



Home Office

GUIDE EM

A guide to registration as a British citizen
under the British Nationality (Hong Kong) Act
1997

January 2016

The following guidance has been produced for those who wish to apply for British citizenship under the British Nationality (Hong Kong) Act 1997. Please read it carefully before completing the application form. The law covering registration is contained in the British Nationality (Hong Kong) Act 1997 and in regulations made under the British Nationality Act 1981. The information given here is meant only as a brief guide to the law and to the Home Secretary's policy. It is not a comprehensive statement of either the law or the policy.

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THE REQUIREMENTS YOU HAVE TO MEET

ORDINARY RESIDENCE

1. You must be an ordinarily resident in Hong Kong on the date of your application.
2. You must also have been ordinarily resident in Hong Kong immediately before 4 February 1997.
3. A child born on or after 4 February 1997 must have been ordinarily resident in Hong Kong at the time of his birth. In such cases account will be taken of where the parent/s were ordinarily resident at the time of the birth.

Note: British courts have ruled that ordinary residence has the following features:

- it is a regular habitual mode of life in a particular place;
- its continuity has persisted despite temporary absences;
- it may be of long or short duration;
- it must be lawful;
- it must have been adopted voluntarily;
- it must be for a settled purpose.

NATIONALITY

4. On the relevant date (immediately before 4 February 1997) you must have been a British national, i.e. either:
 - a British Dependent Territories citizen by virtue only of a connection with Hong Kong; or
 - a British National (Overseas); or
 - a British Overseas citizen; or
 - a British subject; or
 - a British protected person.

However if you only became a British national on or after that date (e.g. due to birth, registration or naturalisation) the date on which you became such a national is the relevant date.

5. You must not have held (hold) any other, non-British nationality or citizenship on the relevant date.

Notes:

(i) You may have held (hold) one or more of the above statuses.

(ii) It is possible to be a British Dependent Territories citizen by connection with more than one British dependent territory. For example, a person born in Hong Kong to a parent born in another dependent territory could be a British Dependent Territories citizen regardless of the fact that he had been born in Hong Kong. Only a former BDTC by virtue of a connection with Hong Kong is eligible to apply under the 1997 Act.

(iii) It is possible to be a national or citizen of another country even if you have never held a passport issued by the authorities of that country.

(iv) If you become a British national through your Hong Kong connections but you are ethnically Chinese, under Chinese nationality rules, you may have been regarded as a Chinese national. If so, you would not be entitled to registration under the 1997 Act. If you are in this category, we advise you to contact the Hong Kong Special Administrative Region Immigration Department for clarification before making an application.

(v) You will not be eligible for registration as a British citizen if you renounced (or otherwise gave up) the nationality or citizenship of some other country on or after "the relevant date"

THE CITIZENSHIP YOU WILL ACQUIRE IF YOUR APPLICATION IS SUCCESSFUL

6. All successful applicants will become British citizens. Some will become British citizens otherwise than by descent, whilst some will become British citizens by descent. Your registration certificate will state whether you are a British citizen otherwise than by descent or a British citizen by descent.

British citizens otherwise than by descent

7. To become a British citizen otherwise than by descent you must;

- have been a British Dependent Territories citizen otherwise than by descent before you registered as a British National (Overseas) or - because you failed to register - became a British Overseas citizen on 1 July 1997. British Dependent Territories citizens who were born, naturalised (or, in some cases, registered) or adopted in Hong Kong became British Dependent Territories citizens otherwise than by descent.

8. As a British citizen otherwise than by descent you will be able to pass on British citizenship to any children born to you subsequently even if they are born outside the United Kingdom.

British citizens by descent

9. To become a British citizen by descent you must fall into one of two categories;

(i) you were a British Dependent Territories citizen by descent before you registered as a British National (Overseas) or - because you failed to register - became a British Overseas citizen on 1 July 1997. In general, British Dependent Territories citizens who were born outside Hong Kong became British Dependent Territories citizens by descent.

(ii) you were (at the relevant time):

- a British Overseas citizen (otherwise than as a former Hong Kong British Dependent Territories citizen who gained British Overseas citizenship on 1 July 1997) ; or
- a British subject; or
- a British protected person.

10. As a British citizen by descent you will not normally be able to pass on British citizenship to any children born outside the United Kingdom.

