

## **LEGISLATIVE COUNCIL BRIEF**

### **Admission Scheme for Mainland Talents and Professionals**

#### **INTRODUCTION**

At the meeting of the Executive Council on 11 March 2003, the Council ADVISED and the Chief Executive ORDERED that -

- (a) the Admission of Talents Scheme (“Talents Scheme”) and the Admission of Mainland Professionals Scheme (“Mainland Professionals Scheme”) be abolished and a new Admission Scheme for Mainland Talents and Professionals (“the Scheme”) be introduced;
- (b) the eligibility criteria and procedures set out in paragraphs 6 to 10 and 14 to 15 below should apply to the new Scheme;
- (c) successful applicants under the Scheme be allowed to bring their spouses and unmarried dependent children to Hong Kong (paragraph 11 below);
- (d) Mainland residents admitted under the existing Mainland Professionals Scheme be allowed to bring in their spouses and unmarried dependent children (paragraph 13 below);
- (e) a non-statutory advisory committee to be appointed by the Chief Executive be set up to advise on applications submitted under the Scheme (paragraphs 16 to 17 below);
- (f) Mainland residents may apply to enter Hong Kong for intra-company transfer on a similar basis as foreign nationals and residents of Taiwan (paragraph 20 below); and
- (g) Mainland residents approved to enter Hong Kong for intra-company transfer may apply to bring in their spouses and unmarried dependent children (paragraph 21 below).

## **JUSTIFICATIONS**

2. The most important element determining an economy's competitiveness is arguably the quality of its people. Where local manpower supply cannot keep pace with the evolving needs of the community, it is a common practice of economies worldwide to import talents and professionals from other places whilst providing suitable safeguards for the local workforce. In the case of Hong Kong, we have put in place policies that facilitate local businesses to meet their manpower needs by bringing in qualified overseas talents and professionals. However, there are sectoral restrictions on the importation of Mainland professionals except in the cases of the financial services sector and the IT sector. At a time when the global competition for quality personnel is getting more intense, the sectoral restriction has put Hong Kong-based businesses in other sectors at a distinct disadvantage by depriving them of the opportunity to tap the vast manpower pool available in the Mainland even if doing so would not adversely affect the employment opportunity or wage levels of the local workforce.

3. Furthermore, given increasing economic integration between Hong Kong and the Mainland and the business opportunities arising from Mainland China's accession to the World Trade Organisation, there is an increasingly pressing need for local enterprises to tap the expertise and experience of quality personnel from all fields in the Mainland to help expand their business horizon and operations in the Mainland. Mainland talents possess unique strengths and knowledge essential to local businesses in tapping the Mainland market, such as language abilities, connections, as well as a deep understanding of the culture, consumer preference, and how business institutions operate in the Mainland. These are valuable assets to Hong Kong firms and foreign companies based here with an eye on the Mainland market.

4. Against the above considerations, we see no reason to continue the current restrictive sectoral approach to the admission of Mainland professionals to Hong Kong, provided that there are safeguards to ensure that only those who possess skills and experience not readily available locally will be admitted, and that they are offered market level remuneration in a confirmed employment offer.

5. On 26 February, Government announced the Report of the Task Force on Population Policy. It is stated clearly in the report that our policy intention is to align the conditions for admitting Mainland residents for employment with those applicable to foreign nationals as far as possible. Under the general employment policy, foreign nationals (except those from a small number of countries which pose immigration and/or security risks) and residents of

Taiwan may enter Hong Kong to work provided that they possess skills, knowledge or experience not readily available locally and are offered market level remuneration in a confirmed employment offer. We need to devise a detailed scheme for putting the new policy for the entry of Mainlanders into practice.

## **A New Scheme**

### ***Eligibility Criteria***

6. We propose to abolish the existing Talents Scheme and the Mainland Professionals Scheme and introduce a new Admission Scheme for Mainland Talents and Professionals. No sectoral restriction or quota will be imposed under the new Scheme. Mainland residents who satisfy the following eligibility criteria may apply for entry under the Scheme -

- (a) the applicant should have a good education background, normally a first degree in the relevant field, but in special circumstances, good technical qualifications, proven professional abilities and/or relevant experience and achievements supported by documentary evidence may also be accepted;
- (b) the applicant's admission is contingent on a confirmed offer of employment. The applicant should be employed in a job relevant to his academic qualifications or working experience which cannot be readily taken up by the local work force; and
- (c) the remuneration package including income, accommodation, medical and other fringe benefits should be broadly commensurate with the prevailing market level for professionals in Hong Kong.

