

Labour Importation Scheme for the Construction Sector

“Guidance Notes for Application for Labour Importation Quota”

1. Introduction

- 1.1 The Labour Importation Scheme for the Construction Sector (“**Construction Sector Scheme**”) serves as one of the multi-pronged measures 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 contractors and employers must accord priority to filling available job vacancies with local labour through local recruitment exercises (please refer to paragraph 6.17-6.23 below), and take active efforts to train local labour for the vacancies.
- 1.4 The Permanent Secretary for Development (Works) is the approving authority¹ (“**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 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>).

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.

2. Applicants

- 2.1 Applications 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 (piling, foundation, etc.) required for the eligible works contract (see paragraph 3 below).
- 2.2 Where the employer of the imported labour is the sub-contractor instead of the principal contractor-applicant, the subcontractor-employer is required to submit an 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 Standard Employment Contract of the Construction Sector Scheme (“**SEC**”). The requirement to comply with the signed undertaking would form part of the approval conditions for the quota application. Failure of the principal contractor-applicant and/or the sub-contractor employer to comply with the approval conditions may result in administrative sanctions being taken (see 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 designated 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 webpage, 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.
- 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 Special Administrative Region.

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-applicants who wish to apply for importation quota for construction personnel of a special trade/discipline which is not covered by the list of the eligible trades/disciplines mentioned in paragraph 3.1 above, they have 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 their targeted date to submit importation quota applications. 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 wages 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 any newly

added trades/disciplines at the designated 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 first application period upon the launching of the Construction Sector Scheme which will be from 17 July 2023 to 16 August 2023 and other 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 of application
January	First calendar day of the month	Last calendar day of the month
April		
July		
October		

- 5.2 An application should only include imported labour planned to arrive Hong Kong 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 completed application forms together with all the supporting documents (see paragraph 6.2) by hand delivery to the Development Bureau (Works Branch) Drop-in Box (Address: 2/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong) or by post to DEVB (Attn.: Works Policies 1 Section) at 15/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.
- 5.4 In case Tropical Cyclone Warning Signal No. 8 or above is hoisted, or a Black Rainstorm Warning Signal or “extreme conditions after super typhoons” 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 after super typhoons” announced by the Government has/have ceased to be in force. For application submitted by post, the postmark date on the envelope will be taken as the date of submission of application.
- 5.5 For applications submitted by post, principal contractor-applicants should ensure that sufficient postage is paid. 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-applicants must complete the following forms which are available at the designated 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); and

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

Supporting documents

6.2 Principal contractor-applicants 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 subcontractor-employer(s) (where applicable);

(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;

(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; and

(iii) construction programme showing the phasing and construction period of the major work activities of the works contract under application. 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 his subcontractor(s) only*) a deed of undertaking (Form DEVB-CSS-2_e, sample available at the designated webpages of the Construction Sector Scheme (<https://www.devb.gov.hk/en/css>) executed by each subcontractor-employer confirming that the subcontractor 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).

6.3 For principal contractor-applicants who wish to apply for allowing imported labour to work for other construction contract(s) (“**supplementary contracts**”) (please refer to paragraphs 6.11 and 6.12 for details) on top of the works contract under application, they need 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 3-6 of the application form)

6.4 Principal contractor-applicants 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-applicants should provide details of the construction labour to be imported for the works contract under application as well as their working hours in Part 4 of the application form. Only imported labour planned to arrive Hong Kong within 12 months from the closing date of application should be included.

II. Accommodation (Part 5 of the application form)

6.6 Principal contractor-applicants 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. The accommodation should either be within

Hong Kong or on the Mainland.

6.7 Subject to paragraphs 6.8 and 6.9, a principal contractor-applicant should provide the imported labour residing in Hong Kong 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”); or
- (b) at designated centralised quarter(s) arranged by the Government for the purpose of the Construction Sector Scheme.

III. Accommodation at centralised quarter(s) arranged by the Government

6.8 If a principal contractor-applicant chooses to have his imported labour accommodated at the centralised quarter(s) arranged by the Government but the quarter(s) is/are not readily available when the imported labour arrive Hong Kong, the principal contractor-applicant is allowed to arrange appropriate accommodation for the imported labour in the private market as an interim measure, provided that the specific accommodation requirements as stipulated in the SEC are met. The principal contractor-applicant has to arrange to have his imported labour to move in to the centralised quarter(s) once the quarter(s) is/are available.