CHILDREN AND GRANDCHILDREN

11. If you are registered as a British citizen otherwise than by descent (see paragraph 7 above), any children subsequently born to you would automatically become British citizens by descent. Any children you had before you were registered would not become British citizens automatically. They would need to apply and qualify for British citizenship in their own right.
12. If you are registered as a British citizen by descent neither your existing children nor any subsequent children would become British citizens automatically. They would need to seek British citizenship in their own right.
13. If, on 1 July 1997, you either:
 - became a British Overseas citizen under article 6 of the Hong Kong (British Nationality) Order 1986, because you were a Hong Kong British Dependent Territories citizen who would otherwise have been stateless; or
 - were a British National (Overseas).

Any children then born to you while you held that status would, if they would otherwise be stateless, be British Overseas citizens at birth. In certain circumstances, your grandchildren would, if they were born stateless, also have an entitlement to registration as British Overseas citizens (normally within 12 months of their birth).

THE APPLICATION FORM

14. Important Note: Please ensure that your names and other particulars on the form are written or typed clearly in black or blue-black ink and in BLOCK LETTERS. Delays in processing may arise if the information you give is difficult to read.

The name that you give must be the same name that is on your current passport, travel document or national identity card. We will not normally issue a certificate of registration or naturalisation in a name that is different from a person's official documents. If you have married or entered a civil partnership and changed your name, and wish to be registered in that name, you should change your name on your other passport, travel documents and national identity card to reflect that name before sending us your application. This is to avoid a person having official documents in more than one identity.

Your name at birth must be given on the application form, for identity purposes, but may be omitted from your certificate of British citizenship if you have a special reason for requesting this – for example because you were adopted or are no longer living in the gender you were considered to have at the time of your birth.

SECTION A

15. You should complete all parts of this section.

SECTION B

16. You should complete all parts of this section.
17. Explanation of birth, ancestry, registration, naturalisation and adoption. Broadly speaking, for the purposes of this section of the form, you will be;

- British by birth if you hold any form of British nationality because you were born on British territory;
- you will be British by ancestry if you were born on non-British territory and you hold any form of British nationality through a parent's or grandparent's birth, adoption, naturalisation or registration;
- if you are British by registration or naturalisation, this means that you were not British when you were born but acquired this status as a result of an application for a registration or naturalization certificate;
- if you are British by adoption (only applicable if you are a British Dependent Territories Citizen or a British National (Overseas)), this means that you automatically became British from the date of your adoption by a British parent.

SECTION C

18. You should complete all parts of this section.

SECTIONS D AND E

19. You should complete the first part of each section (relating to your parents' names, birth details and nationality). Only complete the second part of each section (relating to their residence) if you are under 18 years of age.

SECTION F – GOOD CHARACTER

20. To be of good character you should show respect for the rights and freedoms of the United Kingdom. Checks will be carried out to ensure that the information you give is correct.

21. If you are not honest about the information you provide and you are registered on the basis of incorrect or fraudulent information you will be liable to have British citizenship taken away (deprivation) and you may be prosecuted. It is a criminal offence to make a false declaration knowing that it is untrue.

22. You must give details of all criminal convictions both within and outside of Hong Kong. These include road traffic offences. Fixed penalty notices (such as speeding or parking tickets) must be disclosed, although will not normally be taken into account unless:

- you have failed to pay and there were criminal proceedings as a result; or
- you have received numerous fixed penalty notices.

Applicants over the age of 10 at the date of application may submit a Hong Kong certificate of no criminal convictions (CNCC) as evidence of their good character.

23. Drink driving offences must be declared. If you have any endorsements on your driving licence you must provide the paper counterpart.

Please note that a driving conviction may not yet be disregarded despite any penalty points being removed from your driving licence

24. Criminal record checks will be carried out in all cases. If you have a conviction within the relevant sentence based threshold you are unlikely to be registered as a British citizen. Similarly if you have been charged with a criminal offence and are awaiting trial or sentencing, you are advised not to make any application for registration until the outcome is known. If you are convicted, you should then consult the table below.

	Sentence	Impact on Nationality applications
1	4 years' or more imprisonment	Application will normally be refused, regardless of when the conviction occurred.
2	Between 12 months' and 4 years' imprisonment	Application will normally be refused unless 15 years have passed since the end of the sentence.
3	Up to 12 months' imprisonment	Application will normally be refused unless 10 years have passed since the end of the sentence.
4	A non-custodial offence or other out of court disposal that is recorded on a person's criminal record.	Application will normally be refused if the conviction occurred in the last 3 years.

