

Hong Kong Special Administrative Region

Executive Summary

On July 1, 1997, Hong Kong became a Special Administrative Region of the People's Republic of China ("PRC"). Although part of the PRC, Hong Kong continues to operate under a common law legal system that is distinct from other parts of the PRC.

Key Government Agencies

The Hong Kong Immigration Department ("HKID") is responsible for all immigration related matters. It monitors and controls the movement of people in and out of Hong Kong by land, sea, and air. The HKID is also responsible for processing applications for visas, right of abode (*i.e.*, permanent residency), naturalization, Hong Kong travel documents, Hong Kong identity cards, and registrations of births, deaths, and marriages for Hong Kong residents.

Business Travel

Visitor Visa

Foreign nationals who wish to travel to Hong Kong for tourism or business purposes may apply for visitor visas at an overseas PRC consulate or embassy.

Nationals of the following countries always require valid visas regardless of the purpose of the trip to Hong Kong, including those who are in transit and remain in the airport transit area: Angola**, Bangladesh**, Burundi**, Cameroon**, Democratic Republic of Congo, Republic of Congo**, Republic of Cote D'Ivoire, Eritrea, Ethiopia**, Ghana**, Iraq, Liberia, Nepal, Pakistan**, Sierra Leone,

Somalia, Sri Lanka**, and Togo** (**except for holders of Diplomatic and Official passports).

Nationals of the following countries require visas prior to entering Hong Kong, except in direct transit by air and when the individual does not leave the airport transit area: Afghanistan, Albania, Armenia, Azerbaijan, Belarus, Cambodia, the PRC, Cuba, Georgia, Grenada, Iran, Kazakhstan, Kyrgyzstan, Laos, Lebanon, Libya, Republic of Moldova, Republic of Montenegro, Myanmar, Nicaragua, Nigeria, North Korea, Palestine, Panama, Senegal, Republic of Serbia, Solomon Islands, Sudan, Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam.

PRC nationals residing in Mainland China should apply for and secure appropriate entry permits through relevant Chinese authorities in Mainland China prior to traveling to Hong Kong. Mainland Chinese residents may apply through an authorized travel agent in the PRC to visit Hong Kong on group tours. Mainland Chinese residents from certain provinces may also directly apply through relevant Chinese authorities in the PRC to visit Hong Kong under the Individual Visit Scheme.

Alternatively, Mainland Chinese residents traveling on PRC passports who are in transit through Hong Kong to and from another country may be granted a stay of seven days without the need to obtain a prior entry visa/permit provided the usual immigration requirements are met, including possession of a valid entry visa for the destination country and a confirmed onward booking.

In addition, certain overseas PRC nationals holding PRC passports may be issued a multiple-journey visit entry permit valid for twenty four months and good for a stay of fourteen days upon each arrival. The overseas PRC nationals must be permanent residents or ordinarily resident for not less than one year in the country/territory (*e.g.*, United States) where the applications are lodged, have no previous adverse

records in Hong Kong, and possess ample returnability to and have a steady job or study in the country/territory of domicile.

The government’s regularly updated lists are published at:
www.immd.gov.hk/ehhtml/hkvisas_4.htm.

All visitors are required to have adequate funds to cover the duration of the stay without working and to hold onward or return tickets.

A visitor may request a limited extension of stay in Hong Kong by applying in person at the HKID. A satisfactory explanation has to be given to the HKID before the extension of stay will be considered.

Visa Waiver

Citizens of certain countries do not need to obtain visas as tourists or business visitors if they are staying in Hong Kong for a limited period of time. Their permitted period of stay varies depending on their country of citizenship. Extensions of stay are considered on a case-by-case basis by the HKID. Citizens of the following countries are eligible for visa waiver and the period of stay shown below:

Contry	Duration of visit in days
Austria	90
Australia	90
Bulgaria	90
Canada	90
Finland	90

Contry	Duration of visit in days
France	90
Germany	90
Greece	90
India	14
Ireland	90
Italy	90
Japan	90
Netherlands	90
Philippines	14
Russian Federation	14
Singapore	90
Spain	90
Sweden	90
Switzerland	90
Thailand	30
United Kingdom	180

Contry	Duration of visit in days
United States	90

Non-Visitors

In General

A foreign national who wishes to enter Hong Kong, other than as a tourist or for business purposes, may consider applying for one of the following visas based on the eligibility criteria described below. Please note that special guidelines apply to PRC nationals.

- Training;
- Employment;
- Employment (investment);
- Dependent;
- Capital investment; and
- Quality migrant.

Training

Training Visa

In general, training visas are granted to enable foreign nationals to acquire skills, knowledge, or experience that they may take to their respective home countries and make use of what they have learned at the conclusion of the training.

In reviewing training visa applications for company personnel traveling to Hong Kong for training purposes, the HKID will consider the nature and importance of the training program. Training visas may be issued for the period of training or a maximum of twelve months, whichever is shorter. Training visas may also be issued to foreign students pursuing their undergraduate degree studies or above from overseas, provided the training in Hong Kong is relevant to their studies.

