



# **CONDITIONS OF EMPLOYMENT FOR FOREIGN DOMESTIC HELPERS**

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## **A General Guide to the Employer**

**Immigration Department  
The Government of the Hong Kong  
Special Administrative Region**

This guide, in the form of simple questions and answers, provides a brief description of the conditions of employment for foreign domestic helpers. It is not a full exposition of the subject matter. For further information, please refer to the Guidebook for the Employment of Domestic Helpers from Abroad [ID(E)969] and the standard Employment Contract (ID407/ID407F) obtainable from the Immigration Department. Information on the Employment Ordinance (Chapter 57, Laws of Hong Kong) is also obtainable from the Labour Relations Division of the Labour Department. The addresses of their branch offices are listed in the Appendix.

If you need advice on individual cases, you may address your enquiries to :

Information and Liaison Section  
Immigration Department  
2/F Immigration Tower  
7 Gloucester Road  
Wanchai

Telephone Enquiry : 2824 6111  
Fax : 2877 7711

OR

Labour Relations Division  
Labour Department

(Addresses of branch offices are at the Appendix)

Telephone Enquiry : 2717 1771

1. I understand that the wage rates for foreign domestic helpers are subject to regular review. Am I obliged to adjust the wage of my helper every time the rate is revised? What is the current minimum allowable wage (MAW) for foreign domestic helpers in Hong Kong?

No, you are not obliged to revise the wage of your existing helper if he/she is already on a valid contract. The revision only applies to contracts made after the date of announcement. The current MAW (which took effect from 1 April 2003) is HK\$3,270. from 10 July 2008 ) is HK\$3,580.

**Labour and Welfare Bureau**

The MAW is subject to periodic reviews by the ~~Economic Development and Labour Bureau~~ and public announcement will be made by them when there is a change or when they decide to maintain the wage level. For information on the prevailing MAW, you may refer to Chapter 3 of the "Practical Guide for Employment of Foreign Domestic Helpers – What Foreign Domestic Helpers and Their Employers Should Know" provided by the Labour Relations Promotion Unit of the Labour Department at <http://www.labour.gov.hk/>.

2. What are my legal responsibilities in employing a foreign domestic helper?

Your legal responsibilities are governed by the employment contract and the laws of Hong Kong. In broad terms, you should pay your helper the full wages, observe the statutory requirements under the Employment Ordinance such as provision of paid annual leave, holidays and rest days, and provide him/her the cost of passage to and from Hong Kong. **It is an offence if you pay your helper lesser amount of monthly wages than that is stipulated in the employment contract.**

Under the Employees' Compensation Ordinance, you are required to take out an insurance policy for your helper to cover accidents arising out of and in the course of employment. Under Clause 9(a) of the contract, you shall also provide free medical treatment to your helper when he/she is ill or suffers personal injury, whether or not it is attributable to his/her employment. In the event of the termination of the contract, you should inform the Immigration Department in writing.

3. Can I require my helper to work in an address other than the address specified in the contract or in another household or in other kinds of employment?

No, a foreign domestic helper is only allowed to perform domestic duties for a specific employer at the address as specified in the employment contract. If you deploy your helper illegally to work for another person or require him/her to work on non-domestic duties, you may have committed an offence.

4. Can I allow my helper to take up part-time employment if he/she is not fully engaged in my household?

No.

5. Can I require my helper to perform motor driving duties that are incidental to and arising from domestic duties?

No, unless you have obtained special permission from the Immigration Department for performance of motor driving duties by foreign domestic helpers.

6. What should I do if my helper is insolent, disobedient and refuses to accept orders?

You may terminate the employment without notice or payment in lieu of notice under the circumstances permitted by the Employment Ordinance. Such circumstances include wilful disobedience to lawful and reasonable order, misconduct, guilty of fraud or dishonesty, or habitual negligence in the duties on the helper in relation to his/her employment.

7. Can I employ a foreign domestic helper who is now in Hong Kong and whose contract has been terminated before it has run its course?

