

Employment Support Scheme (ESS) Frequently Asked Questions

Objectives

1. What is Employment Support Scheme?

The Employment Support Scheme (“ESS”) will provide time-limited financial support to employers to retain their employees who may otherwise be made redundant. Employers who participate in ESS must provide an undertaking not to implement redundancy during the subsidy period and to spend all the wage subsidies on paying wages to their employees. ESS will also provide a one-off lump-sum subsidy to self-employed persons (SEPs) who have a Mandatory Provident Fund (MPF) account.

Eligibility

2. Can employers of all industries apply for ESS?

Generally speaking, with the exception of ineligible employers (see QA 3), all employers who have been making MPF contributions for employees (including Master Trust Schemes and Industry Schemes) or who have set up MPF-exempted Occupational Retirement Schemes Ordinance (ORSO) schemes, regardless of industries, may apply for ESS.

- *For employers participating in MPF schemes*, it should be noted that the MPF accounts of the relevant employers and employees applying for the first tranche of wage subsidy¹ should have been set up on or before 31 March 2020 (i.e. cannot be backdated to that date or any earlier dates). In other words, employers with the MPF accounts set up on or after 1 April 2020 will not be eligible.
- *For employers who have set up MPF-exempted ORSO Schemes*, the employees covered in the application must have become members of the relevant ORSO schemes on or before 31 March 2020 (i.e. cannot be backdated to that date or any earlier dates).

3. Which employers and organisations are not eligible for ESS?

The following employers are not eligible for ESS:

- Hong Kong Special Administrative Region (HKSAR) Government, Legislative Council of the HKSAR, The Judiciary of the HKSAR;
- The Liaison Office of the Central People’s Government in the HKSAR, the Office of the Commissioner of the Ministry of Foreign Affairs of the

¹ Wage subsidy for June to August 2020.

People's Republic of China in the HKSAR, and the Hong Kong Garrison of the Chinese People's Liberation Army;

- Offices of other governments and international organisations;
- Specified statutory bodies;
- Specified public organisations, government-owned companies or subvented organisations.

Please refer to the Annex for the above list of employers. Besides, a licence holder who has submitted application for the Catering Business (Social Distancing) Subsidy Scheme in respect of the licensed premises covered by the relevant business registration certificate (include applications being processed or approved) is also not eligible.

Moreover, employers cannot apply for wage subsidies in respect of the following types of employees as their salaries are subsidised by the Government:

- (a) employees in government-funded organisations whose salaries are fully funded by the Government; and
- (b) dedicated staff engaged by outsourced government services contractors/consultants to provide services for these contracts

4. QA (3) mentions that government-funded staff employed by outsourced government service contractors/consultants are not eligible for ESS. If these staff work for other private project(s) at the same time, can the employer apply for ESS in respect of these staff?

Given that these outsourced government service contractors /consultants will continue to receive contract payments from Government, dedicated staff engaged for implementing or delivering government contracts will not be eligible for application. In cases where some of the staff are not working solely for the relevant government contracts but working for other private contract(s) at the same time, as their salaries are not fully funded by the Government, the company may apply for ESS subsidy in respect of these staff provided that it has made MPF contributions for the relevant staff or set up MPF-exempted ORSO schemes.

5. Can a qualified employer apply for wage subsidies for all employees in the company/organization?

Generally speaking, employers can apply for wage subsidies in respect of employees in the following categories:

- (a) "regular employees"² under the Master Trust Schemes and Industry Schemes, for whom MPF mandatory contributions have been made by their employers; and
- (b) employees aged 65 or above under the Master Trust Schemes and Industry Schemes.

It should be noted that employers cannot apply for wage subsidies in respect of "casual employees"³ under the Master Trust Schemes and Industry Schemes. This is because casual workers are highly mobile and rarely have fixed positions in the same company. Providing wage subsidies to these employers can hardly achieve the objective of ESS. Such employees may benefit from other government support schemes. For example, qualified registered construction workers may benefit from the Development Bureau's sector-specific scheme under which each worker will receive a one-off lump-sum subsidy of \$7500.

