Labour Importation Scheme for the Construction Sector
"Guidance Notes for Application for Labour Importation Quota" (Guidance Notes)

1. Introduction

1.1 The Labour Importation Scheme for the Construction Sector ("**Construction Sector Scheme**") serves as one of the multi-pronged measures of the Government of the Hong Kong Special Administrative Region (Hong Kong SAR) of the People's Republic of China to address the increasing manpower needs of the construction industry.

1.2 On the principle of ensuring employment priority for local labour, employers with genuine difficulties in recruiting sufficient suitable construction personnel in specified trades/disciplines locally for eligible works contracts may apply for quota for importation of labour under the Construction Sector Scheme.

1.3 To safeguard the employment opportunities for as well as interests of local labour, principal contractor-applicants and employers must accord priority to filling available job vacancies with local labour through local recruitment exercises (please refer to paragraphs 6.17-6.25 below), and take active efforts to train local labour for the vacancies.

1.4 The Permanent Secretary for Development (Works) of the Hong Kong SAR Government is the approving authority[1] ("**Approving Authority**"), who will approve or reject individual applications for a quota for importation of labour under the Construction Sector Scheme, having regard to the advice of an inter-departmental committee comprising relevant Government departments. The overall operation of the Construction Sector Scheme is devised with regard to the views of the Consultative Committee for the Construction Sector Scheme ("**Consultative Committee**") and the Task Force on Short-Term Labour Supply of the Construction Industry Council ("**Task Force**"), both comprising representatives from contractors associations, staff unions, training bodies and relevant government departments.

1.5 Under the Construction Sector Scheme, the principal contractor-applicant (if the principal contractor-applicant is a joint venture, the term "principal contractor-applicant" hereafter includes the joint venture and all members of the joint venture) or its sub-contractor could be the employer of the imported labour

[1] For the Construction Sector Scheme, the Secretary for Labour and Welfare has, under section 14(4) of the Employees Retraining Ordinance, delegated the authority to the Permanent Secretary for Development (Works) to approve or refuse applications for quota.

(hereafter referred to as "**the employer**"). Irrespective of whether the imported labour is employed by the principal contractor-applicant or its sub-contractor, the principal contractor-applicant is obliged to take reasonable steps to ensure that the employer fufills the employer's responsibilities and complies with the labour laws of Hong Kong SAR, terms of the Standard Employment Contract of the Construction Sector Scheme (hereafter refer to as "**SEC**"), and the approval conditions of the Construction Sector Scheme, failing which may subject to administrative sanctions (please refer to paragraph 17 below)

1.6 More details about the Construction Sector Scheme including the institutional framework could be found at the dedicated webpage of the Scheme (https://www.devb.gov.hk/en/css).

2. Principal Contractor-Applicant

2.1 Application for importation quota under the Construction Sector Scheme should be submitted by the principal contractor of eligible works contract ("**principal contractor-applicant**") for itself and/or on behalf of its sub-contractor(s) for the same contract. In other words, the imported labour applied for can be employed by the principal contractor-applicant or its sub-contractor(s). An individual importation application may cover labour for different types of works (woodworker, electrician, etc.) required for the eligible works contract (see paragraph 3 below).

2.2 Where the employer of the imported labour is the sub-contractor/member of the joint venture (hereafter referred to as "**member company**") instead of the principal contractor-applicant, the employer (i.e. the sub-contractor/member company) is required to submit a deed of undertaking together with the application to confirm that it agrees to be the employer for the imported labour and will comply with all the obligations of an employer (including but not limited to those specified in the SEC and this Guidance Notes). The requirement to comply with the signed undertaking would form part of the approval conditions for the quota application. The principal contract-applicant and/or the sub-contractor/member company (being the employer) should comply with the approval conditions. The principal contractor-applicant should also take reasonable steps to ensure that its member company/sub-contractor and other relevant agents (please refer to paragraph 6.26 below) comply with the approval conditions relevant to them, failing which may subject to administrative sanctions being taken (please refer to paragraph 17 below).

2.3 Principal contractor-applicants should read this Guidance Notes for Application carefully before completing the application forms and ensure that the conditions set out in the application forms are fully complied with.

3. Coverage

Categories of personnel to be imported

3.1 The Construction Sector Scheme covers importation of the following categories of personnel:

(a) skilled and semi-skilled construction workers (hereafter collectively referred to as "**skilled workers**"); and

(b) technicians and site supervisory personnel (hereafter collectively referred to as "**technicians**")

of the eligible trades/disciplines identified to be in shortage and promulgated on the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css). Imported skilled workers and imported technicians hereafter when referred to collectively would be as "**imported labour**". The list of eligible trades/disciplines for skilled workers and technicians covers common trades/disciplines and some special trades/disciplines. For other special trades not listed on the abovementioned list of eligible trades/disciplines, please refer to paragraph 3.6. The eligible trades/disciplines and their respective employment requirements (including number of normal working days per month/per week, number of normal working hours per day, minimum qualification/work experience requirements and wage levels) will be reviewed regularly and updated as necessary by the Development Bureau ("**DEVB**") with regard to the views and suggestions of the Consultative Committee and the Task Force.

Eligible Works Contracts

3.2 Application for importation quota under the Construction Sector Scheme should be submitted on the basis of individual works contracts. Each application should be for labour importation for one specific eligible works contract ("**works contract under application**"), which could be a contract for new construction works or a contract for repair, maintenance, alternation and addition (RMAA) works. The Construction Sector Scheme accepts more than one application (e.g. in different

application periods, see paragraph 5.1 below) for the same eligible works contract, so that applicant can conduct local recruitment when the construction programme is approaching the relevant process. Applicant may submit applications only if it encounters genuine difficulties in recruiting sufficient skilled workers and/or technicians locally to be responsible for the relevant process. The Approving Authority will also consider whether the application should be submitted in that application period so as to make good use of the quotas.

3.3 The Construction Sector Scheme primarily applies to public sector construction works contracts with contract value no less than HK$1 billion. Public sector construction works contracts generally include but are not limited to :

(a) government works contracts (i.e. government being the employer/client of the contracts concerned. For the avoidance of doubt, subvented projects for which the government is the project proponent but not the employer/client are not included);

(b) major railway development contracts;

(c) public/subsidised housing development contracts (including those of the Hong Kong Housing Authority and the Hong Kong Housing Society);

(d) major airport related works contracts;

(e) works contracts under the Hospital Development Plan that are not covered in item (a) above; and

(f) works contracts of the offices set up by the Central People's Government in the Hong Kong SAR.

3.4 Private sector construction works contracts with special circumstances may be considered, and they may include:

(a) contracts involving construction personnel of special trades/disciplines the local supply of which is very limited; or

(b) contracts with exceptional circumstances warranting special consideration and of a considerable scale.

Applicants who wish to apply for importation quota for private sector construction works contracts should provide in their applications detailed

justifications for the special circumstances that warrant consideration by the Approving Authority.

3.5 For public sector and private sector works contracts that involve special trades/disciplines with very limited local manpower supply, the value threshold and scale requirement mentioned in paragraph 3.3 and paragraph 3.4(b) respectively are not applicable.

3.6 For principal contractor-applicant who wishes to apply for importation quota for construction personnel of a special trade/discipline which is not covered by the list of eligible trades/disciplines mentioned in paragraph 3.1 above, it has to furnish to the Approving Authority a request form (Form DEVB-CSS-3_e, available for downloading at https://www.devb.gov.hk/en/css) for adding that special trade/discipline to the list of eligible trades/disciplines. Such request form should be submitted to the Approving Authority no less than six months before the targeted date to submit importation quota application. The submission of the request form is necessary for the Task Force and the Consultative Committee to consider whether it is appropriate to include the special trade/discipline in question into the list and if affirmative, make any necessary updating to expand the list of eligible trades/disciplines (including advising on the median monthly wage and employment terms such as number of normal working days per month/per week, number of normal working hours per day, and minimum qualification/work experience requirements of the newly added trade/discipline at the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css). The principal contractor-applicant could then conduct local recruitment exercises following the information published in the updated list of eligible trades/disciplines, and proceed with the submission of application same as other applicants. Should the Approving Authority, having considered the available information, the views of the relevant consultative committees and the market situation, consider that it is not appropriate to include the trade/discipline under request as an eligible trade/discipline for importation purpose, he will give a reply to the principal contractor-applicant accordingly. A principal contractor-applicant may file another request form with updated information in future. The inclusion of the special trade/discipline concerned as an eligible trade/discipline for importation application under the Construction Sector Scheme does not pre-empt the decision of the Approving Authority on the individual application by the principal contractor-applicant concerned.

