For discussion on
19 November 2013

Legislative Council Panel on Manpower

Injection into the Employees Retraining Board

Purpose

This paper invites Members to support the Administration's proposal to seek approval from the Finance Committee of the Legislative Council (LegCo) for the injection of $15 billion into the Employees Retraining Board (ERB) as proposed by the Financial Secretary (FS) in the 2013-14 Budget.

Training and support services provided by ERB

2. Established in 1992, ERB has strived to improve the employability of local workers by providing market-driven and employment-oriented training services. In December 2007, ERB extended its service targets from eligible employees aged 30 or above and with education attainment at Form 3 or below to those aged 15 or above with education attainment at sub-degree level or below. Since its establishment, a wide variety of training courses with around 1.9 million training places have been provided by ERB for over 810 000 local workers.

3. Currently, there are over 110 training bodies of ERB, which operate 410 training centres throughout the territory, providing over 870 courses straddling 28 industries. These courses include –

(a) full-time placement-tied courses for persons who are unemployed or non-engaged. These courses are free-of-charge. Trainees attending courses with duration of seven days or more may apply for retraining allowance[1]. Trainees are also provided with 3 to 6 months' placement follow-up services upon completion of courses;

(b) half-day or evening non-placement-tied courses which mainly cater for employees or people planning for a career change. These fee-charging part-time courses include Skills Upgrading Scheme Plus courses and generic skills training courses (i.e. workplace languages, business numeracy skills, IT applications, etc.). Trainees who have no or low income[2] may apply to waive the course fee in full or in part; and

(c) courses for special service targets including youths, new arrivals, ethnic minorities, persons with disabilities and persons recovered from work injuries, rehabilitated ex-drug abusers and ex-offenders. These courses are either placement-tied or non-placement-tied and course fee arrangements as set out in sub-paragraphs (a) and (b) above are also applicable.

4. In developing the training courses, ERB consults the Industry Consultative Networks (ICNs) to ensure that the courses will meet the latest developments in different industries. ERB has set up the ICNs for different industries to strengthen partnership and communication with employer associations, trade unions, professional bodies and practitioners. Apart from rendering advice on the development of courses, ICNs also help publicise and promote ERB courses to the respective industries.

5. ERB takes active steps to arrange its courses for accreditation with a view to gaining recognition under the Qualifications Framework (QF). At present, over 530 ERB courses (out of over 870 courses as referred in paragraph 3 above) have been accredited by the Hong Kong

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[1] The retraining allowance ranges from $30 to $153.8 per day as below –

Courses	**Trainees**	**Retraining allowance per day**
Youth Training Programme	All eligible trainees	$30
Courses pitched at QF Level 1 or 2	All trainees aged 30 or above and with education attainment of F.3 or below	$153.8
	Other eligible trainees	$70
Other courses	All eligible trainees	$70

[2] Trainees with monthly income of $9,000 or below may apply for course fee waiver. For those with monthly income between $9,001 and $19,500, they may apply for paying only about 30% of the training cost.

Council for Accreditation of Academic and Vocational Qualifications for recognition under QF.

6. To ensure the credibility and recognition of its courses, ERB conducts a wide range of quality assurance measures including on-site annual audits, surprise class inspections, surprise assessment inspections and class visits. In 2012-13, 765 surprise class inspections and 135 surprise assessment inspections were carried out on a random basis.

7. ERB evaluates the effectiveness of its training courses with reference to a set of key performance indicators including the attendance rate and placement rate. In 2012-13, the attendance rate and placement rate reached 93% and 82% respectively. ERB also gauges the opinions of the trainees and their employers by commissioning research organisations to conduct independent opinion surveys on a regular basis. In 2012, over 80% of the employer respondents were satisfied with the overall performance of the trainees, while over 80% of the trainee respondents considered that ERB courses helped enhance their skill level as well as their employment prospects.

8. On top of its training courses, ERB provides some value-added services. Since 2009, the Smart Living Scheme has been launched by ERB to serve as a one-stop referral platform for home, health and care services to increase the employment opportunities for graduates of relevant courses. Three ERB Service Centres have been set up as district-based windows to offer diversified services and provide information on courses organised in the respective districts.

