



EMPLOYEES RETRAINING ORDINANCE

(Cap. 423)

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PART I

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Section 1

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An Ordinance to establish the Employees Retraining Board as a body corporate, to establish the Employees Retraining Fund, to provide for the imposition of a levy payable by employers who employ imported employees, and to provide for the collection of the levy by the Director of Immigration from those employers in respect of those employees and the remittance of the levy to the Board for the purposes of the Fund, the defraying of the costs of providing retraining courses for eligible employees, the payment of retraining allowances by the Board from the Fund to those employees, and for incidental and connected matters.

(Amended 5 of 1997 s. 2)

[16 October 1992]

PART I

PRELIMINARY

1. Short title, application and commencement

- (1) This Ordinance may be cited as the Employees Retraining Ordinance.
- (2) Subject to subsection (3), this Ordinance shall apply in relation to the financial year commencing on 9 January 1992 and all subsequent financial years, and shall come into operation on the date of publication of this Ordinance in the Gazette*.
- (3) Part IV (other than section 16(c)) shall apply in relation to the financial year commencing on 9 January 1992 and all subsequent financial years, and shall be deemed to have come into operation on that date.

Editorial Note:

* Ordinance published in Gazette on 16 October 1992

2. Interpretation

(For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.)

In this Ordinance, unless the context otherwise requires—

- “applicant” (申請人) means an eligible employee who makes an application under section 17(1); (*Amended 5 of 1997 s. 3*)
- “Board” (再培訓局) means the Employees Retraining Board established under section 3;
- “certificate of exemption” (豁免證明書) means a certificate of exemption as defined in section 17G of the Immigration Ordinance (Cap. 115); (*Added 5 of 1997 s. 3*)
- “Chairman” (主席) means the Chairman of the Board appointed under section 3(2)(a)(i) or any other person when acting as Chairman;
- “condition of stay” (逗留條件), in relation to any person, means a condition of stay imposed in respect of the person under the Immigration Ordinance (Cap. 115); (*Added 5 of 1997 s. 3*)
- “contract of employment” (僱傭合約) has the same meaning as in section 2(1) of the Employment Ordinance (Cap. 57);
- “Director” means the Director of Immigration;
- “eligible employee” (合資格僱員) means an employee who—
- (a) is the holder of an identity card or a certificate of exemption; and
 - (b)
 - (i) is not subject to any condition of stay, other than a limit of stay; and
 - (ii) is not in breach of any limit of stay; (*Added 5 of 1997 s. 3*)

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- “employee” (僱員) has the same meaning as in section 2(1) of the Employment Ordinance (Cap. 57), and includes a former employee and any person who wishes to take up employment as an employee after attending a retraining course or a supplementary retraining programme; (*Amended 102 of 1994 s. 2; 5 of 1997 s. 3*)
- “employer” (僱主) has the same meaning as in section 2(1) of the Employment Ordinance (Cap. 57);
- “Executive Director” (行政總監) means the Executive Director of the Board appointed by the Board in the exercise of the power conferred on it by section 5(2)(b); (*Added 102 of 1994 s. 2*)
- “financial year” (財政年度) means the financial year of the Board referred to in section 9(1);
- “Fund” (基金) means the Employees Retraining Fund established under section 6;
- “identity card” (身分證) means an identity card within the meaning of the Registration of Persons Ordinance (Cap. 177); (*Added 5 of 1997 s. 3*)
- “imported employee” (外來僱員) means a person who is the subject of an application by an employer under section 14(4); (*Amended 5 of 1997 s. 3*)
- “labour importation scheme” (輸入僱員計劃) means a scheme referred to in section 14(3);
- “levy” (徵款) means the levy imposed under section 14(1);
- “limit of stay” (逗留期限), in relation to any person, means a condition of stay limiting the period during which the person may remain in Hong Kong; (*Added 5 of 1997 s. 3*)
- “quota” (配額) means a quota allocated under section 14(4);
- “retraining allowance” (再培訓津貼) means the retraining allowance referred to in section 21(4);

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“retraining course” (再培訓課程) means a course provided or conducted by a training body for the purpose of training or retraining trainees to acquire new or enhanced vocational skills;

“Secretary” (局長) means the Secretary for Labour and Welfare; *(Replaced L.N. 130 of 2007)*

“supplementary retraining programme” (附屬培訓計劃) means a programme approved by the Board and provided or conducted by a training provider for the purpose of training or retraining eligible employees to acquire new or enhanced vocational skills or to facilitate their employment; *(Added 102 of 1994 s. 2. Amended 5 of 1997 s. 3)*

“trainee” (受訓僱員) means an applicant invited to attend a retraining course or a supplementary retraining programme under section 19(2); *(Amended 102 of 1994 s. 2)*

“training body” (培訓機構) means a body specified in Schedule 2;

“training provider” (附屬培訓機構) means a body or person appointed under section 4; *(Added 102 of 1994 s. 2)*

“visa” (簽證) means a visa issued under section 61 of the Immigration Ordinance (Cap. 115);

“vocational skills” (職業技能) means any skills leading or related to employment. *(Added 102 of 1994 s. 2)*

(Amended 102 of 1994 s. 2; 5 of 1997 s. 3)

PART II

ESTABLISHMENT OF THE EMPLOYEES RETRAINING BOARD

3. Establishment of the Board

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) There is established a body corporate, to be called the Employees Retraining Board, which shall have such powers and functions as are conferred and imposed on it under this Ordinance.
- (2) The Board shall—
 - (a) consist of—
 - (i) a Chairman;
 - (ii) a Vice-Chairman;
 - (iii) not more than 4 other members not being public officers who, in the opinion of the Chief Executive, represent employers;
 - (iv) not more than 4 other members not being public officers who, in the opinion of the Chief Executive, represent employees; and
 - (v) not more than 4 other members not being public officers who, in the opinion of the Chief Executive, include persons who are connected with vocational training and retraining or manpower planning, who shall be appointed by the Chief Executive for a term not exceeding 3 years; and
 - (b) consist of not more than 3 other members being public officers each of whom shall be appointed by the Chief

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Executive and hold office at the discretion of the Chief Executive. (*Amended 56 of 2000 s. 3*)

- (3) The members of the Board appointed under subsection (2) shall be the governing body of the Board and shall, in the name of the Board, exercise and perform the powers and functions conferred and imposed on the Board under this Ordinance.
- (4) Schedule 1 shall have effect as respects the Board and the members thereof.
- (5) Notice of any appointment made under this section shall be published in the Gazette.