4. Quota

4.1 The overall ceiling of approved importation quota for Construction Sector Scheme at any one point in time is 12 000. It applies to skilled workers and technicians taken together.

5. Application Period and Method

5.1 Save for the period(s) as announced by the DEVB separately if deemed necessary, applications for importation quota will normally be accepted on a quarterly basis in the months of January, April, July and October of each year, as follows –

Application Period	Opening day of application	Closing day and time of application
January	First calendar day of the month	5:00 pm on the last calendar day of the month (in case the last calendar day falls on Saturday or public holiday, the closing date and time will be extended to 5:00 pm on the next working day)
April		
July		
October		

5.2 An application should only include imported labour planned to arrive Hong Kong SAR within 12 months from the applicable closing date of application. Applications must reach the DEVB during the application period specified in paragraph 5.1 above (opening and closing days inclusive). Applications received at a time outside the abovementioned application periods would not be accepted and processed, and they have to be submitted afresh in the next application period. For previously rejected applications, the principal contractor-applicants concerned have to submit new applications afresh in accordance with the above timeframe and provide additional justifications and information for the applications where applicable.

5.3 Principal contractor-applicant should submit the duly completed application forms together with all the supporting documents (see paragraph 6.2) to the DEVB through the following channels:

(a) by hand delivery to the DEVB (Works Branch) Drop-in Box (Address: 2/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong);

(b) by post to the DEVB (Attn.: Works Policies 1 Section) at 15/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong; or

(c) by email (email address: css_application@devb.gov.hk) (The subject title of the email submission should read "Submission of Application for the Labour Importation Scheme for the Construction Sector" and the email size including the attachments should not exceed 20 Megabytes (MB)).

All applications (submitted by hand, by post or by email) should reach the DEVB by the closing day and time specified in paragraph 5.1.

5.4 In case Tropical Cyclone Warning Signal No. 8 or above is hoisted, or a Black Rainstorm Warning Signal or "extreme conditions" announced by the Government is/are in force after 12:00 noon on the closing date of application, the application closing time will be extended to the next working day after the Tropical Cyclone Warning Signal No. 8 is lowered, or the Black Rainstorm Warning Signal or the "extreme conditions" announced by the Government has/have ceased to be in force.

5.5 For applications submitted by post, principal contractor-applicants should ensure sufficient mailing time and postage. Any underpaid mail items will be returned or disposed of by the Hongkong Post and will not be processed.

6. Application Procedures

Application Forms

6.1 Principal contractor-applicant must complete the following forms which are available at the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css):

(a) Labour Importation Scheme for the Construction Sector Application Form (Form DEVB-CSS-1_e);

(b) Manpower Plan of the Works Contract (Form DEVB-CSS-1b_e);

(c) Confirmation Form on Local Recruitment (Form DEVB-CSS-1c_e); and

(d) Deed of Undertaking by the Principal Contractor-applicant (Form DEVB-CSS-1d_e).

Supporting documents

6.2 Principal contractor-applicant should submit the following documents together with the completed application forms:

(a) copy of the valid [2] Business Registration Certificate or Certificate of Incorporation of the principal contractor-applicant and the employer (where applicable). If the principal contactor-applicant is a joint venture, each member company should submit a copy of its valid[2] Business Registration Certificate;

(b) an authorisation letter signed by a director/authorised representative of the principal contractor-applicant with the company chop affixed on it, to authorise the person signed on the application form as the representative of the principal contractor-applicant for the submission and handling of the application (for the avoidance of doubt, the person signed on the application form could be the director/authorised representative himself or herself);

(c) the following items concerning the works contract under application (see paragraph 3.2 above):

(i) a summary of the scope and nature of the contract (not more than four A4 pages);

(ii) a clear coloured site location plan, site layout plan(s), major floor plan(s), section(s), other detail(s) and/or rendering(s) which can help illustrate the scope of the works contract under application (not more than ten A3 pages; and

(iii) construction programme (showing the phasing and construction period of the major work activities of the works contract under application, and not more than five A3 pages). The programme should be in the form of a bar chart showing the earliest and latest start and finish dates for each major work activity and the corresponding critical path.

The submission of these items are mandatory for the principal contractor-applicant to demonstrate the overall programme of and the manpower requirements for (including the number of importation quota applied for) the

[2] With minimum validity of six months from the date of submission of the application.

works contract under application.

(d) *(For application submitted by the principal contractor on behalf of its member company(ies)/sub-contractor(s) only)* a deed of undertaking executed by each of the relevant member company/sub-contractor confirming that the member company/sub-contractor agrees to be the employer of the imported labour and will (i) assume all responsibilities of an employer (including but not limited to those set out in the SEC); and (ii) comply with the relevant provisions of the Construction Sector Scheme governing personnel management as well as arrangements for provision of accommodation and other support services for imported labour. Sample of the abovementioned undertaking (Form DEVB-CSS-2_e) is available at the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css)

6.3 For principal contractor-applicant who wishes to apply for allowing imported labour to work for other construction contract(s) ("**supplementary contracts**") (please refer to paragraphs 6.11 to 6.13 for details) on top of the works contract under application, it has to submit the documents listed in paragraphs 6.2(c)(i)-(iii) in respect of each construction site of the supplementary contracts.

Completion of Application Forms

(A)Application Form (Form DEVB-CSS-1_e)

I. Eligible works contract and imported labour applied for (Parts 3-4 of the application form)

6.4 Principal contractor-applicant should provide details of the eligible works contract for quota application as defined in paragraphs 3.2 to 3.4 above (i.e. "the works contract under application") in Part 3 of the application form.

6.5 Principal contractor-applicant should provide details of the construction labour to be imported for the works contract under application in Part 4 of the application form. Only imported labour planned to arrive Hong Kong SAR within 12 months from the closing date of application should be included.

II. Accommodation (Part 5 of the application form)

6.6 Principal contractor-applicant shall provide imported labour with suitable and furnished accommodation in accordance with the prevailing requirements under the Construction Sector Scheme (as stated in ensuing paragraphs) and other

relevant legislation in Hong Kong SAR. The accommodation should either be within Hong Kong SAR or on the Chinese Mainland. The accommodation arrangement and the address of accommodation should be specified in the SEC.

6.7 Principal contractor-applicant should provide the imported labour residing in Hong Kong SAR with accommodation at designated location(s), i.e. either:

(a) on-site at the construction site of the contract under application or other contract(s) under the principal contractor-applicant (i.e. not limited to the "supplementary contract(s)"); or

(b) at designated quarters for imported labour of the construction sector ("**designated quarters"**).

6.8 For imported labour from the Chinese Mainland, principal contractor-applicant may opt for either providing accommodation on the Chinese Mainland or the imported labour residing in their own residential premises on the Chinese Mainland. Principal contractor-applicant should specify the accommodation arrangement(s) for the imported labour in Part 5 of the application form.

III. Accommodation at designated quarters

6.9 The principal contractor-applicant and the employer should ensure, with reasonable measures in place, compliance by themselves and the imported labour they employed with all the rental conditions for use of the designated quarters as well as the rules and regulations governing the accommodation thereat. If the principal contract-applicant and the employer fail to fulfil the responsibilities of an employer or fail to take reasonable measures to manage their imported labour (details are set out in the relevant document(s) for lease of the designated quarters), the Approving Authority may, in accordance with the established mechanism, give reasonable consideration of the above when evaluating the performance of the principal contractor in public works contracts.

IV. Assessment by Government Bureau/Department (Part 10 of the application form)

6.10 For application involving public sector construction works contract, the principal contractor-applicant should first obtain the support for importation quota application from the relevant government bureau/department which is the employer/client of the works contract under application or the relevant government bureau/department housekeeping the public sector entity (which is the contract employer/client) or the relevant policies. The government

bureau/department overseeing the works contract under application should complete Part 10 of the application form. If the application is not supported by the aforementioned government bureau/department, the Approving Authority will not process the application. Applicant could submit eligible application after obtaining the above-mentioned support.

