



# UK Visas for Hong Kong BN(O) Citizens and Their Family Members

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Everything you need to know about the Hong Kong BN(O) Visa

## Introduction

The Hong Kong BN(O) Status Holder Visa is an immigration route for Hong Kong British National (Overseas) citizens to live, work and study in the UK.

The Rules are set out in Immigration Rules Appendix Hong Kong British National (Overseas) and published Home Office Guidance.

- ❖ Who is eligible to apply for the Hong Kong BN(O) visa?
- ❖ What are the requirements and criteria for the visa?
- ❖ How to apply for the Hong Kong BN(O) visa?
- ❖ What are the benefits and limitations of the Hong Kong BN(O) visa?
- ❖ What are the options for permanent residency and British citizenship?

We are unable to advise on individual cases.

Content is correct at date of presentation\*

# BN(O) Status Holders and family members

In order to qualify for a Hong Kong BN(O) Status Holder Visa you must be meet the validity, suitability and eligibility requirements. The eligibility requirements include having BN(O) Status, proving your ordinary residence, showing adequate maintenance and accommodation, and providing a TB Certificate where required.

Hong Kong BN(O) Status Holder Visa holders may be joined by family members. There are several types of family members which can apply:

- Dependent Child
- BN(O) Household Member
- Dependent partner
- Adult Dependent Relative

Each of the above family members has specific eligibility requirements for their category. The merits of an application will depend on the facts of the individual case.

## Validity

- Must apply online on the specified form
- If you hold a BN(O), HKSAR or EEA passport you may be able to use the UK Immigration: ID Check app
- Otherwise you will need to book and attend an appointment to provide biometric information (fingerprints and facial photograph)
- Required to pay the visa application fee:
  - £180 if you apply for 2 years and 6 months
  - £250 if you apply for 5 years
- Required to pay the Immigration Health Surcharge:
  - £1,560 for 2 years and 6 months
  - £3,120 for 5 years
  - For a child: £1175 and £2350 respectively
- Establish identity and nationality - through passport

## BN(O) Status

- A British Overseas territories citizen by connection with Hong Kong who registered as a British national (overseas) before 1 July 1997
- It is not possible to register now, even if you would have been eligible to do so before 1 July 1997
- Evidence of status;
  - Valid BN(O) passport
  - Expired BN(O) passport
  - Confirmation of registering as a BN(O) status holder using Home Office records e.g. those held by Her Majesty's Passport office
    - Request letter confirming BN(O) status from HMPO
- This may be a good option if you no longer have evidence of BN(O) status. Most BN(O) citizens will know whether they registered successfully as a BN(O) citizen or not.
- The caseworker should check the relevant HMPO database if someone claims to hold the relevant status but has no evidence. Confirmation with HMPO is sufficient

## Ordinary Residence - General Principles

- Not defined in Appendix BN(O) or any Act of Parliament - principles have been established in case law:
  - **ordinary residence is established if there is a regular habitual mode of life in a particular place for the time being, whether of short or long duration, the continuity of which has persisted apart from temporary or occasional absences,**
  - **residence must be both:**
    - **Voluntary**
    - **adopted for a settled purpose**
  - **a person can be ordinarily resident in more than one country at the same time - not the same as 'domicile'**
- Needs a sufficient degree of continuity
- Fact specific assessment looking at individual circumstances
- Will generally be accepted as ordinarily resident if entering the territory for a purpose leading to settlement
- Children under the age of 16 will generally be deemed to share the same place of ordinary residence as their parents. They may be considered separately where they are older or do not live with their parents.

## Ordinary Residence - Factors considered

Length of  
Residence

Is their housing  
situation  
stable?

Where do close  
family members  
live?

Where is their  
employment?

What is the  
purpose of their  
residence? Is it  
for a 'settled  
purpose'?

# Ordinary Residence - Entry Clearance applications

For Entry Clearance applications, must be outside the UK and show 'ordinarily resident' in Hong Kong at the date of application

### Relevant evidence

- Hong Kong ID card/ Permanent ID card
- Immigration documents showing residence in Hong Kong
- Bank statements
- Letter from employer confirming employment in Hong Kong
- Payslips
- Educational records e.g. school report
- Tax documents
- Rent/mortgage payments
- Household or utility bills
- Passport stamps showing travel from and return to Hong Kong (in conjunction with other evidence)



# Ordinary Residence - Permission to Stay

For Permission to Stay applications, must be inside the UK and show 'ordinarily resident' in UK, Guernsey, Jersey, Isle of Man or Hong Kong.