4. Functions of the Board

The functions of the Board are—

- (a) to hold the Fund upon trust to administer the Fund in accordance with the objects of this Ordinance;
- (b) to receive the levy imposed on employers and remitted by the Director;
- (c) to consider the provision, administration and availability of retraining courses and supplementary retraining programmes intended or designed for the benefit of eligible employees in adjusting to changes in the employment market by acquiring new or enhanced vocational skills; (*Amended 5 of 1997 s. 4*)
- (d) to identify particular occupations or classes of occupation that have high vacancy rates and in respect of which eligible employees may secure employment or re-employment by attending retraining courses or supplementary retraining programmes as trainees to acquire new or enhanced vocational skills; (*Amended 5 of 1997 s. 4*)

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- (e) to liaise with training bodies, other related organizations and Government departments with respect to the design, administration and availability of retraining courses and supplementary retraining programmes;
- (f) to determine the requirements to be satisfied by eligible employees for the purposes of applying to attend retraining courses or supplementary retraining programmes and receive retraining allowances, and the amount of retraining allowances to be paid to those eligible employees as trainees; (*Amended 5 of 1997 s. 4*)
- (g) to pay retraining allowances to trainees;
- (h) to engage the services of training bodies for the purpose of providing or conducting retraining courses;
- (i) to defray the costs of the provision of retraining courses and supplementary retraining programmes;
- (j) to perform such other functions as are imposed on the Board under this Ordinance; and
- (k) to appoint, by notice in the Gazette, a training provider whose function is to provide training or retraining under a supplementary retraining programme. (*Added 102 of 1994 s. 5*)

(Amended 102 of 1994 s. 5)

5. General powers of the Board

- (1) The Board may do such things as are expedient for or conducive to the attainment of its functions or which, in the opinion of the Board, are necessary to facilitate the proper carrying out of the functions of the Board.
- (2) Without restricting the generality of subsection (1) the Board may—

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- (a) hold, acquire or take on lease movable and immovable property and sell, let or otherwise dispose of or deal with such property;
- (b) appoint such employees as it may determine on such terms and conditions of service as the Board thinks fit including the payment of allowances, benefits, gratuities, pensions and remuneration;
- (c) make or provide ex gratia payments in respect of any employee of the Board or to the personal representative of a deceased employee of the Board;
- (d) engage the services of such technical and professional advisers as the Board thinks fit including the determination of all matters relating to their remuneration and terms and conditions of engagement;
- (e) subject to section 8, invest the moneys of the Fund in such manner and to such extent as it considers expedient and prudent;
- (f) subject to the approval of the Financial Secretary, borrow moneys, in such manner and on such securities or terms as it considers expedient and prudent, for payment into the Fund;
- (g) exercise any of its powers either alone or in association with any person or persons;
- (h) publicise the Fund and the criteria for eligibility for payment of retraining allowances and the amounts thereof;
- (i) publicise the availability of retraining courses and supplementary retraining programmes and the training bodies and training providers providing or conducting such courses or programmes; (*Replaced 102 of 1994 s. 6*)
- (j) accept gifts whether subject to any trust or not;

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- (k) accumulate any income of the Fund; and
 - (l) subject to section 10, write off debts due to the Board.
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PART III
FINANCIAL PROVISIONS

6. Employees Retraining Fund

- (1) There is established a fund to be known as the Employees Retraining Fund which is vested in the Board.
- (2) The Fund shall be used to make provision for the payment of retraining allowances in respect of trainees attending retraining courses or supplementary retraining programmes and to defray the costs of those courses and programmes.
(Amended 102 of 1994 s. 7)
- (3) The Fund shall consist of—
 - (a) subject to any fees that may be charged under section 30, all amounts of levy imposed under section 14(1) and remitted to and received by the Board;
 - (b) all other moneys, including grants, loans, fees, and interest from whatever source paid to and received by the Board for or in connection with the carrying out of its functions;
 - (c) interest and other income derived from the moneys and investments included in the Fund;
 - (d) all moneys received by the Board as gifts; and
 - (e) all other moneys lawfully paid to and received by the Board including any moneys provided by the Government for the purposes of the Fund.

7. Payments from the Fund

The Board may pay from the Fund—

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- (a) payments to training bodies or training providers in respect of trainees eligible under Part V to receive retraining allowances;
- (b) expenses incurred by the Board for the purposes of this Ordinance;
- (c) capital, interest and charges in respect of any loan; and
- (d) any other sums required or permitted to be paid under this Ordinance.

(Amended 102 of 1994 s. 8)

8. Bank account and investment of surplus funds

- (1) The Board shall open and maintain an account in the name of the Fund with a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155). *(Amended 49 of 1995 s. 53)*
- (2) Subject to subsection (3), the Board shall pay all moneys comprising the Fund into the account referred to in subsection (1).
- (3) All moneys of the Fund that are not immediately required to be expended shall be—
 - (a) deposited in a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155) on fixed term or call deposits or in a savings account; or *(Amended 49 of 1995 s. 53)*
 - (b) invested in such other forms of investments approved by the Financial Secretary, either generally or in the particular case, for the purpose.