V. Application for Imported Labour to work at other sites, in addition to that of the works contract under application (Annex IV of the application form (Form DEVB-CSS-1e_e))

6.11 The Construction Sector Scheme processes importation quota applications on an individual contract basis and only considers justifications for and manpower requirements of the individual works contract under application. The imported labour so approved should primarily work for the works contract under application. Only with justifiable reasons that the Approving Authority may consider allowing imported labour to work for a supplementary contract. Reasonable justifications include circumstances where the imported labour have to stop their work for the works contract under application intermittently due to actual work sequencing of their trades/disciplines and other related trades. In such circumstances, arranging these imported labour to work in construction sites of supplementary contracts would ensure proper utilisation of resources already imported, thus reducing the overall demand for importation. It is the responsibility of the principal contractor-applicant to apply with justifications (including the trade(s)/discipline(s) involved as well as the number of quotas and the period) for deploying imported labour to construction sites of supplementary contracts and explicitly specify the details of the supplementary contracts in the application form for prior approval by the Approving Authority. Even if the cross-site deployment is approved, the imported labour can only work in the specified sites of the same principal contractor-applicant as approved by the Approving Authority. The principal contractor-applicant should not change the conditions for approving the supplementary contract(s) without the prior approval of the Approving Authority (such as changing the period approved, adding new supplementary contract(s) or replacing the supplementary contract(s) approved, etc.). In case of any changes, the principal contract-applicant should apply to the Approving Authority in advance (no prior application is required if the relevant imported labour will not be deployed to work for the supplementary contract(s) as already pre-approved). All imported labour can only work for the works contract under application or the supplementary contract(s) pre-approved by the Approving Authority. They are not allowed to work in any other workplace without the prior approval of the Approving Authority.

6.12 Only public sector construction works contracts would be considered by the Approving Authority for approval as supplementary contracts. For the avoidance of doubt, the Construction Sector Scheme allows for applications for the cross-site deployment to facilitate better utilisation of the labour imported for the works contract under application. It is not allowing application for labour importation for multiple contracts taken together. The manpower requirements of supplementary contracts will not be taken into account when determining the number of importation quota to be approved for the works contract under application. Accordingly, the quota approval conditions of the Construction Sector Scheme including the value threshold stated in paragraph 3.3, the minimum 1:2 manning ratio (see part 6(B) below), the local recruitment requirements (see part 6(C) below) and other requirements as set out in paragraph 8.3 below, do not apply to the supplementary contracts. And should the imported labour be released earlier than expected (e.g. the works contract under application is completed earlier than expected), the imported labour have to leave Hong Kong SAR earlier than originally planned (see paragraph 12.8) and would no longer be allowed to work at the construction sites of supplementary contracts.

6.13 Should the principal contractor-applicant wish to apply for deploying the labour imported for the works contract under application to work for supplementary contracts, the principal contractor-applicant should:

(a) state in Annex IV of the application form the supplementary contracts for which the imported labour will work during the employment contract period and provide the justification(s); and

(b) provide the Manpower Plan (i.e. Annex II of the application form) for the supplementary contracts (for the purpose of confirming the trades/disciplines required for the supplementary contract, so as to assess the suitability of cross-site arrangement);

for prior approval of the Approving Authority.

(B)Manpower Plan of the Works Contract (Form DEVB-CSS-1b_e))

6.14 The principal contractor-applicant should provide a manpower plan of each individual contract (both the works contract under application and the supplementary contract(s), if any), indicating the projected manpower resources required for each period(s) from the start date of the first importation quota required. The principal contractor-applicant should indicate, by filling in the

relevant section of the manpower plan, the average number of local employees and the imported labour that need to be applied for the relevant periods therein.

6.15 A minimum manning ratio of 1:2 (i.e. one imported labour to at least two full-time local labour[3]) ("**minimum manning ratio**") shall apply to the works contract under application during labour importation within the contract period, unless with prior approval of the Approving Authority based on reasonable justifications (e.g. the application is to import special trade(s)/discipline(s) the local supply of which is very limited). In this regard, a principal contractor-applicant is required to indicate the number of local labour engaged for the works contract under application in Part 4 of the Manpower Plan and provide justification(s) in Part 5 if he envisages that the minimum manning ratio of 1:2 cannot be met (if applicable).

6.16 For the avoidance of doubt, the minimum manning ratio applies to all imported labour and all local employees (including frontline staff, workers, technicians, etc. but excluding managerial staff) engaged by the principal contractor-applicant for the contract under application taken together, instead of counting separately by individual trades/ disciplines.

(C) Confirmation Form on Local Recruitment (Form DEVB-CSS-1c_e))

6.17 At the time of quota application, the principal contractor-applicant should submit proof(s) of recruitment(s) conducted by the principal contractor-applicant and/or the employer for local skilled worker(s) and/or technician(s) of the trade(s)/discipline(s) applied for. The recruitment may be conducted on a company basis covering more than one works contract but must include the works contract under application. Before deploying the local labour employed to work for the works contract under application, the employer can arrange the local labour to work for other works contract under its management, so that the local labour can be employed as soon as possible.

6.18 The local recruitment(s) should be conducted and completed within three months preceding the closing day for submission of applications for importation quota and have to be conducted through at least one of the channels specified in column (A) and at least one of the channels specified in column (B) below:

[3] A full-time local labour refers to an individual who works not less than 35 hours per week.

(A) Recruitment Advertisement	(B) Recruitment Day
<u>For a continuous period of 14 calendar days</u> (i) Construction Industry Job Portal – easyJob of the CIC ; (ii) Interactive Employment Service website of the Labour Department (LD); (iii) Two separate recruitment advertisements published in local newspaper(s) (in online/print forms) or recruitment agency's website(s)	<u>Six half-day sessions within a period of 14 calendar days</u> (i) Job recruitment day at the Recruitment desk[4] of the CIC; (ii) Job fair co-organised by the CIC and the principal contractors / sub-contractors

Under the premise of employment priority for local labour, the principal contractor-applicants and/or the employers should give priority to local labour to meet any recruitment needs, including those for full-time, part-time or over-time work. The Approving Authority may after consideration of its need and feasibility, request in the course of vetting quota applications or during the quota validity period of quotas, the principal contractor-applicant and/or employers to provide documentary proof/information or conduct local recruitment following the requirements of the Construction Sector Scheme, with a view to confirming their compliance with the above principle (including that they have indeed carried out local recruitment but could not recruit the number of the labour required or that they have made good use of local labour resources they have).

6.19 The recruitment advertisements must include the following information:

(a) job title of the trade/discipline concerned;

(b) job description of the trade/discipline concerned (please refer to the list of eligible trades/disciplines promulgated on the dedicated webpage of the Construction Sector Scheme for the job description);

(c) the qualification requirements which must clearly indicate the relevant experience (years of experience) required, academic and language requirements (if any) or relevant licenses required to meet the statutory requirements (if applicable). The relevant requirements must meet the

[4] CIC has set up a recruitment desk at its Kowloon Bay Service Centre for companies in the construction industry to advertise their job vacancies and conduct job interviews.

minimum requirements promulgated by the Approving Authority on the dedicated webpage of the Construction Sector Scheme and the requirements of relevant legislation. If special requirements on experiences, academic or languages etc., are required for the post, or the level of requirement is apparently higher than that promulgated (such as requiring literacy in English, proficiency in both English and Chinese, proficiency in Putonghua, or only employing workers with relatively long years of experience (e.g. 10 years or more), the applicant must provide reasons for such requirements for the post and explain how the wage level has reasonably reflected such requirements in the Confirmation Form on Local Recruitment (Annex III of the application form). In addition, if applicable, the recruitment advertisement must also specify if the working experience required should be experience in construction sites or RMAA works, and state the years of experience required;

(d) employment terms (including wage offered, number of normal working hours per day and number of normal working days per month/per week, etc.,) should refer to the corresponding employment terms for the relevant trades/disciplines promulgated on the dedicated webpage of the Scheme. If the post holder is required to work more than the normal working hours and normal working days promulgated, such work should be regarded as overtime work and overtime pay should be paid. The recruitment advertisement should also specify if the post holder is required to work on shift/night shift and the shift duty arrangement. For the avoidance of doubt, regardless of whether the post holder is required to work on day shift or night shift, applicant must conduct local recruitment in accordance with the requirements of the Construction Sector Scheme and clearly specify the working hours. Applicant must explain in the Confirmation Form on Local Recruitment (Annex III of the application form) how the wage level has reasonably reflected such shift/night shift work arrangement;

(e) workplace location(s) (for remote place of work, please specify if transportation or travelling allowance will be provided); and

(f) period of employment (where appropriate).

6.20 Applicant must ensure that the employment terms offered to the imported labour are the same as those offered in the local recruitment mentioned in paragraph 6.19 above (including the same number of working hours, number of working days and qualification requirements, and the wage level is not lower than the **prevailing** median monthly wage promulgated by the Approving Authority on the dedicated webpage of the Construction Sector Scheme).

