# **大学** 外傭僱主通訊

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## 外籍家庭傭工 僱傭事宜問與答

不少僱主初次聘用外籍家庭傭工(外傭)時,可能會對勞工法例 下的責任、「標準僱傭合約」內的條文以及其他相關的僱傭事宜 有不少疑問。如遇到問題,僱主可能會在網上社交平台討論區或

朋友圈之間討論,互相交流意見,嘗試得到解決方法,然而這不一定是「最佳答案」。今期僱主通訊綜合勞工處過往處理外傭僱主查詢的經驗,為大家講解一些新手僱主常見的問題,並提供解決方法,供大家參考!

## 工作安排

問 1: 我準備聘用一名外傭照顧家中的初生嬰兒,但如果她不適應工作,我該怎麼辦?如外傭決定提早終止僱傭合約,我們在計算離職款項時遇上爭議,如何尋求協助?如外傭聲稱不適應工作,未能完成兩年合約,這「跳工」行為對僱主造成不公及不便,政府為僱主提供什麼保障?

答1: • 僱主在聘請外傭時,應於招聘廣告或向職業介紹所清楚列明對外傭的工作要求,例如指明除負責一般家務外,還需照顧初生嬰兒。在揀選外傭時,僱主可清楚審視申請人的技能及工作經驗,選擇有相關經驗/技能或願意從事有關工作的外傭申請人。於面試時,亦應向申請人詳細講解僱主的家庭情況,工作需要及聘用安排等。此舉有助申請人明白將要擔任的工作內容及決定是否勝任有關工作。這不單有助減低外傭到職後因不適應工作而提出辭職的情況,亦對僱主確定外傭人選有一定幫助。

- 如外傭聲稱不適應工作,你可主動了解外傭遇到的困難,給予適當的指導或工作指引,亦可調整其工作安排,讓她循序漸進地完成各項職務;此外,建議與外傭坦誠討論,讓外傭明白你對她的工作要求,同時你亦可理解外傭面對的問題,彼此多了解,有助外傭適應新工作。
- 如外傭決定終止僱傭關係,她可根據「標準僱傭合約」第10條的規定,給予 僱主一個月的書面通知或支付相等於一個月薪金的代通知金以終止合約。
- 雙方在計算離職款項時,如遇上爭議,可向勞工處的勞資關係科分區辦事處諮詢或求助。勞資關係科提供免費諮詢和調停服務,協助僱主和外傭解決勞資糾紛。你可瀏覽勞工處網站(www.labour.gov.hk/tc/tele/lr1.htm)查閱各分區辦事處的地址。
- 勞工處一直非常關注外傭「跳工」的問題,並已採取一系列措施,以遏止外傭「跳工」的情況,詳情可參閱今期外傭僱主通訊的「最新消息」。

## 小提示

### 僱傭雙方多溝通 有助外傭投入工作

在外傭到職後,僱主可因應家庭需要為外傭訂立家務工作的優次,特別在聘用外傭初期時,僱主可為外傭編排工作時間表,清晰的指引有



助他/她們有效地完成工作。僱主對外傭工作的回饋有助外傭了解僱主的要求及改善表現,當外傭表現良好或有進步時,適當的表揚和鼓勵予以肯定其工作,若外傭表現不理想時,應坦白告知並加以糾正。只要多與外傭溝通,互相配合、適應以及體諒,外傭自然會明白僱主家庭需要及僱主對其工作的期望,新手僱主亦可放心讓外傭「打理頭家」。

- 問 2: 我是否可以指派外傭擔當任何工作,包括駕駛我的私家車接送我的家人及買餸? 我和家人會在兩個居所交替地居住,我想外傭在兩個居所居住及工作,這樣可 以嗎?
- 答 2: •「標準僱傭合約」第 4(a)條規定,外傭只能根據合約附錄的「住宿及家務安排」 為僱主料理家務,當中清楚列明家務職責包括家庭雜務、煮食、照料家中年老 人士、保姆和照顧小孩。如僱主指派外傭擔當家務以外的職責,即屬違反《入 境條例》的規定,可能會被檢控。

- 根據「標準僱傭合約」,外傭從事的家務工作並不包括駕駛車輛。然而,為配合部分僱主的真正需要,入境事務處(入境處)設有特別安排,容許外傭擔任家務工作所附帶或產生的駕駛工作,即由五種主要家務工作(家居雜務、煮食、照料家中長者、保姆和照顧小孩)所產生的駕駛工作。至於要求外傭駕駛接載僱主上下班、搬運貨物等,則不屬此列。如僱主希望讓外傭擔任與家務工作有關的駕駛工作,可向入境處處長申請特別許可。
- 根據現行政策,外傭在整段受僱期間必須在「標準僱傭合約」第3條註明的僱主住址工作及居住。僱主住址是指在一個地點的單一居所,僱主不可以要求外傭在合約指定的地址以外的其他居所工作,亦不得在合約上填寫多於一個地址。另外,「標準僱傭合約」第5(b)條訂明,僱主須免費為外傭提供合適和設有傢具的居所。外傭和僱主必須各自在相關簽證申請表格上向政府承諾外傭只會在僱主的住址居住,以及僱主會向外傭提供合適及有合理私隱的住宿地方。如僱主或外傭違反向政府作出的承諾,日後該僱主再次申請聘用外傭或該外傭再次申請工作簽證或延期逗留時,其申請可能會被拒絕。此外,如僱主或外傭在申請簽證時故意向入境處人員作出虛假申述,包括就外傭的住宿安排作出虛假申述,有可能違反《入境條例》及被檢控。
- 根據「標準僱傭合約」第15條的規定,除非獲得勞工處處長的同意,在合約 有效期間對其中的聘用條款作出的任何變更或增加(包括「標準僱傭合約」附 錄的「住宿及家務安排」)均屬無效。故此,僱主不應安排及/或容許其外傭 在未經勞工處處長批准前在僱主的住址以外的地方留宿。