This visa category does not apply to nationals of Afghanistan, Albania, Cambodia, Cuba, Laos, Korea (Democratic People's Republic of), Nepal, and Vietnam. Training visas for PRC nationals residing in Mainland China are discussed below.

Employment Assignments

An employment visa is required for a foreign national to work in Hong Kong, regardless of whether the foreign national is paid or unpaid for services rendered in Hong Kong, regardless of the locality of the employer, and regardless of the duration of the employment in Hong Kong. Failure to do so is an offence under the Hong Kong Immigration Ordinance.

The HKID processes each employment visa application on its own merits and typically considers the following three main issues:

- Whether the business sponsoring the employment visa is beneficial to the economy, industry, and trade of Hong Kong;
- Whether the foreign national's services are essential to such business; and
- Whether the position may be easily filled by someone locally in Hong Kong.

It is important to show that the foreign national possesses skills, knowledge, and experience that are not readily available or are in shortage in Hong Kong. It could be because the foreign national:

- Is a very highly qualified professional;
- Possesses technical knowledge or know-how indispensable to the company in Hong Kong;
- Possesses acclaimed experience and relevant knowledge; or
- Generally, the proposed stay in Hong Kong will benefit not only the company, but also Hong Kong.

To make this demonstration, the foreign national should possess a bachelor's degree and some work experience in a related field, or, where a bachelor's degree is lacking, significant work experience in a related field. In the case of an intra-company transfer, it is generally sufficient to show that the foreign national acquired knowledge of the internal administration and operation of the company during employment with the company abroad and that this type of knowledge is not readily available locally in Hong Kong.

Extensions of the employment visa are available. The renewal pattern is 2 years, 2 years, and 3 years.

The employment visa is employer specific. A foreign national granted an employment visa is authorized only to work for the sponsoring employer in Hong Kong. If the foreign national leaves the employer in Hong Kong, notwithstanding the fact that the visa has not expired or has lapsed, the foreign national may not take up employment with another employer in Hong Kong unless prior approval is obtained from the HKID.

If an employment visa holder is required to perform work for an entity in addition to the approved employer, the foreign national must first obtain side-line approval from the HKID. This requirement is noteworthy in cases where a foreign national may be required to supervise or engage in activities for several related companies in Hong Kong.

Upon termination, the sponsor in Hong Kong must inform the HKID. The sponsor may be required to bear the cost of the foreign national's repatriation.

This visa category is not available to nationals of Afghanistan, Albania, Cambodia, Cuba, Laos, Korea (Democratic People's Republic of), Nepal, and Vietnam. Employment visas for PRC nationals residing in Mainland China are discussed below.

Employment Visa under the Immigration Arrangements for Non-local Graduates ("IANG")

Foreign nationals and PRC nationals who have completed their full-time and locally-accredited programme in Hong Kong (*e.g.*, bachelor's degree or higher level studies) may remain or re-enter Hong Kong for employment after graduation.

Foreign nationals who wish to remain and work in Hong Kong after graduation may submit their employment visa application to the HKID without first securing an offer of employment. Foreign nationals who wish to re-enter and work in Hong Kong after graduation are required to secure an offer of employment at the time of application.

Foreign nationals who have obtained their employment visa under the IANG are free to take up and change employment during their permitted stay without the need to seek prior approval from the HKID.

This visa category does not apply to nationals of Afghanistan, Albania, Cambodia, Cuba, Laos, Korea (Democratic People's Republic of), Nepal, and Vietnam.

Employment (Investment) Visa

A foreign national investing and starting a business may apply for an employment (investment) visa. The investment amount must be "substantial," which generally means a minimum of HK\$500,000, depending on the proposed business venture. The business must be beneficial to the local economy, commerce, and industry of Hong Kong, usually shown by the creation of jobs. Further, it is important to show that the foreign national has the expertise to carry on the business.

This entry arrangement does not apply to PRC nationals residing in Mainland China and nationals of Afghanistan, Albania, Cambodia, Cuba, Laos, Korea (Democratic People's Republic of), Nepal, and Vietnam.

Dependent Visa

Foreign nationals not subject to a limit of stay in Hong Kong (*i.e.*, foreign nationals who are Hong Kong permanent residents, residents with the right to land, or on unconditional stay), may sponsor their spouse, unmarried dependent children under the age of eighteen, and dependent parents aged sixty and above to take up residence in Hong Kong as their dependents. Foreign nationals admitted to Hong Kong to take up employment, or study in full-time undergraduate or post-graduate programs in local degree-awarding institutions, capital investment entrants, or as quality migrants, may sponsor their spouse and unmarried children under the age of eighteen for dependent visas.

Dependent visa holders are free to study and take up employment in Hong Kong without the need to apply for separate visas, so long as

their principal sponsors maintain their employment status with the sponsoring companies in Hong Kong, or if their sponsors are not subject to a limit of stay in Hong Kong. Those with dependent visas issued before May 15, 2006 and bearing the condition “Employment is not permitted” may remove the condition by submitting applications to the HKID. The condition will be automatically removed when the dependent visa holder’s current visa expires and they are granted an extension of stay.

