

ADMISSION SCHEMES FOR TALENT, INVESTORS AND WORKERS

Executive Summary

1. As pre-entry control measures, persons who come to Hong Kong for employment, investment, residence, study or training and do not have the right of abode or right to land are required to apply for entry visas or permits before landing. The Government has introduced the following eight Admission Schemes to attract talent, investors and workers to work/stay in Hong Kong:

- (a) ***Admission Schemes for talent, professionals and non-local graduates.*** The four Schemes are the General Employment Policy (GEP) Employment Stream, the Admission Scheme for Mainland Talents and Professionals (ASMTP), the Quality Migrant Admission Scheme (QMAS) and the Immigration Arrangements for Non-local Graduates (IANG);
- (b) ***Admission Schemes for investors.*** The two Schemes are the GEP Investment Stream and the Capital Investment Entrant Scheme (CIES); and
- (c) ***Admission Schemes for importing foreign domestic helpers (FDHs) and workers.*** The two Schemes are the Admission Scheme for FDHs and the Supplementary Labour Scheme (SLS).

The Immigration Department (ImmD) is responsible for processing applications under the Admission Schemes and issuing visas or entry permits to successful applicants. Upon entry to Hong Kong, a person must comply with the limit of stay and such conditions of stay imposed by the ImmD under the Immigration Ordinance (Cap. 115). He may apply to the ImmD for permission of extension of stay. Except for FDHs and imported workers under the SLS, a person who has been admitted under the other six Admission Schemes and is lawfully and continuously an ordinary resident in Hong Kong for seven years may apply for permanent residence. According to ImmD Controlling Officer's Report, the total estimated expenditure of its pre-entry control programme for 2015-16 is \$281 million.

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2. In his 2015 Policy Address, the Chief Executive of the Hong Kong Special Administrative Region announced adopting a more proactive and targeted approach, as recommended by the Steering Committee on Population Policy (SCPP), to attract more outside talent to work and settle in Hong Kong by taking various enhancement measures. The duration of stay of successful applicants/entrants and their extension of stay pattern under the GEP, the ASMTP and the QMAS have been relaxed, and the consideration factors of the GEP Investment Stream have been specified. The Audit Commission (Audit) has recently conducted a review to examine the ImmD's work on the administration of the eight Admission Schemes.

Admission Schemes for talent, professionals and non-local graduates

3. ***GEP Employment Stream and ASMTP.*** The GEP Employment Stream aims to attract qualified professionals from overseas, Taiwan and Macao and the ASMTP aims to attract those from the Mainland to work in Hong Kong to meet local manpower needs. An application may be favourably considered if the applicant meets the eligibility criteria, including securing employment that cannot be readily taken up by the locals and his remuneration package is broadly commensurate with the market level. From January 2006 to December 2015, some 273,100 applications had been approved under the GEP Employment Stream with an average approval rate of 95.7% from 2011 to 2015. For the ASMTP, from its inception in July 2003 to December 2015, some 83,700 applications had been approved with an average approval rate of 91.7% from 2011 to 2015 (paras. 1.6(a) and (b), 2.2 and 2.3).

4. ***Need to monitor GEP and ASMTP applications with long processing time.*** From 2011 to 2015, the ImmD achieved its targets for processing entry visas and permits for the GEP Employment Stream and the ASMTP within four weeks (upon receipt of all supporting documents) for 90% of the applications. Audit's analysis of the actual processing time of approved applications from January 2014 to September 2015 from the receipt of the applications revealed that 665 (1%) of the 53,694 GEP approved applications and 1,055 (7%) of the 15,663 ASMTP approved applications had taken more than 90 days to process. Audit's sample check of 30 such applications further revealed that in 13 (43%) cases, there were delays on the part of the ImmD in requesting additional supporting documents from the applicants (paras. 2.4 and 2.5).

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5. ***Need to provide more guidelines on the assessment of local availability and remuneration.*** In processing GEP and ASMTTP applications, the case officers should consider availability of local employees and market level of remuneration to ascertain whether the applicants meet the criteria stated in paragraph 3. While the ASMTTP guidelines specified that the sponsoring companies (i.e. the employers) should be required to provide a declaration that genuine local recruitment efforts had been made but without success and such proof would be sought if necessary, the GEP guidelines did not have the same requirement. According to the ImmD, salary statistics reports prepared by the Census and Statistics Department and salary survey reports published by employment websites would be used for considering applicants' monthly remunerations but such practices were not laid down in its guidelines. In some cases, the applicants' remunerations were below the average/median salaries published by the information sources mentioned by the ImmD and the basis of accepting the remunerations as commensurate with the market level was not documented by the case officers (para. 2.6).

6. ***Need to ensure compliance with laid-down guidelines in processing applications.*** In processing GEP and ASMTTP applications, there were guidelines requiring case officers to: (a) grant limit of stay to applicants subject to validity of their travel documents to ensure returnability to their countries of residence or citizenship; (b) approve limit of stay not exceeding the employment contract period or the limit stipulated by the ImmD, whichever is shorter; (c) vet intra-company transfer applications to ensure that the transferees have worked for the company for not less than one year; and (d) impose special conditions of stay on foreign cooks, including restricting the change of employer. However, Audit's sample check of approved applications revealed instances of non-compliance with the laid-down guidelines (paras. 2.10 to 2.16).

