

立法會
Legislative Council

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Panel on Security

**Background brief prepared by Legislative Council Secretariat
for the meeting on 5 July 2005**

Policy governing the employment of foreign domestic helpers

Purpose

This paper summarises the discussions so far held by Members on issues relating to the policy governing the employment of foreign domestic helpers (FDHs).

Background

2. Since the shortage of local full-time live-in domestic helpers in the 1970s, FDHs have been allowed to enter Hong Kong to take up full-time domestic duties in order to relieve housewives from household chores for taking up employment. FDHs are admitted into Hong Kong to work for a specific employer at a specified residence under a standard two-year contract.

3. The terms and conditions of employment of a FDH are set out in a standard employment contract (the standard contract). The standard contract was last reviewed and revised in April 2003 to incorporate a mandatory live-in requirement so as to better reflect the policy intention to admit live-in FDHs to make up for the shortage of local workers who are willing to provide such services.

4. Under the existing policy, a FDH should only perform domestic duties at his/her employer's residence and to serve the number of members of the employer's household as stated in the standard contract. A FDH should only perform domestic duties for the employer as listed in the "Schedule of Accommodation and Domestic Duties" attached to the standard contract. The five broad categories of domestic duties are household chores, cooking, looking after aged persons in the household, baby-sitting and child minding. Other domestic duties may be specified in the

standard contract but are subject to approval by the Immigration Department (ImmD).

Deliberations of the Panel on Security and Panel on Manpower on issues relating to the employment of foreign domestic helpers

Incorporation of a mandatory live-in requirement in the standard employment contract for foreign domestic helpers

5. At the meeting of the Panel on Manpower on 2 November 2001, the Administration briefed members on its proposal to incorporate a mandatory live-in requirement in the standard contract for FDHs. The Administration informed the Panel that FDHs should not be allowed to live outside the employers' residence, as such arrangements would affect the job opportunities of local domestic helpers (LDHs). The Administration therefore proposed that employers should only be permitted to engage FDHs where they were able to provide accommodation for FDHs in their residence. The standard contract would be amended to put it beyond doubt that employers would be obliged to provide accommodation for FDHs in their residence.

6. Some members were of the view that the incorporation of a mandatory live-in requirement for FDHs would not promote the job opportunities of LDHs. The Administration responded that a fundamental principle of the FDH policy was the provision of a full-time live-in domestic service. The Administration considered it necessary to tighten up the live-in requirement.

The Administration's proposal to impose a total ban on driving duties of foreign domestic helpers

The Administration's proposal

7. At its meeting on 22 July 1999, the Panel on Manpower was briefed on the Administration's proposal to impose a total ban on driving duties of FDHs.

8. The Administration advised the Panel that under the standard contract, FDHs were not permitted to work as full-time chauffeurs. However, they were permitted to perform driving duty, if it was incidental to and arising from domestic duties. This had given rise to grey areas which made enforcement action virtually impossible. A total ban on the driving duties of FDHs was therefore proposed. The Administration would consult interested parties, including FDH employers' associations and FDH employees' groups before making a final decision.

9. The Administration subsequently announced on 30 September 1999 its decision to implement a total ban on driving duties of FDHs with effect from 1 January 2000. The ban would be imposed as a condition of stay in the passport of FDHs by ImmD.

Views of the Panel on Security and Panel on Manpower on the proposed ban

10. The Panel on Security and Panel on Manpower held joint meetings on 4 and 18 November 1999 to discuss the proposed ban.

11. Some members expressed support for the proposed ban. They considered that it would be very difficult to take actions against FDHs performing full-time driving duties, if the policy of allowing them to perform driving duties incidental to and arising from domestic duties was to be continued.

12. Some other members, however, considered that FDHs should not be prohibited from driving duties incidental to and arising from domestic duties merely because of enforcement difficulties. They urged the Administration to step up enforcement action against suspected cases of FDHs being deployed as full time chauffeurs while continuing to allow FDHs to perform driving duties incidental to and arising from domestic duties.

13. The Administration advised members that enforcement against FDHs performing full-time driving duties was very difficult, as it was very difficult to prove beyond doubt that the driving duty was not incidental to and arising from domestic duties.

Revised measure on driving duties of foreign domestic helpers

14. At the joint meeting of the Panel on Security and Panel on Manpower on 21 December 1999, the Administration briefed members on its revised measure on driving duties of FDHs. The Administration informed members that a general ban on driving duties of FDHs would still be imposed with effect on 1 January 2000. However, a special arrangement would be introduced to provide for individual employers who had a genuine need for their FDHs to perform driving duties incidental to and arising from domestic duties to apply for permission to do so. The Administration would step up enforcement action against suspected cases of malpractice.

15. Some members expressed support for the revised measure. However, some other members were dissatisfied with the sudden change in the decision of the total ban. They considered that the new measure was even worse than the original arrangement as some FDHs would be formally permitted to perform driving duties. They also considered that the employment opportunities and livelihood of local drivers would be affected. Some members were of the view that it would be very difficult for the Administration to enforce the revised measure.

16. The Administration responded that as the special arrangement would provide it with a record of FDHs allowed to perform driving duties incidental to and arising from domestic duties, enforcement would be much easier.

Related information

17. Questions relating to the employment of FDHs were raised by Members at the Council meetings on 16 December 1998, 22 November 2000 and 14 January 2004. A list of these questions is in the **Appendix**.

Relevant papers

18. For details of the discussions, members may wish to refer to the following documents -

Minutes

- (a) Minutes of meeting of Panel on Manpower held on 22 July 1999 (LC Paper No. CB(2)210/99-00);
- (b) Minutes of joint meeting of Panel on Security and Panel on Manpower held on 4 November 1999 (LC Paper No. CB(2)1008/99-00);
- (c) Minutes of joint meeting of Panel on Security and Panel on Manpower held on 18 November 1999 (LC Paper No. CB(2)1009/99-00);
- (d) Minutes of joint meeting of Panel on Security and Panel on Manpower held on 21 December 1999 (LC Paper No. CB(2)1371/99-00);
- (e) Minutes of meeting of Panel on Manpower held on 2 November 2001 (LC Paper No. CB(2)536/01-02);

Papers

- (f) Administration's paper for meeting of Panel on Manpower on 22 July 1999 (LC Paper No. CB(2)2601/98-99(05));
- (g) Administration's paper for joint meeting of Panel on Security and Panel on Manpower on 21 December 1999 (LC Paper No. CB(2)683/99-00(01); and
- (h) Administration's paper for meeting of Panel on Manpower on 2 November 2001 (LC Paper No. CB(2)189/01-02(04)).

19. The above papers are available on the website of the Legislative Council (<http://www.legco.gov.hk>).

Council Business Division 2
Legislative Council Secretariat
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**Council questions raised by Members relating to
the employment of foreign domestic helpers**

Council meeting on 16 December 1998

At the Council meeting on 16 December 1998, Hon CHAN Wing-chan asked a written question on the employment of foreign domestic helpers (FDHs) to take up non-domestic duties. The question and the reply are available at <http://www.legco.gov.hk/yr98-99/english/counmtg/hansard/981216fe.htm>.

Council meeting on 22 November 2000

2. At the Council meeting on 22 November 2000, Hon LI Fung-ying asked a written question on FDHs performing driving duties. The question and the reply are available at <http://www.legco.gov.hk/yr00-01/english/counmtg/hansard/001122fe.pdf>.

Council meeting on 14 January 2004

3. At the Council meeting on 14 January 2004, Hon LEUNG Fu-wah asked an oral question on FDHs performing driving duties. The question and the reply are available at <http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0114ti-translate-e.pdf>.