The above criteria are in line with those applicable to foreign nationals and residents of Taiwan under the general admission for employment policy.

7. Apart from professionals in the commercial and financial fields, the Scheme would also cater for the entry of talents and professionals in the arts, culture and sports sectors as well as those in the culinary profession. The admission of these persons will enhance Hong Kong's status as an Asian world city.

8. We have considered, but concluded against, simply extending the existing general employment policy to Mainland residents instead of putting in place a specific scheme for them for the following reasons -

- (a) As Mainland residents seeking to enter Hong Kong for whatever purpose must apply for exit approval from the Mainland authorities in accordance with BL 22(4) and relevant Mainland laws, admission arrangements applicable to Mainlanders are intrinsically different from those for non-Mainlanders;
- (b) As our admission policy for Mainlanders are closely related to the Mainland's policy on exit control, it is our practice to consult Mainland authorities when formulating or revising such policy. On the other hand, there is no need to consult Mainland authorities in implementing changes to our general employment policy which applies separately to overseas professionals. Applying the same policy to Mainlanders and non-Mainlanders alike would derogate from our autonomy in dealing with non-Mainlanders; and
- (c) While non-Mainlanders may bring in their spouses, unmarried dependent children and parents under existing policy, we do not recommend allowing successful Mainland applicants to bring in their parents (see paragraphs 11 and 12 below).

9. Non-Mainlanders are currently allowed to submit entry applications under the Talents Scheme. As foreign nationals and residents of Taiwan may apply to enter Hong Kong for employment under the general employment policy which is in fact less stringent, we do not envisage any problem for the admission of these persons even if the Talents Scheme is abolished under our present proposal.

10. Suitable transitional arrangements will be put in place for entrants under the existing Talents Scheme and Mainland Professionals Scheme. They will be allowed to stay in Hong Kong as long as they continue to satisfy the eligibility criteria of the relevant scheme. If they no longer abide by such requirements, the Immigration Department will not grant them extension of stay in Hong Kong.

### ***Entry of Dependants***

11. We propose that Mainlanders admitted under the new Admission Scheme for Mainland Talents and Professionals may bring in their spouses and unmarried dependent children<sup>1</sup>. We believe that allowing successful applicants under the Scheme to bring in their immediate family, i.e. spouses

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<sup>1</sup> The age limit applicable to dependent children of Mainlanders admitted under the Scheme should follow the prevailing policy on entry of dependants.

and unmarried dependent children, is a reasonable arrangement taking into account the personal needs of the applicants and the general interests of the Hong Kong community.

12. Foreign nationals and Taiwan residents admitted to work in Hong Kong may bring with them their spouses, unmarried dependent children and dependent parents<sup>2</sup> provided that the sponsor concerned can support and accommodate his or her dependants in Hong Kong at a reasonable standard. We are now reviewing the general policy on the admission of dependants applicable to foreign nationals and residents of Taiwan, and are considering changing existing policy to allow persons admitted to Hong Kong for employment and investment to bring in their immediate family only (i.e. spouses and unmarried dependent children). Dependent parents already admitted under the existing policy should not be affected by any policy change.

13. For Mainlanders admitted under the existing Mainland Professionals Scheme, we propose that their spouses and unmarried dependent children be allowed to enter Hong Kong as dependants in line with the arrangements under the new Scheme.

### ***Application Procedures, Entry Arrangements and Conditions of Entry***

14. Mainland residents who satisfy the eligibility criteria may apply for entry under the Scheme. All applications should be submitted by the employers, acting as sponsors, to the Director of Immigration (“the Director”). In line with Article 22(4) of the Basic Law which stipulates that people from other parts of China must apply for approval for entry into the HKSAR, applications submitted by Mainlanders already staying in Hong Kong on visitor status will not be normally accepted. The Director will process the applications in accordance with the eligibility criteria set out in paragraph 6 above<sup>3</sup> and consult relevant Bureaux and departments on individual applications where necessary. Given existing resources, Immigration Department would be able to process about 1,200 applications (including applications from dependants) under the new Scheme every month.

