

## Visa to Take Up Employment in the HKSAR (Change of Employer)

VisaGeeza.Ai

### An Employment Visa Holder Seeking to Change Employers?

Hong Kong's General Employment Policy grants employment visas to foreign professionals who can contribute significantly to the region's workforce. To successfully obtain this visa, applicants must fulfil several criteria and navigate a detailed application process. These criteria apply to both new applicants for an Employment Visa and those who are seeking to change their employer whilst holding a current Employment Visa.

Whilst your change of employer application is ongoing there is no change in the dependant visa permissions of your accompanying family. The following elaborates on the key points of the change of employer application process and the criteria required for obtaining a Hong Kong employment visa.

First and foremost, applicants must have a strong educational background, typically a bachelor's degree, along with at least two years of post-graduation experience in a managerial or supervisory role. In some cases, the Hong Kong Immigration Department (ImmD) may accept technical qualifications, proven professional abilities, and extensive relevant work experience instead of a formal university education.

This highlights the importance of showcasing the applicant's skills, knowledge, and experience, which must be valuable and not readily available in Hong Kong. Applicants must also be of good character, which means they should have no security objections or serious criminal record. Furthermore, the compensation package offered to the applicant should be on par with market rates.

Employers cannot offer lower salaries to foreign professionals compared to local employees for the same role. The employing company must be deemed a suitable and credible sponsor by the Hong Kong Immigration Department. This means that the company should be well-established, have a properly set up office, and already employ Hong Kong locals. The company must demonstrate local recruitment efforts for the role in question unless the applicant's salary exceeds HKD2 million per annum or their role is included on the Talent List published by the Hong Kong Immigration Department.

If no local recruitment has been carried out, official declarations must be made on the sponsorship form ID990B, stating the reasons for the absence of local recruitment.

In the application process, various documents are required from both the employer and employee. However, if the company has had an employment visa approved by the Hong Kong Immigration Department within the last 24 months, the documentation needed for the employer is significantly reduced.

Under no circumstances should the applicant begin their employment duties until the visa application has been approved. There are no exceptions to this rule.

The application process evaluates applicants based on a set of criteria, including their education and experience, genuine job vacancy, confirmed employment offer, job relevance, local workforce availability, and remuneration package.

Depending on the applicant's situation, their application may fall into one of three classifications: intra-company transferee, locally recruited expat, or non-local expat specifically recruited from overseas.

**Intra-company transferee:** These cases are usually administrative in nature, with minimal need for substantive argument. However, it is crucial to clearly outline how the applicant meets the approvability test requirements, as this can speed up the approval process.

**Locally recruited expat:** For applicants who have resided in Hong Kong for more than a few years and are changing jobs within the same industry to a different employer, the process is mainly administrative. However, if they have only a modest period of prior residence under an employment visa or have only just recently had an employment visa approved, or if they are visitors seeking to change their status to take up an offer of employment in Hong Kong, the case must be thoroughly argued.

**Non-local expat specifically recruited from overseas:** These cases require meticulous preparation and presentation. The applicant must demonstrate how their skills, knowledge, and experience will benefit Hong Kong, especially if the hiring company is newly established or not particularly sizable. The Hong Kong Immigration Department is cautious about direct overseas recruitment seeking to bypass opportunities for locals to undertake this work, so the case must be suitably presented and correctly argued. The more senior the role, the easier it is to anticipate approval. To ensure the best possible chance of approval, applicants must provide a well-structured argument that addresses their special skills, knowledge,

experience, and the value they bring to Hong Kong. This argument should also consider the employer's credibility and the local availability of the skills in question.

Applications must be submitted to the Immigration Department either online or in person via the Residents section of Immigration HQ if the applicant is seeking to change their visa category or sponsorship while already residing in Hong Kong. The consideration process usually involves communication via email, fax or occasionally snail mail. Processing time typically ranges from four to six weeks but may take longer for complex cases. It is rare for a case to be approved without some dialogue, wherein the Immigration Department may raise questions and request additional information. Applicants are generally expected to respond to these requests within 14 days, although the Immigration Department can be flexible and provide sufficient time for a response. Applicants should carefully consider the department's requests as they can provide valuable insights into the authorities' attitude towards the application. The challenge lies in ensuring that the Approvability Test is thoroughly addressed through the materials submitted in response to the department's requests.