9. Financial year and estimates

- (1) Subject to section 33(3), the Board shall fix any period of 12 months to be the financial year of the Board.

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- (2) The Board shall, in each financial year, adopt estimates of income and expenditure in respect of the following financial year and, before a date to be appointed by the Secretary, send them to the Secretary for his approval together with a programme of its activities for that following financial year.
- (3) The Secretary may require the resubmission of estimates of income and expenditure or the programme of activities referred to in subsection (2), modified as he may direct.

10. Accounts and statements

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) The Board shall keep proper books or records of account, vouchers, receipts and other records in relation to the accounts and shall cause to be prepared for each financial year a statement of the accounts of the Board which shall—
 - (a) include an income and expenditure account and balance sheet; and
 - (b) be signed by the Chairman.
- (2) The signed statement of the accounts of the Board shall be submitted by the Chairman to the auditor appointed by the Board under section 11 not later than 6 months following the end of the financial year to which it relates or by such later date as the Chief Executive may allow. (*Amended 56 of 2000 s. 3*)
- (3) For the purposes of this section the Board may write off the whole or any part of any debt due to the Board which it reasonably considers irrecoverable.

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- (4) Any write off under subsection (3) shall not extinguish any right of the Board to recover the debt which has been written off.

11. Auditor

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) The Board shall appoint an auditor, who shall be entitled at any time—
 - (a) to have access to all books or records of account, vouchers, receipts and other records of the Board referred in section 10; and
 - (b) to require such information and explanations, as he considers necessary to discharge his functions.
- (2) The auditor shall, as soon as is practicable and in any case within the period of 4 months, or such longer period as the Chief Executive may determine, after the receipt of the signed statement of the accounts of the Board under section 10(2), audit the accounts prepared under section 10(1) and shall submit a report on the accounts to the Board. (*Amended 56 of 2000 s. 3*)

12. Director of Audit's examination

- (1) Notwithstanding the appointment of an auditor under section 11, the Director of Audit may carry out such examination as he thinks fit into the economy, efficiency and effectiveness with which the Board has used its resources in discharging its functions and exercising its powers.
- (2) The Director of Audit shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Board as he may reasonably require for the purpose of carrying out any examination under subsection (1) and shall be entitled to require from

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any person holding or accountable for any such document such information and explanations (if any) as are reasonably necessary for that purpose.

- (3) The Director of Audit may report to the President of the Legislative Council the results of any examination carried out by him under subsection (1). *(Amended 19 of 1993 s. 6)*
- (4) The President of the Legislative Council shall, within the period of 1 month, or such longer period as he may determine, after the receipt of the report (if any) from the Director of Audit under subsection (3), cause a copy of the report to be laid on the table of the Legislative Council. *(Amended 19 of 1993 s. 6)*
- (5) Subsection (1) does not entitle the Director of Audit to question the merits of the policy objectives of the Board.

13. Annual report

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

The Board shall, not later than 3 months after receipt by the Board of the signed statement of the accounts of the Board as audited by the auditor under section 11(2) or such longer period as the Chief Executive may determine, submit—

- (a) a report on the activities and affairs of the Board for that year including the administration of the Fund;
- (b) a copy of its statement of the accounts therefor; and
- (c) the auditor's report on the accounts,

to the Chief Executive who shall cause the same, together with any report the Chief Executive may see fit to make thereon, to be laid on the table of the Legislative Council.

(Amended 56 of 2000 s. 3)

PART IV

IMPOSITION AND PAYMENT OF LEVY

14. Imposition of levy

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) A levy, to be known as the Employees Retraining Levy, shall be payable by an employer to the Director in respect of each imported employee to be employed by him under a contract of employment and granted a visa under subsection (4).
- (2) Subject to section 15, the amount of levy payable under subsection (1) in respect of each imported employee employed by an employer shall be the sum specified in Schedule 3 multiplied by the number of months specified in the contract of employment entered into between that employer and that imported employee.
- (3) For the purposes of this section, the Chief Executive in Council may, from time to time, approve a scheme (“labour importation scheme”) under the terms of which a levy shall be payable by employers in accordance with this Part.
(Amended 56 of 2000 s. 3)
- (4) An employer may, under the terms of the labour importation scheme, apply to the Director for permission to employ such persons as imported employees as the Director may, in accordance with a quota allocated by or with the authority of the Secretary in respect of that employer under that scheme, grant visas to those imported employees for that purpose.

15. Payment of levy

- (1) The amount of levy payable under section 14 shall be paid by an employer to the Director at such place and within

such period (“payment period”) as may be specified by the Director by notice in writing to the employer.

- (2) Any levy, or any part thereof, (“relevant balance”) paid by an employer to the Director in respect of an imported employee (“defaulting employee”) who fails to arrive in Hong Kong after being granted a visa by the Director under section 14(4), or who having arrived in Hong Kong fails for whatever reason to complete his contract of employment with his employer, shall not be repaid or refunded to the employer, but the relevant balance shall, subject to subsection (3), be taken into account by the Director for the purposes of any subsequent application that that employer may make to the Director under section 14(4) to employ an imported employee by way of a replacement for the defaulting employee.
- (3) The relevant balance referred to in subsection (2) shall only be taken into account by the Director if the subsequent application by the employer to the Director under section 14(4) is made within a period of 4 months from the date the failure of the defaulting employee to arrive in Hong Kong, or complete his contract of employment, as the case may be, first came or should have first come to the attention of that employer.

