

Anti-epidemic Fund
2022 Employment Support Scheme
Frequently Asked Questions (FAQ)
related to Construction Sector

(Information extracted from
2022 Employment Support Scheme Website
<https://www.ess.gov.hk/en/index.html>)

Eligibility

1. Is the Scheme open to employers of all industries?

With the exception of the employers listed in Part 1 of the Exclusion List and specified conditions ([please refer to the website](#)), employers who have participated in Mandatory Provident Fund (MPF) schemes (including the Master Trust Schemes and Industry Schemes), or who have set up MPF-exempted Occupational Retirement Schemes Ordinance (ORSO) schemes (including the ORSO registered schemes or ORSO exempted schemes) (ORSO schemes), for their employees on or before 31 December 2021 are eligible, regardless of their industries.

2. How should an employer with different subsidiary companies/branches submit his/her application?

In response to the impact of COVID-19 on the economy and the construction industry, the Government renders further support for the sector through the second-round measures of the Anti-epidemic Fund (AEF), by offering a subsidy to employers in the sector who have employed casual employees on a long-term basis, in order to support their employment.

3. If an employer's business cover more than one industry, how would the Government decide whether his/her core business falls under the scope of the Restricted List?

An employer is required to declare whether his/her core business is on the Restricted List according to the actual situation of the operation. Generally speaking, the applicant's core business should be the scope of business in which the applicant has hired the most employees. If the numbers of employees are comparable, the applicants may also consider declaring the business segment having the greatest revenue contribution as their core business.

[\(Please refer to paragraph 3.10 of the Terms and Conditions of the 2022 Employment Support Scheme for details.\)](#)

4. **Are government-funded organisations, contractors of government outsourced service (including hotels used for isolation or quarantine purposes) or government consultants eligible for the 2022 ESS?**

Yes. The 2022 ESS Secretariat will, through the government departments concerned, write to inform subvented organisations, outsourced contractors/consultants and hotels used for isolation or quarantine purposes of their eligibility under the 2022 ESS, i.e. they can only apply for the subsidy in respect of those employees whose wages are not fully funded by the Government. Employers would be required to declare and provide their relevant number of eligible staff and respective wages for the calculation of wage subsidy amount.

5. **Are employers who are subcontractors of government outsourced service contractors eligible for the wage subsidies under 2022 ESS?**

Yes. As the employers (subcontractors) have no contractual relationship with the Government and their service fees are paid by the contractors, they are eligible for application.

Principles of Calculating Eligible Employees and Wage

6. **For the purpose of the Scheme, can employers change the MPF/ORSO records for the period on or before 31 December 2021?**

No. For employers applying the Scheme based on “2021 Q4 data”, the records concerned have been frozen on 28 February 2022. The Government and the government-appointed agent, in vetting applicants’ eligibility and assessing the subsidy amount, will not consider the requests of the applicants made to the MPF trustees after 28 February 2022 to amend MPF records concerning the period on or before 31 December 2021 (including but not limited to dating back newly opened employer or employee accounts, re-submitting contributions for the period on or before 31 December 2021, etc.), nor would ORSO Schemes set up after 28 February 2022 be considered.

7. **If an employer anticipates that the wages of some employees cannot maintain at a level above \$8,000 in the subsidy month, can he/she use all or some of the “full subsidy quota” to apply for half subsidy?**

Yes. The Scheme allows employers to use “full subsidy quota” to apply for half subsidy, provided that employers concerned will only receive half subsidy for their employees. Subject to his/her “chosen subsidised headcount” not exceeding the “subsidised quota cap” and not exceeding “sector-specific cap”,

the employer can apply for a greater number of employees receiving half subsidy than the “half subsidy quota”.

[\(Please refer to paragraph 3.12 of the Terms and Conditions of the 2022 Employment Support Scheme for details.\)](#)

Eligibility of employees

8. **Can an employer apply for wage subsidies in respect of those employee(s) for whom the employer has not opened an MPF account or set up an ORSO scheme? Submitting other supporting documents?**

No.

