



HM Government

# **Hong Kong British National (Overseas) Visa Policy Statement**

July 2020

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# Hong Kong British National (Overseas) Visa Policy Statement

Presented to Parliament

by the Secretary of State for the Home Department

by Command of Her Majesty

July 2020



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# Foreword by the Home Secretary

The decision of the Chinese Government to impose its national security legislation on Hong Kong is a matter of deep regret to this Government. This legislation and its strict implementation constitutes a clear breach of the 1984 Sino-British Joint Declaration, undermining the “one country, two systems” framework. It cannot be ignored.

Before the handover of the UK’s responsibilities for Hong Kong, we created the British National (Overseas) (BN(O)) nationality status which was opened to people in Hong Kong, through a registration process, to those who had British Dependent Territories citizenship. This status recognised the special and enduring ties the UK has with those people as a result of our role in Hong Kong before 1997. Now that China, through its actions, has changed the circumstances that BN(O) citizens find themselves in, it is right that we should change the entitlements which are attached to BN(O) status. I have decided to improve significantly those entitlements, to reassure BN(O) citizens that they have options to live in the UK if they decide that is an appropriate choice for them.

BN(O) citizens in Hong Kong are in a unique position, which is why I have designed a policy which is specific to them in the wider immigration system. It will not set a precedent. It is a proportionate response to the situation which has arisen. The UK is entitled to decide on the rights attaching to BN(O) status which it has previously conferred and that is what I am doing with these changes.

My offer to BN(O) citizens is a very generous one. I am not imposing skills tests or minimum income requirements, economic needs tests or caps on numbers. I am giving them the opportunity to acquire full British citizenship. They do not need to have a job before coming to the UK - they can look for work once here. They may bring their immediate dependants, including non-BN(O) citizens.

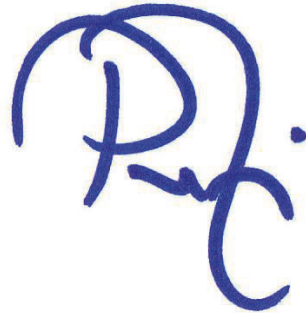
At the same time, it is not an unconditional offer. BN(O) citizens will need to support themselves independently while living in the UK; they must meet our strict criminality checks and stay of good character; they will need to pay visa fees, the Immigration Health Surcharge and, if they subsequently apply for citizenship after they become settled, the fee and meet the criteria. These are reasonable things to ask of BN(O) citizens, and BN(O) citizens will need to ask themselves whether coming to the UK to put down roots here is the right choice for them. It is a choice I am making available and I welcome warmly all those who decide to take it.

We are planning to open the Hong Kong BN(O) Visa for applications from January 2021. BN(O) citizens do not need to hold a BN(O) passport in order to apply for the visa – so there is no need for them to apply for, or renew, a BN(O) passport specifically for this purpose. All BN(O) citizens will need a visa to be able to settle in the UK.

We understand there will be cases where the children of BN(O) citizens will not normally be eligible because they were born after 1997 (so are not BN(O) citizens) and are over 18 so they would not normally be considered as a dependant in the UK’s immigration system. Therefore, in compelling and compassionate circumstances, we will use discretion to grant a visa to the children of BN(O) citizens who fall into this category and who are still dependent on the BN(O).

If the above doesn't apply then the existing youth mobility scheme is open to people in Hong Kong aged between 18-30, with 1000 places currently available each year. Individuals from Hong Kong will also be able to apply to come to the UK under the terms of the UK's new Points Based System, which will enable individuals to come to the UK in a wider range of professions and at a lower general salary threshold than in the past.

The Home Office looks forward to receiving applications for this visa.

A handwritten signature in blue ink, appearing to be 'P. Patel', with a period at the end.

**RT HON PRITI PATEL MP**

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# Overview

The United Kingdom will create a new bespoke immigration route for British Nationals (Overseas) (BN(O) citizens) from Hong Kong, reflecting the unique and unprecedented circumstances in Hong Kong and the UK's historic and moral commitment to BN(O) citizens. This policy statement sets out how the new Hong Kong BN(O) Visa will operate.