6.21 Application for importation quota should be justified by the fact that sufficient suitable labour could not be recruited locally. Otherwise, the application will not be processed further. The principal contractor-applicant should ensure that the targeted number of labour to be recruited for each trade/discipline during the local recruitment exercise should not be less than the proposed number of imported labour applied for that trade/discipline. The principal contractor-applicant and/or the sub-contractor employer may conduct more than one round of local recruitment for the required number of labour.

6.22 There should not be unreasonable job requirements in the recruitment advertisements that are restrictive or excessive, such as age, sex as well as skills and languages not required for performing the job duties.

6.23 Principal contractor-applicant should indicate in the Confirmation Form on Local Recruitment the number of job-seeker(s) applied for the post(s), the number of candidates interviewed and the number of local labour eventually employed. The reason(s) for (a) not inviting a job-seeker for selection interview; (b) not employing a job-seeker after the selection interview; (c) a job-seeker declining the employment offer; and/or (d) termination of the employment of the job-seeker should also be clearly stated in the Confirmation Form on Local Recruitment.

6.24 Principal contractor-applicant should obtain consent of the job-seeker(s) for disclosing his/their personal data to the DEVB and/or its appointed personnel. The DEVB and/or its appointed personnel may approach them for verification of the recruitment records (e.g. application record(s), interview record(s), etc.). In case a job-seeker refuses to disclose his/her personal data to the DEVB and/or its appointed personnel, please clearly mark so on the recruitment records.

6.25 Principal contractor-applicant should keep all records of the local recruitment exercise(s) conducted for at least six months after the issue date of the Notice of Quota Application Result. DEVB and/or its appointed personnel will conduct random checks, such as requiring the principal contractor-applicant to provide the recruitment records (e.g. applications records, interview records, etc.) for review. If the principal contractor-applicant fails to provide the required documents or information within the prescribed period and/or fails to demonstrate that the local recruitment has been conducted genuinely in accordance with the specified requirements, DEVB may terminate the processing of the importation quota application and/or impose relevant administrative sanctions.

(D) Deed of Undertaking by the Principal Contractor-applicant (Form DEVB-CSS-1d_e) – Engagement of Agents

6.26 The principal contractor-applicant/sub-contractor employer should fulfill the responsibilities as an applicant and employer. They should also comply with the requirements of the Employment Ordinance as well as other legislations related to the employment of labour and labour protection, and the relevant quota approval conditions of the Construction Sector Scheme, including compliance with the aforesaid requirements when handling the recruitment and personnel management of the imported labour (hereafter refer to as "**personnel management**") and arranging accommodation and other support services (such as meals, transportation, etc.,) for imported labour. Principal contractor-applicant/sub-contractor employer who engages agents to provide the abovementioned services (hereafter collectively referred to as "**agents**") should ensure that the arrangements made for the imported labour by the agents comply with the statutory requirements and regulations related to labour protection and the each agent has signed a deed of undertaking.

6.27 The principal contractor-applicant of the works contract under application (irrespective of whether it is the employer) should sign a deed of undertaking, undertaking to:

(a) coordinate with the sub-contractor employer(s) and/or agent(s) to properly arrange the personnel management, accommodation and other support services for the imported labour such as requiring the sub-contractor employer(s) and/or agent(s) to report to it regularly the arrangements with regard to the personnel management, accommodation and other support services for the imported labour;

(b) take measures to ensure that the personnel management of the imported labour as well as the accommodation and other support services arranged for the imported labour by the principal contractor-applicant, sub-contractor employer(s) and/or agent(s) comply with the requirements of the Employment Ordinance and other statutory provisions related to the employment of labour and labour protection, and the approval conditions of the Construction Sector Scheme. Measures include (but not limited to) (i) ensuring that employees of the principal contractor-applicant and the sub-contractor employer(s) as well as the agent(s) they engaged, understand and comply with the above requirements and conditions when performing their duties; (ii) stating the above requirements and conditions in the service contract(s); and (iii) requiring each agent to sign a deed of undertaking confirming compliance with the above requirements and conditions;

(c) in relation to the accommodation and other support services arranged for the imported labour by the agent, the principal contractor-applicant and/or the employer should have full knowledge of all the fees charged to the imported labour by the agent. The service contract should clearly state that the agent should obtain the written consent of the principal contractor-applicant and/or employer in advance on matters such as the scope of services as well as the setting, variation and collection of the fees chargeable to imported labour;

(d) The principal contractor-applicant is required to designate a senior officer under its management to oversee the personnel management of as well as the arrangements for provision of accommodation and other support services for the imported labour employed for each works contract with importation quotas approved, and handle enquiries and/or complaints from the imported labour regarding the abovementioned arrangements. The principal contractor applicant must inform the DEVB of the name, job title and contact information of the designated officer in form DEVB-CSS-8g_e within four weeks of the issue of the notice of application results by the Approving Authority. The form can be downloaded from the dedicated webpage (https://www.devb.gov.hk/en/css). The principal contractor-applicant must also ensure that all imported labour are aware of the name, job title and contact information of the designated officer. If the imported labour contact the designated officer regarding the relevant arrangements, the officer must respond within a reasonable time. If there is a change of personnel, the principal contractor-applicant must notify the DEVB within two weeks the name, title and contact information of the new designated officer;

(e) (if agent is engaged) the principal contractor-applicant should submit to the DEVB the deed of undertaking (Form DEVB-CSS-10_e) signed by the agent within two weeks after signing of the service contract (the template can be downloaded from the dedicated webpage of the Construction Sector Scheme);

(f) ensure that **no** individual agent (including Chinese Mainland labour service enterprise approved by the Ministry of Commerce of the People's Republic of China and granted the permission to operate business on labour service cooperation with the Hong Kong SAR and its licensed employment agency operating business in Hong Kong SAR to arrange Chinese Mainland residents to work in Hong Kong SAR) is concurrently responsible for handling the recruitment and personnel management of imported labour as

well as arranging the accommodation and other fee-charging support services (such as meals and transportation) for imported labour. This seeks to avoid putting pressure on imported labour to pay unreasonable fees. The fees charged to the imported labour by agents in accordance with relevant laws and regulations of the Chinese Mainland and the Hong Kong SAR (such as fees charged by labour service enterprise to the imported labour in accordance with the aforementioned relevant laws and regulations) are not subject to the above provision;

(g) imported labour should be informed of the cost of accommodation and other support services to be paid by them (irrespective of whether such services are arranged by the principal contractor-applicant, sub-contractor employer or agent) in advance before their employment in an open and transparent manner. The fees charged should be at reasonable levels. Imported labour should also have the right to choose not to accept the support services arranged (such as the unreasonable charges for meal services). If the employer will not provide the accommodation for imported labour free of charge, the employer may deduct the accommodation fee from the wages payable to the employee in accordance with paragraph 15.13 below;

(h) the agent shall not subcontract the services listed in the service contract signed with the principal contractor-applicant and the sub-contractor employer without their prior agreements. If the service contract is subcontracted, the principal contractor-applicant or sub-contractor employer should require the agent to take reasonable measures to ensure that the sub-contractor of the service contact engaged by the agent understands and complies with the requirements of the Employment Ordinance and other legislations related to the employment of labour and labour protection as well as the quota approval conditions of the Construction Sector Scheme when delivering the obligations under the service contract; and

(i) principal contractor-applicant must ensure that it, its sub-contractor employer and agent properly keep the supporting documents in delivering the abovementioned responsibilities for review by relevant government bureaux/departments for enforcement of the terms and requirements of the relevant legislations, Construction Sector Scheme and SEC. The relevant supporting documents must be retained for 12 months after the imported labour has left the service or 12 months after resolution of any claim and/or complaint, whichever is the later.

6.28 If the principal contractor-applicant and/or the employer or agent fails to comply with the requirements of paragraphs 6.26 and 6.27, it may be subject to administrative sanctions and such non-compliance will be reflected when evaluating the performance of the principal contractor in the relevant works contract (see paragraph 17.5 below for details).

Provision of True and Correct Information

6.29 The principal contractor-applicant and other persons providing the relevant information in relation to the application (information providers) should ensure that all information provided in the application form and the attached document(s) (including supplementary information and document(s) (if any)) is true and correct. Any incorrect/inaccurate information provided may render the application invalid.

6.30 If the principal contractor-applicant and/or information provider(s) knowingly or wilfully makes any false statement or withholds any information, or otherwise misleads the DEVB for the purpose of obtaining the importation quota under the Construction Sector Scheme, DEVB may terminate the processing of the importation quota application and/or impose relevant administrative sanctions. If the principal contractor-applicant, by any deceptive means dishonestly obtains for itself or another any pecuniary advantage, the principal contractor-applicant may be liable to prosecution and on conviction be sentenced to imprisonment.