## 僱主及外傭必須在外傭 受僱期間遵守「留宿規

定」,僱主亦應為外僱提供免費、 合適和有合理私隱的住宿地方。 如有任何違反「留宿規定」或未 有為外傭提供合適住宿的情況, 勞工處及入境處會嚴肅跟進。



## 尋求協助

問3: 我初次聘用外傭,對《僱傭條例》和「標準僱傭合約」的條款不太熟悉,擔心 誤墮法網;另外,我亦不知道職業介紹所是否可靠,我如何能在這方面有多點 認識?

- 答3: 勞工處定期為僱主及外傭舉辦簡介會及資訊站,加深雙方對自身僱傭權益 及責任的了解。在簡介會上,我們會即場為外傭及僱主解答疑問。在疫 情放緩後,我們會舉辦更多講座和簡介會,並計劃舉行其他活動,例如 分享會,收集外傭及僱主對外傭政策的意見。僱主可瀏覽外傭專題網站 (www.fdh.labour.gov.hk) 以獲取勞工處所舉辦的活動的相關資訊。
  - 勞工處不時透過新聞公報及外傭專題網站等途徑,發布與外傭僱傭事宜有關的最新資訊。此外,勞工處另設有職業介紹所專題網站(www.eaa.labour.gov.hk),讓求職者及僱主可便捷地取得與規管職業介紹所有關的資訊,及查核職業介紹所是否持有有效牌照。為提高職業介紹所過往記錄的透明度,及讓求職者及僱主在使用職業介紹所服務時作出知情的決定,勞工處在職業介紹所專題網站,以有系統的方式發布職業介紹所因濫收佣金及無牌經營而被定罪、被撤銷/拒絕續發牌照及被書面警告的記錄。外傭專題網站及職業介紹所專題網站備有網上表格,讓僱主及外傭可便捷地就其僱傭權益及職業介紹所事宜作出查詢或投訴。
  - 僱主亦可參閱勞工處印製的宣傳刊物,包括「聘用外籍家庭傭工手冊」及「僱用外籍家庭傭工實用指南一外籍家庭傭工及其僱主須知」,以加強對《僱傭條例》及「標準僱傭合約」的主要條文的了解。僱主可在外傭專題網站(www.fdh.labour.gov.hk/tc/publication.html)瀏覽及下載有關宣傳刊物。





「聘用外籍家 庭傭工手冊」





「僱用外籍家庭傭工實用指商一外籍家庭 「由一外籍家庭」 「由工及其僱主 「原知」



- 勞工處一直為外傭及僱主在僱傭事宜上提供支援和協助。僱主如就外傭僱傭事宜有疑問,可致電勞工處 24 小時電話諮詢服務熱線 2717 1771 (此熱線由「1823」接聽),或透過外傭事宜專屬電子郵箱 (fdh-enquiry@labour.gov.hk)向勞工處尋求協助。
- 勞工處不時檢視對外傭及僱主的支援服務,務求提供更多有用資訊,加深外傭及僱主對自身權益及責任的了解,並加強對僱傭雙方的支援,從而促進融洽的僱傭關係。



自 2019 冠狀病毒病疫情爆發以來,勞工處一直協助外傭及其僱主 應對疫情帶來的特殊情況,包括與入境處採取彈性安排、為外傭提 供免費 2019 冠狀病毒病檢測服務、鼓勵外傭接種疫苗和呼籲外傭 遵守社交距離措施。

### 加強打擊外傭「跳工」

根據現行規定,在港工作的外傭如欲於完成僱傭合約後受僱於另一僱主,一般而言須於完成合約後離開香港返回原居地,及重新申請工作簽證。外傭如在兩年合約期內提早終止合約,則須於終止合約後的兩星期內離開香港返回原居地。除特殊情況外,外傭如未有按規定離開香港返回原居地,其工作簽證申請通常不會獲得批准。

因應 2019 冠狀病毒病疫情,政府推出了一系列措施,其中包括容許外傭申請在港延長逗留至不超過一個月的期限。有關措施的原意,是回應僱主對聘請外傭的需求,並且減少外傭因往返原居地而受感染的風險。鑑於有個別外傭濫用此項措施「跳工」,及公眾對入住宿舍的外傭的感染風險的關注,政府於 2020 年 12 月調整措施,外傭如提早終止合約,須按原有政策於終止合約後的兩星期內離開香港,以防止個別外傭濫用機制「跳工」。

根據「標準僱傭合約」第 12 條,僱主及外傭須於合約終止日期的七天內各自向入境處提出書面通知,亦須將對方作出關於終止合約的書面確認的副本遞交入境處。他們可選擇填寫入境處的「終止外籍家庭傭工僱傭合約通知書」(表格 ID407E),該表格設有欄目給僱主及外傭填寫終止合約的原因。入境處會保留這些紀錄,作為日後審理該外傭將來申請另一工作簽證或延長逗留期限時的考慮因素。

入境處一直嚴格審批外傭的工作簽證申請。因應社會對外傭「跳工」的關注,入境處的特別職務隊已加強審查經常轉換僱主的外傭的工作簽證申請。在審核外傭是否涉嫌「跳工」時,特別職務隊會詳細考慮多方面的因素,包括外傭提前終止僱傭合約的次數及原因、外傭過往的行為操守、外傭及前僱主的記錄等。對於個別涉嫌「跳工」的外傭,入境處會拒絕其工作簽證申請,並要求他/她們離開香港。