9. In the past three financial years (2010-11, 2011-12 and 2012-13), the average annual expenditure of ERB was about $790 million. The number of training places utilised in these three financial years were about 111 000, 116 000 and 123 000 respectively. In the current (2013-14) financial year, ERB offers 130 000 training places.[3] Resources have also been reserved to provide an additional 40 000 places to meet the contingency demand for training places if necessary. The breakdown of the planned training places in 2013-14 is at **<u>Attachment I</u>**.

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[3] While the overall expenditure of ERB in 2013-14 is estimated to be $1,068 million, taking into account various factors including the market demand, local and international economic situations and the personal preferences of the trainees, the planned training places may not be fully utilised within the financial year and if so the expenditure in 2013-14 will accordingly be reduced.

Funding of ERB

10. The collection of the Employees Retraining Levy (Levy) has been the major source of funding of ERB. By virtue of section 14(3) of the Employees Retraining Ordinance (Cap. 423) enacted in 1992, the Chief Executive in Council (CE in C) may from time to time approve a scheme, known as a labour importation scheme. A Levy, set by Schedule 3 to Cap. 423 at $400 per month, is imposed on the employers of labour importation schemes for funding the training programmes provided under ERB. The total sum payable by the employer is $400 multiplied by the number of months specified in the relevant contract of employment between the employer and the imported employee. Apart from the Levy collection, ERB also received Government injections[4] in the past.

11. The Supplementary Labour Scheme (SLS) and the importation of foreign domestic helpers (FDHs) were approved as labour importation schemes under Cap. 423 in 1996 and 2003 respectively. Given the larger number of FDHs in Hong Kong, the amount of Levy collected from FDH employers was more significant than that from SLS employers. As part of a relief package with anti-inflationary initiatives, employers' obligation of paying the Levy was suspended for a period of five years from 1 August 2008 to 31 July 2013 by virtue of the Employees Retraining Ordinance (Amendment of Schedule 3)(No. 2) Notice 2008. During the suspension period, ERB relied on the remainder of its Employees Retraining Fund (ERF) to sustain its services and operation.

12. To ease the financial burden on families employing FDHs, the Chief Executive (CE) announced in his 2013 Policy Address the abolition of the Levy imposed on FDH employers when the suspension of its collection expired on 31 July 2013. On 14 May 2013, the importation of FDHs was de-designated as a labour importation scheme under Cap. 423 by CE in C to give effect to the abolition, which is the subject of a LegCo brief issued by the Labour and Welfare Bureau on 24 May 2013 (**<u>Attachment II</u>**). As to SLS, it remains an approved labour importation scheme. Employers seeking to import labour under SLS are subject to Levy payment from 1 August 2013. At the end of September 2013, there were 2 826 imported workers under SLS in Hong Kong. The annual Levy receipt collected from SLS employers is estimated to be

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[4] When ERB was established in 1992, the Government injected a start-up capital of $300 million into ERB. Some one-off grants were provided to ERB thereafter. From 2001-02 to 2007-08, the Government provided recurrent funding of around $400 million a year to ERB. Since then, ERB has made use of the Levy to finance its operation and services.

around $13.6 million, which is about 1.7% of ERB's annual expenditure of $790 million as referred to in paragraph 9 above.

Proposed injection into ERB

13. As at 31 August 2013, the balance of ERF was $1.74 billion. It is estimated that the remaining fund should be able to sustain the service of ERB to until around the second quarter of 2015. To provide ERB with long-term support, FS proposed in the 2013-14 Budget to inject $15 billion into ERB. Sufficient provision has been earmarked in the 2013-14 Estimates.

14. ERB is expected to provide its service and operation mainly with the investment income from the $15 billion injection. If the proposed injection of $15 billion is approved by the Finance Committee, we will proceed to discuss with the Hong Kong Monetary Authority (HKMA) the investment arrangement for the injection, involving the placement of a substantial portion of ERF with HKMA. The placement will enable ERB to earn an investment return that is linked to the performance of the Exchange Fund (EF). The objective is to agree on a prudent and appropriate investment arrangement which could provide sufficient liquidity to meet the cash flow requirements of ERB. For example, if $15 billion is placed with HKMA and the rate of return is 5% per annum, the funding available will be around $750 million per year. The actual return rate will depend on the actual investment performance.