7. Application Processing and Assessment

7.1 An application must fulfil the following requirements for further processing:

(a) The duly completed application form is submitted by the principal contractor of an eligible construction works contract with all the supporting documents required;

(b) Local recruitment exercise(s) has/have been properly conducted pursuant to the requirements under the Construction Sector Scheme;

(c) Wage levels and work experience of the imported labour under the Construction Sector Scheme must be no less than the prevailing median monthly wages and work experience of the relevant posts in Hong Kong SAR as promulgated by the DEVB on the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css); and

(d) The principal contractor-applicant and/or sub-contractor-employer(s) is/are not being debarred from the Construction Sector Scheme owing to administrative sanctions imposed by the DEVB (please refer to paragraph 17).

7.2 If any requirements in paragraph 7.1 is not met, the application will not be processed further. Notwithstanding meeting of the above requirements, the principal contractor-applicant should not assume that its application would beapproved automatically. Likewise, the number and validity period of the importation quota, if approved, may not be the same as those applied for by the principal contractor-applicant.

7.3 If the application documents or information submitted are incomplete, DEVB will request the principal contractor-applicant to submit the relevant document(s) or supplementary information within a specified period of time. Unless specified otherwise by the DEVB, the supplementary document/information requested should reach the DEVB before the closing day and time of the relevant application period (please refer to paragraph 5.1). DEVB reserves the right not to process the application if the principal contractor-applicant fails to submit the required document(s)/information within the specified period and no further notice will be given.

7.4 In processing the application, DEVB will consider :

(a) whether the works contract under application is eligible construction works contract;

(b) the number of quota applied for;

(c) whether the trade(s)/discipline(s) applied for fall(s) into the eligible trade(s)/discipline(s) as promulgated by the DEVB on the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css);

(d) local recruitment efforts made by the principal contractor-applicant (for the application concerned or previous applications), including continuous efforts to accord employment priority for local labour and support the related training;

(e) genuine need for imported labour having regard to the grounds for importation and manpower plan for the works contract under application during the relevant period;

(f) supporting documents showing compliance with other requirements of the Construction Sector Scheme;

(g) track record of principal contractor-applicantand the –employer(s) (paragraph 7.5);

(h) any remaining quota against the overall quota ceiling of the Construction Sector Scheme;

(i) public interests involved; and

(j) any other considerations which the Approving Authority considers appropriate.

7.5 For track record of the principal contractor-applicant and the employer(s), the following amongst other relevant things will be considered:

(a) utilisation of the quota for importing construction personnel previously approved under the Construction Sector Scheme and the Supplementary Labour Scheme ("**SLS"**) / Enhanced Supplementary Labour Scheme ("**ESLS**") (paragraph 10), where applicable;

(b) compliance with the approval conditions under previous applications including but not limited to:

(i) compliance by the imported labour with prevailing training, qualifications and safety requirements under relevant legislation;

(ii) requirements on personnel management of the imported labour as well as provision of accommodation and support services for the imported labour;

(iii) adoption of construction safety measures at construction sites to protect the safety of imported labour, including but not limited to assigning a Safety Officer to be in charge of any safety briefing and arrangement for training related measures for all imported labour and use of Smart Site Safety System[5] at the construction site of the works contract under

[5] Please refer to DEVB Technical Circular (Works) No. 3/2023 on "Smart Site Safety System" and its subsequent version for the scope of Smart Site Safety System (available in English version only at https://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/1393/1/C-2023-03-01.pdf)

application (paragraph 8.3);

(iv) the requirement to provide additional training places of existing collaborative training programmes for local personnel (paragraph 8.3);

(v) major responsibilities of the employer listed out in paragraph 15; and

(vi) adverse record, if any, of the principal contractor-applicant and/or the sub-contractor employer(s)[6]. These may include but not limited to records showing failure to fulfil or violation of any (a) approval condition imposed on principal contractor-applicant and/or sub-contractor employer(s) by the Approving Authority, including that the imported labour should only work at specified and pre-approved construction site(s), (b) visa/entry permit conditions, (c) terms of the SEC, (d) labour laws and any records showing that the principal contractor-applicant and/or sub-contractor employer(s) has/have submitted any false or misleading information related to the principal contractor-applicant and/or quota approved; and.

(c) The compliance with relevant legislation and safety performance of the principal contractor-applicant and/or employer(s) in works contracts (not limited to "the works contract under application" and "the supplementary contracts") such as whether they have been involved in serious accidents (including in public and private sector works contracts) and other serious causes, etc.

8. Quota Approval

8.1 Each application will be considered on its own merits. The Approving Authority will decide on each application taking into account the advice of the Inter-departmental Committee, subject to the overall quota of the Construction Sector Scheme is not exceeded. Under general circumstances, a Notice of Quota Application Result with annex of Notice of Quota Approval listing the Quota Details (include unique quota number for each approved quota) will be issued to the principal contractor-applicant within two months from the relevant closing date of the application. Principal contractor-applicant can then proceed with the recruitment of imported labour.

[6] DEVB may check with relevant government departments/public sector organisations if there is any adverse record of the principal contractor-applicant and/ or the sub-contractor employer(s).

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8.2 Each quota is granted for the period specified by the Approving Authority in the Notice of Quota Application Result and normally the same as the validity periods of the related employment contract and visa/entry permit (which normally commence on the day on which the imported labour arrives in Hong Kong SAR), but in any case no longer than two years.

8.3 Without prejudice to any of the Approving Authority's right under paragraph 19, the general quota approval conditions are set out below:

(a) fulfilling approval conditions imposed on principal contractor-applicant/employer(s) for:

(i) visa/entry permit application (including but not limited to that the imported labour should work at pre-approved work places specified in the SEC only);

(ii) terms of employment contract (including but not limited to employment terms such as wages, number of normal working days per month/per week, number of normal working hours per day); and

(iii) other applicable statutory requirements (including but not limited to the safety and qualification requirements imposed on their employment in performing the duties as specified in the SEC).

(b) the requirements for provision of accommodation and other support services for imported labour as stipulated in the Notice of Quota Application Result;

(c) the requirements for handling the personnel matters of as well as arranging the accommodation and other support services for imported labour such as the principal contractor-applicant should ensure that the agent it engaged for handling the above-mentioned matters complies with the requirements under the Construction Sector Scheme and has signed the deed of undertaking (see paragraph 6.27 above), and designate a senior officer under its management to oversee the personnel management of imported labour and handle enquiries from imported labour to enhance communication. The principal contractor-applicant and employer(s) must ensure that person who may influence the appointment and work attendance of imported labour is not involved in providing any fee-charging support services to imported labour (see paragraph 6.27(f) above)

(d) taking construction safety measures at construction sites to protect the safety of imported labour including but not limited to assigning a Safety Officer to be in charge of any safety briefing and arrangement for training related measures for all imported labour;

(e) mandatory use of construction safety measures, including but not limited to Smart Site Safety System[7], at the construction site of the works contract under application within three months of the issuance of the Notice of Quota Application Result with agreement in principle to the quota application by the DEVB; and

(f) providing additional training places of existing collaborative training programmes for local labour in a number no less than 10% of the approved quota for importation of personnel, starting within six months of the issuance of the Notice of Quota Application Result with agreement in principle to the quota application by the DEVB and completing the training programme during the contract period[8].

8.4 The quotas approved are applicable to the trade(s) and/or discipline(s) as allocated in the Notice of Quota Application Result only. The quotas cannot be swapped between different trade(s) and/or disciplines, even if they are under the same principal contractor-applicant.

8.5 Principal contractor-applicant and employer(s) must not use the allocated quotas for engaging in employment a post/ posts different from the post/ posts as stated in the Notice of Quota Application Result.

8.6 The quotas approved for importation of labour are not renewable. Should the principal contractor-applicant or the employer(s) wish/wishes to retain the imported labour in employ after the expiry of the approved quotas, the principal contractor-applicant needs to apply for fresh quotas.

8.7 The approval of quota is for the specific works contract applied and approved. Transfer of the approved quota to any other contract, even it is of the same

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[7] Principal contractor-applicant eligible for importation quota application for private sector works contracts, in adopting the Smart Site Safety System to enhance construction safety, may apply for subsidies under the Construction Innovation and Technology Fund (CITF) for this purpose. The funding scope and application procedures are available at the CITF website (https://www.citf.cic.hk/).

