

Information Paper
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**Legislative Council
Panel on Manpower**

Driving Duties by Foreign Domestic Helpers

This paper briefs members on the background and implementation of the special arrangement which allows foreign domestic helpers (“FDHs”) to perform driving duties.

Background

2. Since the 1970’s, the Government has permitted FDHs to work in Hong Kong to address the shortage of local full-time live-in domestic helpers. The arrangement is in line with the fundamental principle of the Government’s labour policy that local workers enjoy priority in employment. Employers can import workers only if they cannot recruit suitable local workers.

3. In the past, the “Schedule of Accommodation and Domestic Duties” annexed to the Standard Employment Contract for employing an FDH already stipulated that FDHs could not work as full-time chauffeurs. However, FDHs were permitted to perform driving duty if it was incidental to and arising from domestic duties. According to the policy of the then Education and Manpower Bureau, to more effectively prevent some employers from employing FDHs to work as full-time chauffeurs, starting from 1 January 2000, FDHs are prohibited from performing driving duties. At the same time, the Immigration Department implemented a special arrangement, allowing FDHs with special permission to perform driving duties incident to and arising from domestic duties. In an application for special permission, the employer must provide full justifications that his/her FDH has to perform any of the five broad categories of domestic duties (i.e. household chores; cooking; looking after aged persons in the household; baby-sitting; and child-minding) and that the driving duties are incidental thereto and arising therefrom, as well as state the details of such driving duties. Both the employer and FDH must sign on the application form, declaring that they agree to the specified arrangement of driving duties. In addition, the concerned FDH must possess a valid Hong Kong driving licence,

and the vehicle concerned must be registered under the name of the employer or his/her spouse.

4. Since the implementation of the above special arrangement, all FDHs must not perform driving duties without special permission. This restriction becomes one of the conditions of stay imposed on FDHs. According to the Immigration Ordinance, an FDH, who is in breach of this condition of stay, is liable on conviction to the maximum penalty of a fine of \$50,000 and imprisonment of 2 years; the employer may be liable to penalty for aiding and abetting the breach of condition of stay by an FDH. In addition, according to the Immigration Ordinance, an employer and FDH who provide false information in the application for special permission are liable on summary conviction to a fine of \$100,000 and imprisonment of 2 years.

Implementation Situation

5. The statistics of FDHs with special permission to perform driving duties from 2006 to 2010 are at Annex. In general, the number of FDHs with special permission as a percentage of the FDH population stays at a low level.

6. From 2008 to 2010, the Immigration Department has received and successfully followed up six complaints involving FDHs performing driving duties without permission. After investigation, there was no concrete evidence for prosecution for four cases; one case was found not guilty after court hearing; whereas the concerned party in the remaining case was convicted and sentenced to imprisonment for overstaying and breach of other conditions of stay.

7. Apart from following up complaints, the Immigration Department conducts inspections from time to time. In the first four months of 2011, the Immigration Department found 14 FDHs driving vehicles during the inspections conducted in different areas. All were confirmed with special permission to perform the concerned driving duties.

Immigration Department
Labour Department
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Statistics of FDHs with Special Permission for Driving Duties

Year	Total	Male	Female
2006	1664 (0.7%)	1370 (37.6%)	294 (0.1%)
2007	1802 (0.7%)	1519 (39.1%)	283 (0.1%)
2008	1514 (0.6%)	1245 (30.4%)	269 (0.1%)
2009	1546 (0.6%)	1269 (29.8%)	277 (0.1%)
2010	1787 (0.6%)	1442 (32.4%)	345 (0.1%)

Note: Figures in brackets represent the percentage of the number of permissions to the FDH population that year.