



CONDITIONS OF EMPLOYMENT FOR FOREIGN DOMESTIC HELPERS

A General Guide to the Employer

**Immigration Department
The Government of the Hong Kong
Special Administrative Region**

This guide, in the form of simple questions and answers, provides a brief description of the conditions of employment for foreign domestic helpers. It is not a full exposition of the subject matter. For further information, please refer to the Guidebook for the Employment of Domestic Helpers from Abroad [ID(E)969] and the standard Employment Contract [ID407] obtainable from the Immigration Department. Information on the Employment Ordinance (Chapter 57, Laws of Hong Kong) is also obtainable from the Labour Relations Division of the Labour Department. The addresses of their branch offices are listed in the Appendix.

If you need advice on individual cases, you may address your enquiries to :

Information and Liaison Section

Immigration Department

2/F Immigration Tower

7 Gloucester Road

Wanchai

Telephone Enquiry : 2824 6111

Fax : 2877 7711

OR

Labour Relations Division

Labour Department

(Addresses of branch offices are at the Appendix)

Telephone Enquiry : 2717 1771

1. I understand that the wage rates for foreign domestic helpers (FDHs) are subject to regular review. Am I obliged to adjust the wage of my FDH every time the rate is revised? What is the current minimum allowable wage (MAW) for FDHs in Hong Kong?

No, you are not obliged to revise the wage of your existing FDH if he/she is already on a valid contract. The revision only applies to contracts made after the date of announcement.

The MAW is subject to periodic reviews by the Labour and Welfare Bureau; and public announcement will be made by them when there is a change or when they decide to maintain the wage level. For information on the prevailing MAW, you may refer to Chapter 3 of the “Practical Guide for Employment of Foreign Domestic Helpers – What Foreign Domestic Helpers and Their Employers Should Know” provided by the Labour Relations Promotion Unit of the Labour Department at <http://www.labour.gov.hk/>.

2. What are my legal responsibilities in employing an FDH?

Your legal responsibilities are governed by the employment contract and the laws of Hong Kong. In broad terms, you should pay your FDH the full wages, observe the statutory requirements under the Employment Ordinance such as provision of paid annual leave, holidays and rest days, and provide him/her the cost of passage to and from Hong Kong. **It is an offence if you pay your FDH lesser amount of monthly wages than that is stipulated in the employment contract.**

Under the Employees' Compensation Ordinance, you are required to take out an insurance policy for your FDH to cover accidents arising out of and in the course of employment. Under Clause 9(a) of the contract, you shall also provide free medical treatment to your FDH when he/she is ill or suffers personal injury, whether or not it is attributable to his/her employment. In the event of the termination of the contract, you should inform the Immigration Department in writing.

3. Can I require my FDH to work in an address other than the address specified in the contract or in another household or in other kinds of employment?

No, an FDH is only allowed to perform domestic duties for a specific employer at the address as specified in the employment contract. If you deploy your FDH illegally to work for another person or require him/her to work on non-domestic duties, you may have committed an offence.

4. Can I allow my FDH to take up part-time employment if he/she is not fully engaged in my household?

No.

5. Can I require my FDH to perform motor driving duties that are incidental to and arising from domestic duties?

No, unless you have obtained special permission from the Director of Immigration for performance of motor driving duties by FDH.

6. What should I do if my FDH is insolent, disobedient and refuses to accept orders?

You may terminate the employment without notice or payment in lieu of notice under the circumstances permitted by the Employment Ordinance. Such circumstances include wilful disobedience to lawful and reasonable order, misconduct, guilty of fraud or dishonesty, or habitual negligence in the duties on the FDH in relation to his/her employment.

7. Can I employ an FDH who is now in Hong Kong and whose contract has been terminated before it has run its course?

Where a contract is broken before it has run its course, the FDH will not be allowed to change employment in Hong Kong save in exceptional circumstances (e.g. when the previous employer is unable to continue with the contract because of external transfer, emigration, death or financial reasons; or there is evidence that the FDH has been abused or exploited). If he/she wishes to take up another job here, he/she must return to his/her place of origin and apply for the appropriate visa directly to the Director of Immigration either by post or through you.

8. Can I employ an FDH who is now in Hong Kong and whose contract has been completed in full?

Yes, provided that he/she submits the application to the Immigration Department within four weeks prior to the expiry of his/her existing contract. He/She will normally be required to take a home leave before returning to Hong Kong to start a new contract. If circumstances do not permit the FDH to take home leave immediately upon expiry of the old contract, subject to your mutual agreement with the FDH, he/she may apply for an extension of stay to defer the home leave.

9. Can I employ a part-time FDH?

No. If you are in need of a part-time helper, you may approach the Employment Service Division of the Labour Department for assistance.

10. What would happen if an employer were found to have breached any statutory provisions or any provision of the employment contract, or to have abused or exploited the FDH?

Apart from the legal liabilities to be borne by the employer, FDH may not be approved to be employed by the employer in future.

11. Who is eligible to employ an FDH? Where can the public find out the eligibility criteria?

Any Hong Kong resident who can satisfy the following criteria may employ an FDH:

- (1) he/she is financially capable of employing an FDH;
- (2) he/she has entered into a standard employment contract (ID407) as specified by the Director of Immigration with the prospective FDH;
- (3) he/she will require the prospective FDH to perform domestic duties only;
- (4) he/she will not allow or require the prospective FDH to take up any employment with any other person during the contractual period as specified in the employment contract;
- (5) he/she will pay the FDH a salary no less than the minimum allowable wage as announced by the HKSAR Government. If no food is provided to the FDH, the agreed amount of food allowance should not be less than the applicable food allowance announced by the HKSAR Government;
- (6) he/she will let the FDH work and reside at the contractual address only;
- (7) he/she will provide the FDH with decent accommodation and suitable privacy;
- (8) he/she is a bona fide resident in Hong Kong and the bona fides of him/her and the prospective FDH are not in doubt; and
- (9) he/she has no adverse record in respect of employment of FDH.