15. Successful applicants and their dependants will be allowed to enter Hong Kong outside the One-way Permit Scheme. Permission to stay for one year will be granted upon entry and extension may be granted in line with the

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<sup>2</sup> Under existing policy, dependent parents above the age of 50 and unmarried dependent children under 21 may apply to come to Hong Kong to join their sponsors.

<sup>3</sup> Apart from the eligibility criteria set out in paragraph 6, the applicant should also meet normal security and immigration requirements. The Director will also examine the bona fides of the employing firm and whether its activities will bring benefits to the economy.

prevailing policy if the Mainland talent or professional concerned continues to satisfy the eligibility criteria of the Scheme. Detailed entry arrangements are set out in paragraph 22 below.

### ***Advisory Committee***

16. Presently the non-statutory Selection Committee on the Admission of Talents Scheme, chaired by the Secretary for Security and comprising official and non-official members, advises the Director on applications submitted under the Talents Scheme. An advisory committee was considered necessary for the Talents Scheme as the Director may not be familiar with the nature of and skills required for certain specialized jobs in the high-tech or research and development fields. No such committee was established for the Mainland Professionals Scheme. The Director has been processing entry applications of foreign professionals under well-established criteria and procedures and basically the same arrangements are applied to the operation of the Mainland Professionals Scheme.

17. We propose that the existing Selection Committee on the Admission of Talents Scheme be suitably enlarged and modified to form a new non-statutory advisory committee to be appointed by the Chief Executive to give advice on applications received under the Admission Scheme for Mainland Talents and Professionals. Members of the committee should comprise official members and non-official members from major sectors of the economy. Although applications under the Mainland Professionals Scheme are currently processed by the Director without reference to any advisory committee, we consider that there are merits in setting up an advisory committee for the new Scheme. While there is growing support in the community for relaxation in existing policy to admit quality Mainland personnel so as to enhance Hong Kong's competitiveness, there may still be concern about possible abuse and displacement of employment opportunities for the local population. The proposed advisory committee may play a useful role to alleviate such concern.

### ***Arrangements for Intra-company Transfer***

18. Under existing policy, a company with established operations in Hong Kong may sponsor the entry of an employee who is a foreign national or resident of Taiwan working in its overseas offices for intra-company transfer to or cross-posting in Hong Kong. The Director will consider such applications favourably provided that -

- (a) the employee is at managerial or professional level who has worked with the company for not less than one year;

- (b) he is paid market level remuneration; and
- (c) the number of intra-company transferees sponsored by a company at any one time should be reasonable when compared to its total employment and the nature of its business operation.

19. There is no sectoral restriction or quota on intra-company transfers. Successful applicants may bring their dependent parents, spouses and unmarried dependent children if they can support and accommodate them in Hong Kong at reasonable standards.

20. This policy on intra-company transfer is not currently applicable to Mainland residents. With increasing economic integration between Hong Kong and the Mainland, many local firms and Hong Kong regional headquarters of multinational companies have established operations in the Mainland. These firms have a genuine need to post their employees in the Mainland to Hong Kong for exposure or for assisting in operations relating to the interface between the Mainland and other markets. We recommend that existing policy be relaxed to allow Mainland residents to enter Hong Kong for intra-company transfer on a similar basis as foreign nationals and residents of Taiwan as set out in paragraph 18.

21. Whereas foreign nationals and residents of Taiwan may be allowed to bring in their spouses, unmarried dependent children and dependent parents, we propose to allow Mainland residents to bring in their spouses and unmarried dependent children only. This is in line with the arrangements applicable to successful applicants under the proposed Admission Scheme for Mainland Talents and Professionals.