[8] The collaborative training schemes are administered by the CIC. Please refer to the webpage of the CIC (www.cic.hk) for details of the existing collaborative training schemes and DEVB Technical Circular (Works) No. 6/2019 for the counting of training quota (paragraph 7(c) and 7(d) of the Technical Circular).

principal contractor-applicant, the same client or the same sub-contractor, is not permitted.

8.8 If an application is approved, the principal contractor-applicant may arrange for each prospective imported labour to submit a visa/entry permit application to the Immigration Department ("**ImmD**"). Visa/entry permit application shall be submitted to ImmD no later than three months of the issuance of Notice of Quota Application Result with agreement in principle to the quota application by the DEVB. The imported labour has to meet the requirement for visa/entry permit application (Please visit the website of ImmD at https://www.immd.gov.hk/eng/forms/hk-visas.html) including that the prospective imported worker shall meet the minimum qualification/work experience requirements for performing the job. Any cost of taking the test, trade test or remedial class required to fulfill any relevant qualification/work experience requirements under the relevant legislation should be borne by the principal contractor-applicant.

8.9 Quota approval and receipt of Notice of Quota Application Result with agreement in principle to the quota application by the DEVB under the Construction Sector Scheme does not represent a commitment by the ImmD to allow the entry of an individual into Hong Kong SAR. The Director of Immigration may refuse to issue visas/entry permits to individual imported labour.

9. Request for Review of Quota Application

9.1 A principal contractor-applicant who is not satisfied with the quota application result may lodge a request to review by stating reasons and submitting additional supporting information to the DEVB within four weeks from the date of the Notice of Quota Application Result by using Form DEVB-CSS-9_e which can be downloaded from the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css). Late applications will not be entertained.

9.2 DEVB may request the principal contractor-applicant to submit further information within a specified timeframe. DEVB reserves the right not to process the application to review if the principal contractor-applicant fails to submit the required document(s)/information within the specified period.

9.3 Upon receipt of an application to review with required information furnished, the Approving Authority will reconsider the application and may revise the earlier decision or otherwise. A "Notification of Review" will be issued to the principal contractor-applicant to notify him/her of the result and the result is final.

10. Interface with the Enhanced Supplementary Labour Scheme (ESLS) and Supplementary Labour Scheme (SLS)

10.1 With the launch of the Construction Sector Scheme, all quota applications for importation of labour for the construction sector will be processed under the Construction Sector Scheme. The SLS (renamed as ESLS) administered by the LD will not accept applications for importation of labour from the construction sector. Notwithstanding this, for applications already approved under the SLS/ESLS, the principal contractor-applicants concerned are obliged to follow the prevailing approval conditions under the SLS/ESLS. The number of imported labour approved under the SLS and ESLS working in Hong Kong for the construction sector will be counted towards the importation quota of the Construction Sector Scheme.

11. Importation of Labour from the Chinese Mainland

11.1 If the prospective imported labour are residents of the Chinese Mainland, the employer must recruit the imported labour through the Chinese Mainland labour service enterprises. Labour service enterprises hereafter refer to enterprises approved by the Ministry of Commerce of the People's Republic of China and granted the permission to operate business on labour service cooperation with the Hong Kong SAR. Relevant information are available at https://www.labour.gov.hk/common/public/pdf/sld/ESLS_EA_List.pdf

12. Visa/Entry Permit Application

12.1 The employer is required to enter into a SEC with each imported labour. The contract period (including any required training and/or examination period(s) to meet any applicable statutory requirements which forms/form part of the contract period and wages should be paid) will be for a maximum period as specified in the Notice of Quota Application Result issued by the DEVB, the longest being two years. The SEC (Form DEVB-CSS-16_e) for an employee recruited from outside Hong Kong SAR may be obtained at the ImmD Headquarters. The contract should be completed in quadruplicate.

12.2 The imported labour should provide his medical report to the employer to prove that he is medically fit for the job prior to entering into any employment contract. The cost of medical examination should be borne by the employer.

12.3 The employer shall arrange for his/her prospective labour to be imported to each submit a visa/entry permit application to the ImmD within three months from the date of issuance of the Notice of Quota Application Result with agreement in principle to the quota application by the DEVB (Please refer to Paragraph 13 "Submission of Visa/Entry Permit Application). The Notice of Quota Application Result with agreement in principle to the quota application by the DEVB will automatically lapse if no visa/entry permit application is submitted within the aforementioned period. If the employer still intends to import labour, the principal contractor-applicant should submit an application afresh to the DEVB.

12.4 Imported labour should possess valid travel documents with ample returnability. For labour from the Chinese Mainland, they should be in possession of valid Exit-entry Permits for Travelling to and from Hong Kong SAR and Macau with relevant exit endorsement issued by the relevant Chinese Mainland authorities.

12.5 The entry of all imported labour is subject to the normal immigration requirements being met.

12.6 After entry, the imported labour must remain under the direct employment of the same employer for the specified post as stipulated in the SEC to perform specified duties in the specific workplace(s) as stipulated in the Notice of Quota Application Result and the SEC, and cannot be contracted out to other companies or sub-contractors. Change of employer, post or job duties is not permitted.

12.7 Imported labour is not permitted to bring in dependants.

12.8 The imported labour is required to return to his/her place of origin on completion of his/her employment contract. If the contract is pre-maturely terminated, the imported labour is only permitted to remain in Hong Kong SAR for two weeks from the date of termination of contract or the balance of permitted stay, whichever is shorter.

12.9 Breach of a condition of stay is an offence under the Immigration Ordinance, Chapter 115 of the Laws of Hong Kong SAR.

12.10 No person who has entered Hong Kong SAR as a visitor may be hired to work here.

12.11 If an imported labour is unable to come to Hong Kong SAR or complete his/her employment contract (irrespective of whether the employment contract is

terminated prior to its expiry with or without prior notice (paragraph 15.18)), the request for a replacement labour by the employer with the consent of the principal contractor-applicant should be made to the DEVB and copied to the ImmD within seven calendar days (a) after the date on which the employer is notified that the labour will not come to Hong Kong SAR, or (b) from the date of termination of the employment contract. Under normal circumstance, request for replacement labour is limited to once for each importation quota and subject to the remaining validity period of the quota as well as the overall quota ceiling of the Construction Sector Scheme.

12.12 Notice of Application Result for Replacement of Imported Labour will be issued to the principal contractor-applicant upon successful application. The principal contractor-applicant shall arrange for his/her prospective labour to be imported to submit a visa/entry permit application to the ImmD within the period specified in the concerned Notice. Late applications will not be entertained. A principal contractor-applicant who has exploited or ill-treated his/her imported labour will not be granted approval to bring in replacement labour.

13.Submission of Visa/Entry Permit Application

13.1 The prospective imported labour shall complete application form (ID 1030A) (https://www.immd.gov.hk/eng/forms/hk-visas.html). employer shall complete application form (ID 1030B). The completed application forms (ID 1030A and ID 1030B), and the following supporting documents should be submitted by the labour to be imported by post directly or through the employer in the Hong Kong SAR to the Receipt and Despatch Sub-unit, Ground Floor, Administration Tower, Immigration Headquarters, 61 Po Yap Road, Tseung Kwan O, New Territories Hong Kong; or the labour to be imported should submit his/her application online and upload all supporting documents through the designated GovHK website (https://www.gov.hk/en/residents/immigration/nonpermanent/):

(a) photocopies of the imported labour's travel document containing his/her personal particulars, its date of issue, date of expiry and/or details of any re-entry visa held (if applicable); Chinese resident of the Chinese Mainland who has not been issued with a travel document may submit a photocopy of his/her People's Republic of China resident Identify Card;

(b) details, with proofs, of the imported labour's academic/skill qualifications and experience relevant to the post, e.g. photocopies of diplomas, certificates and testimonials;

(c) four original copies of the SEC signed between the employer and the imported labour;

(d) photocopy of the Notice of Quota Application Result and the attached Quota Details issued by the DEVB;

(e) original copy of the Declaration and Authorisation Form (DEVB-CSS-8c-1) duly completed and signed by the prospective imported labour. If the prospective imported labour is a resident of the Chinese Mainland, he/she must state the name of the labour service enterprise arranging him/her to work in Hong Kong SAR in the Declaration and Authorisation Form. The Form must also be stamped by the labour service enterprise concerned; and

(f) *(Only for applications involving imported labour who are Chinese Mainland residents)* photocopy of the Joint Declaration Form on Importing Labour from Chinese Mainland to Hong Kong SAR (DEVB-CSS-8c-2, only available in Chinese) duly completed and signed by the employer and the commissioned Chinese Mainland labour service enterprise.