25. Notes:

- a. A person who receives a sentence of life imprisonment is included in the '4 years or more imprisonment' category (i.e. line 1).
- b. A person who receives a custodial sentence of exactly 4 years is included in the '4 years or more imprisonment' category (i.e. line 1).
- c. A person who receives a custodial sentence of exactly 12 months or exactly 1 year is included in the 'Between 12 months and 4 years imprisonment' category (i.e. line 2).
- d. The "end of the sentence" means the entire sentence imposed, not just the time the person spent in prison. For example, a person sentenced to 3 years' imprisonment on 1/1/2013 will normally be refused citizenship until 1/1/2031 – the 15 year 'bar' added to the 3 year sentence.
- e. A "non-custodial offence or other out of court disposal that is recorded on a person's criminal record" (i.e. line 4) includes Fines, Cautions, Warnings and Reprimands, Community Sentences, Civil Orders, Hospital Orders & Restriction Orders and Potential Court Orders.
- f. A person who is subject of an extant Deportation Order will be refused citizenship regardless of when they apply.
- g. Some extremely short periods of imprisonment may not be included in the 'up to 12 months imprisonment' category (i.e. line 3). This will depend on whether the person was convicted & sentenced or simply committed to prison. The latter is not a sentence and the vast majority of those detained for one day– will have been committed by the court and not sentenced. The decision maker will instead treat this as a "non- custodial offence or other out of court disposal that is recorded on a person's criminal record" (i.e. line 4).

- h. A suspended prison sentence will be treated as a “non-custodial offence or other out of court disposal that is recorded on a person’s criminal record” (i.e. line 4).

The exception is where that sentence is subsequently ‘activated’. This means that the person re-offended or failed to adhere to/breached the conditions of that sentence. Where this happens, the sentence length will be the one originally imposed.

Example 1: a person is sentenced to 6 months’ imprisonment, suspended for two years. If they ‘activate’ this, the sentence should be 6 months and fall into the ‘up to 12 months’ imprisonment’ category above (i.e. line 3).

Example 2: a person is sentenced to 12 months’ imprisonment, suspended for two years. If they ‘activate’ this, the sentence should be 12 months and fall into the ‘Between 12 months and 4 years’ imprisonment’ category above (i.e. line 2).

- i. Sentences imposed overseas will normally be treated as if they occurred in the UK.
- j. For concurrent sentences, the decision maker will take the longest single sentence imposed. For example, a sentence of 9 months’ imprisonment served concurrently with a sentence of 6 months’ imprisonment will be treated the same as one 9-month sentence.

For consecutive sentences, the decision maker will add together the total of all the sentences imposed. For example, a sentence of 9 months’ imprisonment served consecutively with a of 6 months’ imprisonment will be treated the same as one 15-month sentence.

- 26. You are also advised to refer to the good character policy guidance which caseworkers use to decide your application. This is available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385792/Chapter_1_8_Annex_D_v02_141210_web_version.pdf
- 27. You must give details of all civil judgments which have resulted in a court order being made against you as well as any civil penalties under the UK Immigration Acts. If you have been declared bankrupt at any time you should give details of the bankruptcy proceedings. (Your application is unlikely to succeed if you are an undischarged bankrupt).
- 28. You do not need to give details of family law proceedings such as divorce decrees, dissolved civil partnerships, guardianship orders, parental responsibility orders.
- 29. You must give details of any cautions (simple or conditional), warnings or reprimands you have received in the UK or any other country. Cautions, warnings and reprimands are out of court disposals that are recorded on a person’s criminal record and are taken in to account when assessing a person’s character.
- 30. You must say if your details have been recorded by the police as a result of certain sexual offences, or if you are subject to one of the following orders: notification order, sexual offences prevention order, foreign travel order, risk of sexual harm order (or equivalent order made in a British overseas territory or any other country). If your details are recorded on the “sex offenders” register, even if any conviction is spent, the Home Secretary is unlikely to be satisfied that you meet the good character requirement and so an application for citizenship is unlikely to be successful.