Once approved, the Immigration Department will notify the applicant and invite them to complete the approval formalities, which will vary depending on the application submission method.

Documents required include:

- Application forms ID990A and ID91 (applicant/employee - the ID91 -for all family members - is used if you're going to apply at the Immigration Department for an extension of stay to your employment visa at the same time as your application to change employers is approved - usually if you have less than 12 months remaining on your current visa),
- ID990B (employer/sponsor),
- Recent photograph affixed to the form,
- Copy passport details page and current visa/period of stay (white visa slip),
- Copy up-to-date CV,
- Photocopy of all graduation certificates/proof of academic qualifications,
- Copies of prior employment references and testimonials,
- Copy Letter of Engagement or Contract of Employment detailing information about the post, emolument and term,
- Copy Business Registration Certificate,
- Copy of latest audited financial report and/or management accounts,
- Copy latest profits tax return to the Commissioner for Inland Revenue,
- Copy of the most recent Annual Return filed with the Registrar of Companies (FORM NAR1), along with Companies Registry FORM ND2A (Notification of Changes of Secretary and Directors) if applicable, and FORM NSC1 (Return of Allotments),
- Detailed letter introducing the company, its business and list of staff (including HKIDs),
- Company Brochure (and/or "Company Profile "), sales publications, press articles and any similar promotional type materials, which verify the business type of the company,
- General Proofs of Business - for example, trading documentation, shipping documents, invoices, contracts, agency and distribution agreements etc.,
- Office tenancy agreement copy.

Please note that the fact of you being in Hong Kong as an employment visa holder from your old employer does not in any way enhance or detract from the consideration exercise in the grant of your employment visa. However, you are not permitted to work under any circumstances or configuration until and unless your change of employer application has been approved. It normally takes ImmD 4-6 weeks to finalize a change of employer application.

In summary, obtaining an employment visa under Hong Kong's General Employment Policy involves fulfilling specific eligibility criteria and navigating a detailed application process. Applicants must demonstrate their educational background, relevant work experience, and the value they bring to Hong Kong's workforce. The employing company's credibility and the local availability of the required skills also play crucial roles in the application process.

If your current limit of stay is set to expire after you have submitted your application to change employer and extend your limits of stay you may find yourself in the Twilight Zone prior to final approval of your applications. The Twilight Zone refers to the period when an individual's residence visa in Hong Kong has expired and they are waiting for their application for an extension or change of visa sponsor (employer) to be processed by the Immigration Department. During this time, the individual does not have a valid period of stay endorsed in any official ImmD document, but they are allowed to remain in Hong Kong with the tacit consent of the Department. The Twilight Zone ends when the Immigration Department grants the new status and extension to the individual's current limit of stay, but being in this situation does not break the continuity of ordinary residence for the purposes of a right of abode application subsequently. In very special circumstances an intending employee can be accredited for short term work for 14 days as a visitor; but that is a separate arrangement agreed with a qualified host QUANGO organization in Hong Kong and is not widely applicable.

|   |  |
|---|--|
| <b>Useful Resource 1</b>                | <a href="#">Change of Employer</a>                   |
| <b>Useful Resource 2</b>                | <a href="#">Criteria Change of Employer</a>          |
| <b>Useful Resource 3</b>                | <a href="#">Compensation Change of Employer</a>      |
| <b>Useful Resource 4</b>                | <a href="#">Documents From Applicant With Family</a> |
| <b>Hong Kong Visa Handbook Contents</b> |  |
|   | <a href="#">Visa Information</a>                     |
|   | <a href="#">Application Plan</a>                     |
|   | <a href="#">Preparing Your Case</a>                  |
|   | <a href="#">Pre-submission Checklist</a>             |
|   | <a href="#">Checklist Discussion</a>                 |
|   | <a href="#">Application Templates</a>                |
|   | <a href="#">Online Forms</a>                         |
|   | <a href="#">Completing The Forms</a>                 |
|   | <a href="#">How To Apply</a>                         |