勞工處非常關注職業介紹所教唆外傭「跳工」的問題,包括向外傭求職者提供現金獎賞等金錢誘因,吸引他/她們使用其服務處理續約事宜或尋找新僱主。勞工處一直嚴厲打擊職業介紹所的不良經營行為,並已採取下列措施,以遏止外傭「跳工」的情況。

#### 加強與入境處的合作

 為了更積極、更聚焦地打擊外傭「跳工」的情況,勞工處和入境處已就涉嫌「跳工」的 外傭加強溝通及資訊交流。此外,雙方亦已採取聯合行動,巡查涉嫌鼓勵或教唆外傭「跳工」的職業介紹所。

#### 檢視職業介紹所的營商手法

- 勞工處已仔細審查外傭職業介紹所的營商手法,並巡查向外傭求職者(包括提早終止合約的外傭)及其介紹人提供現金獎賞的職業介紹所。
- 勞工處亦已向所有提供外傭職業介紹服務的職業介紹所發信,提醒他們不應透過不良營商手法鼓勵或教唆外傭「跳工」。
- 如發現職業介紹所繼續該等營商手法,勞工處會發出書面警示。如職業介紹所沒有遵從 《職業介紹所實務守則》(《實務守則》),勞工處可撤銷、拒絕發出或續發其牌照, 或發出警告以敦促其糾正。

#### 調查投訴及制定執法指引

- 勞工處已就每宗涉及外傭職業介紹所教唆外傭「跳工」的投訴 展開調查,派員巡查,並提醒他們不應鼓勵外傭「跳工」。
- 同時,勞工處已制定有關外傭「跳工」個案的巡查及調查指引,使勞工處的執法人員在巡查職業介紹所時,能針對性地查察及搜集有關教唆外傭「跳工」的證據。



#### 其他措施

勞工處亦一直透過宣傳及其他途徑加強打擊外傭「跳工」的情況,包括:

- 勞工處已透過宣傳刊物(例如外傭僱主通訊),提醒僱主應在簽訂服務協議前,與職業介紹所釐清各項退款安排及保證條款,包括外傭提早終止合約時的退款安排。載於《實務守則》內的服務協議樣本,亦提醒僱主應與職業介紹所訂立保證條款,訂明保證期的長短、如須更換外傭而須付的金額,以及可更換的次數等;
- 勞工處已在為外傭舉辦的簡介會上,提醒外傭濫用提早終止合約安排的後果。勞工處亦在外傭專題網站、宣傳刊物及短片等加強宣傳,提醒外傭如被懷疑濫用提早終止合約的安排,其將來的簽證申請可能會被拒;及
- 勞工處已在為職業介紹所舉辦的簡介會上,提醒職業介紹所不得教唆外傭隨意終止合約 或故意破壞勞資關係。

## 鼓勵外傭接種 2019 冠狀病毒病疫苗

全港所有外傭可免費接種疫苗。勞工處已透過新聞公報、外傭專題網站、外傭團體、僱主團體、職業介紹所組織、外傭常用的社交媒體、流動廣播、外傭來源國駐港總領事館等不同途徑,以中文、英文及外傭的主要語言(包括菲律賓文、印尼文及泰文)向外傭發放2019 冠狀病毒病疫苗接種計劃的相關資訊,鼓勵外傭接種疫苗,護己護人。



(「2019 冠狀病毒病疫苗接種計劃」宣傳單張)



(「鼓勵外籍家庭傭工接種疫苗」宣傳單張)



(合資格人士可透過 2019 冠狀病毒病疫苗接種計劃專題網站 (www.covidvaccine.gov.hk) 的預約系統,預約到社區疫苗接種中心接種 2019 冠狀病毒病疫苗。)

## 為外傭提供免費 2019 冠狀病毒病檢測服務

2021 年 3 月至 7 月,勞工處在外傭經常聚集的地點,包括中環行人專用區、銅鑼灣維多利亞公園、荔枝角公園和荃灣公園設立流動採樣站,為外傭提供免費檢測服務。在 5 月份的兩輪強制檢測期間,勞工處延長流動採樣站的服務時間,方便外傭接受病毒檢測。



(設於銅鑼灣維多利亞公園的流動採樣站。)



(檢測承辦商工作人員在荔枝角公園的流動採樣站, 為外傭採集樣本作檢測。)

## 呼籲外傭遵守關於社交距離的規例

勞工處於週六、日在外傭經常聚集的地方,以中文、英文及外傭的主要語言進行流動廣播,並向外傭派發宣傳單張,呼籲她/他們遵守有關佩戴口罩及禁止於公眾地方羣組聚集的規例。

勞工處人員已獲衞生署署長委任成為獲授權人員,協助執行相關規例。在有較多外傭聚集的假期,勞工處會聯同相關部門,例如食物環境衞生署、香港警務處及康樂及文化事務署,採取聯合行動,打擊違反社交距離措施的行為,以及採取適當的執法行動。



(在金鐘添馬公園,提醒外傭遵守社交距離措施。)



(在荃灣公園,與香港警務處進行聯合行動。)

## 推廣融洽僱傭關係

勞工處一直鼓勵僱主與外傭以互諒互讓的態度,商討有關疫情帶來的特殊情況。勞工處在 2021 年初製作了新的宣傳電視短片,鼓勵雙方互相信任、尊重、體諒,共建長久融洽關係(www.isd.gov.hk/chi/tvapi/20\_ld215.html)。



(電視宣傳短片中僱主為外傭慶祝生日。)



