



GMS Flash Alert

Immigration Edition

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United Kingdom - Residence Visas Will Be Offered to Nearly 3m Hong Kong Citizens

In June Boris Johnson, the British prime minister, wrote in *The Times* newspaper that if the People's Republic of China ("China") were to impose a proposed national security law, the British government would change its immigration rules and allow a right to live and work in the U.K. to nearly 3 million Hong Kong citizens eligible for a British National Overseas passport ("BNO").¹

The Chinese government has imposed the new national security law on 30 June.²

The prime minister and the foreign secretary responded quickly. Foreign Secretary Dominic Raab said in the House of Commons "We will proceed to honour our commitments to those with BN(O) status."³ He went on to describe the new immigration category that will be made available to all of those who are eligible for BN(O) status. This new immigration category, confirmed by the Home Secretary Priti Patel, will allow BN(O) nationals to leave to enter/remain in the U.K. for five years, with the right to work.⁴ At the end of this period, subject to certain requirements having been fulfilled, they will be eligible to apply for indefinite leave to remain in the United Kingdom. One year after that, again subject to certain requirements having been fulfilled, they would be eligible to apply for British citizenship.⁵

WHY THIS MATTERS

This is a major change to the U.K.'s immigration law with respect to British Nationals (Overseas) and opens up the possibility of U.K. residency and British citizenship to close to an estimated 2.9 million Hong Kong residents.⁶

Context

Since the U.K.'s handover of Hong Kong to the People's Republic of China in 1997, Hong Kong's governance has been underpinned by the concept of "one country, two systems." This concept is enshrined in Hong Kong's basic law and

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underpinned by a joint declaration signed by Britain and China (“the Joint Declaration”). The Joint Declaration is a legally binding treaty registered with the United Nations. It guarantees Hong Kong a “high degree of autonomy” for 50 years with only limited exceptions such as foreign affairs, defence, or in a state of emergency.⁷

A memorandum attached to the Joint Declaration provides for the “visa,” “passport,” and travel status of Hong Kong citizens.⁸ In May, Beijing introduced a national security law in Hong Kong, which would impact Hong Kong’s freedoms and level of autonomy. In June, the U.K. government said that if China proceeds, this would be in direct conflict with its obligations under the Joint Declaration.⁹ The national security law would make it a crime to undermine Beijing’s authority in Hong Kong, and there are concerns, particularly in Hong Kong itself and among Western leaders, that it could end Hong Kong’s status.

What Is a BNO?

A BNO passport is a British travel document that does not carry citizenship – although BNO holders are entitled to some consular assistance outside of Hong Kong and China. It was issued to people in Hong Kong by the U.K. before Hong Kong transferred to China in 1997. Around 300,000 people currently hold a BNO passport, allowing them to visit the U.K. visa-free for six months. The Home Office estimates that 2.9 million people are eligible for a BNO passport in Hong Kong.¹⁰

BNO Passport under Current System

Though BNO passport holders can stay in the U.K. for up to six months, they are not automatically permitted to reside or work in the country. BNO passport holders are also not allowed to access public funds, including government benefits.¹¹

FOOTNOTES:

1 The column by the prime minister, “Boris Johnson on the Hong Kong crisis: We will meet our obligations, not walk away,” *The Times* (3 June 2020) can be found online at: <https://www.thetimes.co.uk/article/hong-kong-crisis-we-will-meet-our-obligations-not-walk-away-zv7f70n29> . (Note that this is a 3rd party (non-governmental, non-KPMG) website. Providing this link does not represent an endorsement of this website by KPMG.) For more information on Hong Kong and the U.K., see the dedicated U.K. government webpage at: <https://www.gov.uk/world/hong-kong/news> .

2 See “National security law rules gazetted,” (with links to relevant texts and documents) at: https://www.news.gov.hk/eng/2020/07/20200706/20200706_204612_065.html .

3 See the U.K. government press release “UK to extend residence rights for British Nationals (Overseas) citizens in Hong Kong” at: <https://www.gov.uk/government/news/uk-to-extend-residence-rights-for-british-nationals-overseas-citizens-in-hong-kong> .

4 Ibid.

5 Ibid.

6 For reference to the column and foreign secretary’s statement, see P. Wintour and H. Davidson, “Boris Johnson lays out visa offer to nearly 3m Hong Kong citizens,” in *The Guardian* (online), 3 June 2020, at: <https://www.theguardian.com/world/2020/jun/03/britain-could-change-immigration-rules-for-hong-kong-citizens> . (Note that this is a 3rd party (non-governmental, non-KPMG) website. Providing this link does not represent an endorsement of this website by KPMG.)

7 See the most recent six-monthly assessment of the implementation of the 1984 Sino-British Joint Declaration and Hong Kong at: <https://www.gov.uk/government/news/six-monthly-report-on-hong-kong-july-to-december-2019> .

8 See the “Memoranda (Exchanged Between the Two Sides) – the United Kingdom Memorandum” on the website of Hong Kong SAR’s Constitutional and Mainland Affairs Bureau at: <https://www.cmab.gov.hk/en/issues/jd6.htm> .

9 See the recent remarks by the U.K.'s Ambassador to the WTO and UN in Geneva, Julian Braithwaite at: <https://www.gov.uk/government/speeches/un-human-rights-council-43-item-8-general-debate> .

10 See the "Blog: Home Office in the Media" 29 May 2020 entry “Media factsheet: Hong Kong BN(O)” at: <https://homeofficemedia.blog.gov.uk/2020/05/29/media-factsheet-hong-kong-bnos/> .

11 Ibid.

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or the following professional with the KPMG International member firm in the United Kingdom.

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.



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