13.2 If the prospective imported labour are residents of the Chinese Mainland, the employer must recruit the imported labour through the Chinese Mainland labour service enterprises. If an employer fails to comply with the above recruitment requirement, and/or there is incomplete or inaccurate information in the submitted documents as listed in paragraph 13.1(e) and (f) above, the relevant visa/entry permit application for imported labour from Chinese Mainland will not be processed. At the same time, the employer is required to arrange for each commissioned Chinese Mainland labour service enterprise to complete a Joint Declaration Form on Importing Labour from Chinese Mainland to Hong Kong SAR (signed by the employer's/the commissioned Chinese Mainland labour service enterprise's responsible person/authorised representative with company chop) for each application with agreement in principle to allocate importation quota. The above requirements are also applicable to applications for replacement labour submitted by employer.

13.3 For Chinese residents of Chinese Mainland wishing to come to work in the Hong Kong SAR under the Construction Sector Scheme, applications must be submitted to the ImmD through their prospective employers. Direct applications by the Chinese residents of Chinese Mainland are not accepted.

13.4 Notwithstanding that the documents and information required have been furnished by the imported labour and employer, they may still be required to

submit further supporting documents and information in connection with the application when necessary.

13.5 Decisions on individual applications will be conveyed to the imported worker through the employer.

13.6 Visa/entry permit fee for each imported worker should be borne by the employer.

14. Validity Period of the Visa/Entry Permit

14.1 A visa/entry permit is usually granted for a period of 24 months or the full term of the employment contract, whichever is shorter.

14.2 Generally, extension of stay beyond the employment contract period will not be granted.

15. Employer's Major Responsibilities

15.1 Labour recruited from outside Hong Kong SAR are entitled to the same protection under the labour laws of Hong Kong SAR as local workers. The imported labour must be engaged under a SEC. Without prejudice to any of the employment conditions stated in the SEC and any of the Approving Authority's right under paragraph 19 to impose additional conditions relating to the employer's responsibilities, the employer's major responsibilities are listed in the ensuing sub-paragraphs of paragraph 15 below.

Employment Contract

15.2 The employer must give the imported labour, free of charge, one of the four original copies of the SEC. The employer should prepare an acknowledgement list (DEVB-CSS-17_e) which contains the name and Hong Kong SAR Identify Card number (or passport number) of each imported labour and the date on which the contract is received by the labour. The list should be sent to the DEVB by email (css_application@devb.gov.hk) within two weeks after the arrival of each imported labour. The principal contractor-applicant, employer or agent should not withhold the SEC of an imported labour.

Briefing session

15.3 The employer must grant leave to the imported labour to attend a briefing on employment rights organised for the imported labour, with representative(s) from

the LD serving as speaker(s), within eight weeks of his/her arrival. No deduction of wages shall be made from the labour's wages for his/her absence from work for the purpose of attending the briefing. Such paid leave shall be in addition to the rest days, statutory holidays and annual leave days to which the labour is entitled under the SEC.

Wages

15.4 The wage of the imported labour as stipulated in the SEC shall be no less than the prevailing median monthly wage level of local labour of the respective trade/discipline promulgated by the DEVB on the dedicated webpage of the Construction Sector Scheme (https://www.devb.gov.hk/en/css). The employer is required to make payment of wages to each imported labour by way of auto-payment and to ensure that wages are paid directly into the imported labour's bank account in Hong Kong SAR. The principal contractor-applicant, employer or agent must not keep the labour's bank book, bank statement or automatic teller machine card(s).

15.5 The employer must provide each imported labour, on a monthly basis, with details of his/her earnings which should include wages and, where relevant, hours of overtime work, amount of overtime pay, amount and nature of deductions, amount of allowances or bonus, etc. The employer must also obtain the imported labour's acknowledgement of the information in writing. If the employer is a member company or a sub-contractor, the principal contractor-applicant should conduct checks to ensure that the employer has fulfilled the obligation to provide the details on earnings and deductions to the imported labour, and check whether the amounts listed therein are consistent with the corresponding records (for example, whether the wage level is consistent with the corresponding SEC and bank transfer records). The principal contractor-applicant is required to retain the relevant checked details properly for 12 months after the imported labour has left the service, or 12 months after resolution of any claim and/or complaint, whichever is the later. Relevant government bureaux/departments may review the relevant checked details for enforcement of the terms and requirements of the relevant legislation, Construction Sector Scheme and SEC.

15.6 The employer shall not make deductions from the imported labour's wages for the purpose of paying any fees payable by the principal contractor-applicant and/or the sub-contractor employer arising out of the employment of the imported labour, including charge by authorities or agents in the labour's country of origin, or the Employees Retraining Levy.

15.7 The employer, or any other person acting on his behalf (such as agent), shall not, directly or indirectly, enter into any agreement with the imported labour requiring the imported labour to surrender to the employer all or part of the wages or any sum to which the imported labour is entitled under his/her contract of employment; or demand or receive any such rebates from the imported labour.

Maximum Working Hours

15.8 The employer must not require the imported labour to work for more than 12 hours, overtime work included, in a continuous period of 24 hours.

Overtime Pay

15.9 The employer must pay overtime pay to the imported labour in accordance with the SEC if the labour is required to work more than the normal number of hours as stated therein.

Accommodation and Meals

15.10 The employer is required to provide accommodation for his/her imported labour. Please refer to paragraphs 6.6 to 6.8 for details.

15.11 The location of accommodation for each imported labour should be specified in the Schedule to the SEC. The principal contractor-applicant and employer should not change the accommodation arrangements for the imported labour without the prior approval of the Approving Authority. The employer should submit the prescribed application form (Form DEVB-CSS-20) available for downloading from the dedicated webpage of the Construction Sector Scheme at https://www.devb.gov.hk/en/css) to the Approving Authority.

15.12 All the accommodation arranged by the employers, either within or outside Hong Kong SAR (except for the labours' own residential premises), is required to meet the same set of accommodation standards as stipulated in the Schedule to the SEC and the standard of accommodation should be maintained at any time.

15.13 The maximum amount of deduction for provision of accommodation is 10% of the wages payable to the imported labour for the corresponding period calculated in accordance with the SEC, or the actual cost of accommodation, whichever is the less.

15.14 The employer is not obliged to provide meals for the imported labour. If meals

are provided by the employer, they shall be provided free of charge. For the avoidance of doubt, any meal service provided by a third party (including the agent or service sub-contractor) (see paragraph 6.26) is not regarded as meals provided by the employer.

Employees' Compensation and Medical Care

15.15 The employer must provide free medical care for the imported labour if he/she suffers from illness or injury during the period of employment specified in the SEC, no matter whether it is attributable to the employment or not. However, the employer is not responsible for providing free medical treatment during the period when the imported labour leaves Hong Kong SAR of his/her own volition and for his/her personal purposes (excluding the period when the imported labour returning to the accommodation provided by the employer on the Chinese Mainland or to his/her residential premises on Chinese Mainland in accordance to the accommodation arrangement specified in the SEC). Free medical care includes medical consultation, hospital inpatient services and urgent dental treatment.

Passage and Visa/Entry Permit Fee

15.16 Expenses for passage to and from Hong Kong SAR on commencement and termination or expiry of the contract, visa/entry permit fees and subsequent extension fees should be borne by the employer.

Passport, Exit-entry Permit for Travelling to Hong Kong SAR and Macau and Hong Kong SAR Identity Card

15.17 The principal contractor-applicant, employer or agent shall not keep any proof of identity of the imported labour (including but not limited to the passport or Exit-entry Permit for Travelling to and from Hong Kong SAR and Macau SAR). The employer shall arrange for the imported labour to register for an identity card with the ImmD within 30 days upon his/her arrival. If the imported labour is in possession of a "W" or "WX" prefix new smart identity card issued on or after 26 November 2018, he/she is not required to register again. Upon expiry or termination of the employment contract, the imported labour is not required to return his/her identity card to the ImmD. Yet, the identity card cannot be used should the imported labour do not have a valid condition of stay in Hong Kong SAR.

Termination of Contract Prior to its Expiry

15.18 The employer or the imported labour may terminate the employment contract prior to its expiry by giving to the other party notice in writing or payment in lieu of notice as stipulated in the SEC. The employer is not allowed to entrust a third party (such as the agent responsible for handling the personnel management of the imported labour) to issue termination notice to an imported labour. Any termination notice issued by a third part is invalid.