Where a contract is broken before it has run its course, the helper will not be allowed to change employment save in exceptional circumstances (e.g. when the previous employer is unable to continue with the contract because of external transfer, emigration, death or financial reasons; or there is evidence that the domestic helper has been abused or exploited). If he/she wishes to take up another job here, he/she must return to his/her country of origin and apply for an employment visa at the Chinese diplomatic and consular mission there or directly by post to the Hong Kong Immigration Department.

8. Can I employ a foreign domestic helper who is now in Hong Kong and whose contract has been completed in full?

Yes, provided that he/she submits the new contract to the Immigration Department within two weeks of the expiry date of his/her old contract. He/She will normally be required to take a home leave before returning to Hong Kong to start new contract. The Immigration Department will issue an entry visa before he/she departs.

9. Can I employ a part-time foreign domestic helper?

No. If you are in need of a part-time helper, you may approach the Employment Service Division of the Labour Department for assistance.

10. What would happen if an employer were found to have breached any statutory provisions or any provision of the employment contract, or to have abused or exploited the helper?

Apart from the legal liabilities to be borne by the employer, foreign domestic helpers may not be approved to be employed by the employer in future.

11. Who is eligible to employ an FDH? Where can the public find out the eligibility criteria?

Any Hong Kong resident who can satisfy the following criteria may employ an FDH:

- (1) he/she is financially capable of employing an FDH;
- (2) he/she has entered into a standard employment contract (ID407) as specified by the Director of Immigration with the prospective helper;
- (3) he/she will require the prospective helper to perform domestic duties only;
- (4) he/she will not allow or require the prospective helper to take up any employment with any other person during the contractual period as specified in the employment contract;
- (5) he/she will pay the helper a salary no less than the minimum allowable wage as announced by the HKSAR Government;
- (6) he/she will let the helper work and reside at the contractual address only;
- (7) he/she will provide the helper with decent accommodation and suitable privacy;
- (8) he/she is a bona fide resident in Hong Kong and the bona fides of him/her and the prospective helper are not in doubt; and
- (9) he/she has no adverse record in respect of employment of FDH.

Details of eligibility criteria are stated in *Guidebook for the Employment of Domestic Helpers from Abroad* [ID(E)969].

12. How does the procedure to apply for FDH, after implementing the levy, differ from before?

The procedure is basically the same. There are some changes to the application forms and adjustment to the administration of the scheme. For instance, if an employer is found not meeting the eligibility criteria, he could appeal to the Labour Department, instead of the Immigration Department.

13. Who is responsible for assessing whether a person is eligible to employ an FDH?

The Director of Immigration will assess the eligibility of the applicants as per the criteria given in the Guidebook. Those who are considered ineligible may request for reconsideration through the channel provided in the written notification.

14. How will levy period be calculated? On a daily or monthly basis? Can you elaborate?

The amount of levy payable in respect of each FDH employed by an employer shall be \$400 multiplied by the number of months specified in the contract of employment entered into between that employer and that FDH. For a standard employment contract for 24 months employment, the employer may choose to pay the levy in one go i.e. \$9,600 or by four equal instalments i.e. \$2,400 for each instalment. A levy period is calculated on a monthly basis. For example, if you employ an FDH on 1 October 2003 and you terminate the employment with the FDH on 15 December 2003, you have used up levy for 3 months. This calculation determines how much relevant balance of levy is left for transference to the replacement FDH to be employed within 4 months of the termination of the previous FDH. If you have paid one instalment of levy for 6 months i.e. \$2,400, you will have a relevant balance of levy for 3 months i.e. \$1,200. In case you have paid all levy in one go i.e. \$9,600, you will have a relevant balance of levy for 21 months i.e. \$8,400.

15. What are the changes in procedure/mechanism in applications related to FDH after the collection of levy is implemented?

The prospective employer will need to complete the application form for employing domestic helper from abroad and submit together with the entry visa application form of the FDH, the duly completed standard contract (notarised, if required) and other necessary documents to the Immigration Department. The procedure/mechanism of processing the entry visa applications of the FDH remains largely the same from 1 October 2003 onwards except that every FDH who is allowed to work under a new contract in Hong Kong will be issued with a new entry visa to enable him/her to enter Hong Kong to commence a new contract including a renewed one. However, the Immigration Department may grant an extension of stay not more than one year together with an entry visa to FDHs renewing their contracts in cases where the employers have justifiable needs to keep the FDHs immediately after the expiry of the current contract. The FDH, nevertheless, must return to his/her place of origin for home leave before the middle of the new contract (i.e. before his/her extended stay expires) and come back to Hong Kong to complete the rest of the new contract on the strength of the entry visa.