9. **Can employers apply for the wage subsidies in respect of their part-time or casual employees?**

Regardless of whether the employees work full-time, part-time or on a temporary basis (i.e. casual employees), if the MPF records in the “reference month” show that the employer has made mandatory MPF contributions for these employees, or the employer has hired employees aged 65 or above; or if the ORSO records show that the employer has paid wages to employees, the employer can be granted subsidies in respect of these employees. Employers can apply for wage subsidies for part-time or casual employees hired between May and July 2022, provided the number of employees not exceeding the concerned cap.

[\(Please refer to paragraph 3.15 of the Terms and Conditions of the 2022 Employment Support Scheme for details.\)](#)

10. **For employees under government outsourced service contractors/consultants who work for both relevant government contract(s) and other private project(s) at the same time, can the employer apply for wage subsidies in respect of these staff?**

If the employees are not working solely for government contract(s) but are also working for other private contract(s) at the same time, as their wages are not fully funded by the Government, the employer may apply for subsidies in respect of these employees.

11. **Will employers be given the flexibility to decide on the number of subsidised headcounts for each subsidy month?**

Yes. Employers can decide on the “full subsidy headcounts”, “half subsidy headcounts” and “elderly subsidy headcounts”, provided that “chosen

subsidised headcounts” shall not exceed the “subsidised quota cap” and not exceed the “sector-specific cap”, “full subsidy headcounts” shall not exceed the “full subsidy quota”, “half subsidy headcounts” shall not exceed the “half subsidy quota”, and “elderly subsidy headcounts” shall not exceed the “elderly subsidy quota”. It should be noted that the Scheme allows employers to use “full subsidy quota” to apply for half subsidy, provided that employers concerned will only receive half subsidy for their employees. (Please refer to FAQ 7 for details)

- 12. For an employer whose application for the wage subsidy under 2022 ESS has been approved, if he/she has planned to hire more employees during the subsidy months, can he/she apply for more subsidy based on the latest actual number of employees?**

When completing the application form, employers should decide on and indicate the “chosen subsidised headcounts” for each of the three subsidy months. They are allowed to amend the “chosen subsidised headcounts” of June and July 2022 once each (but not of May 2022) at a later time after the submission of application.

Employers using the “2020 ESS records” should amend the headcounts concerned for June and July 2022 within a designated period after the application (i.e. the subsidy headcount for June 2022 may be amended between 1 and 10 June 2022, and that for July 2022 between 1 and 11 July 2022). For employers using the “2021 Q4 records”, the government-appointed agent has to collect the latest MPF records from the MPF trustees which results in longer processing time for vetting applications and calculating the “subsidised quota cap”. The government-appointed agent will contact those employers at a later stage for amending the subsidised headcounts of June and July 2022. That said, the amended subsidy headcount shall not exceed the relevant subsidised quota cap (including “subsidised quota cap”, “full subsidy quota”, “half subsidy quota”, “elderly subsidy quota” and the “sector-specific cap”).

Reference month

- 13. For employers who have been successfully granted subsidies under the 2020 ESS, the online application form only provides the 2020 ESS records for reference. Since the application form does not provide the 2021 Q4 records, how can an employer choose a “reference month” that would be most beneficial to him/her?**

Since employers are unable to authorise in advance the government-appointed agent to obtain the 2021 Q4 records from MPF trustees, the online application form can only derive various quotas based on the previous 2020 ESS records. Hence, in deciding on the “reference month”, employers can make reference to their internal business data, human resources and wage records (especially the

remittance statements submitted to MPF trustees in respect of Q4 2021 and thereafter, indicating the Relevant Income of each paid employee), and calculate for themselves various subsidy quotas. In deciding on various subsidy headcounts chosen for subsidy months (i.e. May to July 2022), employers should also take into account the latest labour market and business environment in anticipating changes in business prospects, manpower requirement and wage level of his/her company in future months, in order to assess the number of subsidised headcounts and whether the company can fulfil the employment undertaking.