如對本通訊內容有任何建議,歡迎透過電郵向我們提出 (電郵地址:fdh-enquiry@labour.gov.hk),謝謝。



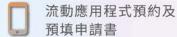


## 全港市民換領身份證計劃

全港市民換領身份證計劃(換證計劃)已於2018年12月27日展開,換證計劃的對象包括全港市民,不論 是永久性居民或在本港就業、投資、居留或就讀的香港居民,均納入計劃內。因此,在香港就業並持有舊 款智能身份證的**外傭**,亦須按其出生年份於指定期限內換領新智能身份證。

## 僱主小貼出

- 1. 記得提醒你的外傭留意換證時間表。
- 辦理換證手續時,外傭只須帶備其現有 的舊款智能身份證(即簽發日期為2003年 6月23日至2018年11月24日的身份證), 到智能身份證換領中心辦理換證手續。





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殘疾人士 (須符合換證條件\*)

## 一同換證

## 換證3步曲



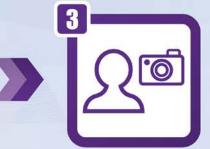
自助取籌服務站

在換證中心的自助取籌 服務站或接待處取籌



自助登記服務站

在指定的自助登記服務站進行指紋核對、填妥及列印申請書



登記室

到指定的登記室拍照並領取領證 通知書,該通知書會列明領證期限



有關換證計劃的詳情,市民可瀏覽新智能身份證網站www.smartid.gov.hk或致電入境事務處查詢熱線28246111。







## 煎釀彩椒

**Stuffed Bell Peppers** 

Pinalamanan na Paminta

(菲律賓文 Tagalog)

Paprika Isi

(印尼文 Bahasa Indonesia)





材料: / Ingredients: / Mga sangkap: / Bahan:

鯪魚肉 (240克) 青燈籠椒 (1個)

紅燈籠椒 (1個) 黃燈籠椒(1個)

Dace Fish Paste (240g) Green Bell Pepper (1 piece) Red Bell Pepper (1 piece)

Yellow Bell Pepper (1 piece)

Putik na Pamumula (240g) Berdeng Paminta (1 piraso) Pulang Paminta (1 piraso) Dilaw Paminta (1 piraso)

Ikan Mas Lumpur (240g) Paprika Merah (1 buah) Paprika Hijau (1 buah) Paprika Kuning (1 buah)







### 芡汁:

生抽 (1 湯匙) 蠔油 (1 湯匙) 麻油 (% 茶匙) 白胡椒粉 (½ 茶匙)

> 鹽 (¼ 茶匙) 糖 (½ 茶匙) 生粉 (1 茶匙)

清水 (4 湯匙)

#### Sauce:

Soy Sauce (1 tbsp) Oyster Sauce (1 tbsp) Sesame Oil (½ tsp) White Pepper (½ tsp) Salt (1/4 tsp) Sugar (½ tsp) Cornstarch (1 tsp) Water (4 tbsp)

Toyong Maputla (1 kutsara) Sarsa ng Talaba (1 kutsara) Linga ng Langis (½ kutsaritang) Puting Paminta (1/2 kutsaritang) Asin (1/4 kutsaritang) Asukal (½ kutsaritang) Harinang mais (1 kutsaritang) Tubig (4 kutsara)

#### Saus:

Kecap Kedelai Encer (1 sdm) Saus Tinam (1 sdm) Minyak Wijen (1/2 sdt) Lada Putih (1/2 sdt) Garam (1/4 sdt) Gula (½ sdt) Tepung Jagung (1 sdt) Air (4 sdm)

#### 魚肉醃料:

鹽 (% 茶匙) 生粉 (1 茶匙) 白胡椒粉 (% 茶匙) 果皮(切碎)(2瓣) 蔥(切碎)(2湯匙) 紹興酒(%湯匙)

#### Marinade for Fish:

Salt (1/4 tsp) Flour (1 tsp) White Pepper (½ tsp) Fruit Skin (chopped) (2 cloves) Spring Onion (chopped) (2 tbsp) Shaohsing Wine (1/2 tbsp)

#### Pag-atsara ng isda:

Asin (1/4 kutsaritang) Saritang Harina (1 kutsaritang) Saritang Puting Paminta (1/2 kutsaritang) Balat ng Prutas (tinadtad) (2 cloves) Sara ng Bawang (tinadtad) (2 kutsara) Saritang Shaotsing Wine (½ kutsara)

#### Rendaman ikan:

Garam (1/4 sdt) Tepung Terigu (1 sdt) Lada Putih (½ sdt) Kulit Buah (dicincang) (2 sung) Bawang Merah (dicincang) (2 sdm) Anggur Saosin (½ sdm)



### 製作步驟: / Cooking Steps: / Pagluluto hakbang: / Memasak cara:



先把鯪魚肉及魚肉醃料混合,順時針方向打成膠,放入雪櫃醃約30分鐘後備用。

Mix the dace fish paste with marinade. Keep stirring the fish paste in one direction until the meat becomes a sticky, pasta-like texture. Chill the dace fish paste in the fridge for about 30 minutes and then set aside.

Paghaluin ang putik na pamumula na may pag-atsara. Patuloy na pukawin ang i-paste ng isda sa isang direksyon hanggang ang karne ay maging isang malagkit, mala-texture na texture. Palamigin ang putik na pamumula sa ref para sa mga 30 minuto at pagkatapos ay magtabi.

Campur ikan mas lumpur dengan rendaman. Terus aduk pasta ikan ke satu arah sampai daging menjadi tekstur lengket seperti pasta. Dinginkan ikan mas lumpur di lemari es selama sekitar 30 menit lalu sisihkan.