7. ***QMAS.*** The Scheme aims to attract highly skilled or talented persons to settle in Hong Kong. It is a quota-based scheme (currently 1,000 persons per year) operated under a points-based system, which includes the Achievement-based Points Test for individuals with exceptional talents or skills and outstanding achievements, and the General Points Test for other skilled and talented persons. Since its inception in June 2006 to December 2015, some 3,000 applications had been approved with an average approval rate of 28.9% from 2011 to 2015 (paras. 1.6(c) and 2.20).

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8. *Need to incorporate a talent list for the QMAS.* From January 2010 to September 2015, 713 applicants had submitted applications for two to four times (totalling 1,500 representing 14% of all 10,574 applications received in the period) but only 151 (21%) of them were successfully allocated a quota under the QMAS. The large number of repeat applications suggests that the applicants might be unclear about the targeted talent requirements. The ImmD needs to closely liaise with the Labour and Welfare Bureau (LWB), which is now considering the feasibility of drawing up a talent list to attract high quality talent, for incorporating the list into the QMAS once it is available so that prospective applicants are better informed before deciding whether they should submit an application (para. 2.28).

9. *IANG.* The Scheme aims to attract foreign and Mainland students who have obtained a degree or higher qualification in a full-time and locally-accredited local programme to stay/return and work in Hong Kong. Since its inception in May 2008 to December 2015, some 51,500 non-local graduate applications had been approved to stay/return and work in Hong Kong with an average approval rate of 99.9% from 2011 to 2015 (paras. 1.6(d), 2.31 and 2.33).

10. *Need to verify authenticity of supporting documents.* An IANG applicant/entrant is only required to submit photocopies of his academic/professional qualification and employment offer to support his entry application or extension-of-stay application. With the advances in information technologies (e.g. image processing technology), there is a risk that bogus documents may be used to support IANG applications. Audit research on similar schemes administered by overseas authorities reveals that the authenticity of supporting documents is verified by different means, e.g. applicants are required to provide an original endorsement letter from an education institution (paras. 2.34 and 2.35).

11. *Need to document factors considered in assessing IANG applicants' job qualification requirements.* For an entry application by a returning graduate (i.e. not a fresh graduate) or an application for extension of stay, the IANG requires an applicant/entrant to secure an employment offer which is at a level commonly taken up by degree holders and a remuneration package at market level. Audit's examination of 30 of 442 approved cases with monthly remunerations of \$9,000 or below from January 2010 to September 2015 revealed that in 6 cases, the case officers approved the applicants taking up the jobs which were specified for

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certificate holders/Form 5 graduates or above. There was no documentation on the factors that had been considered by the case officers in allowing IANG applicants to take up jobs that could be filled by local certificate holders/Form 5 graduates (paras. 2.36 to 2.38).

Admission Schemes for investors

12. ***GEP Investment Stream.*** Apart from the Employment Stream (see para. 3), the GEP has an Investment Stream to admit overseas, Taiwan and Macao investors who wish to set up or join in a business in Hong Kong, and are in a position to make substantial contributions to the economy. From January 2006 to December 2015, some 3,300 applications had been approved under the GEP Investment Stream with an average approval rate of 66.7% from 2011 to 2015 (paras. 1.6(e) and 3.4).

13. ***Need to improve the efficiency of processing applications.*** Audit's analysis of the actual processing time for approved GEP Investment Stream applications from the receipt of applications in the period January 2014 to September 2015 revealed that 193 (58%) of the 330 approved applications had taken more than 90 days to process. Audit's sample check of 15 such applications further revealed that on average, the case officers took 73 days in 3 cases to make further information requests and 87 days in 5 cases to grant approval after receipt of all supporting documents (paras. 3.5 and 3.6).

14. ***Need to improve business reviews for extension-of-stay applications.*** The ImmD may approve an entry application on the condition that a business review (covering office set-up, local recruitment and business performance) will be carried out upon the subsequent extension-of-stay application. Audit's sample check of 15 business review cases from January 2012 to September 2015 revealed that in four (27%) cases, while the applicants had not delivered the planned scale of operation as stated in the entry applications, the case officers approved their extension-of-stay applications without imposing the requirement of further business reviews (paras. 3.7 and 3.8(a)).

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15. **CIES.** The CIES was implemented in October 2003 to facilitate the entry for residence by persons who would make capital investment in permissible investment assets in Hong Kong but would not be engaged in the running of business. Since its inception to December 2015, some 28,200 applications with capital investment of some \$244 billion had been approved under the CIES with an average approval rate of 99.9% from 2011 to 2015. In view of the economic situation in Hong Kong, the Government decided to suspend the CIES with effect from 15 January 2015. The applications pending processing as at December 2015 totalled 11,429 (paras. 1.6(f) and 3.15).

