

Visa to Take Up Employment in the HKSAR (Inter-Company Transferee)

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A Non-Resident Applying for an Employment Visa as an Inter-Company Transferee?

Employment visas in Hong Kong are issued to foreign professionals under the General Employment Policy (GEP) of the Immigration Department. If an applicant successfully obtains an employment visa, they can bring their legal spouse and any children under the age of 18 as dependents.

To be eligible for an employment visa, the applicant must meet several requirements.

- They should have a good educational background, typically a bachelor's degree and at least two years of post-graduation work experience in a managerial or supervisory role. In certain cases, the Immigration Department may accept good technical qualifications, proven professional abilities, and extensive relevant work experience instead of a formal university education.
- The applicant must also possess special skills, knowledge, or experience that are valued in Hong Kong and not readily available within the local workforce.

- They should be of good character, and the compensation package for the job, including income, accommodation, medical, and other fringe benefits, must be broadly commensurate with market rates.
- The employing enterprise must be deemed a suitable and credible employment visa sponsor by the Immigration Department. This means the company should be well established, have a properly set up office, and already employ Hong Kong locals. Various documents are required for both the employer and employee in an employment visa application. If the annual salary for the offered position is HK\$2 million or above or if the work nature is included in the Talent List published by the Hong Kong Immigration Department, the employer is not required to provide proof of difficulties in local recruitment before making the application.

Generally, it takes between four and six weeks for an employment visa application to be finalized by the Immigration Department.

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

Visas for dependents will be issued at the same time as the employment visa, as long as the marriage or civil partnership is certified and the children are the biological or adopted offspring of at least one of the parents. Dependent visa holders are permitted to work, establish or join a business, or study without requiring further permissions from the Immigration Department.

To ensure a successful application, the applicant must satisfy the Approvability Test. This involves demonstrating that they possess special skills, knowledge, or experience of value to Hong Kong and that their employer can justify engaging the services of an expatriate staff member.

Applications generally fall into three categories: intra-company transferees, locally recruited expats, or non-local expats specifically recruited from overseas. Each category requires a different approach in presenting the case for an employment visa approval.

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, a strong case argument must be developed. Good arguments are derived from a careful

application of the applicant's individual circumstances, considering the context of the job offer and the specific needs of the proposed employer's business. Additionally, the applicant's unique skills must be interwoven throughout the argument. When articulating the argument, the applicant must address several key points, such as their educational background, the genuine job vacancy, the confirmed offer of employment, and the relevance of the job to their qualifications or working experience. It is also crucial to demonstrate that the job cannot be readily taken up by the local workforce and that the remuneration package is broadly commensurate with the prevailing market level for professionals in Hong Kong.

The application can be submitted to the Immigration Department HQ either online or in person at the Receipt & Dispatch Unit or via the Entry Employment Visa section if the applicant is already a Hong Kong resident and seeking to change their visa category or sponsorship.

Once the application is submitted, the consideration process will play out via email, fax, or occasionally by post. Processing time usually takes 4-6 weeks but can be longer in more complex cases. It is rare for a case, unless it is an intra-company transferee type, to be approved without some dialogue with the Immigration Department. They may raise questions and request further information, which should be submitted within 14 days. The Immigration Department is generally flexible, providing enough time for the applicant to respond. These requests for additional information can provide valuable insights into the Immigration Department's attitude toward the case. It is essential to ensure that the Approvability Test is thoroughly addressed in the materials submitted in response to these requests, as they should carry forward the applicant's substantive argument for approval. Once the application is approved, the Immigration Department will send a notice of the positive outcome and invite the applicant to complete the approval formalities, which will differ depending on how the application was submitted.

Documents required include:

- Application form ID990A (applicant/employee),
- ID990B (employer/sponsor),
- Marriage certificate,
- Birth certificate (children), Recent photographs (all family members),
- Copy passports details page (all family members),
- Copy up-to-date CV (applicant/employee),
- Photocopy of all graduation certificates/proof of academic qualifications (applicant/employee),
- Copies of prior employment references and testimonials (applicant/employee),
- 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,
- Letter of inter-company transfer

Please ensure the supporting family documents are in the correct state of preparation. High quality scan marriage and birth certificates need to be in English or Chinese or otherwise provided as official certified translations.

If children are soon to turn 18 years of age, their eligibility to qualify for the visa will end when they reach majority age (although once issued, such visas can be readily extended after the child reaches 18). Moreover, any such children included in the application must be unmarried and self-evidently still dependant on the sponsoring parent. Step children qualify for visas but the consent of the second biological parent might well be required in writing as part of the visa approval process.

In conclusion, obtaining an employment visa in Hong Kong requires meeting specific criteria and presenting a strong case argument that demonstrates the applicant's value and the need for their unique skills in Hong Kong. By carefully considering the applicant's individual circumstances, the job offer context, and the proposed employer's business needs, the applicant can maximize their chances of a successful application. 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.

**** Resources Follow ****

Useful Resource 1	Entry Employment Visa
Useful Resource 2	Documents From Applicant
Useful Resource 3	Entry Employment With Accompanying Family
Useful Resource 4	Documents From Applicant With Family
Hong Kong Visa Handbook Contents	
Visa Information	
Application Plan	
Preparing Your Case	
Pre-submission Checklist	
Checklist Discussion	
Application Templates	
Online Forms	
Completing The Forms	
How To Apply	
Apply Online	
Visa Extension	
Changing Employer	
Quick Summary	
Podcast Discussion	