Details of eligibility criteria are stated in *Guidebook for the Employment of Domestic Helpers from Abroad* [ID(E)969].

12. Do employers of FDHs need to pay the Employees Retraining Levy (levy) after the expiry of the suspension of its collection on 1 August 2013?

The requirement for the collection of levy from employers of FDHs had been abolished after the expiry of the suspension of its collection on 1 August 2013. Nevertheless, employers who owe an overdue levy to the Director of Immigration are still required to settle the outstanding payment immediately. Should any employer fail to settle the outstanding payment, Immigration Department would take into account such adverse record and he/she may be considered ineligible for employment of FDH for a certain period of time.

13. Can any unused balance of levy which was paid before the suspension period of levy collection be refunded?

All levy paid is not refundable under any circumstances.

14. Who is responsible for assessing whether a person is eligible to employ an FDH?

The Director of Immigration will assess the eligibility of the applicants as per the criteria given in the Guidebook. Those who are considered ineligible may request reconsideration through the channel provided in the written notification.

15. Must FDH employment contracts be notarised by corresponding consulates before Immigration Department approves FDH employment visas?

Before FDHs are approved to work in Hong Kong, the standard employment contract (ID407) should be notarised by the relevant consulate in the HKSAR, if so required.

16. Under what circumstances should my FDH apply for two visas (one for entry and the other for extension of stay) upon renewal of contract application?

According to the standard employment contract, an FDH should enjoy his/her home leave upon completion of his/her two-year employment contract. If he/she wishes to continue to work as FDH in Hong Kong, he/she should apply for an entry visa to enter Hong Kong to commence the new contract. If circumstances do not permit the FDH to return to his/her place of origin for vacation immediately upon expiry of old contract, subject to your mutual agreement with the FDH, he/she may apply for an extension of stay for him/her to defer the home leave. On application, an extension of stay of normally not exceeding one year may be granted by the Director of Immigration upon payment of an extension fee. Further extension of stay within the contract period will not be allowed. Therefore, arrangements should be made for the FDH to return to his/her place of origin for home leave within one-year extension period, and for the FDH to use the visa (with visa fee waived and with a validity in line with the extension of stay granted) to enter the HKSAR to complete the contract.

17. What should I submit together with the application to ensure that the Immigration Department will accept the application?

You must ensure that both the application forms for employing a domestic helper from abroad [ID988B] and for an entry visa [ID988A] are duly completed and are enclosed with all supporting documents, including a completed contract (notarised by the relevant

consulate, if required). Applications without any of the two application forms or any necessary supporting documents will be returned and no further action will be taken until all the application forms and necessary documents are re-submitted. A list of the required documents is provided in the Guidebook [ID(E)969].

18. For application of FDH from abroad, how can I ensure that the Immigration Department has received my application?

Upon receipt of the application, the Immigration Department will send an acknowledgement letter to you. If you submit your application by mail, the Immigration Department will regard the date of the postal chop on the envelope as the date of application.

19. What is the normal processing time of an FDH application for the Immigration Department? Is there a performance pledge?

The Immigration Department's performance pledge for FDH entry visa applications is that 90% of the applications will be finalised within six weeks upon receipt of all necessary documents.

20. How do I check application progress?

Please do not make enquiries about the progress of the application unless it is absolutely necessary as it may delay the processing of the application. Should there be any urgent need for enquiries, you may phone Immigration Department at 2824 6111, fax to 2877 7711 or e-mail to enquiry@immd.gov.hk. You may also enquire the status of your application through the Online Application Status Enquiry under GovHK at www.gov.hk/immdstatusenquiry or through the 24-hour telephone enquiry system at 3160 8663.

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Appendix

Offices of the Labour Relations Division of the Labour Department:

HONG KONG REGION

Hong Kong East

34/F, Revenue Tower,
5 Gloucester Road, Wanchai,
Hong Kong.

Hong Kong West

3/F, Western Magistracy Building,
2A Pokfulam Road,
Hong Kong.

KOWLOON REGION

Kowloon East

Room 1206, 12/F, Stelux House,
698 Prince Edward Road East,
San Po Kong,
Kowloon.

Kowloon West

Room 1009,
10/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road,
Kowloon.

Kowloon South

2/F, Mongkok Government Offices,
30 Luen Wan Street, Mongkok,
Kowloon.

Kwun Tong

6/F, Kowloon East Government Offices,
12 Lei Yue Mun Road, Kwun Tong,
Kowloon.

NEW TERRITORIES REGION

Tsuen Wan

5/F, Tsuen Wan Government Offices,
38 Sai Lau Kok Road, Tsuen Wan,
New Territories.

Kwai Chung

6/F, Kwai Hing Government Offices,
166-174 Hing Fong Road, Kwai Chung,
New Territories.

Tuen Mun

Unit 2, East Wing, 22/F
Tuen Mun Central Square
22 Hoi Wing Road
Tuen Mun, New Territories

Sha Tin & Tai Po

Rooms 304-313,
3/F Sha Tin Government Offices,
1 Sheung Wo Che Road,
Sha Tin,
New Territories.