15. The ERB will carefully monitor its financial condition to ensure that the investment return, Levy and other incomes together with the balance of ERF, will be sufficient to cover the cash flow requirements of ERB over the long-term period. Nevertheless there may be years in which the investment income generated may not be able to fully meet the training needs and, in such circumstances, we may have to make use of part of the principal as appropriate to ensure a stable provision of training courses and services.

Monitoring on the use of ERF

16. The Finance and Administration Committee of ERB will continue to monitor the financial situation and report to the Board of ERB (Board). Members of the Board consist of representatives of employers, employees, persons who are connected with vocational training and

retraining or manpower planning as well as officers from the Labour and Welfare Bureau and the Labour Department. The Internal Audit Section of ERB will continue to undertake internal audits under the auspices of the Audit Committee of ERB and evaluate the effectiveness of internal controls, procedures and guidelines of ERB on operational and financial matters.

17. As stipulated in section 9 of Cap. 423, ERB is required to adopt estimates of income and expenditure together with a programme of its activities in respect of the following financial year and seek the Government's approval.

18. The annual report of ERB, which includes its statements of accounts and the auditor's report on the accounts, is required to be submitted to the Government on an annual basis. As stipulated in section 13 of Cap. 423, the annual report is tabled at LegCo for public information.

19. As provided for in section 12 of Cap. 423, the Director of Audit may carry out an examination as he thinks fit into the economy, efficiency and effectiveness of ERB's resources used in discharging its functions and exercising its powers.

Financial Implications

20. We propose to make a one-off injection of $15 billion into ERB in 2013-14. No recurrent financial implications will be incurred.

Advice Sought

21. Members are invited to comment on the proposed injection into ERB. Subject to Members' views, funding approval to create a non-recurrent commitment of $15 billion will be sought from the Finance Committee in December 2013.

Labour and Welfare Bureau
November 2013

Attachment I

Breakdown of Planned Training Places in 2013-14

Course type	Number of planned training places
Courses for the general public	**123 350**
• Placement-tied training courses	65 800
• Skills Upgrading Scheme Plus courses	30 550
• Generic skills training courses	27 000
Courses for special service targets*	**6 650**
Total	**130 000**

* The special service targets cover the youth, new arrivals, ethnic minorities, persons with disabilities and persons recovered from work injuries as well as rehabilitated ex-drug abusers and ex-offenders.

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LEGISLATIVE COUNCIL BRIEF

DE-DESIGNATION OF THE IMPORTATION OF FOREIGN DOMESTIC HELPERS AS LABOUR IMPORTATION SCHEME UNDER THE EMPLOYEES RETRAINING ORDINANCE (CAP. 423)

INTRODUCTION

At the meeting of the Executive Council held on 14 May 2013, the Council ADVISED and the Chief Executive ORDERED that the importation of foreign domestic helpers (FDHs) be de-designated as a labour importation scheme by virtue of section 14(3) of the Employees Retraining Ordinance (Cap. 423) and section 40(2)(c) of the Interpretation and General Clauses Ordinance (Cap. 1). The de-designation gives effect to the abolition of the Employees Retraining Levy (Levy) imposed on employers of FDHs when the suspension of its collection expires on 31 July 2013, as announced by the Chief Executive in his Policy Address delivered in January 2013.

JUSTIFICATIONS

2. It has been an established policy in Hong Kong that where there is a demonstrated need for low-skilled workers which cannot be met by the local labour market, importation of such workers could be allowed. By virtue of section 14(3) of Cap. 423 enacted in 1992, the Chief Executive in Council (CE in C) may, from time to time, approve a scheme, known as a labour importation scheme. The idea behind any such scheme is, on one hand, to permit the importation of lower skilled workers when needed, and on the other, to train or retrain local workers who become vulnerable to shifts in the economic structure. Employers who are permitted to turn to lower skilled imported labour should contribute to the cost of training or retraining local employees. A Levy is imposed on the employers for funding the training and retraining programmes provided under the Employees Retraining Board (ERB). The Levy has been set by Schedule 3 to Cap. 423 at $400 per month, and the total sum payable by the employer is $400 multiplied by the number of months specified in the relevant contract of employment between the employer and the imported employee.