Employers who have set up MPF-exempted ORSO schemes (including ORSO registered schemes or ORSO exempted schemes) can apply for wage subsidies in respect of employees who are members of their ORSO schemes.

Moreover, employers cannot apply for wage subsidies in respect of the following types of employees as their salaries are subsidised by the Government:

- (a) staff in government-funded organisations whose salaries are fully funded by the Government; and
- (b) dedicated staff engaged by outsourced government services contractors/consultants to provide services for these contracts.

6. Can self-employed persons (SEPs) apply for ESS?

A one-off lump sum subsidy of \$7500 will be granted to SEPs who have set up an MPF account on or before 31 March 2020 (i.e. cannot be backdated to that date or any earlier dates), which has not been terminated as of 31 March 2020.

However, the following persons are not eligible for ESS:

² An employee who is at least 18 but under 65 years of age and has been employed for a continuous period of 60 days or more.

(Reference: www.mpfa.org.hk/eng/main/glossary/index.jsp)

³ An employee who is at least 18 but under 65 years of age, and is employed in the construction industry or the catering industry on a day-to-day basis or for a fixed period of less than 60 days.

(Reference: www.mpfa.org.hk/eng/main/glossary/index.jsp)

- (a) Freelancers who provide school bus services as school bus drivers, school private light bus drivers and escorts (commonly known as "nannies") and have applied for the subsidy under the "School Bus Service Providers Subsidy Scheme" of the Education Bureau; and
- (b) Freelancers who are tour service coach drivers and have applied for the subsidy under "Tour Service Coach Drivers (Mainly Serving Tourists) Support Scheme" of Tourism Commission.

In addition, if the same SEP has more than one MPF account, he/she may only apply once for a one-off lump-sum subsidy of \$7,500 under ESS.

Programme Details

7. When will applications open and subsidies disbursed?

Wage subsidies will be disbursed in two tranches to employers. The first tranche of subsidies will open for application from 25 May to 14 June 2020. It is expected that most employers will receive the wage subsidy in three to four weeks after application, which can subsidise their payment of staff wages from June to August 2020.

The second tranche of subsidies will be disbursed in September 2020. We will announce the application details in due course.

The application period for SEPs will also be from 25 May to 14 June 2020, and the one-off lump sum subsidy will be disbursed in three to four weeks after application.

8. Is it necessary for employers participating in MPF schemes to obtain their MPF contribution records from MPF trustees when they submit application for ESS to facilitate the calculation of subsidies by the Government?

To streamline administrative procedures and to avoid possible delays and omissions when submitting MPF information, employers applying for ESS are required to authorize the following parties when submitting their online applications:

- (a) the ESS processing agent (appointed by the Government) to serve as their agent to receive the certificates on the relevant MPF records (including the number of employees and their wages) issued by MPF trustees; and
- (b) MPF trustees to provide the ESS processing agent (as their agent) with MPF record certificates to verify the information related to their MPF contributions.

With the applicants' authorisation, the MPF trustees will forward the MPF record certificates in electronic format to the ESS processing agent direct. Applicants may also request their MPF trustees to provide such certificates for reference.

9. How to calculate the amount of wage subsidy for the employers who participate in ESS?

Employers participating in MPF schemes

Employers applying for the first tranche of subsidy can choose any one month from December 2019 to March 2020 as the "specified month". The number of employees and their respective wages in the "specified month" will serve as the basis for calculating the subsidies:

- "Regular employees" aged between 18 and 64
 - The amount of wage subsidies will be calculated based on 50% of the actual wages paid to each "regular employee" aged 18-64 in the "specified month", with a wage cap at \$18,000 per month. The maximum wage subsidy per employee is \$9,000 per month.
- Employees aged 65 or above
 - If employers have provided information on the basic salaries of employees aged 65 or above when making MPF voluntary contributions for them, the amount of wage subsidies will be calculated based on 50% of the basic salaries actually paid to the relevant employees in the "specified month", with a wage cap at \$18,000 per month per employee. The maximum wage subsidy per employee is \$9,000 per month.
 - If employers have not provided information on the basic salaries of individual employees when making MPF voluntary contributions for them, the amount of wage subsidies will be calculated by multiplying the amount of employers' voluntary contribution for the relevant employees in the "specified month" by 10 times, with a cap at \$9,000 per month per employee.

