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Newsletter Hong Kong

Things expatriates got to know before applying for their working visa in Hong Kong

Hong Kong is a unique cosmopolitan city where East meets West and old meets new. It is distinctive in terms of its well-established infrastructures, internationally recognized commercial and financial centre, and close proximity to Mainland China that serves as a golden gateway to do businesses in and out of Mainland China more easily. The uniqueness of Hong Kong not only attracts foreigners coming for visits, but also attracts them to relocate, most of the time with their family members, to work and live in Hong Kong on a long-term basis.

This article provides a brief introduction and the latest updates towards the most popular type of employment visa application i.e. foreign professionals may apply their employment visa(s) under the General Employment Policy (“GEP”) provided by The Hong Kong Immigration Department. *The GEP does not apply to Chinese residents of the Mainland of China and nationals of Afghanistan, Cambodia, Cuba, Laos, Democratic People’s Republic of Korea, Nepal and Vietnam.*

1. Applicant’s Eligibility Criteria under the GEP

Besides meeting normal immigration requirements such as no security objection and no criminal record, considering the applicant is a professional who possesses special skills, knowledge or experience of value to and not readily available in Hong Kong, he/she may apply to come to work in Hong Kong under the GEP.

The Hong Kong Immigration Department usually focuses on the following criteria *from the perspective of applicant*:-

- The applicant should possess a good education background – it implies the applicant should at least have obtained a recognized university degree.
- The applicant should have accumulated a reasonable period of working experience and/or developed a strong business connection in the industry that is relevant to the employment opportunity in Hong Kong.

- The applicant should possess a good level of language skills. For instance, the applicant is preferable to be well versed (both written and spoken) in at least two languages including English.
- In case the applicant has obtained other qualification(s) relevant to the employment opportunity in Hong Kong, it will be a bonus to their employment visa application under the GEP.
- The applicant's remuneration package including income, accommodation, medical and other fringe benefits offered by the Hong Kong employing company should be broadly commensurate with the prevailing market level for professionals in Hong Kong. That is, the remuneration package of the applicant offered by the Hong Kong employing company should be of expatriate level.

2. Hong Kong Employing Company as Sponsor for the Applicant

The Hong Kong Immigration Department requires the Hong Kong employing company to possess sufficient business substances including having a physical office in Hong Kong, hiring Hong Kong local employees and having strong financial supports *from the perspective of Hong Kong employing company*:-

- In case the Hong Kong employing company is a well-established business, it is necessary to provide the latest audited financial statements and/or management accounts and/or profits tax return as major financial proof documents.
- In case the Hong Kong employing company is a newly incorporated Hong Kong company (for companies newly incorporated within 12 months from the submission date of application), it is required to submit a detailed business plan (in our experience usually 2-years business plan) together with relevant solid financial proof supporting documents upon application.

The Hong Kong employing company is required to possess sufficient business substances in terms of financial supports, office space leasing and recruitment of local employees that are all satisfied to the requirements of The Hong Kong Immigration Department. Lack of any of these business substances in the Hong Kong employing company normally leads to rejection of the application by The Hong Kong Immigration Department largely.

In our experience, The Hong Kong Immigration Department has started since July 2016 requiring the Hong Kong employing company to submit also the “Employing Company’s Declaration” to confirm whether genuine efforts have been made to recruit suitable local candidate but without success. The Hong Kong employing company is required to provide written explanation if it fails to carry out such local recruitment exercises. Therefore, it becomes necessary for the Hong Kong employing company to carry out local recruitment exercises nowadays as The Hong Kong Immigration Department might ask the Hong Kong employing company to provide details of the recruitment exercises conducted such as summary of the interview result and/or the resumes of the interviewees when necessary.

3. Entry of Dependants

The applicant admitted under the GEP may apply to bring in their legally married spouse and unmarried dependent children under the age of 18 to Hong Kong. The applicant may submit the dependant visa application documents for each dependent family member when applying his/her employment visa from The Hong Kong Immigration Department.

The applicant is the sponsor for each dependent family member in Hong Kong and The Hong Kong Immigration Department may issue employment visa to the applicant and dependant visa(s) to the applicant's dependent family member(s) at the same time in this case.

4. Application Processing Time

It normally takes 4 to 6 weeks for The Hong Kong Immigration Department to process and provide feedbacks after submission of the application documents.

Most of the time, The Hong Kong Immigration Department tends to ask for further information and/or clarifications and/or supporting documents from the applicant, the Hong Kong employer and sometimes the parent company of the Hong Kong employer (depends on the company structure of the Hong Kong employer). It takes more time for The Hong Kong Immigration Department to process the further submitted documents and this may prolong the employment visa and dependant visa(s) issuance time (if applicable).

5. Conditions of Stay for Employment Visa under the GEP

Under the current GEP, The Hong Kong Immigration Department normally issues an initial 24-months (2-year) employment visa to successful applicants provided that the employment agreement between the applicant and the Hong Kong employing company allows the applicant to work for at least 2 years in Hong Kong; and the applicant's passport is valid for the approved employment visa duration.

The applicant should be aware that the employment visa issued under the GEP by The Hong Kong Immigration Department is **on employment conditions**. That is, it is mandatory for the applicant to notify The Hong Kong Immigration Department every time when he/she changes Hong Kong employer during the valid employment visa period and the applicant is not allowed to take up new employment without prior approval from The Hong Kong Immigration Department.

6. Extension of Stay and Right of Abode

In case the applicant has obtained an initial 2-year employment visa under the current GEP from The Hong Kong Immigration Department, he/she may apply extension of stay in Hong Kong normally 4 weeks before his/her limit of stay expires, and he/she may apply for extension of stay in Hong Kong follow the 3-3-years pattern.

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The applicant's dependent family members who are holding dependant visa(s) may also apply extension of stay in Hong Kong 4 weeks before their limit(s) of stay expire as long as their sponsor i.e. the applicant is holding a valid employment visa in Hong Kong.

Both the applicant (holding an employment visa) and his/her dependent family members (holding dependant visas) who have ordinarily resided in Hong Kong for a continuous period of not less than 7 years may apply to The Hong Kong Immigration Department for the right of abode in Hong Kong. After approval, they will become permanent residents and may apply for their permanent identity cards in Hong Kong.

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