16. Director to receive and remit levy to Board

Where during any payment period (within the meaning of section 15(1)) a levy is paid under that section, the Director shall—

- (a) receive the levy;
- (b) deposit the levy in an account established for that purpose; and

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- (c) subject to section 30, remit the levy (together with any interest accrued thereon) to the Board as soon as practicable.
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PART V

SELECTION OF TRAINEES AND PAYMENT OF RETRAINING ALLOWANCES

17. Application by eligible employee to attend retraining course, etc.

- (1) An eligible employee may apply to the Executive Director to attend a retraining course or supplementary retraining programme approved by the Board from time to time.
(Amended 5 of 1997 s. 5)
- (2) The Executive Director shall consider the application and carry out such inquiries as he considers necessary to make a determination under section 18.
- (3) It is the duty of every applicant to assist the Executive Director in carrying out inquiries under this section, and where the applicant fails without reasonable excuse so to assist, the Executive Director may, notwithstanding any other provision, determine that the applicant shall not be entitled to attend the retraining course or supplementary retraining programme for which he has applied.
- (4) For the purpose of carrying out inquiries under this section the Executive Director may—
 - (a) require the applicant to furnish such information or particulars relating to the application; and
 - (b) make such inquiries from any other person or body (including a training body or training provider) connected or associated with the application,as he considers necessary.

(Amended 102 of 1994 s. 9)

18. Determination of applications by Executive Director

- (1) The Executive Director shall, in respect of an application made under section 17, determine—
 - (a) whether or not he is satisfied as to the applicant's status as an eligible employee, and his entitlement to apply, under that section; (*Amended 5 of 1997 s. 6*)
 - (b) whether or not he is satisfied that the applicant meets such requirements as to matters of priority between applicants, or classes of applicant, and such other requirements (if any) as the Board may specify from time to time;
 - (c) whether or not the applicant meets the entry requirements (if any) applicable to the retraining course or supplementary retraining programme to which the application relates; and
 - (d) his general suitability for retraining,and shall advise the applicant of his determinations. (*Replaced 102 of 1994 s. 10*)
- (2) Where the Executive Director is satisfied as to the applicant's status as an eligible employee, and his entitlement to apply, under section 17 and that he meets the requirements (if any) specified by the Board under subsection (1)(b) the Executive Director shall refer the applicant to the training body or training provider that provides or conducts a retraining course or supplementary retraining programme to which the application relates. (*Amended 102 of 1994 s. 10; 5 of 1997 s. 6*)

19. Determination of applications by training bodies, etc.

- (1) The training body or training provider to which an applicant is referred by the Executive Director under section 18(2)

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shall consider the application of that applicant and determine whether or not the applicant meets the entry requirements (if any) applicable to the retraining course or supplementary retraining programme to which the application relates and shall advise the applicant of its determinations. (*Amended 102 of 1994 s. 11*)

- (2) Where a training body or training provider is satisfied that an applicant meets the entry requirements referred to in subsection (1) it may invite the applicant to attend the retraining course or supplementary retraining programme as a trainee subject to such conditions as it may specify and, in the case of such an invitation, it shall advise the applicant to apply for payment of a retraining allowance. (*Replaced 102 of 1994 s. 11*)

20. Eligibility of applicant to receive a retraining allowance

- (1) Subject to section 22(3), an applicant referred to in section 19(2) shall be eligible to receive a retraining allowance as a trainee if he—
- (a) has been referred to a training body or training provider under section 18(2);
 - (b) has been invited to attend a retraining course or supplementary retraining programme as a trainee by that training body or training provider under section 19(2);
 - (c) complies with such attendance and other requirements for trainees as may be specified by that training body or training provider in respect of that retraining course or supplementary retraining programme; and
 - (d) is not receiving at the same time a retraining allowance or some other similar payment however described (“existing payment”) as a trainee or otherwise in respect of another retraining course or supplementary retraining

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programme or any other course however described unless the Board decides, in the special circumstances of the case, to disregard that existing payment.

- (2) Where an applicant is eligible to receive a retraining allowance as a trainee in respect of his attendance at a retraining course or supplementary retraining programme under subsection (1) but, at the same time, he is receiving from whatever source a retraining allowance or some other similar payment however described as a trainee or otherwise in respect of that retraining course or supplementary retraining programme then the applicant shall be eligible to receive the first mentioned retraining allowance only if he forgoes the second mentioned retraining allowance or other similar payment.

(Amended 102 of 1994 s. 12)

21. Application by trainee for payment of retraining allowance

- (1) Subject to subsection (2), a trainee who considers that he is eligible to receive a retraining allowance under section 20(1) may apply to the Board in accordance with section 22 for payment from the Fund of such an allowance in respect of his attendance or intended attendance at a retraining course or supplementary retraining programme provided or conducted by a training body or training provider.
- (2) An application by the trainee under subsection (1) shall be submitted by the training body or training provider to the Board.
- (3) Subject to section 22(3), the Board shall determine the application in accordance with section 23 and may approve the payment of a retraining allowance to the training body or training provider for distribution to the trainee under subsection (5).

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- (4) The maximum amount of the retraining allowance payable monthly in respect of the trainee under subsection (3) shall be the sum specified in Schedule 4, but where the trainee attends a retraining course or supplementary retraining programme for a period of less than 1 month, only a proportion of that retraining allowance shall be so payable, as calculated in accordance with guidelines approved by the Board from time to time.
- (5) Subject to subsection (6), on the receipt by the training body or training provider of a retraining allowance under subsection (3) the training body or training provider shall, as soon as practicable and without making any deduction therefrom unless such deduction is approved by the Board, distribute that retraining allowance to the trainee making the application under subsection (1).
- (6) Where a training body or training provider pays, or has paid, a trainee who is attending a retraining course or supplementary retraining programme provided or conducted by that training body or training provider a sum of money equivalent to the retraining allowance in respect of that trainee and in respect of which that training body or training provider has submitted an application under subsection (2) to the Board, then that training body or training provider may reimburse itself the amount of that sum on the receipt of that retraining allowance.