The UK Government's decision to introduce a new Hong Kong BN(O) Visa follows the imposition by the Chinese Government of a national security law on Hong Kong that restricts the rights and freedoms of the people of Hong Kong and constitutes a clear and serious breach of the Sino-British Joint Declaration.

BN(O) status is a form of British nationality created for people from Hong Kong so they could retain a form of British nationality and connection to the UK after the handover to China in 1997 in line with the Sino-British Joint Declaration. Anyone who was a British Dependent Territories citizen through a connection with Hong Kong was able to apply to register as a BN(O) and apply for a BN(O) passport. People could apply for BN(O) status for a period of ten years prior to the handover to China on 1st July 1997. It is not possible to apply for BN(O) status now.

Approximately 3.4 million people obtained BN(O) status. With the passage of time we estimate there may be 2.9 million BN(O) citizens still alive. BN(O) status is not passed on to children.

BN(O) citizens can hold a British passport and get consular assistance and protection from UK diplomatic posts. Currently they are entitled to visit the UK for up to 6 months at a time, without a visa. They are subject to immigration controls and do not have a right of abode in the UK.

The UK Government will change that by giving those who registered as a BN(O) citizen the opportunity to apply for a visa which will enable them to come to the UK with a view to settling here permanently and then applying to become British citizens if they so wish.

This is in recognition of the unprecedented circumstances in Hong Kong, the UK's historic commitment to the people of Hong Kong through the Joint Declaration, and our unique obligations towards those who elected to retain their ties with the UK through obtaining BN(O) status.

The new Hong Kong BN(O) Visa will allow BN(O) citizens to reside and work or study in the UK, with a pathway to settlement (also known as permanent residence or indefinite leave to remain) and then citizenship. For their part, BN(O) citizens wishing to come to the UK will be expected to be self-sufficient and to integrate and contribute to the betterment of UK society.

The visa will be valid for up to 5 years, during which time the holder is subject to UK immigration control. After 5 years in the UK and, provided they have stayed free of criminality, have supported themselves financially and otherwise complied with the terms of the visa, they will be able to apply for settled status; after a further year they may apply to naturalise as a British citizen. Immigration fees and charges will be payable at each stage and it will be a condition of temporary residence that visa status is obtained and maintained in accordance with our rules. Visa holders will not require additional permissions to work or to study, and may become the dependants of a UK resident, for example through marriage.

In order to qualify for settled status after 5 years, visa holders must meet our rules for continuous residence in the UK, which allow for absences of up to 180 days in any 12-month period. Once settled status is acquired, it may be retained despite absences from the UK of up to 2 years but may be forfeited if absences are longer without good reason. If after 5 years the visa holder does not apply for settled status or is refused, they will be expected to leave the UK and may be removed. Those here temporarily or with settled status who commit criminal acts may be removed.

During the 5 years of temporary residence as a visa holder, the BN(O) citizens will have access to the National Health Service, having paid the Immigration Health Surcharge as a condition of obtaining the visa. School aged children of BN(O) visa holders will have access to public education. Visa holders will not otherwise have access to public funds such as unemployment and housing benefit and will be responsible for their own accommodation and maintenance. They will pay taxes and national insurance in the UK on earnings here.

# The Scheme

## Eligibility

BN(O) citizens with their immediate family dependants, comprising spouse or partner and children aged under 18, will be eligible to apply for the Hong Kong BN(O) Visa. Dependants need not have BN(O) status themselves to be eligible. Dependent grandparents or other relatives will not be eligible if they are not BN(O) citizens in their own right.

There will be cases where the dependent children of a BN(O) citizen will not normally be eligible because they were born after 1997 (so are not BN(O) citizens) and are over 18 so would not ordinarily be considered as a dependant in the UK's immigration system. We do not wish to split family units where there are dependent children over the age of 18, given the particular challenges linked to the timing of obtaining BN(O) status. In compelling and compassionate circumstances, we will therefore use discretion to grant a visa to the children of a BN(O) citizen who fall into this category and who are still dependent on the BN(O) citizen. We will limit this discretion ordinarily to children of BN(O) citizens who were born after the 1 July 1997 who will also be able to apply as dependants, if one of their parents holds BN(O) status and they apply together as a family unit.

