

LCQ2: Foreign domestic helpers

Following is a question by the Hon Cheung Kwok-kwan and a reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (December 9):

Question:

It is learnt that the Indonesian Government will implement new requirements in January next year to dispense with the payment of placement service fees by migrant workers (including domestic helpers coming to work in Hong Kong). Instead, the expenses on Indonesian domestic helpers' applications for a passport and a certificate of having no criminal records as well as social security contributions for them in Indonesia are to be borne by their employers, while the expenses on the training they receive before coming to Hong Kong are to be borne by local governments in Indonesia. Furthermore, the Philippine Government has recently issued instructions that migrant workers are not required to pay for the expenses on the training they receive and applications for documents, which are to be borne by their employers instead. Some prospective employers of foreign domestic helpers (FDHs) have relayed that the board and lodging expenses for FDHs to undergo compulsory quarantine in hotels upon arrival in Hong Kong, coupled with the additional expenses arising from the new requirements implemented by the Indonesian and Philippine Governments, have aggravated their financial burdens. In this connection, will the Government inform this Council:

(1) whether it has sought further details of the new requirements (including the amounts of the various additional expenses to be borne by the employers of FDHs) from the Indonesian and Philippine Governments, and lobbied the two Governments to shelve the arrangements under which the employers shall pay such fees; if so, of the details; whether it has assessed the impacts of such additional expenses on the financial situations of those families that need to hire FDHs;

(2) given that while the new requirements will greatly increase the financial burden of employers of FDHs, it is impossible to preclude that some FDHs, shortly after their reporting for duty, may terminate their contracts or deliberately perform badly to get themselves fired so as to obtain the relevant compensations, whether it has examined if such situations are unfair to the employers concerned; if it has examined and the outcome is in the affirmative, whether the Government will render assistance to such employers; and

(3) of the respective numbers of newly hired FDHs coming from various countries last year; whether it has plans to introduce more sources of FDHs, e.g. the Mainland; if so, of the details?

Reply:

President,

Having consulted the relevant bureau and department, my consolidated response to the Member's question is set out below:

(1) The Indonesian Government has announced that it would implement, with effect from January 14, 2021, a new regulation to abolish placement fees for migrant workers (including foreign domestic helpers (FDHs)). We understand that the purpose of the arrangement is to abolish the fees that Indonesian migrant workers have to pay in the process of job-searching, training and accepting job placement referrals, so as to protect their rights and benefits.

The Government of the Hong Kong Special Administrative Region (HKSARG) understands that Hong Kong FDH employers have concerns about the new regulation. The Labour Department (LD) met with representatives of the Indonesian Consulate General in Hong Kong (ICG) this September to learn more about the details of the new regulation. According to ICG, the major change brought about by the new regulation is that three fee items currently borne by FDHs (i.e. the FDHs' passport for leaving the country, certificate of no criminal record and Indonesia Migrant Worker Social Security insurance payment) will be borne by employers, amounting to around HK\$500 to HK\$800 in total; and that the fees for skills training and skills competency certificate that are currently borne by FDHs will be borne by local governments in Indonesia. The Indonesian Government is devising the arrangement for other fee items and implementation details under the new regulation and will announce them in due course.

We understand that Hong Kong FDH employers are concerned about whether relevant fees under the new regulation, in particular the skills training fee, would eventually be transferred to employers. LD has relayed Hong Kong employers' views to ICG. I also wrote to the Indonesian Consul General in Hong Kong to reiterate the HKSARG's stance that the new regulation should not lead to a significant increase in the fees paid by employers of Indonesian domestic helpers in Hong Kong, nor should it adversely affect the employment of Indonesian domestic helpers coming to Hong Kong; and to urge him to relay the HKSARG's views to Indonesia's central government. LD will continue to keep in contact with ICG to follow up on the arrangement of the new regulation.

As to the Philippines, its Consulate General in Hong Kong stated that according to the prevailing policy, all household service workers (including FDHs) going to work overseas are required to obtain a skills competency certificate issued by the authorities to prove that they have completed a skills assessment. FDHs are not required to undergo training before taking the assessment, but if they find it necessary, they could pay for themselves to attend training courses to enhance their skills level. If employers or employment agencies (EAs) request or arrange FDHs to attend training, the relevant fees will be borne by the employers or EAs concerned. The Consulate General stated that the above arrangement was implemented back in 2006 and no new policy is involved.

(2) The HKSARG has all along strived to safeguard the rights and benefits of FDHs while at the same time protecting the interests of employers. This

September, LD set up a dedicated FDH Division to, among other things, ensure the effective coordination and implementation of FDH policies and provide better support to employers and FDHs. During the COVID-19 epidemic, the HKSARG continues to provide support to employers and FDHs, including implementing facilitation measures to allow employers and FDHs to extend their contract period and allow FDHs to defer their home leave; provide free COVID-19 testing services to FDHs waiting to join their new employers' family; conducting mobile broadcast at popular gathering places of FDHs to appeal to them to comply with the regulations on group gatherings and mask-wearing; offering advice to employers and FDHs and encouraging them to discuss rest day arrangements so as to avoid the health risk of participating in social activities, etc.

We understand that employers hiring FDHs to come to work in Hong Kong would expect FDHs to be able to complete the whole contract. To tackle suspected abuse of the arrangement for premature termination of contracts for change of employers (commonly known as "job-hopping") by FDHs, the Immigration Department (ImmD)'s special duties team has strengthened the assessment of employment visa applications from FDHs who changed employers frequently. In assessing FDHs' employment visa applications, ImmD will closely scrutinise the applicants' details, such as the number and reasons for their premature contract termination in the past 12 months with a view to detecting any abuse of the arrangement for premature contract termination. For those individual FDHs suspected of "job-hopping" by abusing the facilitation measures, ImmD will refuse their employment visa applications and require them to leave Hong Kong.

Separately, pursuant to the Code of Practice for EAs, EAs should ensure that the candidates offered to employers could satisfy the employers' requirements. In general, employers expect FDHs to complete the two-year Standard Employment Contract. LD has advised EAs through various channels not to abet FDHs to terminate contracts arbitrarily or disrupt labour relations deliberately. LD will conduct investigation if any complaints about EAs being suspected of inducing FDHs to job-hop are received. For example, in recent months, LD received complaints that some EAs provided monetary incentives such as cash rewards to attract job-seeking FDHs to use the EAs' services for processing employment contract renewals or finding new employers. LD has inspected the relevant EAs and has stopped such business practices. LD also issued letters to all EAs providing FDH placement services to remind them that they should not encourage or induce FDHs to job-hop through business practices. LD will continue to actively explore more effective ways with greater deterrence to detect EAs which induce FDHs to job-hop.

(3) According to ImmD's information, as at October 31, 2020, there were more than 370 000 FDHs working in Hong Kong. The breakdown by their countries / regions is at Annex.

The HKSARG strives to maintain Hong Kong as an attractive work place for FDHs and actively explores new source countries of FDHs, including relaxing the visa requirements of Cambodian nationals in March 2017 to allow Cambodian domestic helpers to come to work in Hong Kong. Also, to meet the long-term demand of local families, LD keeps in contact with the governments of

existing FDH source countries and their consulates general in Hong Kong to encourage their nationals to come to work as domestic helpers in Hong Kong.

As to Mainland residents, the prevailing policy of importation of FDHs is not applicable to them, whose entry into Hong Kong are governed in accordance with the established mechanisms. The HKSARG has no plan to cover Mainland residents in the policy of importation of FDHs.