(Amended 102 of 1994 s. 13)

22. Applications to the Board

- (1) An application by a trainee to the Board under section 21(1) for payment from the Fund of a retraining allowance shall be made in the manner and form specified by the Board.
- (2) Upon receipt of the application referred to in subsection (1) and submitted by a training body or training provider under

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section 21(2), the Board shall carry out such inquiries as it considers necessary to make a determination under section 23. (*Amended 102 of 1994 s. 14*)

- (3) It is the duty of every trainee to assist the Board in carrying out inquiries under this section, and where the trainee fails without reasonable excuse so to assist, the Board may, notwithstanding any other provision, determine that the trainee shall not be entitled to the payment of a retraining allowance from the Fund under section 21.
- (4) For the purpose of carrying out inquiries under this section the Board may—
 - (a) require the trainee to furnish such information or particulars relating to the application; and
 - (b) make such inquiries from any other person or body (including a training body) connected or associated with the application,as the Board considers necessary.

23. Determination of applications by the Board

The Board shall in respect of an application by a trainee under section 21(1) and submitted by a training body or training provider under section 21(2) determine—

- (a) whether or not it is satisfied as to the trainee's eligibility under section 20(1) to receive a retraining allowance; and
- (b) if so, and taking into account sections 20(2) and 21(4), what amount of retraining allowance should be payable to the training body or training provider from the Fund for distribution to that trainee under section 21(5),

and shall advise that training body or training provider by written notice of its determinations in respect of the application.

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(Amended 102 of 1994 s. 15)

24. Review of determinations

- (1) Any person aggrieved (“aggrieved person”) by—
 - (a) a determination of the Executive Director under section 18; or
 - (b) a determination of a training body or training provider under section 19,may by notice in writing lodged with a committee (“review committee”) created by the Board under Schedule 1 for that purpose, and within such period as the review committee may determine, object to that determination. *(Amended 102 of 1994 s. 16)*
- (2) An objection lodged with the review committee under subsection (1) shall be considered by that committee as soon as practicable.
- (3) On consideration of an objection lodged under this section the review committee may—
 - (a) in the case of a determination under section 18, recommend that the Executive Director; or
 - (b) in the case of a determination under section 19, recommend that the training body or training provider, confirm, vary or reverse the determination or substitute therefor such other determination as the review committee thinks fit. *(Amended 102 of 1994 s. 16)*
- (4) The failure of the Executive Director, training body or training provider, as the case may be, to act upon any recommendation of the review committee under subsection (3)(a) or (b) in respect of a determination under section 18 or 19, shall not of itself entitle the aggrieved person to object

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to the review committee under this section. (*Amended 102 of 1994 s. 16*)

PART VI
MISCELLANEOUS

25. Offences

Any person who—

- (a) lodges, produces, supplies or sends for the purposes of this Ordinance or otherwise makes use for those purposes of any application, declaration or other document, or record, which to his knowledge is false in a material particular; or
- (b) in providing any information for the purposes of this Ordinance, including any inquiry under this Ordinance, makes any statement which he knows to be false, or does not believe to be true, in a material particular or recklessly makes a statement which is false in a material particular,

commits an offence and is liable to a fine of \$20,000.

26. Evidence by certificate

A certificate purporting to be signed by the Chairman or any member authorized by the Board that any notice served under this Ordinance has or has not been complied with or has or has not been complied with at any date shall be sufficient evidence of that fact until the contrary is proved.

27. Chief Executive may give directions

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) The Chief Executive may give to the Board such directions as he thinks fit in relation to the performance of the Board's

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Section 28

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functions or the exercise of the Board's powers and the Board shall comply with those directions.

- (2) Where in the opinion of the Chief Executive any assets of the Fund under section 6(3) are no longer required by the Board for the purposes of the Fund, the Chief Executive may direct the Board to transfer such assets from the Fund to the general revenue, and the Board shall comply with that direction.

(Amended 56 of 2000 s. 3)

28. Power of delegation

- (1) The Executive Director may, in writing, authorize any employee of the Board, a training body or training provider to exercise any of his powers or perform any of his duties under this Ordinance. *(Amended 102 of 1994 s. 17)*
- (2) The Director may, in writing, authorize any officer of the Immigration Department to exercise any of his powers or perform any of his duties under this Ordinance.
- (3) In this Ordinance but not in subsection (1) or (2) "Executive Director" or "Director", as the case may be, includes any person authorized by the Executive Director or the Director, respectively, under this section. *(Amended 102 of 1994 s. 17)*

29. Service by post

Any document required to be served under this Ordinance may be served by post.

30. Financial Secretary may charge fees

- (1) The Financial Secretary may charge fees for any service provided to the Board by the Government.
- (2) Fees may be charged under subsection (1) in respect of any handling costs incurred by the Director in receiving levies

from employers under Part IV and remitting those levies to the Board under that Part.

31. Amendment of Schedules

(Adaptation amendments retroactively made - see 56 of 2000 s. 3)

- (1) The Chief Executive in Council may, by notice in the Gazette, amend Schedule 3. (*Amended 56 of 2000 s. 3*)
- (2) The Board may, by notice in the Gazette, amend Schedules 1, 2 and 4.

32. Protection of members and employees of Board

- (1) No—
 - (a) member of the Board;
 - (b) member of any committee of the Board;
 - (c) employee of the Board;
 - (d) person exercising powers in association with the Board under section 5(2)(g),
acting in good faith shall be personally liable for any act done or default made by—
 - (i) the Board;
 - (ii) any committee of the Board; or
 - (iii) any such member, employee or person,
in the exercise and performance (or the purported exercise and performance) of the powers and functions conferred and imposed on the Board under this Ordinance.
- (2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Board for that act or default.