16. What are the options for payment of levy?

The levy is payable in one go (\$9,600) before the visa for an FDH is granted or in four equal half-yearly instalments (\$2,400 each), with the first payment being made before the visa is granted.

17. How can I make the levy payment?

If you pay the levy in one go, you will be required to pay it (by cheque or cash) at the visa issuing office before the issue of visa. If you pay the levy by instalments, you will be required to pay the first instalment (by cheque or cash) at the visa issuing office before the issue of visa. You may then pay the subsequent instalments (by cheque or cash) at the Immigration Headquarters or any of the 6 Immigration Branch Offices listed on the back of the Payment Note in person. If you opt to pay by post or drop-in box, you are required to enclose your cheque (quoted with the file reference) and the Payment Note and send them by mail or drop them at the designated collection box at the Immigration Department Headquarters.

18. What will happen if I fail to make instalment payment?

The Immigration Department will send a reminder to you. If you fail to respond, the entire outstanding levy will become due immediately and the Government may take legal action against you to recover the outstanding instalment. Immigration Department would take into account your adverse record if you submit another application for importing FDH. You may thus be considered ineligible for employment of FDH for a certain period of time.

19. Can I make the levy payment by Internet/PPS/phone-banking?

No. You can only make payment to the Immigration Department in person, by mail or by using the drop-in box of the Immigration Department.

20. What will be the normal processing time of an FDH application for the Immigration Department after the imposition of the levy? Is there a performance pledge?

The Immigration Department's performance pledge for FDH applications is that 90% of the applications will be finalised within 6 weeks upon receipt of all necessary documents.

21. In case of pre-mature termination of FDH, is there any refund to the employer?

There will be no refund under any circumstances. But the Director of Immigration would take into account the unused balance if the employer submits a new application within 4 months of the termination of the contract. In other words, the unused balance may be carried forward for the employment of the next FDH if the contract of the current FDH is terminated or if the FDH fails to arrive in Hong Kong.

22. Under what circumstances will I have to pay levy?

Levy will be imposed on all applications pertaining to the employment of FDH received by the Immigration Department on or after 1 October 2003.

23. In the event of mutually agreed extension of existing contract for not more than 3 months (as stated in the version of contract before 1 April 2003) /1 month (as stated in the version of contract after 1 April 2003), will levy be imposed?

An extension of not more than 1 or 3 month(s) (according to clause 15(a) of the relevant contract) by mutual agreement will not be subject to payment of levy. An extension of more than one month is normally not allowed. Such extension is granted only in exceptional circumstances with extenuating reasons and on the confirmation of the employer that no further contract will be entered into with the FDH in question.

24. How to determine the default date?

The default date is the date on which the defaulting employee fails to arrive in Hong Kong, or complete his contract of employment, as the case may be, first came or should have first come to the attention of that employer.

25. Can the relevant balance of levy be brought forward to my replacement FDH if I release my existing FDH one month prior to expiry of contract?

If you terminate the employment with the existing FDH one month before expiry of the contract, the one-month relevant balance of levy can be brought forward to the replacement FDH. On the other hand, if you release your existing FDH for vacation leave one month before expiry of the contract without terminating the contract, your FDH is still regarded as under your employment for the last month and the levy for that month cannot be carried forward to the replacement FDH.

26. If I have paid the first instalment of \$2,400 for my existing FDH who only works for me for 3 months and 1 day, how much balance of levy can be transferred to my replacement FDH?

As any number of day(s) less than one month will be regarded as one month, 3 months and 1 day will be regarded as 4 months. The balance of levy can be transferred to your replacement FDH is \$800 (for 2 months).

27. In case my replacement FDH's application is submitted within 4 months of default date of the last FDH, if I withdraw this application or the replacement FDH cancels this application

or the application is refused, can my relevant balance of levy be transferred to my second replacement FDH and what is the time frame?