Green minibus and local ferry operators who have applied for ESS wage subsidies in respect of their employees aged 65 or above are not allowed to apply, in respect of the same employees, for subsidies under the subsidy scheme of the Transport Department specifically designed for green minibus and ferry operators employees aged 65 or above, so as to avoid double benefit.

If an employer has made MPF contributions for both "regular employees" aged 18-64 and employees aged 65 or above, he/she must choose the same "specified month" for calculating subsidies in respect of all employees.

Employers who have set up MPF-exempted ORSO schemes

In the first tranche, employers applying for the Scheme can nominate any one month between December 2019 and March 2020 as a “specified month”. The amount of wage subsidies will be calculated based on 50% of the actual wages paid to each employee in the “specified month”, with a wage cap at \$18,000 per month. The maximum wage subsidy per employee is \$9,000 per month.

Examples illustrating how to calculate the ESS subsidy

Example 1: If an employer has only contributed to MPF:

Company A has chosen January 2020 as the “specified month”		
<u>January 2020</u> : 20 employees hired, total salary: \$300,000		
<u>Number of Employees</u>	<u>Monthly Wage per employee</u>	<u>Government Subsidies per employee</u>
10	\$20,000	\$9,000
10	\$10,000	\$5,000
Total monthly wage subsidies: ($\$9,000 \times 10$) + ($\$5,000 \times 10$) = \$140,000		
The first tranche subsidy amount: \$420,000 (i.e. the total subsidy amount for three months from June to August 2020) $\$140,000 \times 3$ months = \$420,000		

Example 2: If an employer has made MPF contributions and has set up MPF exempted ORSO scheme for different employees at the same time:

Company B has chosen January 2020 as the “specified month”

January 2020: 30 employees hired, among which 20 employees joined MPF scheme with total salary of \$300,000; 10 employees joined ORSO scheme with total salary of \$200,000.

(a) Amount of subsidy for employees joining MPF scheme:

<u>Number of Employees</u>	<u>Monthly Wage Per employee</u>	<u>Government Subsidies per employee</u>
10	\$20,000	\$9,000
10	\$10,000	\$5,000

Total monthly wage subsidies:
 $(\$9,000 \times 10) + (\$5,000 \times 10)$
 $= \$140,000$

(b) Amount of subsidy for employees joining ORSO scheme:

<u>Number of Employees</u>	<u>Monthly Wage Per employee</u>	<u>Government Subsidies per employee</u>
5	\$30,000	\$9,000
5	\$10,000	\$5,000

Total monthly wage subsidies
 $(\$9,000 \times 5) + (\$5,000 \times 5)$
 $= \$70,000$

The first tranche subsidy amount (i.e. the total subsidy amount for three months from June to August 2020)
 $(\$140,000 \times 3) + (\$70,000 \times 3)$
 $= \$630,000$

10. Can the employer make changes to the MPF contribution data for December 2019 to March 2020?

A snapshot of individual employer's MPF contribution data for December 2019 to March 2020 was taken on 7 May 2020, which will be used for calculating wage subsidies. No changes to the relevant MPF contribution data will be allowed for the purpose of ESS.

Employers may only apply for wage subsidies in respect of employees for whom default mandatory contributions (excluding surcharge) have been settled on or before 7 May 2020.

11. Can the employer apply for ESS in respect of an employee who is on no-pay leave?

Employers may choose any one month from December 2019 to March 2020 as the "specified month". The subsidies will be calculated based on the number of employees (including employees who were in the job but are currently on no-pay leave or half-pay leave) and their respective wages in the "specified month".

