

16 November 1999

Clerk to Panel
LegCo Secretariat
Legislative Council
8 Jackson Road
Central
Hong Kong

(Attn: Mrs Sharon Tong)

Dear Mrs Tong,

**LegCo Panels on Manpower and Security
Joint meeting on 4 November 1999**

Thank you for your letter of 27 October 1999. The Administration has the following responses to the points raised in the letters from Mr. Nick Etches and Mr. Noel Patton regarding the ban on driving duties by foreign domestic helpers (FDHs).

Mr. Nick Etches' letter

Policy on driving duties

- There is no change in law. It is the policy of allowing incidental driving duties that has been changed.

Domestic duties for FDHs

- The kind of domestic duties to be performed by FDHs is clearly stated in the 'Schedule of Accommodation and Domestic Duties' attached to the standard employment contract for FDHs. Item 4 thereof stated that the FDH should only perform domestic duties at the Employer's residence and that chauffeur duty is allowable **only if** such duty is incidental to and

arising from domestic duties. Application for entry visa to work as full time chauffeur will not be allowed.

Enforcement of the law

- FDHs who perform non-domestic duties breach their condition of stay under the Immigration Ordinance. The law has always been enforced by the Immigration Department. Where there is sufficient evidence, the FDHs concerned will be prosecuted for breach of condition of stay and the aider and abettor, who may be the contract employer and/or the one who offer the unapproved employment, will be prosecuted for aiding the commission of the offence. Statistics relating to arrests and prosecutions of FDHs for taking up unapproved employment and overstaying since 1998 are at the annex.

Non-locals working in Hong Kong

- As stated above, the law has always been enforced by the Immigration Department where there is a breach of condition of stay under the Immigration Ordinance. Apart from the four categories of non-locals who are working in Hong Kong as mentioned in the letter, there are Filipinos and other foreign nationals who have the right of abode or who are free of conditions of stay. There is no restriction on their taking up employment here.

Potential jobs for local drivers

- According to our record, as at 3 July 1999 there were 2,367 FDHs in Hong Kong holding valid local driving licences. Our policy regarding importation of labour is that local workers must be given priority in filling any job vacancies available in the job market. We are obliged to protect and enhance the employment opportunity for local drivers, particularly at a time of high unemployment.

Mr Noel Patton's letter

Anti-Business and Anti-Expatriate policy

- The ban applies to all FDHs. Employers of FDHs are families in Hong Kong and not business organisations and these include both local as well as expatriate families. In fact, the overwhelming majority of the employers are locals. There is no question whatsoever that the ban can be taken as anti-business and anti-expatriate.

No suitable local replacement for FDH drivers

- Employers should be able to employ suitable drivers if they are prepared to offer competitive wage package and employment conditions. It will be difficult to look for live-in “all-rounders” who can perform various sorts of domestic duties as well as driving at a monthly wage of \$3,670. In a survey conducted by Census & Statistics Department (Issue June 1999 of the Quarterly Report of Wage Statistics), drivers in different sectors have a salary range from \$9,344 to \$14,450.
- Employers who demand for services with utmost convenience for themselves have to be prepared to offer better terms so as to attract suitable candidates locally. To meet the demands of employers who may wish to employ English-speaking local chauffeurs, the Employees’ Retraining Board, in conjunction with other training bodies, will actively arrange retraining courses for the local drivers to further enhance their level of English and their professional standard.
- Ad hoc or emergency needs should only arise on rare occasions in a domestic situation. Other transport service providers such as taxis and ambulance service can effectively meet the ad hoc or emergency needs of the employers and they could be a good substitute to a live-in driver.

Yours sincerely,

(Herman Cho)
for Secretary for Education and Manpower

**Statistics relating to arrests and
prosecutions of FDH for taking up
unapproved employment and overstaying**

A. Unapproved employment

	<u>1998</u>	<u>1999 (Jan to Sep)</u>
Arrest	443	238
Prosecution	161	80

B. Overstayers

	<u>1998</u>	<u>1999 (Jan to Sep)</u>
Arrest	891	634
Prosecution	581	473

C. Overstayers also found taking up unapproved employment (figures included in A and B)

	<u>1998</u>	<u>1999 (Jan to Sep)</u>
Arrest	28	11
Prosecution	16	6