You can transfer the levy to the second replacement FDH provided the application is submitted within 4 months from the date of withdrawal, cancellation or refusal of the application for the first replacement.

28. When my FDH submits application for renewal of contract, he/she is aware that he/she has been negligently overstaying for almost 6 months, do I need to pay the levy for the period of overstaying?

As levy must be paid before the commencement of a contract, no levy is payable for the period beyond the contractual period. However, overstaying is a criminal offence under the Immigration Ordinance and is liable on conviction to a fine at level 5 (\$25,001-\$50,000) and to imprisonment for 2 years. Any aider and abettor is subject to the same punishment. Moreover, the relevant employer and FDH may be prohibited from employing FDH and working as FDH respectively for a period of time.

29. I have 2 FDHs (A and B). I have prematurely terminated A while B is applying for renewal of contract. Can I transfer the relevant balance of levy from A to B so that I can pay less levy for B?

Section 15(2) of the Employees' Retraining Ordinance has specified that the Director of Immigration shall take into account the relevant balance of levy if the employer employs an FDH by way of a replacement for the defaulting employee. As this is not an application for replacement of FDH, the balance of levy from A cannot be transferred to B.

30. I have 2 FDHs. I have prematurely terminated both of them and applied for only one replacement for them. Can the relevant balance of levy from them be jointly transferred to the replacement FDH?

Transfer of levy can only be applied to the replacement to an FDH. Only the balance of levy of one of the FDHs can be transferred to the replacement FDH. They cannot be jointly transferred to the same replacement FDH.

31. Must FDH employment contracts be notarised by corresponding consulates before Immigration Department approve FDH employment visas?

Yes. Except for the countries not requiring notarisation of FDH employment contracts, all contracts have to be notarised before FDHs are approved to work in Hong Kong.

32. Why should my FDH apply for 2 visas (one for entry and the other for extension of stay) upon renewal of contract application?

According to the standard employment contract, an FDH should enjoy his/her home leave upon completion of his/her 2-year employment contract. If he/she wishes to continue to work as FDH in Hong Kong, he/she should apply for an entry visa to enter Hong Kong to commence the new contract. Starting from 1 October 2003, all FDHs applying for renewal of contract will be granted a visa if their applications are approved. In case the employer can release him/her to take home leave, there is no need for the FDH to apply for extension of stay. Extension of stay is only required when the employer cannot make such arrangement immediately.

33. What should I submit together with the application to ensure that the Immigration Department will accept the application?

[ID 988 B] You must ensure that both the application forms for employing a domestic helper from abroad [ID(E)407K] and for an entry visa [ID(E)936A] are duly completed and are enclosed [ID 988 A] with all supporting documents, including a completed contract (notarised by the relevant consulate, if required). Applications without any of the two application forms or any necessary supporting documents will be returned and no further action will be taken until all the application forms and necessary documents are re-submitted. A list of the required documents is provided in the Guidebook [ID(E)969].

34. What can I do to ensure that the Immigration Department has received my application?

An acknowledgement card (ID 813) should be enclosed upon submission of an application. Upon receipt of the application, the Immigration Department will send the acknowledgement card to you. Alternatively, you may submit your application by registered mail. The Immigration Department will regard the date of the postal chop on the envelope as the date of application.

**Immigration Department  
The Government of the Hong Kong  
Special Administrative Region**

Offices of the Labour Relations Division of the Labour Department:

**HONG KONG REGION**

Hong Kong East  
~~12/F, AXA Centre~~ 34/F, Revenue Tower  
5 151 Gloucester Road Wanchai,  
Hong Kong.

Hong Kong West  
3/F, Western Magistracy Building,  
2A Pokfulam Road,  
Hong Kong.

**KOWLOON REGION**

Kowloon East  
Room 1206, 12/F, Stelux House,  
698 Prince Edward Road East,  
San Po Kong,  
Kowloon.

Kowloon West  
Room 1009,  
10/F, Cheung Sha Wan Government Offices,  
303 Cheung Sha Wan Road,  
Kowloon.