After the application has been approved, the number of paid employees (excluding employees on no-pay leave) in any one month of the subsidy period between June and August 2020 cannot be less than the total number of employees in March 2020 (which may include employees on no-pay leave), and the employer should spend all the wage subsidies for June, July and August on paying wages to their employees in June, July and August correspondingly. Therefore, employees hired by the employer (whether full-time or not) during the subsidy period will benefit.

12. Is there an upper limit on the subsidy amount received by each employer?

There is no upper limit on the total amount of subsidies that each employer can receive. However, only 50% of the actual wage can be claimed for each employee at a maximum subsidy of \$9,000 per month. Eligible employers participating in ESS must provide an undertaking not to implement redundancy during the subsidy period (based on number of employees on March 2020) and to spend all the wage subsidies on paying wages to their employees.

13. What undertaking must an employer make when applying for ESS? What penalties will be imposed on employers who have violated the undertaking?

When making online applications, employers should also provide an undertaking:

- (a) not to make redundancies during the subsidy period; and

(b) to spend all the wage subsidies on paying wages to the employees.

For an employer who has received the first tranche of payment, if he/she fails to use all the wage subsidies received for a particular month during the three-month subsidy period (i.e. June to August 2020) to pay the wages of his/her employees in the same month, the Government will claw back the unspent balance of the subsidy.

Furthermore, if the number of employees on the payroll in any one month of the subsidy period is less than the number of paid or unpaid staff in March 2020, the employer will have to pay a penalty to the Government. Details will be announced early next week.

Applicants will be legally liable for making false statements.

14. What monitoring work will be done by the Government to prevent abuse or violations?

The Government will establish appropriate monitoring and assessment mechanisms under ESS to screen and follow up on cases involving abuse and violations. Besides, the Government will adopt a transparent approach to let the society and employees monitor, including announcing the list of employers who have received subsidies, the total number of employees benefited and the amount of subsidies. As such, employees concerned and members of the public will get to know which employers have received subsidies. Should an employer be found to have violated the conditions of ESS, employees concerned or members of the public may report to relevant authorities.

15. Are employers not allowed to reduce wages during the subsidy period under ESS?

ESS does not forbid employers from reducing employees' wages during the subsidy period, but we certainly expect that employers would refrain from reducing wages as far as possible. However, given that the business situation varies among employers, and some enterprises have been hard hit by the epidemic, we consider it necessary to allow flexibility to cater for their business operation. We hope that employers would refrain from reducing wages as far as possible, and would maintain their business operation on the one hand, retaining the jobs for employees on the other.

16. If employers do not have plans to reduce pay or lay off employees, can they use the wage subsidy on employee benefits or for charitable purposes?

Employers must spend all the government's wage subsidies on paying wages to their employees and cannot use them for other purposes, including non-cash benefits for employees or donation.

17. What if I still have questions?

If you have any questions, starting from 13 May at 9am, you can make enquiries through the following channels:

Email: enquiry@employmentsupport.hk; or
Telephone hotline: 1836-122

The service hours of the hotline are:

- Monday to Friday - 9am to 6pm
- During the application period (from 25 May 2020 to 14 June 2020):
Monday to Sunday - 9am to 6pm.

We will announce the application method and other details of ESS early next week.

Organisations excluded from the Employment Support Scheme

- 1. The Government of the Hong Kong Special Administrative Region (HKSAR)⁴ 2. the Legislative Council of the HKSAR⁵ 3. the Judiciary of the HKSAR**

The Liaison Office of the Central People's Government in the HKSAR, the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR, the Hong Kong Garrison of the Chinese People's Liberation Army

Offices of other Governments and International Organisations

1. Consulates-General and Honorary Consulates in Hong Kong
2. Offices of the six Officially Recognised Bodies in Hong Kong -
 - Bank for International Settlements - Representative Office for Asia and the Pacific
 - Office of the European Union to Hong Kong
 - Hague Conference on Private International Law - Asia Pacific Regional Office
 - International Finance Corporation Regional Office for East Asia and Pacific and the World Bank Private Sector Development Office for East Asia and Pacific
 - International Monetary Fund - Hong Kong SAR Sub-Office
 - United Nations High Commissioner for Refugees Sub-Office