In exceptional circumstances of high dependency, other adult dependants of a BN(O) citizen applying for the visa may also be eligible at the UK Government's discretion, considered on a case by case basis.

If the above doesn't apply then the existing youth mobility scheme is open to people in Hong Kong aged between 18-30, with 1000 places currently available each year. Individuals from Hong Kong will also be able to apply to come to the UK under the terms of the UK's new Points Based System, which will enable individuals to come to the UK in a wider range of professions and at a lower general salary threshold than in the past.

In addition to holding BN(O) status, applicants and their dependants must also:

- be ordinarily resident in Hong Kong, which includes those currently in the UK but who are ordinarily resident in Hong Kong;
- be able to demonstrate their ability to accommodate and support themselves in the UK for at least six months;
- demonstrate a commitment to learn English in the UK where appropriate – on entry, there will be no English language requirement but applicants will require a

good knowledge of the English language if they choose later to make an application for settled status (indefinite leave to remain) after five years;

- hold a current tuberculosis test certificate from a clinic approved by the Home Office<sup>1</sup>;
- pay a fee for the visa and the Immigration Health Surcharge both payable in full at the point of the visa application; and
- have no serious criminal convictions, have not otherwise engaged in behaviour which the UK Government deems not conducive to the public good, and not be subject to other general grounds for refusal set out in the Immigration Rules.

The fee for the initial visa and any renewal will be announced in due course. If individuals then wish to settle or obtain citizenship in the UK, each of these applications will attract additional fees. The fee for settlement is currently set at £2389 plus a £19.20 Biometric enrolment fee, whilst citizenship currently costs £1206 for adult applications. Although the fee for the new route has not yet been established, we will look at analogous routes, the principles for determining fees set out in the Immigration Act 2014 and the overall design of the new Immigration System.

## Conditions and entitlements

BN(O) citizens and their dependants who apply and meet the requirements set out above will have the following entitlements and restrictions in the UK for the period of leave granted under the Hong Kong BN(O) Visa:

- leave to remain in the UK for a period of five years. This will consist of an initial period of 30 months' leave, renewable by a second charged application for a further 30 months. Alternatively, applicants will be able to apply for 5 years' leave from the outset, upon payment of a higher fee and the Immigration Health Surcharge for the duration. Applying for 5 years' leave is likely to be more cost effective overall;
- the ability to apply for settlement (indefinite leave to remain) in the UK after five years' leave under existing rules, and to apply for UK citizenship after 12 months settlement under existing rules and application processes;
- no recourse to public funds;
- the right to work in the UK in almost any capacity as an employed or self-employed person, consistent with UK employment laws and subject to having the appropriate skills and qualifications;
- access to education including:

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<sup>1</sup> There are a number of listed countries from which residents who are planning to come to the UK for more than 6 months require a tuberculosis test. More information can be found at <https://www.gov.uk/tb-test-visa>

- schooling for under 18 child dependants;
- education and training for young people aged 16-19;
- the ability to apply for higher education courses;
- access to healthcare free at the point of use on the same terms as British residents, contingent on payment of the Immigration Health Surcharge (see above). It is right that a contribution is made by BN(O) citizens who will benefit from access to our world class National Health Service.

BN(O) citizens and their dependants will be expected to comply with UK laws. Anyone convicted of a criminal offence in the UK will be liable for removal.

## The application process

Applications to the Hong Kong BN(O) Visa will be via a digital online application. This will be based on similar technology to the EU Settlement Scheme and will in practice mean that the majority of applications can be completed online without the need to send in physical documents by post or be interviewed.

There will be no requirement for applicants to apply for or hold a valid BN(O) passport and successful applicants will be able to travel on a valid Hong Kong Special Administrative Region Passport. However, valid or expired BN(O) passports should be kept and submitted with an application as evidence of BN(O) status. Where a BN(O) passport has been lost, eligibility checks can be made using historical records held by Her Majesty's Passport Office.

Applications for the Hong Kong BN(O) Visa can be made from Hong Kong, from within the UK or elsewhere.

