

From: Elizabeth HY FUNG/CEDB

Sent: Thursday, May 5, 2022 5:31 PM

To: David Graham <davidgraham@britcham.com>

Cc: Vivienne Tong <vivienne@britcham.com>; Burnett, Peter <Peter.Burnett@sc.com>

Subject: Re: Permanent residency

Dear Peter and David,

We hear the concerns on Hong Kong's talent supply and in this context, we recognise that some clarifications are necessary to address questions around the loss of Hong Kong permanent resident (PR) status. Having consulted the Immigration Department, I write to summarise the clarifications made during our meeting on 11 April.

Conditions for losing Hong Kong PR status

Under paragraph 7(a) of Schedule 1 to the Immigration Ordinance (Cap. 115), a non-Chinese PR will lose his/her PR status only when two factors are met:

1. Ordinarily resident – the person ceases to have ordinarily resided in Hong Kong (as determined by the circumstances of each individual); and then
2. Period of absence – the person has been absent from Hong Kong for a continuous period of not less than 36 months.

The clock of the 36 months starts ticking **only** after the person ceases to have ordinarily resided in Hong Kong.

Under the Immigration Ordinance, the Director of Immigration has no power to waive or extend the period of absence (factor #2), but he can determine whether the person concerned has ceased to be ordinarily resident in Hong Kong or is only temporarily absent from Hong Kong (factor #1), taking into account the circumstances of each case, including:

- the reasons, duration and frequency of absence from Hong Kong (including COVID travel restrictions);
- whether he/she has habitual residence in Hong Kong;
- employment by a Hong Kong based company; and
- the whereabouts of the principal members of his/ her family (spouse and minor children).

If, after an assessment, the Immigration Department is satisfied that the person has not ceased to be ordinarily resident, he/she will not lose the PR status. For decisions otherwise, the person can appeal.

Implications

In the event a non-Chinese PR loses the PR status, he/she loses the right of abode. However, he/she still has the **right to land, work and live without visa** in Hong Kong, with **no limit on the duration of stay**.

That is to say, he/she can enter Hong Kong freely from any control point, provided there is no breach of other rules or law.

Further information on the loss of PR status is available at the Immigration Department's website:

<https://www.immd.gov.hk/eng/services/roa/loss.html>.

A person may ascertain whether he/she has lost the PR status by applying for verification of eligibility for a permanent identity card with the Right of Abode Section of the Immigration Department. An assessment

will then be conducted to determine whether he/she has lost the PR status and has the right to land in the Hong Kong Special Administrative Region.

We hope this email clarifies. The Immigration Department has recently **designated a contact point** for enquiries on each individual case. This contact point is Mr Yuen Hiu-fung, Chief Immigration Officer (Right of Abode). BritCham and its stakeholders are most welcome to reach him at eto_roa@immd.gov.hk.

Hong Kong takes pride in being home to a diverse society and remains a welcoming place to talent with a Hong Kong connection, old or new. The administration will keep talent policies updated to ensure that businesses in Hong Kong have access to a high quality international and local talent pool. We value BritCham's constructive contribution to this process.

Best regards,
Elizabeth

Elizabeth Fung

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