31. You must say if there is any offence for which you may go to court or which is awaiting hearing in court. This includes having been arrested for an offence and waiting to hear if you will be formally charged. If you have been arrested and not told that charges have been dropped, or that you will not have to appear in court, you may wish to confirm the position with the police. For applicants from Scotland any recent civil penalties must also be declared. You must tell us if you are arrested or charged with an offence after you make your application and while the application is under consideration. You risk prosecution under section 46 of the British Nationality Act 1981 if you do not do so.
32. You must also say whether you have had any involvement in terrorism. If you do not regard something as an act of terrorism but you know that others do or might, you should mention it. You must also say whether you have been involved in any crimes in the course of armed conflict, including crimes against humanity, war crimes or genocide. If you are in any doubt as to whether something should be mentioned, you should mention it.
33. For the purpose of answering questions F.7 to F.12 you should refer to the definitions in this Guide on actions which may constitute genocide, crimes against humanity and war crimes.
34. This guidance is not exhaustive. Before you answer these questions you should consider the full definitions of war crimes, crimes against humanity and genocide which can be found in Schedule 8 of the International Criminal Court Act 2001 at the following web-site: <http://www.hmsso.gov.uk/acts/acts2001/20010017.htm>. Alternatively, copies can be purchased from The Stationery Office, telephone 0870 600 5522.
35. It is your responsibility to satisfy yourself that you are familiar with the definitions and can answer the questions accurately.

Genocide

36. Acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.

Crimes against humanity

37. Acts committed at any time (not just during armed conflict) as part of a widespread or systematic attack, directed against any civilian population with knowledge of the attack. This would include offences such as murder, torture, rape, severe deprivation of liberty in violation of fundamental rules of international law and enforced disappearance of persons.

War Crimes

38. Grave breaches of the Geneva Conventions committed during an armed conflict. This includes an internal armed conflict and an international armed conflict. The types of acts that may constitute a war crime include willful killing, torture, extensive destruction of property not justified by military necessity, unlawful deportation, the intentional targeting of civilians and the taking of hostages.

Terrorist Activities

39. Any act committed, or the threat of action, designed to influence a government or intimidate the public and made for the purpose of advancing a political, religious or ideological cause and that involves serious violence against a person; that may endanger another person's life; creates a serious risk to the health or safety of the public; involves serious damage to property; is designed to seriously disrupt or interfere with an electronic system.

Organisations concerned in terrorism

40. An organisation is concerned in terrorism if it:
- commits or participates in acts of terrorism,
 - prepares for terrorism,
 - promotes or encourages terrorism (including the unlawful glorification of terrorism), or
 - is otherwise concerned in terrorism.

Deception

41. If you have practised deception in your dealings with the Home Office or other Government Departments (e.g. by providing false information or fraudulent documents) this will be taken in to account in considering whether you meet the good character requirement.
42. Your application will be refused if you have attempted to deceive the Home Office within the last 10 years.

Immigration Related Issues

43. Your application may also be refused if you have evaded immigration control in the last 10 years or helped someone else to evade immigration control or employed illegal workers, at any time. Full details of our policy can be seen at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385792/Chapter_18_Annex_D_v02_141210_web_version.pdf.
44. You must say whether you have been involved in anything which might indicate that you are not of good character. You must give information about any of these activities no matter how long ago it was. Checks will be made in all cases and your application may fail and the fee will not be fully refunded if you make an untruthful declaration. If you are in any doubt about whether you have done something or it has been alleged that you have done something which might lead us to think that you are not of good character you should say so.
45. You must tell us if you have practised deception in your dealings with the Home Office or other Government Departments (e.g. by providing false information or fraudulent documents). This will be taken in to account in considering whether you meet the good character requirement. If your application is refused, and there is clear evidence of the deception, any future application made within 10 years is unlikely to be successful.
46. You should also tell us if you have any children who have been convicted of an offence or who have received a court order (e.g. an ASBO), We will consider if there are indications that you may have been complicit in their activities or particularly negligent in your dealings with the authorities.

Deprivation

47. You may be deprived of your British citizenship if it is found to have been obtained by fraud, false representation or the concealment of any material fact. The Home Secretary may also deprive you of British citizenship if she is satisfied that deprivation is conducive to the public good and you would not be made stateless. Following the Immigration Act 2014, the Home Secretary may also deprive naturalised persons of their British Citizenship if the person has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom and the Home Secretary has reasonable grounds for believing the person is able, under the law of another country to become a national of that country or territory.