Kowloon South  
2/F, Mongkok Government Offices,  
30 Luen Wan Street, Mongkok,  
Kowloon.

Kwun Tong  
6/F, Kowloon East Government Offices,  
12 Lei Yue Mun Road, Kwun Tong,  
Kowloon.

**NEW TERRITORIES REGION**

Tsuen Wan  
5/F, Tsuen Wan Government Offices,  
38 Sai Lau Kok Road, Tsuen Wan,  
New Territories.

Kwai Chung  
6/F, Kwai Hing Government Offices,  
166-174 Hing Fong Road, Kwai Chung,  
New Territories.

Tuen Mun  
Room 2720,  
27/F, Tuen Mun Parklane Square,  
2 Tuen Hi Road, Tuen Mun,  
New Territories.

Sha Tin & Tai Po  
Rooms 304-313,  
3/F Sha Tin Government Offices,  
1 Sheung Wo Che Road,  
Sha Tin,  
New Territories.



### **Addendum to ID(E) 954, ID(E) 969 and ID(E) 989**

Starting from 1 August 2008, employers of foreign domestic helpers (helpers) are not required to pay Employees Retraining levy (the levy) if the visas for the helpers are granted by the Immigration Department between 1 August 2008 and 31 July 2010.

For existing contracts with outstanding levy, employers have to settle the payment in the usual manner according to the schedule as specified by the Director of Immigration in the Payment Note (ID 971). If the contract is subsequently terminated prematurely with unused levy balance, the balance shall not be refunded or carried forward to the time after the suspension ends.

Between 1 August 2008 and 31 July 2010, advanced contract renewal is allowed. That is, the employer and the helper can enter into a new employment contract regardless of the existing contract has yet to run its 2-year full course. Under this advanced contract renewal arrangement, helpers are not required to leave Hong Kong after the termination of the existing contract. The application procedures are the same as those of normal contract renewal cases except that proof of the employer's financial position is waived. The employer shall also sign a specified written statement with the concerned helper, to confirm the termination of the existing contract including the effective date of termination, and to commit on the continuity of employment relationship between the new and the old contracts. Application for advanced contract renewal will normally be accepted within 4 weeks prior to the termination of the existing contract.

Under the existing immigration policy, helpers are permitted to remain in Hong Kong up to the permitted limit of stay or 2 weeks from the date of termination of contract, whichever is earlier. If they want to start a new contract with another employer, they have to leave Hong Kong before submitting the visa application.

Immigration Department  
The Government of the Hong Kong  
Special Administrative Region  
August 2008



## **Amendment Notice**

Applicants should take note of the following new arrangements:

1. Applicants are no longer required to submit acknowledgement card (ID 813) or mailing labels (ID 839). Upon receipt of an application, Hong Kong Immigration Department will send out an acknowledgement letter.
2. For applications submitted to the Hong Kong Immigration Department direct, payment of fees can be made by EPS.

Immigration Department  
The Government of the Hong Kong  
Special Administrative Region  
May 2009

Amendment Notice to ID 903A(11/08), ID(E) 954(3/2004), ID(E) 969(12/07), ID(E) 989(12/07), ID(E) 991(10/08), ID(E) 993(10/08), ID(E) 996(10/08), ID(E) 998(10/08), ID(E) 1000(10/08), ID(E) 1002(10/08), ID(E) 1002(02/09) & ID(E) 1004(10/08)



## **修訂通告**

申請人需留意以下的新安排:

1. 申請人無需再遞交認收通知卡 (ID 813) 或郵寄標籤 (ID 839)。香港入境事務處在接獲申請後，會寄出認收通知信。
2. 如申請是直接向香港入境事務處遞交，費用可以易辦事繳交。

香港特別行政區政府  
入境事務處  
二零零九年五月

ID 903(11/08), ID(C) 954(3/2004), ID(C) 969(12/07), ID(C) 989(12/07), ID(C) 991(10/08), ID(C) 993(10/08), ID(C) 996(10/08), ID(C) 998(10/08), ID(C) 1000(10/08), ID(C) 1002(10/08), ID(C) 1002(02/09)及 ID(C) 1004(10/08)的修訂通告