Common law and same sex spouses are not entitled to dependent visas but may be able to obtain prolonged visitor visas. The success of a prolonged visitor’s visa application is at the sole discretion of the HKID.

This visa category does not apply to nationals of Afghanistan, Albania, Cuba, and Korea (Democratic People’s Republic of).

Capital Investment Entrant Scheme

Foreign nationals who have sufficient assets to invest in Hong Kong may be eligible for a visa under the Capital Investment Entrant Scheme (“CIES”), which does not require employment in Hong Kong. Foreign nationals may be eligible if they:

- Have net assets or net equity with a market value of not less than HK\$6.5 million to which they are absolutely beneficially entitled throughout the 2 years preceding the application; and
- Make the HK\$6.5 million investment in permissible assets within 6 months of application lodgment, or within 6 months after obtaining the approval-in-principle from the HKID.

CIES currently applies to foreign nationals (except nationals of Afghanistan, Albania, Cuba, and the Democratic People’s Republic of Korea), Macao and Taiwan residents, PRC nationals who have

obtained permanent resident status in an acceptable foreign country, and stateless persons who have obtained permanent resident status in an acceptable foreign country with proven re-entry facilities.

The foreign national is not allowed to realize or cash in any capital appreciation of the qualifying portfolio during the stay in Hong Kong. If the value of the portfolio falls below the original level of HK\$6.5 million, no topping up is required.

Quality Migrant Visa

The Quality Migrant Admission Scheme is available for highly skilled or talented persons. Applicants need not secure an offer of employment prior to application. There are two types of points-based assessments: General Points Test and Achievement-based Points Test.

The General Points Test allocates marks according to the following five factors:

Factors	Maximum Points
Age	30
Academic / Professional Qualifications	45
Work Experience	50
Language Proficiency in Chinese and English	20
Family Background	20
Total Points	165

Applicants must achieve above a minimum mark set by the HKID. The minimum mark is subject to change.

The Achievement-based Points Test is for individuals with exceptional talent or skills, requiring receipt of awards of exceptional achievement (*e.g.*, Olympic medals, Nobel prize) or by showing work recognized by industry peers or significant contribution to the development of the individual's field (*e.g.*, lifetime achievement award from an industry). Applicants must obtain the maximum mark of one hundred sixty five or face refusal.

High-scoring applicants assessed under either the General Points Test or Achievement-based Points Test will be short-listed for further selection by the Director of Immigration. Applicants who are allotted a place in the scheme quota will be issued with an approval-in-principle letter and will be required to attend an interview in person at the HKID in Hong Kong for verification of supporting documents. Upon a satisfactory verification, applicants will receive formal approval and will normally be issued an entry visa or permit for an initial stay of twelve months in Hong Kong. Visas issued under the scheme may generally be renewed provided applicants take steps to settle in and make contributions to Hong Kong.

Nationals of Afghanistan, Albania, Cambodia, Cuba, Laos, the Democratic People's Republic of Korea, Nepal, and Vietnam are excluded from the Quality Migrant Admission Scheme.

Mainland PRC Nationals

Despite Hong Kong's reversion to the PRC in 1997, the entry of Mainland PRC nationals into Hong Kong remains restrictive. For example, a PRC national residing in Mainland China traveling to Hong Kong from China as a visitor or resident is required to carry an

Exit-entry Permit for Traveling to Hong Kong and Macao (“EEP”) with the appropriate exit endorsement issued by the Public Security Bureau (“PSB”) in Mainland China. Restrictions on the use of available visa categories by PRC nationals are noted in the sections above.

Employment and training visa applications for PRC nationals, however, are evaluated under the Admission Scheme for Mainland Talents and Professionals (“Admission Scheme”). The eligibility criteria for these visa categories as described above are applied quite strictly under the Admission Scheme. The Admission Scheme is quota-free and non-sector specific. Document requirements for PRC nationals will be more extensive than for foreign nationals.

The sponsoring entity should submit the application directly to the HKID on behalf of the PRC national. Upon application approval, the HKID will issue an entry permit to the sponsoring entity for forwarding to the PRC national. The PRC national should present the entry permit to the PSB in Mainland China and apply for an EEP and a relevant exit endorsement before traveling to Hong Kong.

Hong Kong Identity Card

Once a foreign national (including a PRC national) has secured the appropriate visa, registration for a Hong Kong identity card with the Registration of Persons Office is required if the foreign national will reside continuously in Hong Kong for more than 180 days. Hong Kong residents aged eleven and above must register for a Hong Kong identity card. Hong Kong residents aged fifteen or above must carry at all times a Hong Kong identity card. Failure to do so is an offence under the Immigration Ordinance.

Other Comments

Foreign nationals may be eligible to apply for right of abode after continuously residing in Hong Kong for 7 years or more.

Naturalization to become a PRC national is also possible for those willing to abide by the PRC constitution and laws, if they are near relatives of Chinese nationals, have settled in the PRC, or have other legitimate reasons. The PRC does not recognize dual nationality, and applicants must relinquish foreign citizenship.