

立法會
Legislative Council

LC Paper No. LS15/08-09

**Paper for the House Committee Meeting
on 14 November 2008**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 November 2008**

Date of tabling in LegCo : 12 November 2008

Amendment to be made by : 10 December 2008 (or 7 January 2009 if extended by resolution)

**Employees Retraining Ordinance (Cap. 423)
Employees Retraining Ordinance (Amendment of Schedule 3) (No. 2) Notice
2008 (L.N. 244)**

The Employees Retraining Ordinance (Amendment of Schedule 3) (No. 2) Notice 2008 (No. 2 Notice) is made by the Chief Executive in Council under section 31(1) of the Employees Retraining Ordinance (Cap. 423).

2. The Employees Retraining Ordinance (Amendment of Schedule 3) Notice 2008 (L.N. 208 of 2008) reduces the Employees Retraining Levy (the Levy) payable by employers of foreign domestic helpers (FDHs) and all other employers who imported labour under an approved labour importation scheme from \$400 to \$0 over a two-year period between 1 August 2008 and 31 July 2010 and restores the Levy to \$400 thereafter.

3. The No. 2 Notice repeals L.N.208 of 2008. As the reduction of the Levy from \$400 to \$0 has already taken effect upon the gazettal of L.N. 208 of 2008 on 1 August 2008, the No. 2 Notice provides that the Levy of \$400 will be restored as from 1 August 2013. In the intervening five-year period, the Levy will remain to be \$0.

4. A subcommittee under the House Committee was set up to scrutinize L.N. 208 of 2008 (the Subcommittee). The Subcommittee has held five meetings and will submit its report to the House Committee on 14 November 2008. Some members take the view that the Levy on employers of FDHs should be abolished. While these members support the retraining of employees, they consider that this should be a responsibility of the Government rather than the employers of FDHs. Some other members object to abolishing the Levy on employers of FDHs, especially given that the Levy is applicable also to employers of labour imported under the

Supplementary Labour Scheme. While they do not oppose to the introduction of a temporary measure to provide relief to the middle class, they consider that the interest of local workers should be protected.

5. The Subcommittee has considered amendments proposed by Members to amend L.N. 208 of 2008, including Hon Mrs. Regina IP's proposed amendments which seek to suspend the Levy indefinitely, and the amendments proposed by Hon WONG Sing-chi, Hon LEE Wing-tat and Hon IP Kwok-him which seek to extend the Levy suspension to 31 July 2047, 31 July 2018 and 31 July 2013 respectively. At the Subcommittee meeting on 6 November 2008, the majority of members present agreed that the proposed amendments of Hon Mrs Regina IP to suspend the Levy on employers of FDHs indefinitely should be adopted and be moved by her as its chairman on behalf of the Subcommittee. The Subcommittee also agreed to move an amendment to the effect that the indefinite extension of the Levy suspension will apply to employers of FDHs only.

6. At the Subcommittee meeting on 11 November 2008, members were informed that the Chief Executive in Council had made the No. 2 Notice earlier in the same morning. Some members queried why the Administration had not chosen to propose amendments to L.N. 208 of 2008 to extend the Levy suspension to five years but to repeal L.N. 208 of 2008 and make the No. 2 Notice. The Administration explained that it had noted from the Subcommittee's session with deputations the diverse views in the community on the Levy suspension and source of income for the Employees Retraining Fund. The making of the No. 2 Notice would allow more flexibility and sufficient time for Members to examine the issues concerned, if they considered it necessary.

7. Members may refer to the LegCo Brief issued by the Labour and Welfare Bureau dated 11 November 2008 (File Ref.: LWB(M) CR 2/12/3051/08 Pt. 7) for further information.

8. The Panel on Manpower has not discussed the No.2 Notice.

9. The No. 2 Notice has come into operation on 11 November 2008.

10. No difficulties in the legal and drafting aspect have been identified.

Prepared by

Kelvin Ka-yun LEE
Assistant Legal Adviser
Legislative Council Secretariat
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