6.9 For imported labour from the Mainland, principal contractor-applicants may opt for either providing accommodation on the Mainland or the imported labour residing in their own residential premises on the Mainland. Principal contractor-applicants should specify the accommodation arrangement(s) for the imported labour in Part 6(a) of the application form.

IV. Assessment by Government Bureau/Department (Part 9 of the application form)

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

should complete Part 9 of the application form.

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)

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 has to stop his 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 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.

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 requirement (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 workers have to

leave Hong Kong 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-applicants 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 III 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), including the projected manpower resources required for each 6-month periods for the two years 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 full-time local employees and the imported labour that need to be applied for.

6.15 A minimum manning ratio of 1:2 (i.e. one imported labour to at least two full-time local labour³) (“**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).

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

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/sub-contractor-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 contracts but must include the works contract under application.

6.18 The local recruitment(s) should be completed no more than four months preceding the application 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:

(A) Recruitment Advertisement	(B) Recruitment Day
<p style="text-align: center;"><u>For a continuous period of 14 calendar days</u></p> <p>(i) Interactive Employment Service website of the Labour Department (LD);</p> <p>(ii) Construction Industry Job Portal – easyJob of the CIC;</p> <p>(iii) Two separate recruitment advertisements published in local newspaper(s) (in online/print forms) or recruitment agency’s website(s)</p>	<p style="text-align: center;"><u>Six half-day sessions within a period of 14 calendar days</u></p> <p>(i) Job recruitment day at the Construction Industry Recruitment Centre of LD;</p> <p>(ii) Job recruitment day at the Recruitment desk⁴ of the CIC;</p> <p>(iii) Quarterly job fairs co-organised by the CIC and the principal contractors / subcontractors</p>

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.

- 6.19 The recruitment advertisements must include such information as the job title, trade/discipline of the job, minimum qualification requirement(s) on the skill set/years of experience required for the job, wage offered, number of normal working hours per day, number of normal working days per month/per week, workplace location(s), period of employment, etc. The positions under local recruitment must offer a salary no less than the prevailing local median monthly wages of the applied posts as promulgated by DEVB at the designated webpage of the Construction Sector Scheme (<https://www.devb.gov.hk/en/css>).
- 6.20 There should not be unreasonable job requirements in the recruitment advertisements that are restrictive or excessive, such as age, sex and skills not relevant to the job duties.
- 6.21 Principal contractor-applicants should indicate in the Confirmation Form on Local Recruitment the number of job-seeker(s) applied for the position(s), the number of candidates interviewed and the number of local labour eventually employed.
- 6.22 Principal contractor-applicants should obtain consent of the job-seeker(s) for disclosing their personal data to the DEVB and/or its agent. The DEVB and/or its agent 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 agent, please clearly mark so on the recruitment records.
- 6.23 Principal contractor-applicants should keep all records of the local recruitment exercise(s) conducted for six months after the issue date of the Notice of Quota Application Result. DEVB and/or its agent may 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.

Provision of True and Correct Information

- 6.24 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.
- 6.25 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, he/she 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) It is submitted by the principal contractor of an eligible construction works contract with all the supporting documents required;
 - (b) Local recruitment exercise(s) has been properly conducted pursuant to the requirements under the Construction Sector Scheme;
 - (c) Wage levels of the imported labour under the Construction Sector Scheme must be no less than the prevailing median monthly wages of relevant posts in Hong Kong as promulgated by DEVB on the designated webpage of the Construction Sector Scheme (<https://www.devb.gov.hk/en/css>); and
 - (d) The principal contractor-applicant is 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 the meeting of the above requirements, the principal contractor-applicant should not assume that his application would be

approved 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 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 contracts;
- (b) the number of quota applied for;
- (c) whether the trade(s)/discipline(s) applied for fall into the eligible scope of trade(s)/discipline(s) as promulgated by DEVB on the designated 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);
- (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-applicants and the subcontractor-employers (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-applicants and the subcontractor-employers, the following amongst other relevant things will be considered:

- (a) utilisation of the quota previously approved under the Construction Sector Scheme;
- (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 provision of accommodation for the imported labour;
 - (iii) adoption of construction safety measures including but not limited to Smart Site Safety System⁵ at the construction site of the works contract under 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-principal contractor-applicant and/or subcontractor-employer(s)⁶. These may include but not limited records showing failure to fulfil or violation of any (i) approval condition imposed on principal contractor-applicants/subcontractor-employers by the Approving Authority, including that the imported worker should only work at specified and

