

# 立法會 *Legislative Council*

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## **Panel on Manpower**

**Updated background brief prepared by the Legislative Council Secretariat  
for the meeting on 25 June 2019**

### **Importation of labour under the Supplementary Labour Scheme**

#### **Purpose**

This paper provides background information on importation of labour under the Supplementary Labour Scheme ("SLS") and summarizes the discussions by the Panel on Manpower ("the Panel") on issues relating to importation of labour in the elderly care sector since the Fifth Legislative Council ("LegCo").

#### **Background**

2. SLS commenced operation in February 1996 and is administered by the Labour Department ("LD"). Under SLS, employers with genuine difficulties in local recruitment may submit applications to import workers at technician level or below. To ensure priority of local workers in employment and safeguard their wages and benefits, employers must accord priority to filling available job vacancies with local workers.

3. According to the Administration, there are no overall or industry-specific quota ceilings under SLS. Each application has to go through the newspaper advertising procedure, a mandatory local recruitment period at LD, and the arrangement of tailor-made retraining courses by the Employees Retraining Board if appropriate. SLS is being monitored by the Labour Advisory Board ("LAB"). The Administration will seek LAB members' advice on each application before deciding approval or otherwise. The employment contract of imported workers under SLS is subject to a maximum span of 24 months. Imported workers are to be paid not less than the median monthly wages of

local workers in comparable positions. Moreover, imported workers are protected by a Standard Employment Contract and enjoy the same rights and benefits as local workers under labour legislation of Hong Kong.

4. In 2015, 2016 and 2017, the numbers of imported workers applied for under SLS were respectively 4 689, 5 556 and 4 390, and the respective numbers of imported workers approved in the corresponding year were 2 880, 3 802 and 2 765. As at end-May 2018, there were altogether 4 788 imported workers working in Hong Kong under SLS. The majority of these imported workers were engaged as care workers ("CWs") in the elderly care sector (i.e. 2 648 or 55%).

## **Deliberations of the Panel**

### Processing of applications under the Supplementary Labour Scheme

5. Some members were of the view that importation of labour would undermine the bargaining power of local workers and expressed concern about the approving mechanism for importation of low-skilled workers under SLS. Some other members, however, considered that employers who were unable to recruit local workers to fill their job vacancies should be allowed to import workers after having conducted an open recruitment in the local labour market for a certain period of time.

6. According to the Administration, it had always been the Government's policy to accord priority to local workers in terms of employment, and to safeguard their salaries and benefits. To this end, for each application under SLS, the employer had to first launch a four-week open recruitment exercise, for which the employer must offer wages at not less than the median monthly wages of local workers in comparable positions as published by the Census and Statistics Department ("C&SD"). During the open recruitment exercise, LD would conduct job matching for the vacancies. LD would also invite training bodies and labour unions to refer suitable local job-seekers for interview. Only if employers were genuinely unable to recruit the required workers locally would their SLS applications be considered. Each application under SLS had to be considered by LAB before the Administration made a decision. Should LAB members have any concern or objection, the employers concerned should provide justifications so that the Commissioner for Labour could take them fully into account in deliberating on individual SLS applications.

7. Members were also advised that as agreed by LAB, all employers applying for importation of worker under SLS had to maintain a manpower ratio of two full-time local workers to one imported worker.

#### Manpower shortage in the elderly care sector

8. Members noted that LAB had considered time and again applications from operators of private residential care homes for the elderly ("RHCEs") for importing CWs under SLS. Some members considered that importation of workers under SLS would help alleviate the labour shortage problem in the RCHE sector in the short run. Some other members, however, expressed reservations about the arrangements and were concerned about the impact on local employment opportunities. These members also expressed concern about the approving criteria for such applications.

9. According to the Administration, in the light of the manpower demand for imported workers under SLS in the RCHE sector, LAB had since November 2007 adopted a special arrangement in respect of applications for imported CWs, under which a manpower ratio of 3:1 would be maintained between local workers and imported CWs under SLS. The manpower ratio could be relaxed to 2:1 when all local full-time CWs employed were paid at a level no less than the median monthly wage. LAB hoped that the special arrangement would provide an incentive for the RCHE sector to retain local CWs and to recruit new entrants to the sector.

10. It was announced in the Chief Executive's 2017 Policy Address that the Government would provide additional resources for subsidized elderly service units to increase the salaries of personal CWs and home helpers, thereby enabling these service units to recruit and retain staff more effectively. The initiative would also cover similar posts in service units of subsidized rehabilitation services. Moreover, with a view to providing more flexibility in the importation of CWs as an interim measure to increase the overall manpower supply, the Government would consider the possibility of allowing subsidized units of elderly and rehabilitation services greater flexibility in the importation of CWs under SLS.

11. In the light of the ageing population and the severe manpower shortage for elderly care services, some members expressed support for the Administration's proposal to examine the possibility of importing CWs in the subsidized units of elderly and rehabilitation services. Some other members, however, expressed great reservations about the proposal to import CWs to address the manpower needs for the elderly and rehabilitation services. Drawing reference to the statistics on real wage index in various sectors as

compiled by C&SD, these members held the view that manpower shortage in the elderly care sector was mainly due to its unfavourable working terms and conditions. To address the problem, the Administration should consider ways to improve the employment benefits of CWs.

12. The Administration advised that similar to other developed countries, it would be unavoidable to consider labour importation to meet the increasing demand for elderly care services and rehabilitation services in the light of the ageing population and continuing decline in birth rate. On the premise that local workers' priority for employment would be safeguarded and initiatives, including improving the remuneration packages and working conditions and environment, would be taken to attract local workers to the elderly care sector, the Administration would explore with the stakeholders the possibility of increasing labour importation on an appropriate and limited scale.

13. Some members pointed out that although additional resources were provided for subsidized elderly service units to increase the salaries of personal CWs and home helpers, it had been reported that some of these service units had not used all the additional resources for improving the employment benefits of CWs. As a result, the overall manpower supply had not been increased. These members were concerned that the Government would allow the sector to import more CWs to solve the manpower shortage problem.

14. According to the Administration, a number of subsidized elderly services units had already used the additional resources to improve the salaries of their front-line CWs. The Administration would conduct a survey on the employment situation of the elderly care services sector in late 2018 to collect information including the vacancy situation and the wage level of CWs after the Government's provision of additional resources. Before considering importation of CWs, the Administration would ensure that the additional resources provided to subsidized elderly service units had been used to improve the salaries of front-line CWs.

### **Relevant papers**

15. A list of relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on importation of labour under  
the Supplementary Labour Scheme**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Manpower and Panel on Welfare Services	19 February 2013 (Item II)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	27 January 2014 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	20 January 2015 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	9 March 2016 (Item I)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	17 October 2017 (Item III)	<u>Agenda</u> <u>Minutes</u>
Panel on Welfare Services	24 October 2017 (Item I)	<u>Agenda</u>
Panel on Manpower	17 July 2018 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Manpower	16 October 2018 (Item III)	<u>Agenda</u> <u>Minutes</u>