33. Transitional

(For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.)

- (1) Where, immediately before the commencement of this Ordinance under section 1(2), there was in existence a scheme relating to the importation of labour the terms of which included an obligation on the part of employers to pay to the Director a levy in respect of employees granted visas by the Director under that scheme in accordance with quotas allocated by the Secretary for Education and Manpower to those employers in respect of those employees, that scheme shall, on and from that commencement, be deemed to be a labour importation scheme within the meaning of section 2. *(Amended L.N. 130 of 2007)*
- (2) *(Repealed 5 of 1997 s. 7)*
- (3) The first financial year of the Board (which year may run for a period of more than 12 months) shall be deemed to have commenced on 9 January 1992 and shall end on such date as the Board may determine.

SCHEDULE 1

[ss. 3(4), 24 & 31]

PROVISIONS AS RESPECTS THE BOARD AND THE MEMBERS THEREOF

Seal and status

1. The Board shall have a common seal.

2. The Board shall not be regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government.

(Amended 23 of 2002 s. 37)

Members

3.
 - (1) Subject to subsection (3), a member of the Board shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
 - (2) Any member appointed under section 3(2)(a) of this Ordinance may at any time—
 - (a) resign his office by notice in writing to the Chief Executive; or
 - (b) be removed from office by the Chief Executive for permanent incapacity or other sufficient cause,

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SCHEDULE 1

S1-4

Section 4

Cap. 423

and upon such resignation or removal the term for which he was appointed shall be deemed to have expired.

- (3) Where any member appointed under section 3(2)(a) of this Ordinance is precluded by temporary incapacity or other cause from exercising his functions as a member for any period, the Chief Executive may appoint another person to act in place of that member during that period.
- (4) Where any question arises under subsection (2)(b) or (3) as to whether any incapacity or cause exists or whether any incapacity is temporary or permanent or any cause sufficient, the decision of the Chief Executive shall be final.

(Amended 56 of 2000 s. 3)

4. If the Chief Executive is satisfied that a member of the Board appointed under section 3(2)(a) of this Ordinance—
 - (a) has failed to attend 3 consecutive meetings of the Board without the permission of the Board; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) is incapacitated by physical or mental illness; or
 - (d) is otherwise unable or unfit to discharge the functions of a member,

the Chief Executive may declare his office as a member of the Board to be vacant, and shall notify that fact in such manner as the Chief Executive thinks fit and upon such declaration the office shall become vacant.

(Amended 56 of 2000 s. 3)

Meetings

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SCHEDULE 1

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Section 5

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5. The quorum of the Board shall, in the absence of a quorum decided by the Board, be 7 and, while a member is disqualified from taking part in a decision or deliberation of the Board in respect of a matter, he shall be disregarded for the purposes of constituting a quorum of the Board for deciding, or deliberating on, that matter.
6.
 - (1) Subject to the foregoing provisions of this Schedule and to subsections (2) to (5), the Board shall have power to regulate its own procedure including the manner in which decisions of the Board may be made by a quorum of its members otherwise than at a meeting of the Board.
 - (2) Meetings of the Board shall be held at such times and places as the Chairman may appoint.
 - (3) The Chairman shall preside at any meeting of the Board.
 - (4) If the Chairman is absent from any meeting of the Board, the Vice-Chairman shall act as Chairman in his place, and in the absence of the Vice-Chairman the members present at the meeting shall elect one of their number to act as Chairman.
 - (5) The person presiding at any meeting of the Board shall have a deliberative vote on all matters coming before the Board and in the case of an equality of votes he shall also have a casting vote.

Transaction of business

7.
 - (1) The Board may transact any of its business by circulation of papers amongst members whether any such member is in or outside Hong Kong, and a resolution in writing which is approved in writing by a majority of the members shall be as valid and effectual as if it had been passed at a meeting of the Board.

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SCHEDULE 1

S1-8

Section 8

Cap. 423

- (2) The date of a resolution referred to in subsection (1) shall be deemed to be the latest date on which the resolution, or any written approval in relation to that resolution, was signed or endorsed by a member.

Committees

8.
 - (1) The Board may create, and appoint the members of, such committees for the better carrying out of the powers and functions of the Board as it thinks fit.
 - (2) Persons who are not members of the Board may be appointed as members of committees.
 - (3) The Chairman of a committee created under subsection (1) shall be appointed by the Board and the number of members of a committee shall be determined by the Board.
 - (4) Subject to the terms of any delegation by the Board or to any directions of the Board, a committee—
 - (a) may exercise and perform the delegated powers and functions with the same effect as if it were the Board itself;
 - (b) shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary; and
 - (c) may regulate its own procedure.
 - (5) The proceedings of any committee created under subsection (1) shall not be invalidated by any defect in the appointment of any member thereof, the absence of any member from the meeting at which any such proceeding occurred or any vacancy amongst such members.

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SCHEDULE 1

S1-10

Section 10

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9. (1) Subject to subsection (2), the Board may, with or without restrictions or conditions as it thinks fit, delegate in writing any of its powers to any committee created under section 8(1).
- (2) The Board shall not delegate the power—
- (a) to create any committee;
 - (b) to determine matters relating to the remuneration and terms and conditions of appointment or employment of the employees of the Board;
 - (c) to establish, manage and control, or enter into an arrangement for the establishment, management and control of, any fund or scheme for the purpose of providing for the payment of allowances, benefits, gratuities, pensions and remuneration to the employees of the Board; or
 - (d) to furnish after the expiry of the financial year, a report on the activities and affairs of the Board for that year, a copy of its statement of accounts therefor and the auditor's report on the accounts.