Wage and subsidy amount

- 14. If an employee's income record shows that his/her wage was at least \$3,000 but below \$8,000 in the "reference month", but his/her wage has been raised to exceed \$8,000 during the subsidy period. What is the subsidy for this employee?**

The subsidy amount should be \$4,000. The subsidy amount of the employee will be determined based on payroll records in the "reference month". A full subsidy of \$8,000 per month will be adopted for each employee with monthly income of at least \$8,000 in that month; and a half subsidy of \$4,000 per month for each employee with monthly income of at least \$3,000 but less than \$8,000.

- 15. How should an employer make contributions during the subsidy period if he/she applies for wage subsidies for casual employees under the Master Trust Schemes and Industry Schemes, in order to meet the committed headcount of paid employees?**

As mentioned in FAQ 21, the Secretariat and/or the government-appointed agent will audit whether the relevant employers have spent all the wage subsidies received in each of the months during the subsidy period (i.e. from May to July 2022) on paying wages to their employees in the same month against the total number of paid employees and their "relevant income" as shown on the monthly MPF records provided by the MPF trustees.

In order to meet the committed headcount of paid employees and fulfil the wage level requirements of the casual employees under the Master Trust Schemes and Industry Schemes during the subsidy period, employers are required to provide the wage information to the MPF trustees in each of the months during the subsidy period and make contributions on or before the MPF contribution day for the months May, June and July 2022, as announced by the MPF Schemes Authority, to prove that wages have been paid to the relevant employees in those months.

Application Procedures

16. Are there any alternative means to submit applications other than online applications?

Only online application is accepted under the 2022 ESS. In case applicants need assistance, they may:

- i. use the online “live chat” service;
- ii. call the enquiry hotline at 1836-122; and
- iii. visit the [five service centres under the Scheme](#) (from 29 April to 12 May) where there are designated staff to help applicants in need to complete the online applications. Applicants must make an appointment via the hotline at 1836-122.

17. Can applicants make amendments to the information in the application forms?

Employers have one chance each in the following two subsidy months to adjust the corresponding “chosen subsidised headcounts” and the distribution among “full subsidy headcounts”, “half subsidy headcounts” and “elderly subsidy headcounts” :

Subsidy month	Period for employer to adjust the chosen subsidy headcounts of that month
June 2022	From 1 to 10 June 2022
July 2022	From 1 to 11 July 2022

Except for the above, upon confirmation of the complete online application, applicants are not allowed to amend the information submitted in the application form.

Should there be any special circumstances, applicants should email to enquiry@ess.gov.hk or call the hotline at 1836-122 during service hours to seek assistance from the government-appointed agent. Applicants should provide their application numbers to facilitate follow-up.

18. When will applicants receive the wage subsidies?

For successful applicants in the 2020 ESS who have chosen the “2020 ESS records” for calculating the “subsidised quota cap” and the “maximum subsidy amount” and using the same bank accounts of the 2020 ESS for receiving subsidies, they may receive the first tranche of subsidy in two to three weeks after submitting their application. For those employers who have chosen the “2021 Q4 records”, the disbursement of subsidy will probably be about four

weeks later than the preceding scenario because the government-appointed agent has to collect the latest MPF records from the MPF trustees which results in longer processing time. However, the processing time for more complicated cases will be even longer.

For employers of ORSO schemes, or employers with some employees whose wages are fully funded by the Government and who have received notification letters from relevant Government departments (including Government-funded organisations, Government outsourced contractors or consultants), it may take longer processing time. Any omission of information will also defer the vetting process.

Subsidies will be disbursed to employers in four tranches. The first tranche covers subsidies for May 2022, the second tranche covers subsidies for June 2022, the third tranche covers 70% of the subsidies for July 2022, and the fourth tranche covers the remaining 30% of the subsidies for July 2022, after deducting any subsidies to be returned to the Government and penalties to be paid by the applicants (if any).