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>)

⁶ DEVB may check with relevant government departments/public sector organisations if there is any adverse record of the principal contractor-applicant/subcontractor-employer.

pre-approved construction site(s), (ii) visa/entry permit conditions, (iii) terms of the SEC, (iv) labour laws and any records showing that the principal contractor-applicant and/or subcontractor-employer(s) has submitted any false or misleading information related to the principal contractor-applicant and/or quota approved.

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-applicants can then proceed with the recruitment of imported labour.
- 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), 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-applicants/employers 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 staff accommodation requirement(s) as stipulated in the Notice of Quota Application Result;
- (c) assigning a Safety Officer to be in charge of any safety briefing and arrangement for training related measures for all imported labour;
- (d) mandatory use of construction safety measures, including but not limited to Smart Site Safety System⁷, 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
- (e) 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 from 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 period⁸.

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 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.

⁷ Principal contractor-applicants eligible for application for importation 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).

- 8.6 The quotas approved for importation of labour are not renewable. Should the principal contractor-applicants or their sub-contractors wish to retain the imported labour in employ after the expiry of the approved quotas, the principal contractor-applicants need 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 principal-contractor principal contractor-applicant, the same client or the same subcontractor, 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 six 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-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. The Director of Immigration may refuse to issue visas/entry permits to individual imported labour.

9. Request for Review 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 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 designated 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. Transitional arrangements

I. Interface with the Supplementary Labour Scheme (SLS)

- 10.1 Upon 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 Supplementary Labour Scheme (“SLS”) administered by the Labour Department (“LD”) would no longer accept applications for importation of labour from the construction sector. Notwithstanding this, for applications already approved under the SLS, the principal contractor-applicants concerned are obliged to follow the prevailing approval conditions under the SLS. The number of imported labour approved under the SLS working in Hong Kong for the construction sector will be counted towards the importation quota of the Construction Sector Scheme.
- 10.2 If an SLS application is still under processing by the LD and the principal contractor-applicant concerned chooses to have the application processed under the Construction Sector Scheme, the principal contractor-applicant should submit a fresh application under the Construction Sector Scheme.

II. Transitional arrangement for Local recruitments

- 10.3 For applications submitted to the DEVB during the first application period of the Construction Sector Scheme (i.e. from 17 July 2023 to 16 August 2023), the requirement in respect of local recruitment under the Construction Sector Scheme would be considered as met provided that the local recruitment conducted by the principal contractor-applicants before the launching of the Construction Sector Scheme were completed no more than four months preceding the application period and were in compliance with the prevailing recruitment requirements of the SLS (including wages offered in the local recruitment are no less than the

then median monthly wages of local labour in the same posts and LD's published requirements on recruitment advertisement (<https://www.labour.gov.hk/eng/plan/iwSLS.htm>). Principal contractor-applicants should provide proof(s) and supporting documents to show that the recruitment(s) were conducted in accordance with the then prevailing SLS and LD requirements.

11.Importation of Labour from the Mainland

- 11.1 If the prospective imported labour is a Mainland resident, the employer must recruit the imported labour through the foreign labour service operators approved by the relevant Mainland authorities (i.e. “內地輸香港勞務經營公司”) (relevant webpage at https://zsmcorp.mofcom.gov.cn/zsmbgacommon/zsmbga_innerCorp_hk_list)).

12.Visa/Entry Permit Application

- 12.1 The applicant-employer or the sub-contractor employer is required to enter into a SEC with each imported labour. The contract term (included any required training period to meet any applicable statutory requirements) will be for a maximum period as specified in the Notice of Quota Application Result issued by DEVB, the longest being two years. The SEC (Form DEVB-CSS-16_e) for an employee recruited from outside Hong Kong may be obtained at the Admission of Labour Section of the ImmD. 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 six 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 workers from the Mainland, they should be in possession of valid Exit-entry Permits for Travelling to and from Hong Kong and Macau with relevant exit endorsement issued by the relevant 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 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.
- 12.10 No person who has entered Hong Kong as a visitor may be hired to work here.
- 12.11 If an imported labour is unable to come to Hong Kong or complete his/her contract, the request for a replacement labour by the employer with the consent of the principal contractor-applicant should be made to DEVB and copied to the ImmD (i) within seven calendar days after the date on which the employer is notified that the labour will not come to Hong Kong, or (ii) within the period specified in paragraph 15.18 in case of early termination of the 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>). The 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 HKSAR to the Receipt and Despatch Unit, 2/F, Immigration Tower, 7 Gloucester Road, Wan Chai, 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 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; and
- (e) original copy of the Consent Form (Form DEVB-CSS-8c_e) duly completed by the imported labour.