Documents

10. Every document purporting to be an instrument made or issued by or on behalf of the Board and to be duly executed under the seal of the Board or to be signed or executed by a person authorized by the Board to act in that behalf, shall, in the absence of evidence to the contrary, be received in evidence and deemed, without further proof, to be so made or issued.
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Schedule 2

[ss. 2 & 31]

Training Bodies

Item	Body
1.	Vocational Training Council
2.	<i>(Repealed 12 of 2006 s. 84)</i>
3.	Clothing Industry Training Authority
4.	HKCT Group Limited <i>(Amended L.N. 59 of 2011)</i>
5.	Caritas—Hong Kong
6.	Hong Kong Young Women's Christian Association
7.	Hong Kong Federation of Trade Unions, The
8.	<i>(Repealed L.N. 142 of 2014)</i>
9.	Hong Kong Confederation of Trade Unions, The
10.	<i>(Repealed L.N. 271 of 2003)</i>
11.	Hong Kong Sheng Kung Hui Lady MacLehose Centre <i>(Amended L.N. 71 of 2006)</i>
12.	Association for Engineering and Medical Volunteer Services
13.	The Hong Kong Society for Rehabilitation
14.	<i>(Repealed L.N. 142 of 2014)</i>

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15. Hong Kong Workers' Health Centre Limited
16. New Life Psychiatric Rehabilitation Association
17. Yang Memorial Methodist Social Service
18. Yan Oi Tong Limited
19. Baptist Oi Kwan Social Service (*Amended L.N. 76 of 2010*)
20. Hong Kong and Kowloon Electrical Engineering and Appliances Trade Workers Union
21. (*Repealed L.N. 214 of 2001*)
- 22-23. (*Repealed L.N. 271 of 2003*)
24. (*Repealed L.N. 99 of 2001*)
25. Hong Kong Federation of Women Limited (*Amended L.N. 149 of 2002*)
26. The Industrial Evangelistic Fellowship Limited
27. Methodist Centre
28. (*Repealed L.N. 142 of 2014*)
29. Christian Action
30. (*Repealed L.N. 173 of 2010*)
31. Heung To College of Professional Studies
32. (*Repealed L.N. 271 of 2003*)
33. (*Repealed L.N. 99 of 2001*)
34. (*Repealed L.N. 214 of 2001*)

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35. The Scout Association of Hong Kong—The Friends of Scouting
36. S.K.H. Holy Carpenter Church Community Centre (*Amended L.N. 271 of 2003*)
37. St. James' Settlement
38. Kwai Chung Hospital—Hospital Authority
39. Queen Elizabeth Hospital—Hospital Authority
40. Hong Kong Rehabilitation Power (*Amended L.N. 214 of 2001*)
41. (*Repealed L.N. 173 of 2010*)
42. (*Repealed L.N. 99 of 2001*)
43. (*Repealed L.N. 21 of 2017*)
44. (*Repealed L.N. 99 of 2001*)
45. KCRA Community Education Enhancement Center Limited (*Amended L.N. 76 of 2010*)
46. Princess Margaret Hospital
47. (*Repealed L.N. 99 of 2001*)
48. (*Repealed L.N. 49 of 2012*)
49. Hong Kong Red Cross
50. Hong Kong Federation of Women's Centres (*Amended L.N. 173 of 2010*)
51. The Federation of Hong Kong and Kowloon Labour Unions
52. Neighbourhood & Worker's Service Centre
53. The Young Men's Christian Association of Hong Kong

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- 54-55. *(Repealed L.N. 71 of 2006)*
- 56. *(Repealed L.N. 142 of 2014)*
- 57. Hong Kong St. John Ambulance
- 58. Hong Kong Association for Democracy and People's Livelihood
- 59. *(Repealed L.N. 142 of 2014)*
- 60. *(Repealed L.N. 99 of 2001)*
- 61. The Evangelical Lutheran Church of Hongkong
- 62. *(Repealed L.N. 76 of 2010)*
- 63. *(Repealed L.N. 71 of 2008)*
- 64. Hong Kong Association of Gerontology *(Added L.N. 214 of 2001)*
- 65. Hong Kong Employment Development Service Limited *(Added L.N. 67 of 2003)*
- 66. New Territories Association Retraining Centre Limited *(Added L.N. 67 of 2003)*
- 67. College of Nursing, Hong Kong *(Added L.N. 86 of 2003)*
- 68. *(Repealed L.N. 142 of 2014)*
- 69. Hong Kong Federation of Handicapped Youth *(Added L.N. 67 of 2004)*
- 70. The Society of Rehabilitation and Crime Prevention, Hong Kong *(Added L.N. 67 of 2004)*
- 71. The Mental Health Association of Hong Kong *(Added L.N. 71 of 2006)*

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72. *(Repealed L.N. 142 of 2014)*
73. The Neighbourhood Advice-Action Council *(Added L.N. 216 of 2007)*
74. Lingnan Institute of Further Education *(Added L.N. 71 of 2008)*
75. *(Repealed L.N. 173 of 2010)*
76. School of Continuing and Professional Education, City University of Hong Kong *(Added L.N. 71 of 2008)*
77. Li Ka Shing Institute of Professional and Continuing Education, The Open University of Hong Kong *(Added L.N. 71 of 2008)*
78. School of Continuing and Professional Studies, The Chinese University of Hong Kong *(Added L.N. 71 of 2008)*
79. *(Repealed L.N. 142 of 2014)*
80. Hong Kong Institute of Technology *(Added L.N. 71 of 2008)*
81. *(Repealed L.N. 173 of 2010)*
82. The Hong Kong Federation of Youth Groups *(Added L.N. 71 of 2008)*
83. OIWA Limited *(Replaced L.N. 69 of 2013)*
84. Vassar International Chinese Medical Society Limited *(Added L.N. 224 of 2008)*
85. *(Repealed L.N. 21 of 2017)*
86. Farida Hair & Beauty Education Centre *(Added L.N. 224 of 2008)*
87. *(Repealed L.N. 60 of 2009)*