清洗所有燈籠椒及去走椒內的瓤後切件。撲少量生粉,然後釀入步驟 1 的魚膠。

Wash all the bell peppers and remove the flesh (seeds and stem). Cut the peppers into pieces. Dust the inside with cornstarch and stuff with fish paste of Step 1.

Hugasan ang lahat ng mga paminta ng kampanilya at alisin ang laman (buto at tangkay).

Gupitin ang mga paminta at i-dust ang loob ng may harinang mais at mga gamit na may putik na pamumula ng Hakbang 1.

Cuci semua paprika dan buang dagingnya (biji dan batangnya). Potong paprika menjadi beberapa bagian dan taburi bagian dalamnya dengan tepung jagung dan isi dengan ikan mas lumpur dari Langkah 1.



準備 1 個碗,把生抽,蠔油,麻油,胡椒粉,鹽,糖,生粉和水混合成芡汁,備用。

Prepare the sauce by mixing soy sauce, oyster sauce, sesame oil, white pepper, salt, sugar, cornstarch and water in a bowl. Set aside.

Maghanda ng isang mangkok, ihalo toyong maputla, sarsa ng talaba, linga ng langis, puting paminta, asin, asukal, Harinang mais at tubig upang gawin ang sarsa, spare. Siapkan mangkuk, campur kecap kedelai encer, saus tiram, minyak wijen, lada putih, garam, gula, tepung maizena dan air untuk membuat saus, cadangan.





在易潔鑊燒熱油,將步驟 2 釀好的燈籠椒 (魚肉朝底) 放於鑊中,以慢火煎約 10 分鐘。 Heat oil in a non-stick wok and pan-fry the stuffed bell peppers of Step 2 (fish meat face down) over low heat for about 10 minutes.

Pag-init ng langis sa isang non-stick wok at iprito ang pinalamanan na mga paminta ng Hakbang 2 (nakaharap ang karne ng isda) sa mababang init ng halos 10 minuto. Panaskan minyak dalam wajan anti lengket dan goreng paprika isi Langkah 2 (daging ikan menghadap ke bawah) dengan api kecil selama sekitar 10 menit.





5

加入步驟 3 的芡汁,蓋上蓋煮約 2 分鐘或至魚肉全熟,即可上碟。

Add the sauce of Step 3, cover and braise for about 2 minutes or until the fish is thoroughly cooked and serve.

Idagdag ang sarce ng Hakbang 3, takpan at mag-braise ng halos 2 minuto o hanggang sa ang isda ay maluto nang maluto at maihatid. Tambahkan saus Langkah 3, tutup dan rebus selama sekitar 2 menit atau sampai ikan matang dan sajikan cooked.

## My Helping Hand at Home

Newsletter for Employers of Foreign Domestic Helpers

## **Issue 6 - September 2021**



## Questions & Answers on Employment Matters on Foreign Domestic Helpers

Quite a number of employers may have questions about obligations under the labour laws, the terms of the Standard Employment Contract (SEC) and other related employment matters when employing foreign domestic helpers (FDHs) for the first time. When they have such questions, they

may turn to discussion forums on online social platforms or friends to exchange ideas in order to find solutions. However, it may not be the "Best Answer". In this issue of the newsletter, the Labour Department (LD) consolidated our experience in handling FDH employers' enquiries to provide solutions to first-time employers to some of their frequently asked questions.

## **Work Arrangement**

Q1: I am preparing to hire an FDH to take care of my new-born baby at home. However, if she cannot adapt to the job, what should I do? If the FDH decides to prematurely terminate the employment contract, and we have disputes about the calculation of termination payments, where can I seek assistance from? If the FDH alleges that she cannot complete the two-year contract because she cannot adapt to the job, such "job-hopping" is unfair and inconvenient to the employer. What protection can the government provide to employers?



• When employers hire FDHs, they should clearly specify the work requirements of the FDHs in the recruitment advertisements or to the employment agencies (EAs). For example, apart from ordinary household chores, employers can specify that the FDHs have to take care of new-born babies. When selecting an FDH, employers should clearly examine the skills and work experience of the candidates and select one with relevant experience/skills or one who is willing to take on the relevant work. During interviews, employers should clearly explain the families' situations, job requirements and employment arrangements, etc. to the applicants. This helps the applicants understand the work they are about to do and decide whether they are suitable for the job. Not only can this reduce the chances of FDHs resigning after taking up the employment for not being able to adapt to the job, but it will also, to a certain extent, help employers pick the right candidates.



- If your FDH says that she is not adapted to the job, you can take the initiative to understand the difficulties that your FDH is facing and offer appropriate guidance or work instructions. You can also adjust her work arrangements, so that she can complete the tasks step by step. Besides, we suggest you to have frank discussions with your FDH so as to let her understand your job requirements and at the same time, allow you to understand the problems that your FDH is facing. Getting to know each other better helps your FDH adapt to the new job.
- If your FDH decides to terminate the employment contract, she may do so by giving one month's notice in writing or one month's wages in lieu of notice to the employer in accordance with Clause 10 of the SEC.
- If the two parties have disputes when calculating the termination payments, they
  may approach the branch offices of the Labour Relations Division of LD for enquiries
  or assistance. The Labour Relations Division provides free consultation and
  conciliation services to employers and FDHs to help them resolve labour disputes.
  You may visit LD's website (www.labour.gov.hk/eng/tele/lr1.htm) for the addresses of
  the branch offices.
- LD has all along been highly concerned about the problem of "job-hopping" by FDHs and has adopted a series of measures to combat the situation. For details, please refer to the "News" section of this newsletter.