All applicants will be required to provide biometric data. BN(O) citizens will not be required to submit fingerprint biometrics and will simply have to provide facial biometrics as part of the application process. Dependants of BN(O) citizens who are not BN(O) citizens themselves will need to give their fingerprints as part of the application process.

Successful applicants will be issued with a digital visa.

## Timing of introduction of the visa

As this is a new, tailor-made visa route, the Government will make new Immigration Rules for the Hong Kong BN(O) Visa in the Autumn, with an associated Fees Order. The necessary digital and operational infrastructure for the new route will be developed in parallel. The Hong Kong BN(O) Visa will be open for applications from BN(O) citizens from January 2021. BN(O) citizens do not need to hold a BN(O) passport in order to do so if they have another valid passport that allows visa-free travel to the UK. There is, therefore, no need to apply for or renew a BN(O) passport specifically for the purpose of applying for the new BN(O) Visa.

Further detail concerning applications will be published in due course.

## BN(O) citizens in the UK

We recognise that there will be BN(O) citizens currently in the UK who may wish to apply for the Hong Kong BN(O) Visa. BN(O) citizens already in the UK on another form of leave will be able to apply and switch to the Hong Kong BN(O) Visa from within the UK from January 2021.

BN(O) citizens already in the UK whose leave is due to expire before the Hong Kong BN(O) Visa is available, should look to extend their leave in line with the rules of their existing route and then apply for the Hong Kong BN(O) Visa.

Further details will be published in due course including for those on a visa without a provision for extension.

## Arrivals at the border

We encourage those who may wish to apply for the Hong Kong BN(O) Visa to apply and travel to the UK once it is fully operational from January 2021.

We recognise that there may be a small number of BN(O) citizens who nonetheless wish to travel sooner. In these exceptional circumstances, Border Force Officers will be able to consider granting Leave Outside the Rules ('LOTR') for a period of six months to BN(O) citizens and their accompanying dependants at the UK border, if they do not satisfy Border Force that they are eligible for entry via another immigration route. It will still be open to Border Force Officers to refuse individuals entry to the UK where there is good reason to do so.

In line with the eligibility requirements for the Hong Kong BN(O) Visa, individuals will need to be able to demonstrate the following to Border Force Officers:

- that they have BN(O) status – a BN(O) passport is not required as Border Force Officers will be able to access the majority of historical records, although holding current or former BN(O) passports may make the process quicker;
- that they are ordinarily resident in Hong Kong;
- evidence of dependants' family links to the main applicant;

- the ability to accommodate and support themselves for their initial period in the UK; and
- that they have no serious criminal convictions, have not otherwise engaged in behaviour which the UK Government deems not conducive to the public good, or be subject to other general grounds for refusal set out in the Immigration Rules.

## Further information

Further details on the Hong Kong BN(O) Visa is available online at <https://www.gov.uk/guidance/british-nationals-overseas-in-hong-kong>. It will be updated with further details of the route as they become available, including the timing of the introduction of the Hong Kong BN(O) Visa.



## Annex A: Customer Journey

Step	Journey stage	BN(O) actions
1	Planning to come	BN(O) citizens and their dependants will want to ensure they have the necessary documentation to support their application for a Hong Kong BN(O) Visa including, for example, proof of residence in Hong Kong, evidence of their ability to maintain themselves in the UK (e.g. bank statements) and undertaking a tuberculosis test.
2	The application process	Most BN(O) citizens will complete their application entirely online. Non-BN(O) visa and non-visa national dependants will be required to give fingerprint biometrics. BN(O) citizens and their dependants who meet the criteria will be granted a Hong Kong BN(O) Visa.
3	Living in the UK	BN(O) citizens and their family dependants in the UK with leave under the Hong Kong BN(O) Visa will need to be self-sufficient and commit to learning English where appropriate and integrating in the UK.
4	Application for settled status/citizenship	<p>BN(O) citizens and their family dependants will be eligible to apply for Indefinite Leave to Remain in the UK after five years' residence in the UK, subject to immigration rules. At this point, BN(O) citizens and family dependants will be required to have proof of knowledge of the English language.</p> <p>After a further 12 months of leave in the UK, BN(O) citizens and their family dependants will be eligible to apply for British citizenship.</p>





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