If there is an existing immigration footprint showing residence in the UK e.g. entry stamps, further evidence is not required

### Relevant evidence

- Immigration documents
- Bank statements
- Letter from employer confirming employment
- Payslips/ recent P60
- Educational records
- Tax documents
- Voter card
- Rent/mortgage payments
- Household or utility bills

# Adequate Maintenance and Accommodation

- This will be met if the Applicant is applying for permission to stay and has lived in the UK for at least 12 months by the date of the application
- Otherwise, must satisfy the decision-maker that the Applicant can “adequately maintain and accommodate” themselves and any dependants without recourse to public funds for at least 6 months
- There is no set level of funds required. You need to show that after income tax, national insurance contributions and housing costs are deducted, you have the level of income that would be available to you if in receipt of income support. The rates depend on the size of the family
- Can rely on income, savings or credible promises of third party support and should provide evidence
- Funds held in a foreign currency will be converted using the OANDA exchange rate
- Must be held in a financial institution that:
  - Uses electronic record keeping
  - Is regulated by the appropriate regulatory body in the country it is operating in
  - Is one where UKVI can make satisfactory verification checks
- For accommodation, it must comply with housing standards relating to size and overcrowding.
  - You can rely on accommodation provided by a friend or relative

### Dependent Child

- Under the age of 18
- Child or grandchild of a person who has or is at the same time being granted entry clearance or permission to stay as a BN(O) Status Holder or as the partner of a BN(O) Status Holder;
- Must form part of the same household as the main applicant;
- Each of the parents of the child must either be applying at the same time or already have permission to be in the UK other than as a visitor, unless certain exceptions apply.
- Validity, ordinary residence, adequate maintenance and suitability requirements apply.

Forming part of the same household means that the child must normally live with the BN(O) Status Holder. “Normally live with” is not defined in the Rules. However, currently, the government website states that the child ‘must normally live with you, unless they’re living away from home to study or applying after you’ve already moved to the UK’.

If a dependent child is making an application to join a BN(O) Status holder who has already been granted permission to stay in the UK, they will be granted leave in line with the end date of the BN(O) Status holder’s permission.

### BN(O) Household Member

- Adult children over the age of 18, and born after 1 July 1997;
- The Applicant must be the adult child of a BN(O) status holder.
- The application must meet the validity, suitability, ordinary residence and adequate maintenance requirement.

Evidence to meet the relationship requirements includes:

- Relationship to BN(O) status holder - e.g. birth certificate;
- Parent's BN(O) status - e.g. BN(O) passport (current or expired), confirmation from HMPO.

# Dependent Partner

- Applicants must be over the age 18 ;
- Partner of a BN(O) Status holder - either married, in a civil partnership or living together in a relationship similar to marriage or civil partnership for at least the two years before the date of application;
- Must intend to live together throughout their stay in the UK;
- Any previous relationships must have permanently broken down;
- The Applicant and BN(O) Status Holder must not be so closely related that they would not be allowed to marry in the UK.
- The application must meet the validity, suitability, ordinary residence and adequate maintenance requirement;

Since 6 October 2021, Applicants are no longer required to form part of the same household or apply at the same time as the BN(O) Status Holder.

If a dependent partner is making an application to join a BN(O) Status holder who has already been granted permission to stay within the UK, they will be granted leave in line with the end date of the BN(O) Status holder's permission.

### Adult Dependent Relative

- Adult parent, grandparent, brother, sister, son or daughter of a person who is making an application as a BN(O) Status Holder or as the partner of a BN(O) Status Holder at the same time;
- If applying as a parent or grandparent, the Applicant must not be in a subsisting relationship with a partner unless, that partner is also the parent or grandparent of the BN(O) Status Holder or of the partner of a BN(O) Status Holder; and that partner is applying for entry clearance or permission to stay at the same time;

#### Dependency Requirements:

- As a result of age, illness or disability the Applicant must require long-term personal care to perform everyday tasks, for example washing, dressing and cooking;
- Must form part of the same household as (i.e. normally live with) the BN(O) Status Holder;
- Be unable, even with the practical and financial help of the BN(O) Status Holder or the partner of the BN(O) Status Holder, to obtain the required level of help in Hong Kong, if the BN(O) Status Holder or the partner of the BN(O) Status Holder move to the UK, either because the help:
  - is not available, and there is no person in Hong Kong who can reasonably provide it; or
  - is not affordable.