## Effective communication with FDHs can help them be more engaged in their work

After their FDHs report duty, employers can prioritise the household chores according to the need of their families. Setting up a work schedule and giving clear guidance to FDHs, particularly in the initial stage of employment, will help them complete their tasks effectively. Feedback from employers can help FDHs understand employers' requirements



Q2: Can I assign my FDH to perform any duty, including driving my private car to pick up my family members and do grocery? My family and I will dwell alternately in two different residences. Can I ask my FDH to live and work in these two residences?

• It is stated in Clause 4(a) of the SEC that an FDH shall only perform domestic duties for the employer as per the "Schedule of Accommodation and Domestic Duties" attached to the SEC. The domestic duties specified include household chores, cooking, looking after aged persons in the household, baby-sitting and child-minding. If an employer requires an FDH to perform non-domestic duties, he/she will commit an offence under the Immigration Ordinance and is liable to prosecution.

- Under the SEC, domestic duties to be performed by FDHs do not include driving of a motor vehicle. However, to address the genuine needs of some employers, a special arrangement is made by the Immigration Department (ImmD) to allow FDHs to perform driving duties which are incidental to or arising from domestic duties, i.e. driving duties arising from the five major categories of domestic duties (household chores, cooking, looking after aged persons in the household, baby-sitting and child-minding). Requesting FDHs to drive employers to and from their offices, transport goods, etc. are not included. If employers need their FDHs to perform driving duties related to domestic duties, they may apply to the Director of Immigration for special permission.
- Under the existing policy, an FDH shall work and reside in the employer's residence specified in Clause 3 of the SEC throughout the employment period. The employer's residence refers to a single household in one location and the employer shall not request his/her FDH to work outside of the residence specified in the contract, nor is the employer allowed to put more than one address in the contract. Also, Clause 5(b) of the SEC stipulates that the employer shall provide the FDH with suitable and furnished accommodation free of charge. The FDH and the employer must each give an undertaking to the Government in the relevant visa application forms that the FDH will reside only in the employer's residence, and that the employer will provide the FDH with suitable accommodation and with reasonable privacy. If the employer or the FDH breaches their undertaking, ImmD may refuse the employer's future applications for employing FDHs or the FDH's future visa applications to work in Hong Kong or extension of stay applications. Further, in case employers or FDHs knowingly furnish a false representation to immigration officers in the course of a visa application, including false representation on the accommodation arrangement for FDHs, they may be in breach of the Immigration Ordinance and be subject to criminal prosecution.
- Pursuant to Clause 15 of the SEC, any variation or addition to the terms of the
  contract during its duration (including the "Schedule of Accommodation and
  Domestic Duties" attached to the SEC) shall be void unless made with the prior
  consent of the Commissioner for Labour. Therefore, employers shall not arrange
  and/or allow his/her FDH to reside outside the employer's residence without first
  obtaining the consent of the Commissioner for Labour.

## Attention

Employers and FDHs must comply with the "live-in requirement" during the period of employment. Employers should also provide free, suitable and furnished accommodation to their FDHs. In case of any violation of the "live-in requirement" or failure to provide FDHs with suitable accommodation, LD and ImmD will investigate the matter seriously.

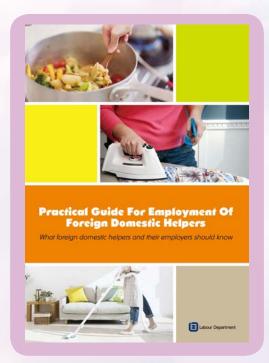


## **Seeking Assistance**

- Q3: It is my first time employing an FDH and I am not familiar with the Employment Ordinance (EO) and SEC. I am worried that I may breach the law inadvertently. Besides, I have no idea whether the EA is reliable or not. How can I obtain more information on these matters?
- LD regularly organises briefings and information kiosks for employers and FDHs with a view to enhancing their understanding of their respective employment rights and obligations. At briefings, we will answer enquiries from FDHs and employers on the spot. Once the pandemic has eased, we will organise more talks and briefings and plan to organise other events, such as sharing sessions to collect FDHs' and employers' opinions on FDH policies. Employers can visit the FDH Portal (www.fdh. labour.gov.hk) for information on activities organised by LD.
  - LD announces the latest information on employment matters of FDHs through channels such as press releases and the FDH Portal from time to time. Besides, LD set up an EA Portal (www.eaa.labour.gov.hk) to facilitate job-seekers and employers to conveniently access information relating to the regulation of EAs and allow the public to check if an EA has a valid licence. To enhance transparency of EAs' track records and facilitate job-seekers and employers in making informed decisions when engaging EAs, LD publishes on the EA Portal in a systematic manner the records of conviction of overcharging and unlicensed operation, revocation/refusal of renewal of licence and written warnings issued. An online form is available on the FDH Portal and EA Portal to facilitate employers and FDHs to make enquiries and lodge complaints about employment and EA matters.
  - Employers may also refer to the publications published by LD, including "A
    Handbook for Employing Foreign Domestic Helpers" and "Practical Guide for
    Employment of Foreign Domestic Helpers What Foreign Domestic Helpers and
    Their Employers Should Know", to enhance their understanding of the major
    provisions of the EO and SEC. You can view and download the publications from
    the FDH Portal (www.fdh.labour.gov.hk/en/publication.html).









"Practical Guide for Employment of Foreign Domestic Helpers - What Foreign Domestic Helpers and Their Employers Should Know"



 LD has all along been providing support and assistance to FDHs and their employers on employment matters. Should employers have enquiries about FDH employment matters, they may seek LD's assistance by calling our 24-hour telephone enquiry hotline 2717 1771 (the hotline is handled by 1823) or through

our dedicated email account for FDH matters (fdh-enquiry@labour.gov.hk).

