Hong Kong employers but only offers services relating to the work visa application procedures in Mainland China. Basically, only 5 of the agencies are at the GBA. 	<ul style="list-style-type: none"> • The Government could consider negotiating a standard term with the Mainland agencies. For instance, it should be stipulated that the agencies need to provide a standardised scope of services and that they could not charge the employers in this respect. • The Government might consider offering more agency options in the GBA. • The Government should provide assistance channels for Hong Kong retailers should they encounter any problems with the agencies.
The 2:1 ratio between local and imported workers by work location	<ul style="list-style-type: none"> • The retailers are suffering from high staff turnover rate and some shops may need to be temporarily managed by part-timers 	<ul style="list-style-type: none"> • For the ratio between local and imported workers, e.g. 2:1, it should be based on the total number of staff under the business registration or trading brands to

	<p>due to the hiring difficulty. The 2:1 ratio based on work location can hardly be 100% maintained during the contract period.</p> <ul style="list-style-type: none"> • Employers may plan to open new shops but there is not yet any actual headcount in place upon submitting their ESLS applications. 	<p>allow flexibility in actual manpower deployment.</p> <ul style="list-style-type: none"> • The employers should be allowed to apply for the imported labour for the new shops based on budgeted headcount. Or, the imported labour quota can be approved based on the business registration or trading brand instead of the work location.
<p>Work Locations</p>	<ul style="list-style-type: none"> • Imported labour must work at the specified address as stipulated in employment contract and it cannot be changed once the application is submitted. This arrangement restricts the flexibility of manpower planning, particularly for employers running franchised stores. Different from construction sites of mass scale with many labours, temporary staff transfer across small shops of the same chain with only a few headcounts are practically required for reasons such as renovation, termination of tenancy agreements, temporary shop closure because of emergency e.g. damages by typhoons, electricity breakdown, water leakage, etc. 	<ul style="list-style-type: none"> • If the employer is an operator of chain or multiple stores, transfer of imported labour among different shops under the same company or trading brand or at least in the same district within a specific duration (such as three months) should be allowed.

<p>Accommodation</p>	<ul style="list-style-type: none"> • Many employers do not have expertise to manage staff quarters across territories. If the staff quarters are not managed properly, it would cause many issues for both the employers and the imported workers themselves. 	<ul style="list-style-type: none"> • The Government might consider the options of “accommodation allowance” for employers. • The Labour Department might consider centrally appointing agencies to arrange and manage the hostels/quarters for the imported labour at various locations across different districts in Hong Kong. Employers may then pay a standard fee to the Government for using the quarters arranged by the Government. • The imported labour should be allowed to live in his/her own choice of accommodation in Hong Kong if he/she has his/her own place, or friends or relatives to take care of him/her. The employer may then directly pay the 10% housing allowance to the imported labour.
<p>Salary Package</p>	<ul style="list-style-type: none"> • Internal comparison and equity may cause human resources issues: (a) imported labour’s basic salary may be higher than the local staff. (b) The local staff package consists of high ratio of variable payments which differ from the imported labour. (c) Local staff may have higher or lower income than the imported labour in different months, depending on business turnover. (d) Local staff 	<ul style="list-style-type: none"> • The salary requirement should be based on “total take home” pay instead of fixed basic salary. The Government may consider defining a reasonable minimum total take home pay instead of a fixed package for the imported labour. • There may be different wage components for staff in different companies, including but not limited to: “Basic Salary”, “Guaranteed Allowance”, “Guaranteed Commission”, “Extra Allowance”,

	<p>packages vary across different trading brands and shops, whereas imported labour packages are fixed regardless of trading brands, business size and shop locations.</p>	<p>“Commission”, etc. The “Guaranteed Minimum Wage” should be equal to “Basic Salary” + “Guaranteed Allowance” + “Guaranteed Commission”.</p> <ul style="list-style-type: none"> • For overtime compensation, can the employers follow the standard company policy to pay fixed hourly rate for overtime work, same as the other local staff? • In the calculation of “daily wages”, if the rest days are with pay, the employers should be allowed to follow the policy for local staff to include the rest days in the formula to calculate “daily wages”, e.g. \$14,000/31 or 30 instead of using working days only.
<p>Medical Benefits</p>	<ul style="list-style-type: none"> • It is a heavy burden for the employers to provide free medical benefits covering all aspects. For local shop staff, most employers do not provide free medical coverage. • Medical coverage for the imported labour is better than local labour, which may be seen as an unfair condition for local employees. 	<ul style="list-style-type: none"> • Medical benefits for the imported labour should align with the standard benefit scheme for local employees. Normally, there is a cap on the amount and number of visits for medical coverage. Co-payment is also commonly required. Dental coverage is often not provided. • Besides, clarification from the Labour Department or insurance companies is required on whether medical expenses incurred outside Hong Kong can be reimbursed and what supporting document is accepted.