Legal Liabilities and Other Questions

- 19. Should employers fill the vacancies as a result of the failure to meet the committed headcount of paid employees during the subsidy period due to business circumstances (such as economic downturn, expiry of contract of project staff, or reorganisation of business operations, etc.) or departure of employees (e.g. expiry of fixed-term employment contract, termination of employment contract, reaching an agreement for contract termination, resignation or retirement, etc.)?**

Yes. Employers receiving wage subsidies under the 2022 ESS are required to undertake that the number of paid employees within specific income ranges in any one month during the subsidy period (i.e. May to July 2022) will not be less than the committed headcount of paid employees (including the “chosen subsidised headcount”, “full subsidy headcount”, “half subsidy headcount”, and “elderly subsidy headcount”), or they will have to return the amount of wage subsidies overpaid and pay a penalty to the Government.

This Scheme allows employers to adjust, after submission of application, the number of committed headcounts of paid employees in June and July 2022 which has given some leeway for employers to cater for business volatility. Therefore, if employers anticipate reduction in the number of employees during the subsidy period, they must fill the vacancies to maintain the committed headcount of paid employees.

20. **Can employers transfer employees to a sister company or another company within the group during the subsidy period? Would multinational companies be considered as a single commercial entity for the redeployment of its employees?**

The 2022 ESS does not forbid employers to redeploy their employees when receiving wage subsidies. However, it should be noted that both the undertaking and penalty under the 2022 ESS will be applied to the individual applicants. Employers who have received wage subsidies must ensure that the number of paid employees within the specific income ranges in each month during the subsidy period should not be less than the committed headcount of paid employees. It should be noted that the government-appointed agent will use the actual wages and total number of paid employees in the MPF and/or ORSO records in the subsidy period to determine if an employer has violated the undertakings under the 2022 ESS.

21. **What information will employers participating in the 2022 ESS be asked to provide to the Government for processing and monitoring?**

For employers participating in MPF schemes, the Secretariat and/or the government-appointed agent will audit whether the relevant employers have spent all the wage subsidies received in each of the months during the subsidy period (i.e. from May to July 2022) on paying wages to their employees in the same month against the total number of paid employees and their “relevant income” as shown on the monthly MPF records provided by the MPF trustees. The Secretariat and/or the government-appointed agent will also compare the information with the “chosen subsidised headcounts”, “full subsidy headcounts”, “half subsidy headcounts” and “elderly subsidy headcounts” to determine whether the employers have breached any undertakings.

If employers need to hire **new employees** to fulfil their undertakings, they are required to open MPF accounts for these new employees in the relevant months. They also have to provide the wage information to the MPF trustees in each of the months during the subsidy period and make contributions on or before the MPF contribution day for the months May, June and July 2022, as announced by the MPF Schemes Authority, to prove that wages have been paid to the relevant employees for the months. If the employers have hired **casual employees** (including those whose wages are paid on a daily basis), they are also required to make monthly MPF contributions for the employees. Otherwise, the information of the new employees, or casual employees will not be shown on the MPF records of the months concerned and cannot be used by the applicants as a means to fulfil their undertakings.

For **employees aged 65 or over with MPF account but monthly wage of below \$3,000**, their employers have to commit that the number of employees aged 65 or above with a wage of \$4,000 or above in any one month is not less than the “elderly subsidy headcounts” of that month. The employers are also required to complete and return the records on the monthly wage of employees aged 65 or above to the MPF trustees to prove that they have paid wages to the respective employees during the subsidy period.

As regards employers who have set up ORSO schemes for their employees, as well as employers with some employees whose wages are fully funded by the Government and who have received notification from relevant government departments, they have to provide the actual wages paid to employees and the number of employees in the “reference month” and subsidy period for auditing. They should also make available relevant supporting documents of wage payment (e.g. ORSO contribution records, remittance slips of auto-transfer issued by banks, salary statements, records of employee receipts etc.) for the employees in the relevant period for verification by the government-appointed agent.