• LD reviews the support services provided to FDHs and employers from time to time to provide more useful information to enhance the awareness of FDHs and employers of their respective rights and obligations, as well as strengthens support for both parties to promote more cordial employment relationships.



Since the outbreak of COVID-19, LD has been assisting FDHs and their employers in coping with the special circumstances arising from the pandemic, including providing flexibility arrangements in coordination with ImmD, providing free COVID-19 testing service for FDHs, encouraging FDHs to get vaccinated and appealing to FDHs to comply with social distancing measures.

## Stepping up efforts to combat "job-hopping" by FDHs

In accordance with the prevailing requirement, FDHs working in Hong Kong who wish to enter into a new employment contract with another employer upon completion of the existing employment contract must, in general, leave Hong Kong and return to their place of origin and submit a new employment visa application. In the event that FDHs terminate their employment contracts prematurely within the two-year contract period, they must leave Hong Kong and return to their place of origin within two weeks from the date of termination of their contracts. Employment visa applications from FDHs who have not left Hong Kong and returned to their place of origin as required will not normally be approved except under exceptional circumstances.

In view of the COVID-19 pandemic, the Government launched a series of measures, including allowing FDHs to apply for extension of their limit of stay for not more than one month in Hong Kong. The policy intent of this measure was to respond to the demands of employers who need to employ FDHs and to reduce FDHs' risk of COVID-19 infection due to travelling to and from their places of origin. Given that there were individual FDHs who abused the measure and "jobhopped", as well as the public's concerns about the infection risks of FDHs staying in boarding facilities, the Government announced adjustments to the measure in December 2020. With the adjustments, FDHs whose employment contracts are prematurely terminated must leave Hong Kong within two weeks upon termination of the employment contract in accordance with the prevailing policy, thereby preventing individual FDHs from abusing the mechanism to "job-hop".

Clause 12 of the SEC provides that in the event of termination of the contract, both the employer and the FDH shall give ImmD notice in writing within seven days of the date of termination. A copy of the other party's written acknowledgement of the termination shall also be forwarded to ImmD. They can choose to complete ImmD's "Notification of Termination of Employment Contract with Foreign Domestic Helper" (Form ID407E), in which the employer and the FDH can fill in the reason for the termination of contract. These records will be kept and taken into account by ImmD when it assesses any future applications made by the FDH for another employment visa or extension of stay.

ImmD has all along been processing employment visa applications of FDHs in a rigorous manner. In view of the public's concerns about "job-hopping" by FDHs, the special duties team of ImmD has strengthened the assessment of employment visa applications from FDHs who changed employers frequently. In assessing whether the FDHs are suspected of "job-hopping", the special duties team will take into account all relevant factors, such as the number and reasons for premature termination of employment contract, previous conduct of FDHs, records of FDHs and former employers, etc. For individual FDHs who are suspected of "job-hopping", ImmD may refuse their employment visa applications and require them to leave Hong Kong.

LD is highly concerned about EAs inducing FDHs to "job-hop", including providing monetary incentives such as cash rewards to attract FDH job-seekers to use the EAs' services for processing contract renewal or finding new employers. LD has all along been combatting business malpractices of EAs in a rigorous manner and has taken the following measures to combat "job-hopping" by FDHs.

#### Strengthened co-operation with ImmD

 With a view to combatting "job-hopping" in a more proactive and focused manner, LD and ImmD have strengthened communication and exchange of information on FDHs who are suspected of "job-hopping". Also, joint operations have been conducted by both departments to inspect EAs which are suspected to have encouraged or induced FDHs to "job-hop".

#### Review of EAs' business practices

- LD has closely scrutinised EAs' business practices and inspected EAs which provided cash rewards to FDH job-seekers (including FDHs who prematurely terminated their contracts) and their referrers.
- LD has also issued letters to all EAs providing FDH placement service to remind them that they should not encourage or induce FDHs to "job-hop" through improper business practices.
- If an EA is discovered to have continued such business practice, LD will issue a written warning to the EA concerned. If the EA has not complied with the Code of Practice for Employment Agencies (CoP), LD may revoke or refuse to issue or renew its licence, or issue warnings to the EA requiring it to make rectifications.

#### Investigation of complaints and formulation of enforcement guidelines

- LD has carried out investigation into each complaint concerning EAs inducing FDHs to "job-hop", sent officers to inspect the EAs and reminded them not to encourage FDHs to "job-hop".
- At the same time, LD has formulated guidelines on inspecting and investigating "job-hopping" cases of FDHs, so that LD's law enforcement officers can focus on detecting and gathering evidence on inducing FDHs to "job-hop" during inspections of EAs.

#### Other measures

LD has also been combatting "job-hopping" by FDHs through publicity and other channels, including:

 LD has reminded employers through publicity materials (such as newsletters for FDH employers) that before they sign the service agreement, they should clarify with EAs the various refund arrangements and terms of guarantee, including the refund arrangement in case of premature contract termination by FDHs. In the sample service agreement appended to the CoP, employers are reminded



- to draw up terms of guarantee with EAs specifying the duration of the terms, the amount of fees in case replacement of FDH is required, and the number of replacements permitted, etc.;
- LD has reminded FDHs at briefings about the consequences for abusing the arrangement
  of premature contract termination. LD has also stepped up publicity through its FDH
  Portal, promotional materials and videos to alert FDHs that if they are suspected of
  abusing the arrangement of premature contract termination, their future visa applications
  may be rejected; and
- LD has reminded EAs not to abet FDHs in terminating contracts arbitrarily or disrupting labour relations deliberately at briefings for EAs.