### ***Consultation with the Mainland***

22. As the proposed Scheme and relaxation in respect of Mainland intra-company transferees will affect the exit policy of the Mainland, we have consulted the Mainland authorities on the proposals. Employers as sponsors of the Mainland applicants will be required to submit the entry applications to the Director. Similar to the existing admission schemes applicable to Mainland residents, applicants under the Scheme must obtain a letter of consent from their existing employers in the Mainland agreeing to release them to work in Hong Kong. The applicant should separately submit an exit application to the Public Security Bureau in his or her locality. In the case of a successful application, the Director would issue an entry permit label to the applicant through the employer. The applicant should affix the entry permit

label to an Exit-entry Permit for Travelling to Hong Kong and Macao (往來港澳通行證) with a relevant exit endorsement (相关赴港簽注) issued by the Public Security Bureau for entry into Hong Kong. Successful applicant who are Mainlanders already working or studying in Hong Kong will need to return to the Mainland first to obtain the proper exit approval before starting work.

## **IMPLICATIONS OF THE PROPOSAL**

23. The proposal has financial, civil service, economic and sustainability implications as set out at Annex. It is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity and environmental implications.

## **PUBLIC CONSULTATION**

24. Government has announced in the context of the Report of the Task Force on Population Policy the intention to align the conditions for the admission of Mainlanders and foreign nationals for employment as far as possible.

## **PUBLICITY**

25. We will announce the Admission Scheme for Mainland Talents and Professionals on 11 March for implementation in July 2003. A press release will be issued and a media briefing will be held. A briefing for the relevant Legislative Council Panels will be arranged as soon as possible.

## **BACKGROUND**

### **Existing Admission Schemes**

26. The Talents Scheme was launched in December 1999 to admit persons from the Mainland and abroad with outstanding qualifications and skills or knowledge not readily available locally, who can enhance the competitiveness of Hong Kong as a manufacturing and services centre, particularly in technology based, knowledge intensive and high value-added activities. Approval for entry had been given to 256 successful applicants as at the end of 2002. Persons admitted under the scheme may bring in their spouses and unmarried dependent children.

27. The Mainland Professionals Scheme was introduced in June 2001 with the objective of bringing in professionals with skills and expertise not readily



available locally so as to meet the immediate operational needs of local firms. The scheme is only open to Mainland professionals in the information technology (IT) and financial services sectors. A total of 158 and 110 professionals respectively from the IT and financial services sectors had been granted entry into Hong Kong for employment as at the end of 2002. Successful applicants are not allowed to bring in their dependants but Government has undertaken to review whether this restriction can be relaxed.

**SUBJECT OFFICER**

28. Enquiries on this brief should be addressed to Ms Linda So, Principal Assistant Secretary for Security (tel: 2810 2330).

Security Bureau  
11 March 2003

## **FINANCIAL AND CIVIL SERVICE IMPLICATIONS**

1. Successful applicants are required to demonstrate to the satisfaction of the Immigration Department that they can support and accommodate their dependants at a reasonable level before they are allowed to bring them into Hong Kong. The demand on our social welfare services by admitted professionals and their dependants should therefore be minimal.

2. Dependent children of successful applicants under the new Scheme can be admitted to private schools and subsidized schools under existing legislation. Similarly, spouses of successful applicants may require training/retraining services in Hong Kong. At this stage, we are unable to assess the demand on these fronts but the financial implication arising from which is unlikely to be significant.

3. The Immigration Department has previously been provided with staffing resources for implementing the Admission of Talents Scheme in 1999. As for the new Scheme, the Department will absorb any additional workload arising from its implementation from within its existing resources.

## **ECONOMIC IMPLICATIONS**

4. Admitting Mainland talents and professionals more liberally without a quota or sectoral restrictions will help build up a critical mass of quality personnel who are well acquainted with the Mainland market and hence able to help local firms to tap on business opportunities across the boundary. As compared with the existing schemes, the new Scheme can be expected to facilitate development of the business sector and generate more jobs for the local workforce. Relaxed arrangements for intra-company transfer of senior personnel will help strengthen Hong Kong's position as a hub and conduit for foreign companies to establish their regional headquarters or regional officers to enter into the Mainland, as well as for Mainland companies to set up their outward branch offices to extend overseas.

**SUSTAINABILITY IMPLICATIONS**

5. The proposed new admission scheme and arrangements for intra-company transfer would facilitate the admission of a wider range of skilled personnel into Hong Kong and help enhance the competitiveness of our economy. Bringing in people from diverse backgrounds, such as the arts and sport, would also help foster a more vibrant cultural environment. In summary, the proposals are conducive to the sustainability principles of promoting a competitive and prosperous market-based economy and enhancing social and cultural diversity.