Statutory bodies (staffed primarily by government employees)

Specified statutory bodies and corporations

(staffed entirely or primarily by non-government employees)

1. Airport Authority Hong Kong
2. Board of Management of the Chinese Permanent Cemeteries
3. City University of Hong Kong
4. Competition Commission

⁴ Include Executive Council

⁵ Include Legislative Council (LegCo) Secretariat and LegCo Members (in the capacity as employer of staff whose remuneration is fully funded by Office Operation Expenses Reimbursement or Entertainment and Travelling Expenses Reimbursement)

5. Construction Industry Council
6. Consumer Council
7. District Councils⁶
8. Employees Compensation Assistance Fund Board
9. Employees Retraining Board
10. Equal Opportunities Commission
11. Estate Agents Authority
12. Financial Reporting Council
13. Fish Marketing Organization
14. Guardianship Board
15. Hong Kong Academy for Performing Arts
16. Hong Kong Arts Development Council
17. Hong Kong Baptist University
18. Hong Kong Council on Smoking and Health
19. Hong Kong Examinations and Assessment Authority
20. Hong Kong Export Credit Insurance Corporation
21. Hong Kong Housing Society
22. Hong Kong Productivity Council
23. Hong Kong Science and Technology Parks Corporation
24. Hong Kong Trade Development Council
25. Hospital Authority
26. Independent Commission Against Corruption
27. Independent Police Complaints Council
28. Insurance Authority
29. Lingnan University
30. Mandatory Provident Fund Schemes Authority
31. Occupational Deafness Compensation Board
32. Occupational Safety and Health Council
33. Office of the Ombudsman
34. Office of the Privacy Commissioner for Personal Data
35. Pneumoconiosis Compensation Fund Board
36. Prince Philip Dental Hospital
37. Property Management Services Authority
38. Securities and Futures Commission (including its subsidiary Investor and Financial Education Council)
39. The Chinese University of Hong Kong
40. The Education University of Hong Kong
41. The Hong Kong Council for Accreditation of Academic and Vocational Qualifications

⁶ Include District Council (DC) Chairmen, Vice-chairmen and Members (in the capacity as employer of staff whose remuneration is fully funded by Operating Expenses Reimbursement or Miscellaneous Expenses Allowance)

42. The Hong Kong Polytechnic University
43. The Hong Kong University of Science and Technology
44. The MTR Corporation Limited
45. The Trust Funds and Temples Joint Secretariat
46. The University of Hong Kong
47. The Vocational Training Council
48. Urban Renewal Authority
49. Vegetable Marketing Organization
50. West Kowloon Cultural District Authority

Specified public organisations, government-owned companies or subvented organisations

1. Aided, caput and Direct Subsidy Scheme primary and secondary schools
2. AsiaWorld Expo
3. Aviation Security Company Limited
4. Beat Drugs Fund Association
5. Duty Lawyer Service
6. Financial Dispute Resolution Centre
7. Financial Services Development Council
8. Hong Kong Academy for Gifted Education
9. Hong Kong Academy of Finance Limited (including its subsidiary Hong Kong Institute for Monetary and Financial Research)
10. Hong Kong Applied Science and Technology Research Institute Company Limited
11. Hong Kong Cyberport Management Company Limited
12. Hong Kong Design Centre
13. Hong Kong Education City
14. Hong Kong FMI Services Limited
15. Hong Kong Internet Registration Corporation Limited
16. Hong Kong Note Printing Limited
17. Hong Kong Tourism Board
18. Kindergartens under the kindergarten education scheme
19. Kwoon Chung Inclusive and Accessible Transport Services Co Ltd
20. Logistics and Supply Chain MultiTech R&D Centre Limited
21. The Hong Kong Mortgage Corporation Limited (including its subsidiaries)
22. The Hong Kong Research Institute of Textiles and Apparel Limited
23. The Hong Kong Sports Institute
24. The Nano and Advanced Materials Institute Limited