# SETTLEMENT

## Settlement on the Hong Kong BN(O) route

- Indefinite Leave to Remain (ILR) also known as settlement
- This means there is no time limit on your ability to remain in the UK.
- Gateway to obtaining British citizenship (but not mandatory).
- Lost after 2 consecutive years absence from the UK.
- Requirements:
  - Validity
  - Suitability
  - Eligibility
  - Relationship requirement (for family members)
  - English language requirement
  - Knowledge of Life in the UK
  - Continuous Residence



### Validity

- Apply using the specified form: Set (O) form
- Pay the fee £2404 - possibly priority options for a higher fee
- Provide required biometric information - either attend UKVCAS appointment or may be eligible for biometric re-use using UK Immigration ID check App
- Provide evidence of identity and nationality - passport
- Must have permission on the Hong Kong BN(O) route
- Must be in the UK

### Suitability

- Must not fall for refusal under Part 9 - General grounds for refusal e.g.
  - Criminality
  - False representations or deception
  - Breaches of immigration laws
  - Debt to NHS
  - Unpaid litigation costs
- Must not be in breach of immigration laws or on immigration bail

### Eligibility - relationship

- Dependent child:
  - must have permission as a dependent child
  - Applicant's parent must be being granted settlement or be settled or British
  - Applicant's other parent must be being granted settlement, or be settled or British
    - Or parent 1 is sole surviving parent, has sole responsibility or serious and compelling reasons to grant settlement
  - For child under 18, suitable arrangements for care and accommodation in UK
- ADR
  - must have permission as an adult dependent relative
  - Sponsor must be granted settlement or be settled or British
- Dependent partner
  - No relationship requirements to be met

### English language

- Must provide 'specified evidence' of knowledge of English at minimum level B1 CEFR
- English language test from approved provider
- Degree level qualification from a UK institution
- Degree level qualification taught in English abroad, and UK NARIC certification
- National of majority English speaking country

# Knowledge of Life in the UK

- Required if over the age of 18 and under the age of 65
- Practice tests
- Does not expire

# Continuous qualifying period for ILR

- 5 year continuous period with permission in the UK on a route leading to settlement.
- Most recent grant must be on the Hong Kong BN(O) route
- Can combine time on BN(O) route with time spent on other visas on a route to settlement
- 'Continuous residence': no more than 180 days absence in any 12 month period. Calculated on a rolling basis.
- Discretion for excess absences in some circumstances. E.g. life-threatening illness,
- Continuous residence will also be broken if convicted of an offence and sentenced to imprisonment, subject to deportation or removal etc.
- 5 year period calculated with reference to whichever date is most beneficial to the Applicant:
  - Date of application
  - Any date up to 28 days after the date of application
  - Date of decision

## Refusal - Right of Administrative Review

- If refused, no right of appeal
- Can apply for administrative review, if there has been a caseworking error
- Must apply for administrative review within 14 days of refusal. If applied in time, leave is extended by virtue of section 3C of the Immigration Act 1971

# Registration and Naturalisation

Once BN(O) Status Holders have ILR for 12 months they can apply to register as British citizens by entitlement under Section 4 BNA 1981. For family members of BN(O) Status Holders, they will need to apply to naturalise as British citizens.

The requirements for both are:

- Free of immigration restrictions (held settled status) for 12 months or more;
- Were in the UK at the beginning of the period of 5 years ending with the date of the application;
- Were not absent from the UK for more than either:
  - 450 days in that 5 year period;
  - 90 days in the period of 12 months ending with the date of application;
- Not in the UK in breach of the immigration laws in 5 year qualifying period
- English language requirement
- Life in the UK test
- 'Good character'
- Have two appropriate referees who have known you for at least three years and are not related to you or to each other.

For naturalisation, there is also a requirement to show an intention for the principal home to be the UK.



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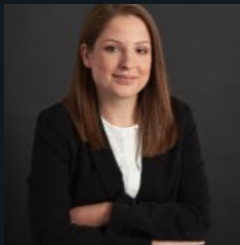
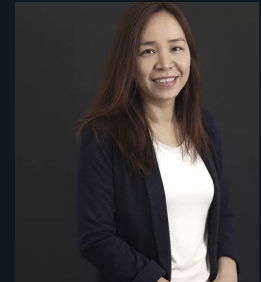


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