15.19 The employer shall send a photocopy of the termination notice to the DEVB (email address: css_application@devb.gov.hk) and the Admission of Labour Section of the ImmD by post (4th Floor, Administration Tower, Immigration Headquarters, 61 Po Yap Road, Tseung Kwan O, New Territories, Hong Kong) or fax (fax no.: 3902 3167) within seven calendar days before the date of termination. If the contract is terminated without prior notice, the employer shall send a photocopy of the termination notice to the DEVB and ImmD within one working day after the termination. The notice should bear the name of the imported labour in Chinese and English as the case may be, his/her Hong Kong SAR Identity Card number, the date of termination, quota reference number, ImmD's reference number and state whether replacement for the outgoing labour is needed.

No Displacement of Local Employees by Imported Labour

15.20 The employer shall not displace local employees in employ by imported labour. In the event of redundancies, imported labour should be retrenched first.

Management Responsibility

15.21 The employer shall coordinate with the principal contractor-applicant and agent(s) (if applicable) to properly arrange the personnel management of as well as the accommodation and other support services for the imported labour employed. The employer shall ensure that such arrangements comply with the requirements of the Employment Ordinance and other statutory provisions related to the employment of labour and labour protection, as well as other approval conditions under the Construction Sector Scheme, and sign a deed of undertaking. For example, the employer and agent(s) should regularly report to the principal contractor-applicant on the personnel management of as well as accommodation and other support service arrangements for imported labour.

16. Employees Retraining Levy

16.1 Successful employer of the imported labour is required to pay a levy that goes to the Employees Retraining Board to augment the provision of training and retraining for local employees. The levy payable in a lump sum in respect of each imported labour is $400 multiplied by the number of months covered by the employment contract up to a maximum of 24 months. It will be collected by the ImmD after the approval for importing labour and before the issue of visa/entry permit as directed by the Director of Immigration. The levy paid is not refundable under any circumstances.

17. Compliance and Penalties

17.1 Principal contractor-applicant and employer who breach the Laws of Hong Kong SAR may be liable to prosecution or other penalties provided under the law.

17.2 The principal contractor-applicant is responsible to ensure that the member company/sub-contractor, being the employer, fulfills its employer responsibilities and takes reasonable measures to protect the imported labour. Any past record of the failure of a principal contractor-applicant to comply with or to ensure the compliance of the employer and agent with the responsibilities as stipulated in the respective deed of undertakings signed for the Construction Sector Scheme will be taken into account in future application for importation quotas and is one of the grounds for administrative sanctions.

17.3 Administrative sanction(s) may be taken against a principal contractor-applicant and/or sub-contractor employer who is found:

(a) to have failed to comply with any statutory provision(s) relevant to the imported labour;

(b) to have failed to demonstrate the local recruitment has been conducted in accordance with the specified requirements;

(c) to have knowingly or wilfully made any false statement or withheld any information, or otherwise misled the DEVB for the purpose of obtaining the importation quota under the Construction Sector Scheme;

(d) to have failed to comply with the responsibilities of the principal contractor-applicant and/or sub-contractor employer as stipulated in these Guidance Notes;

(e) to have failed to comply with any approval condition(s) as stated in the Notice of Quota Application Result (including those requirements related to protection of labour rights and construction site safety);

(f) to have failed to comply with any relevant requirement(s) of the SEC;

(g) on the basis of clear information, to have failed to take reasonable measures (for example, failing to require the agent to comly with the Employment Ordinance as well as provisions relating to labour protection under other legislations and the Construction Sector Scheme) to prevent the principal contractor-applicant, employer or agent from (i) keeping the proof of identity or bank card of the imported labour, (ii) making unreasonable and/or unlawful deductions from the imported labour's wages after payment of the wages by the employer, or (iii) charging other unreasonable fees (please refer to paragraph 6.27 above for arrangements on collection of fees);

(h) to have failed to ensure, with reasonable measures in place (details are set out in the relevant document(s) for lease of the designated quarters), compliance by itself/themselves and the imported labour it/they employed with all the rental conditions for use of the designated quarters as well as the rules and regulations governing the accommodation thereat; and/or

(i) The compliance with relevant legislation and safety performance of the principal contractor-applicant and/or employer(s) in works contracts with construction industry importation quotas approved such as whether they have been involved in serious safety accidents and other serious incidents, etc.

17.4 Without prejudice to other penalties/sanctions provided under the relevant legislation and the prevailing mechanism for evaluation of contractors' performance in public sector works contracts by government departments/organisation, the following administrative sanctions may be imposed on a principal contractor-applicant and/or sub-contractor employer having regard to the seriousness of the non-compliance with the statutory provision(s) or requirement(s) set out in paragraphs 17.3(a) to (i):

(a) Receipt of warning letter (receipt of a specified number of which will amount to more serious penalties as set out in paragraphs 17.4(b) and (c) below);

(b) Revocation of the quota approved; and/or

(c) Debarring the principal contractor-applicant and/or sub-contractor employer from making importation quota application under the Construction Sector Scheme for a period of up to two years.

17.5 The DEVB and relevant works departments may impose administrative sanctions on the principal contractor-applicant and/or sub-contractor employer and reflect their non-compliance in the performance evaluation of the relevant works contracts. At the same time, the DEVB may also recommend to other government departments and public organisations responsible for managing the relevant works contracts to reflect the non-compliance in the performance evaluation of the works contracts.

17.6 If there is information clearly indicating that the principal contractor-applicant and/or sub-contractor employer has/have breached the requirements or conditions listed in paragraphs 17.3(a) to (h), the DEVB may impose the administrative sanctions in paragraph 17.4 and the recommendations in paragraph 17.5 without waiting for the relevant law enforcement agencies to complete their investigations.

17.7 When submitting an application under the Construction Sector Scheme, the principal contractor-applicant should clearly indicate that the principal contractor-applicant and all employers involved in the application have agreed and authorised:

(a) the Approving Authority to release to (i) any government department involved in labour importation, including but not limited to the LD and ImmD, (ii) the government bureau/department supporting the application in question and (iii) any public sector organisation involved in labour importation, all information related to the application, quota approved (if any) under the Construction Sector Scheme, and/or other information for enforcement of the relevant laws as well as the terms and requirements of the Construction Sector Scheme and the SEC; and

(b) the bureau(x)/departments mentioned in (a)(i) and (ii) above to release to the DEVB any information related to the principal contractor-applicant and/or employer related to the application, quota approved (if any) under the Construction Sector Scheme, and/or other information for enforcement of the relevant terms and requirements of the Construction Sector Scheme and the SEC.

provided that the information to be released by the Approving Authority or the information to be received by the DEVB can only be used for the

purposes relating to the quota application and the Construction Sector Scheme.

18.Request for Review on Administrative Sanction(s)

18.1 A principal contractor-applicant and/or sub-contractor employer who is/are not satisfied with the administrative sanction(s) imposed may lodge a request for review by stating reasons and submitting additional supporting information to the DEVB within four weeks from the date of the notice imposing the relevant administrative sanction(s). Late requests will not be entertained.

18.2 DEVB may request the appellant to submit further information within a specified timeframe. DEVB reserves the right not to process the request if the appellant fails to submit the required document(s)/information within the specified period.

18.3 Upon receipt of a request for review with required information furnished, the Approving Authority will consider the request. After considering the merits of the application, the Approving Authority may revise the earlier decision or otherwise. A "Notification of Review" will be issued to the appellant to notify him/her of the result and the result is final.

19.Approval Conditions of the Scheme

19.1 The Approving Authority has the right to specify any additional condition or requirement for application and approval or adjust the existing conditions or requirements for application and approval under the Construction Sector Scheme for individual applications having regard to the circumstances of individual cases and the general principles laid down in these guidance notes.

20.Disclaimer

20.1 The information in this guidance notes serves as reference. DEVB is not responsible for any loss or damage whatsoever arising out of or in connection with any information in this guidance notes. DEVB reserves the right to interpret, omit, suspend or edit all information in this guidance notes and the application forms at any time in its absolute discretion without giving any reason or prior notice.

21.Enquiries

21.1 For enquiries about an application, please contact the DEVB:

Address:	Development Bureau (Attn.: Works Policies 1 Section) 15/F, West Wing, Central Government Offices 2 Tim Mei Avenue, Tamar, Hong Kong
Telephone:	3199 7128 (9am to 6pm, Monday to Saturday, except Public Holidays)
Fax:	2882 7152
Website	https://www.devb.gov.hk/en/css (You may fill in information via the e-form at the abovementioned webpage for sending us enquiries)

Development Bureau
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