### **Encouraging FDHs to get vaccinated for COVID-19**

All FDHs in Hong Kong can get vaccinated free of charge. LD has disseminated information on the COVID-19 Vaccination Programme in Chinese, English and major FDH languages (including Tagalog, Bahasa Indonesia and Thai) to FDHs through various channels, including press releases, the FDH Portal, FDH groups, employer groups, EA associations, social media commonly used by FDHs, mobile broadcasts, consulates-general of FDH-sending countries in Hong Kong, etc. FDHs are encouraged to get vaccinated so as to protect themselves and others.



(Leaflet on "COVID-19 Vaccination Programme")



(Leaflet on "Encouraging Foreign Domestic Helpers to get vaccinated")



(Eligible members of the public can make reservations through the online booking system on the designated website of the COVID-19 Vaccination Programme (www.covidvaccine.gov.hk/en/) for receiving COVID-19 vaccination at Community Vaccination Centres.)

### **Providing free COVID-19 testing service for FDHs**

From March to July 2021, LD set up mobile specimen collection stations at popular gathering places of FDHs, including the Pedestrian Precinct in Central, Victoria Park in Causeway Bay, Lai Chi Kok Park and Tsuen Wan Park for providing free testing service to FDHs. During the two rounds of compulsory testing service for FDHs in May, LD extended the service hours of the mobile specimen collection stations to facilitate FDHs to receive testing.



(A mobile specimen collection station was set up in Victoria Park in Causeway Bay.)



(A staff member of the testing agent in Lai Chi Kok Park is collecting a specimen from an FDH.)

## Appealing to FDHs to comply with the regulations on social distancing

LD has been conducting mobile broadcasts in Chinese, English and major FDH languages at popular gathering places of FDHs and distributing promotional leaflets to FDHs on Saturdays and Sundays to call upon them to comply with the regulations on mask-wearing and prohibition of group gatherings in public places.

LD officers have been appointed by the Director of Health as authorised officers to assist in enforcing the relevant regulations. During holidays when there would be a relatively large number of FDHs gathering, LD will collaborate with the relevant departments such as the Food and Environmental Hygiene Department, the Hong Kong Police Force and the Leisure and Cultural Services Department to conduct joint operations against behaviour in contravention of social distancing measures and take appropriate enforcement action.



(Reminding FDHs to comply with the social distancing measures in Tamar Park in Admiralty.)



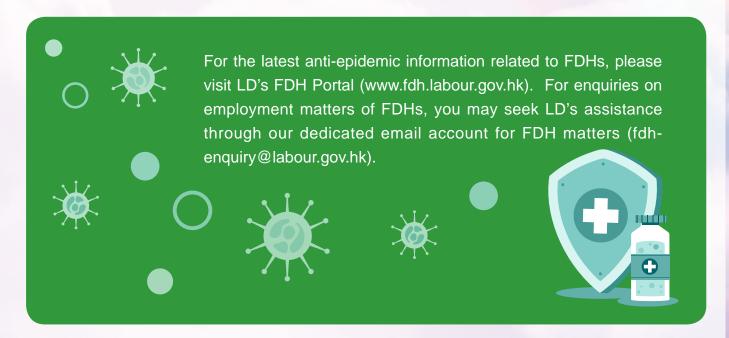
(Joint operation with the Police in Tsuen Wan Park.)

### **Promoting harmonious employment relationship**

LD has all along encouraged employers and FDHs to discuss the special circumstances arising from the pandemic in an understanding and considerate manner. In early 2021, LD produced a new TV announcement to encourage both parties to build a long-term harmonious relationship through mutual trust, respect and empathy (www.isd.gov.hk/eng/tvapi/20\_ld215.html).



(An employer celebrating an FDH's birthday in the TV Announcement.)



If you have any suggestions about this newsletter, please email us at fdh-enquiry@labour.gov.hk. Thank you.



## Territory-wide Identity Card Replacement

## **Card Replacement Exercise**

Commencing on 27 December 2018, the Territory-wide Identity Card Replacement Exercise (Replacement Exercise) covers all Hong Kong residents, regardless of whether they are Hong Kong permanent residents, or residents for employment, investment, residence or study in Hong Kong. Therefore, **FDHs** working in Hong Kong and holding the old form of smart Hong Kong identity card (HKIC) should apply for the new HKIC during the specified call-up period for their year of birth.

## Tips for employers

- 1. Remind your FDHs to pay attention to the replacement schedule.
- FDHs only need to bring along their existing old form of smart HKIC (i.e. identity card with date of issue from 23 June 2003 to 24 November 2018) for HKIC replacement at any one of the Smart Identity Card Replacement Centres.



Mobile application booking and form pre-filling





Online booking and form pre-filling www.gov.hk/newicbooking





24-hour telephone booking 2121 1234



Appointment booking available for next 24 working days

## **Remember to Book Ahead!**



Family members or friends aged 65 or above



Applicant for identity card replacement





Persons with disabilities (who have met the replacement requirements\*)

## 3 simple steps for replacing Hong Kong Identity Card



Self-service Tag Issuing Kiosk

Obtain a tag number at the Self-service Tag Issuing Kiosk or the reception counter at a Replacement Centre



#### Self-service Registration Kiosk

Proceed to the designated Self-service Registration Kiosk for fingerprint verification, form filling and printing



#### Registration Booth

Take photograph at the designated registration booth and get a notice of collection which shows the collection period



For details of the Replacement Exercise, please visit the Smart ID website www.smartid.gov.hk or call the Immigration Department enquiry hotline at 2824 6111.