In the course of vetting applications, the government-appointed agent will verify the information submitted by the employers and conduct random on-site checking of the original copies of wage records, so as to avoid abuse. The key data collected under the 2022 ESS covers the number of employees of the organisations and their wages. To prevent applicants from using false or incomplete information to deceive subsidies under the 2022 ESS, employers should retain the original copies of the relevant documents for two years for auditing purposes.

22. How will the Government assess the applications from government services contractors/consultants or subvented organisations to ensure that only eligible employees would receive wage subsidies?

Relevant departments of the Hong Kong Special Administrative Region Government will issue letters to relevant organisations to explain their eligibility under the 2022 ESS. Applicants should provide undertakings to confirm that their applications will not cover non-eligible employees (e.g. employees whose wages are fully funded by the Government). Applicants would bear legal liability for furnishing any false information. If there is reasonable suspicion of the information provided in the application, the Secretariat would consult the relevant government departments. Furthermore, the Government will put in place random checks by requesting applicants to provide additional information during the course of vetting applications for follow-up and on-site audit. If there is reasonable suspicion of false information, we would also consider making referrals to law enforcement agencies for investigation.

- 23. If an employer does not make MPF contributions to MPF trustees for their employees timely in accordance with the law during the subsidy period, but has settled the payment and paid the surcharge for deferred contributions subsequently, will the employer be subject to a penalty under the 2022 ESS?**

Employers must make MPF contributions to MPF trustees for their employees timely in accordance with the law. Employers who default or evade payment will be deemed to have breached the undertakings of the 2022 ESS and are subject to a penalty.

- 24. Do employers and employees need to pay tax on wage subsidies under the 2022 ESS?**

The Government has exempted the wage subsidies received by employers under the 2022 ESS from taxation.

That said, wages earned by employees (regardless of whether the wages are subsidised by ESS or paid by employers) are treated as income chargeable to salaries tax under the Inland Revenue Ordinance (Cap. 112).

- 25. Do the employers have to spend all wage subsidies received under the 2022 ESS from elderly subsidised headcount on paying wages to employees aged 65 or over only?**

If an employer obtains wage subsidy through "elderly subsidy headcount" ^{Note 1}, he/she must commit to employ a number of employees aged 65 or above no less than "elderly subsidy headcount" during the subsidy month, and to spend the subsidy wholly for paying wages to employees aged 65 or above (no less than \$4,000 each per month). Therefore, employers participating in MPF schemes are required to submit payroll records for the subsidy period (May to July 2022) to MPF trustees, and must provide their relevant income records for employees aged 65 or above, so that the MPF contribution records can prove that wages were paid to employees aged 65 or above in the month. The 2022 ESS Secretariat and the government-appointed agent will conduct random checks and investigate complaint cases to determine whether the employer has hired such number of employees aged 65 or above as stated in the employer's MPF records provided by MPF trustees. For employers that set up ORSO schemes, their ORSO records must show that they have paid wages to employees aged 65 years or above (no less than \$4,000 each per month) during the subsidy month.

On the other hand, for wage subsidies received from the "full subsidy headcounts" or "half subsidy headcounts" (regardless of age of subsidised employees), the employers shall undertake to employ no less than various chosen subsidy headcounts (regardless of age of employees) during the subsidy period (i.e. from May to July 2022), and to spend all the wage subsidies received

for that month on paying wages to their employees (regardless of age) in the same month. If the number of employees with a monthly wage of \$8,000 or above during the subsidy period is higher than the committed "full subsidy headcount", the excess can be counted to meet the committed "half subsidy headcount".

Note 1: Employer can receive a half subsidy of \$4,000 per month for each eligible employee aged 65 or above whose monthly wage is under \$3,000 in the "reference month".

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(For most updated information, please refer to 2022 Employment Support Scheme Website: <https://www.ess.gov.hk/en/index.html>)