<p>Work Injury Handling</p>	<ul style="list-style-type: none"> At a Government briefing, it was mentioned that an employer was required to apply for extension of work visa for the concerned imported labour if a work injury investigation is unresolved. If this is the case, the employers need to bear also the accommodation and other statutory benefits for the injured imported labour during the extended visa period which adds lots of administrative and financial burden to the employers. 	<ul style="list-style-type: none"> The contractual employment relationship should be seen as ended. The imported labour should return to their places of origin pending the case settlement. The employer should not be required to extend their work visa, but should continue to be responsible for the periodic payment, medical expenses and compensations as per the Employees' Compensation Ordinance.
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Further Inquiries:

- If a retailer has an associated company / branch in Mainland China, can it directly hire the staff in the Mainland and then transfer the staff to Hong Kong?
- How to define the number of working days per week? Do “Non-working days” include only “Standard Rest Days”? Or does it also include “Statutory Holidays”, “Annual Leaves” and other leaves over and above the employment ordinance provided by the employer? The actual working days per week may exist decimal places, i.e. 4.X or 5.X, shall we correct to 1 decimal place when filling in this information or just provide a range, i.e. 4-5 / 5-6?
- Shall the imported labour join the MPF Scheme with the same requirements as the local employee? For the imported labour from Mainland China, most of them are contributing to the security funds (五險一金).

- What is the tax requirement for the imported labour (as well as the requirements for the employer to the imported labour (if any), e.g. Salaries Tax) in Hong Kong? Are the imported labour subject to global tax and if there is a tax treaty arrangement, what exactly the details are and how the employer reports Hong Kong salaries tax for them.
- Except the body check for visa application, is it a mandatory for the employer to provide a medical examination to the imported worker (e.g. salesperson) prior to the employment, in order to declare his/her fitness to perform the work contemplated?
- The notice period for imported worker must be seven days, or can the employers adjust the employment term and clearly stated in the employment contract based on the Hong Kong Employment Ordinance?
- Shall the employer need to pay for the female imported worker's pregnancy check-ups fee or other confinement medical treatment fee?
- Is imported worker with the HKID card eligible to enjoy the low charge (\$100 per visit) under the (medical charge) mechanism of the public hospital services provided by Hospital Authority?

Conclusion

HKRMA appreciates the Government's positive response to the society's demand for the implementation of the ESLS and its extensive efforts to engage with stakeholders through various consultations and briefing sessions.

However, it is important to recognize that the retail industry has unique characteristics that distinguish it from other sectors. For example, frontline retail workers, in particular, may not work at fixed locations but instead may be required to work at various outlets across the city. Our fellow retailers are currently facing uncertainties during the application process and we anticipate certain practical concerns upon the arrival of imported labour.

We would like to reiterate that on the premise of safeguarding the employment priority for local workers, the Association sincerely hopes that the ESLS could be amended to streamline the application and approval process, taking into account the practical aspects specific to the retail sector, and to provide greater flexibility for the retail sector through the aforementioned recommendations.

The Hong Kong retail industry is currently facing various business challenges. In addition to the labour shortages, the growing trend of local people travelling to the Mainland for leisure spending, and the rising rents put us in a very unfavourable business conditions. If these challenges remain unresolved, they may hinder the development of Hong Kong retail and ultimately the city's economic recovery.

It is expected a more flexible approach for the ESLS will contribute to a positive first step towards alleviating Hong Kong's chronic labour shortages. With better manpower, retailers could deploy additional staff to enhance customer services and provide customers with more personalized experience, so as to rebuild Hong Kong's image as an "Experiential Shopping Paradise". We believe our recommended amendments would strengthen the effectiveness of the ESLS and enhance the city's global competitiveness.

HKRMA is willing to provide any necessary support and is looking forward to further communication with the Labour Department on this matter to explain the above inquiries and recommendations.

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