SECTION G – BIOMETRIC ENROLMENT

48. As part of your application, all applicants are required to enrol their biometric details for the purpose of identity verification.
49. Children under 18 applying for registration as a British citizen, must also enrol their biometric details. Children under the age of 6 do not need to provide fingerprints, but must have a digital photograph taken of their face. The requirement for fingerprints to be taken from the age of six comes from EU Regulation 380/2008. Up to the age of six the Home Office only requires a digitised image of the child's face, although the regulation does not prevent fingerprints being recorded from children aged less than six years. There is no upper age limit for biometric information to be taken.
50. Children under the age of 16 must be accompanied by a parent or legal guardian at their biometric enrolment appointment.
51. You must complete the biometric enrolment section of the application form
52. In order to book an appointment to enrol your Biometrics please visit www.vfsglobal.co.uk/Global/ sign up and follow the on screen instructions. Here you will find your nearest location. There may be a service charge of £10 per person to be paid online depending on location; this will be made apparent on the website.

Do not send the biometric enrolment fee with your application fee.

53. Your application may be rejected as invalid if you do not enrol your biometrics when requested. For more information about enrolling biometrics and the current fee, please visit the following section of our website: www.gov.uk/biometric-residence-permits
54. If you have previously enrolled your biometric details and been issued with a biometric residence permit, you must include this with your application.
55. You will not be issued with a new biometric permit, but your current biometric permit will be returned to you, and your fingerprint details will be retained, until we are notified that you have attended your citizenship ceremony.

SECTION H - DECLARATION

56. When you have filled in the form, sign and date the declaration, OTHERWISE THE APPLICATION WILL NOT BE VALID.

DOCUMENTS YOU SHOULD SEND WITH THE FORM

57. You should send:
 - the fee;
 - a photocopy of your Hong Kong Permanent Identity Card (if you have been issued with one);
 - Documentary evidence of ordinary residence:- evidence that you are currently ordinarily resident in Hong Kong and that you (and, if you are under 18, your parents) were ordinarily resident on the other date which applies to you e.g proof of rent/mortgage payments, employer's letters or tax records for the period concerned. you should also provide your Hong Kong Travel Record for this period; and

- documentary evidence of your nationality:- a photocopy of your passport; or the original of your certificate of naturalization, certificate of registration or other - documentary evidence that you were on 30 June 1997 a British Dependent Territories citizen, or that you are a British National (Overseas), a British Overseas citizen, British subject or British protected person; and
- documentary evidence that you have renounced or otherwise ceased to hold any non-British nationality you have held; and
- if you are under 18, your birth certificate showing details of your parents, and your parents' marriage certificate.

You should send in the originals of these documents except where it is otherwise stated. Where photocopies of documents are sent, the original documents may be requested when your application reaches its turn for consideration.

WHERE TO SEND YOUR APPLICATION FORM

58. All applications will be considered by the Home Office in the United Kingdom.

If you are in the Channel Islands or the Isle of Man, you should send them to the Lieutenant Governor.

If you are in a dependent territory send them to the governor.

If you are elsewhere, send them to:

Department 1
UKVI
The Capital
New Hall Place
Liverpool
L3 9PP

59. You must make your application in this way.

60. By law, the date of your application will be the date on which it is received by the as authority shown above, not the date on which you send it. It is not advisable to post your application to the Consulate-General as you are about to leave Hong Kong, because it may not be received before your departure. In these circumstances your application would not be valid.

AFTER YOU HAVE SENT IN YOUR APPLICATION

CHANGES AFTER YOU SEND IN YOUR FORM

61. The declaration at the end of the application form includes an undertaking to tell the Home Secretary if any changes occur which affect the accuracy of the information you put on the form. It is important that you do this while your application is being considered. It may remind you to do this if you take a copy of your completed application form.

62. Please remember to notify any changes of address or telephone number in writing, quoting your application's reference number, if known.

WAITING TIMES

63. All applications will be dealt with as quickly as possible. It is possible that some applicants will need to provide more details about their applications and may be asked to attend an interview.

CERTIFICATE OF REGISTRATION

64. If you are successful you will normally be invited to collect your certificate of registration from the British Consulate General in Hong Kong in person, and you will need to have with you satisfactory evidence of your identity, preferably your Hong Kong Permanent Identity Card (if you have one). But a certificate may be withdrawn if it is found to have been obtained by fraud, false representation or the concealment of any material fact.