3. The importation of FDHs was approved in 2003 by the then CE in C as a labour importation scheme under Cap. 423. However, the collection of the Levy was suspended for a period of five years with effect from 1 August 2008 by virtue of the Employees Retraining Ordinance (Amendment of Schedule 3)(No. 2) Notice 2008. This originated from a relief package with anti-inflationary initiatives which included, among others, a temporary suspension of the Levy to relieve the financial burden of the middle class. The five-year suspension is due to expire on 31 July 2013.

4. To ease the financial burden on families employing FDHs, the Chief Executive announced in his 2013 Policy Address the abolition of the Levy imposed on FDH employers when the suspension of its collection expired on 31 July 2013. To give effect to the abolition of the Levy on FDH employers, CE in C, at the meeting of the Executive Council held on 14 May 2013, de-designated the importation of FDHs as a labour importation scheme under section 14(3) of Cap. 423 and section 40(2)(c) of Cap. 1. The de-designation was an administrative act.

5. The Levy receipts from labour importation schemes have been the major financial source of ERB. It is noted that the Levy income has mainly come from FDH employers (as there are currently about 310 000 FDHs in Hong Kong). As at January 2013, the balance of the Employees Retraining Fund was $2.19 billion and should be able to sustain the current level of service of ERB until end-2015. To provide ERB with long-term support, the Financial Secretary proposed in the 2013-14 Budget to inject $15 billion into ERB as seed money. The annual expenditure of the ERB is about $790 million a year. The ERB is expected to sustain its current level of service and operation by generating investment income from the seed money. While it is expected that the investment income may in general be able to fully cover the cash flow requirements of ERB on an ongoing basis, there may be years in which the investment income generated may not be able to fully meet the training needs. In such a scenario, we may make use of part of the principal as appropriate to ensure a stable provision of training courses and services. We will explore the injection arrangements, future investment and management of the fund as well as monitoring mechanism with ERB and relevant parties including the Hong Kong Monetary Authority. Funding approval will be sought from the Finance Committee of the Legislative Council in due course.

IMPLICATIONS

6. The abolition of the Levy on FDH employers has financial, economic and family implications as set out at **Annex A**. The abolition will not result in staff savings for the Immigration Department on top of those realised upon the suspension of the Levy in 2008 under the current procedures.

7. The abolition of the Levy on FDH employers is in conformity with the Basic Law, including the provisions concerning human rights. It has no environmental, productivity or sustainability implications. It will not affect the current binding effect of Cap. 423.

PUBLICITY AND PUBLIC CONSULTATION

8. No public consultation is required as the abolition of the Levy on FDH employers was already announced by the Chief Executive in his Policy Address delivered in January 2013.

9. The de-designation will not affect the resumption of the Levy on employers under the Supplementary Labour Scheme (which was approved as a labour importation scheme in 1996 by the then CE in C) on 1 August 2013. A press release will be issued before the resumption of collection of the Levy on the employers under the Supplementary Labour Scheme.

ENQUIRIES

10. Enquiries on the brief should be made to Ms Lydia Lam, Principal Assistant Secretary for Labour and Welfare (Manpower), at telephone number 2810 3290.

Labour and Welfare Bureau
May 2013

Annex A

Implications of the Abolition of the Levy on FDH Employers

Financial Implications

Following the abolition of the Levy on FDH employers, the Levy receipt is estimated to be reduced by about $1.53 billion a year. The annual Levy receipt collected from employers under SLS is estimated to be around $11.6 million. To provide ERB with long-term support, the Financial Secretary has proposed to inject $15 billion into ERB for ERB to sustain its current level of service and operation by generating investment income from the seed money. Sufficient provision has been earmarked in the 2013-14 Estimates.

Economic Implications

2. The abolition of the Levy on FDH employers will help reduce the financial burden on households with FDHs, in particular when more households with relatively low income tend to hire FDHs to take care of their elderly family members amid an ageing society. Given that the collection of Levy has already been suspended for about five years, the impact of its abolition on the overall economy would be minimal.

Family Implications

3. The abolition of the Levy on FDH employers will alleviate the financial burden of families in employing FDH, especially for the lower-income ones or those with elderly and child care needs. From this perspective, the abolition of the Levy on FDH employers will indirectly help encourage elders to age at home and home-based babysitting.

Annex B

List of Abbreviations

CE in C	-	Chief Executive in Council
ERB	-	Employees Retraining Board
FDH	-	Foreign Domestic Helper
Levy	-	Employees Retraining Levy