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88. Aberdeen Kai-fong Welfare Association Limited (*Added L.N. 279 of 2008*)
89. Asia-Pacific Institute of Ageing Studies, Lingnan University (*Added L.N. 60 of 2009*)
90. Monita Hair & Beauty Academy (*Added L.N. 221 of 2009*)
91. Hospital & Clinic Nurses Association (*Added L.N. 221 of 2009*)
92. (*Repealed L.N. 142 of 2014*)
93. Occupational Safety and Health Council (*Added L.N. 221 of 2009*)
94. (*Repealed L.N. 21 of 2017*)
95. (*Repealed L.N. 170 of 2018*)
96. (*Repealed L.N. 49 of 2012*)
97. (*Repealed L.N. 142 of 2014*)
98. (*Repealed L.N. 49 of 2012*)
99. (*Repealed L.N. 142 of 2014*)
- 100-102. (*Repealed L.N. 170 of 2018*)
103. Hong Kong Electrical & Mechanical College (Evening School) (*Added L.N. 75 of 2010*)
- 104-105. (*Repealed L.N. 170 of 2018*)
106. (*Repealed L.N. 142 of 2014*)
107. (*Repealed L.N. 49 of 2012*)
108. YMCA College of Careers (*Added L.N. 99 of 2010*)

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- 109-112. *(Repealed L.N. 69 of 2013)*
113. Travel Industry Council of Hong Kong *(Added L.N. 99 of 2010)*
114. *(Repealed L.N. 21 of 2017)*
115. *(Repealed L.N. 142 of 2014)*
116. Royal International College *(Added L.N. 173 of 2010)*
117. *(Repealed L.N. 78 of 2017)*
118. Hongkong School of Commerce *(Added L.N. 173 of 2010)*
119. *(Repealed L.N. 142 of 2014)*
- 120-122. *(Repealed L.N. 69 of 2013)*
123. *(Repealed L.N. 21 of 2017)*
124. *(Repealed L.N. 142 of 2014)*
125. *(Repealed L.N. 69 of 2013)*
126. *(Repealed L.N. 1 of 2016)*
127. *(Repealed L.N. 69 of 2013)*
128. *(Repealed L.N. 21 of 2017)*
129. Hong Kong Tour Guides General Union *(Added L.N. 173 of 2010)*
130. *(Repealed L.N. 1 of 2016)*
131. *(Repealed L.N. 142 of 2014)*
132. Xianggang Putonghua Yanxishe *(Added L.N. 173 of 2010)*
133. *(Repealed L.N. 69 of 2013)*

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Schedule 2

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- 134. *(Repealed L.N. 1 of 2016)*
- 135. *(Repealed L.N. 110 of 2011)*
- 136. Li Fai Centre of Wushu *(Added L.N. 173 of 2010)*
- 137. *(Repealed L.N. 1 of 2016)*
- 138. Hong Kong Ballroom Dancing Council Limited *(Added L.N. 173 of 2010)*
- 139. Hong Kong and Kowloon Gold Ornaments and Jewellery Trade Workers' Union *(Added L.N. 173 of 2010)*
- 140-142. *(Repealed L.N. 69 of 2013)*
- 143. Advanced Printing Technology Centre Limited *(Added L.N. 173 of 2010)*
- 144. *(Repealed L.N. 69 of 2013)*
- 145. The Hong Kong School of Motoring Limited *(Added L.N. 173 of 2010)*
- 146. *(Repealed L.N. 69 of 2013)*
- 147. *(Repealed L.N. 142 of 2014)*
- 148. *(Repealed L.N. 78 of 2017)*
- 149. Logistics Practitioners Union *(Added L.N. 173 of 2010. Amended L.N. 170 of 2018)*
- 150. *(Repealed L.N. 170 of 2018)*
- 151. *(Repealed L.N. 1 of 2016)*
- 152. *(Repealed L.N. 21 of 2017)*

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153. New Home Association Limited (*Added L.N. 49 of 2012*)
154. Hong Kong Manpower Development Centre Limited (*Added L.N. 69 of 2013*)
155. Silence Limited (*Added L.N. 69 of 2013*)
156. The Association of Electrical and Mechanical Engineering (Hong Kong) Limited (*Added L.N. 69 of 2013*)
157. Hong Kong Sheng Kung Hui Welfare Council Limited (*Added L.N. 142 of 2014*)
158. Institute of Active Ageing, The Hong Kong Polytechnic University (*Added L.N. 142 of 2014*)
159. Star Chef Management School operated by Star Chef Management School Company Limited (*Added L.N. 142 of 2014*)
160. Haven of Hope Christian Service (*Added L.N. 142 of 2014*)
161. The Free Methodist Church of Hong Kong (*Added L.N. 1 of 2016*)
162. Youth Centre of The True Word Lutheran Church operated by The True Word Lutheran Church Limited (*Added L.N. 159 of 2019*)

(Schedule 2 replaced L.N. 269 of 1999)

(Format changes—E.R. 2 of 2012)

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Schedule 3

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Schedule 3

[ss. 14 & 31]

**Amount of Levy Specified for the Purposes of Section
14(2)**

\$400

(Amended L.N. 208 of 2008; L.N. 244 of 2008)

(Format changes—E.R. 2 of 2012)

EMPLOYEES RETRAINING ORDINANCE

Schedule 4

S4-2

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Schedule 4

[ss. 21 & 31]

**Maximum Amount of Retraining Allowance Specified
for the Purposes of Section 21(4)**

\$4,000

(Amended L.N. 139 of 1993; L.N. 236 of 1994; L.N. 312 of 1995)

(Format changes—E.R. 2 of 2012)