16. ***Need to step up monitoring of the processing of CIES applications.*** Audit's examination of ten selected approved applications in 2014 and 2015 revealed that in two cases, the case officers took 49 and 60 months respectively to grant final approvals. The long processing time of the two cases was partly attributable to the case officers' belated actions as they had not reminded the applicants to submit the required information (such as proof of investment) until 10 and 25 months respectively after the submission deadlines (para. 3.21).

17. ***Need to tighten control over breaches of CIES Scheme Rules.*** The CIES Scheme Rules require a financial intermediary to notify the Director of Immigration that the applicant/entrant has not re-invested within 14 days the proceeds of sale of his scheme assets. Audit's examination of ten of some 300 cases of breaches of the requirements on re-investment revealed that the ImmD only issued warning letters to the entrants concerned a long time (averaging 525 days) after the breaches had occurred. Besides, in three of the ten cases, the entrants had breached the re-investment requirement two to four times each despite warning letters issued by the ImmD (para. 3.23).

Admission Scheme for foreign domestic helpers

18. Since early 1970s, the Government has allowed admission of FDHs in order to meet the acute shortage of local live-in domestic helpers. From 2011 to 2015, 492,139 applications had been approved with an average approval rate of 99.5%. As at December 2015, there were some 340,000 FDHs in Hong Kong (paras. 1.6(g) and 4.2).

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19. *Need to strengthen follow-up actions on suspected job-hoppers.* In response to the public concern that individual FDHs deliberately under-performed to cause their employers to terminate the contracts pre-maturely, the ImmD has taken measures to strengthen control over FDH entry-visa applications to curb possible abuses. Audit's examination of 30 selected suspected job-hopper cases (i.e. FDHs who had two or more pre-mature termination (PMT) records in 12 months preceding their new visa applications) revealed that seven cases were approved although the case officers had not contacted all their ex-employers who made adverse comments on the applicants' performance. Moreover, there were no laid-down procedures to guide case officers in processing new applications from suspected job-hoppers (paras. 4.7 to 4.11).

20. *Need to tighten the vetting of applications for FDHs performing driving duties.* Since January 2000, an FDH has been prohibited from performing all sorts of driving duties unless an employer can provide full justifications that he has genuine needs for his FDH to perform driving duties. From 2000 to 2015, the total number of successful applications for FDHs performing driving duties had increased by 125% from 903 to 2,032. Audit examination of ten approved applications revealed that the justifications provided in the application forms were travelling needs for performing commonly required domestic duties but there was no elaboration on why such travelling needs could only be met by an FDH performing driving duties (paras. 4.13 to 4.15).

Other administrative issues

21. *Need to properly maintain computer records.* All the entry and extension-of-stay applications under the various Admission Schemes are processed with the aid of a computer system. Audit's examination revealed that the remuneration or employment information of some GEP, ASMTP and IANG applications was not or incorrectly input into the computer system. A reliable database will facilitate the ImmD to compile management information for better decision making and resources planning (paras. 5.2 and 5.3).

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Way forward

22. *Need to periodically compile key statistics and conduct reviews on the effectiveness of the Admission Schemes.* To achieve the population policy objective as recommended by the SCPP (see para. 2), the Chief Executive in his 2015 Policy Address announced that various enhancement measures should be implemented in the Admission Schemes to deal with the ageing population and decline in labour force. Statistics on entrants obtaining right of abode and their duration of stay are key indicators of the entrants' willingness to work/stay in Hong Kong. However, such statistics were not periodically compiled by the ImmD because they could not be generated from the computer system readily. In light of the introduction of various enhancement measures in 2015, the ImmD needs to, in consultation with the Security Bureau, continue to monitor the implementation of such measures and review the effectiveness of the Schemes, taking on board the audit observations and recommendations in this Audit Report (paras. 6.2, 6.5 to 6.7 and 6.9).

Audit recommendations

23. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has recommended that the Director of Immigration should:**

Admission Schemes for talent, professionals and non-local graduates

- (a) **monitor GEP and ASMTP applications with long processing time (para. 2.18(a));**
- (b) **issue guidelines to set out clearly the required procedures for considering availability of local employees and market level of remuneration in processing GEP and ASMTP applications (para. 2.18(b)(i) and (ii));**
- (c) **closely liaise with the LWB to incorporate the talent list into the QMAS once it is available (para. 2.29(b));**
- (d) **tighten control over the verification of the authenticity of supporting documents submitted by IANG applicants/entrants (para. 2.40(a));**

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Admission Schemes for investors

- (e) **step up monitoring of the processing time of GEP entrepreneur applications (para. 3.13(b));**
- (f) **tighten control over breaches of Scheme Rules of the CIES (para. 3.24 (b));**

Admission Scheme for FDHs

- (g) **issue guidelines setting out the key follow-up procedures in processing new visa applications with PMT records (para. 4.17(b));**
- (h) **consider tightening the vetting of applications for FDHs performing driving duties (para. 4.17(e));**

Other administrative issues

- (i) **take measures to ensure the proper maintenance of computer records for the various Admission Schemes (para. 5.9(a)); and**

Way forward

- (j) **enhance the computer system to periodically generate statistics and review the effectiveness of the Admission Schemes (para. 6.10(a) and (b)(ii)).**

Response from the Government

24. The Government agrees with the audit recommendations.