- 13.2 For Chinese residents of the Mainland wishing to come to work in the HKSAR under the Construction Sector Scheme, applications must be submitted to the ImmD through their prospective employers. Direct applications by the Chinese residents of the Mainland are not accepted.
- 13.3 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.
- 13.4 Decisions on individual applications will be conveyed to the imported worker through the employer.
- 13.5 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 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 are entitled to the same protection under the labour laws of Hong Kong 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 which contains the name and Hong Kong 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.

Briefing session

15.3 The employer must grant leave to the imported labour to attend a briefing 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 DEVB on the designated 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. The employer 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 receipt.

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 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, 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 and 6.7 for details.

15.11 The location of accommodation for each imported labour should be specified in the Schedule to the SEC.

15.12 All the accommodation arranged by the employers, either within or outside Hong Kong (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 is not regarded as meals provided by the employer.

Free Medical Care

15.15 The employer must provide free medical care for the imported labour if he/she suffers from illness or injury, 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 of his/her own volition and for his/her personal purposes. Free medical care includes hospital inpatient services and urgent dental treatment.

Passage and Visa/Entry Permit Fee

15.16 Expenses for passage to and from Hong Kong 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 and Macau and Hong Kong Identity Card

15.17 The employer shall not keep the imported labour's passport or Exit-entry Permit for Travelling to and from Hong Kong and Macau. The employer shall arrange for the imported labour to register for an identity card with the ImmD within 30 days upon his/her arrival. Likewise, the employer shall remind the labour to return his/her identity card to the ImmD for cancellation upon expiry or termination of the employment contract and before the labour leaves Hong Kong.

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 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 (Immigration Department, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong) or fax (fax no.: 2824 2067) 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 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

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

16. Employees Retraining Levy

- 16.1 Successful principal contractor-applicants are 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 is not refundable under any circumstances.

17. Compliance and Penalties

- 17.1 Principal contractor-applicants and employers who breach the Laws of Hong Kong may be liable to prosecution or other penalties provided under the law.
- 17.2 Any past record of a principal contractor-applicant's failure to comply or ensure the subcontractor employer's compliance with the undertaking signed for the Construction Sector Scheme will be taken into account in future application for quota importation and is one of the grounds for administrative sanctions.
- 17.3 Administrative sanction(s) may be taken against a principal contractor-applicant and/or subcontractor-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 DEVB for the purpose of obtaining the importation quota under the Construction Sector Scheme;
 - (d) to have failed to comply with any approval condition(s) as stated in the Notice of Quota Application Result; and/or
 - (e) to have failed to comply with any relevant requirement(s) of the SEC.

17.4 Without prejudice to other penalties/sanctions provided under the relevant legislation and the prevailing mechanism for departments' evaluation of contractors' performance in public works contracts, the following administrative sanctions may be imposed on a principal contractor-applicant and/or subcontractor-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)-(e):

- (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 subcontractor-employer from making importation quota application under the Construction Sector Scheme for a period of up to two years.

17.5 By submitting an application under the Construction Sector Scheme, the principal contractor-applicant and each subcontractor-employer is deemed as having given the consent to:

- (a) the Approving Authority to release to (i) any government department involved in labour importation, including but not limited to the Labour Department and the Immigration Department and (ii) the government bureau(x)/department(s) supporting the application in question and (iii) any public sector organisation involved in labour importation, all information related to the applications and/or quota approved (if any) under the Construction Sector Scheme; 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 any of the subcontractor-employer related to the applications and/or quota approved (if any) under the Construction Sector Scheme.

provided that the information to be released by the Approving Authority or the information to be received by 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 not satisfied with the administrative sanction(s) imposed may lodge a request for review by stating reasons and submitting additional supporting information to 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 this 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
July 2023