
STATUTORY INSTRUMENTS

1993 No. 1789

BRITISH NATIONALITY

**The British Nationality (Hong Kong)
(Selection Scheme) (Amendment) Order 1993**

Made - - - - - *20th July 1993*
Coming into force - - - - - *3rd January 1994*

At the Court at Buckingham Palace, the 20th day of July 1993

Present,

The Queen's Most Excellent Majesty in Council

Whereas paragraph 2 of Schedule 1 to the British Nationality (Hong Kong) Act 1990⁽¹⁾ provides that a scheme which amends a scheme set out in the first Order made under that Schedule may be a scheme submitted to the Secretary of State by the Governor of Hong Kong with such modifications (if any) as the Secretary of State may think necessary or expedient:

And whereas the scheme set out in the Schedule to this Order is a scheme so submitted without any modifications:

And whereas a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by Schedule 1 to the British Nationality (Hong Kong) Act 1990, is pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the British Nationality (Hong Kong) (Selection Scheme) (Amendment) Order 1993 and shall come into force on 3rd January 1994.

2. The Selection Scheme submitted to the Secretary of State by the Governor of Hong Kong and set out in the Schedule to the British Nationality (Hong Kong) (Selection Scheme) Order 1990⁽²⁾ shall be amended by the scheme set out in the Schedule to this Order.

(1) 1990 c. 34.
(2) S.I.1990/2292.

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N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 2

SCHEME

Amendments to the Selection Scheme contained in the Schedule to the British Nationality (Hong Kong) (Selection Scheme) Order 1990.

1. In Article 2(1) after the definition of “direction” there shall be inserted—

““first period” means that period specified by direction and starting on 1st December 1990 and ending on 1st January 1994;”;

and

after the definition of “registered” there shall be added—

““second period” means that period specified by direction and starting on 3rd January 1994 and ending on 30th June 1997.”.

2. For Article 4(2) there shall be substituted—

“(2) Unless invited by the Governor to make a further application in either the sensitive service class or the entrepreneurs class, an applicant may only apply in one of the classes referred to in paragraph (1) in any single period specified in a direction.”.

3. Article 5 shall be amended by the insertion at the beginning of the words “(1) Subject to paragraph (2),” and after Article 5 there shall be inserted—

“(2) If it appears to the Governor that the number of persons to be recommended in any class will fall short of the quota, the Governor may transfer the remaining quota in that class to one or more of the other classes.”.

4. In Article 7 before the definition of “approved occupation” there shall be inserted—

““application rate” in relation to any specified occupational group or approved occupation means the percentage of persons who appear to the Governor to have been working in Hong Kong in that group or occupation on the common date of the first period and who have applied under the scheme in that group or occupation in the first period;”.

5. For Article 10 there shall be substituted—

“**10.**—(1) Subject to the provisions of this Article, the quota in relation to applicants in approved occupations shall be 500 and within that quota of 500 the quota for each approved occupation for the second period shall be determined by the following formula—

$$\left(\frac{A}{B} + \frac{C}{D} \right) \times E$$

where—

- a A is the number of emigrants in that approved occupation on the common date, determined by multiplying the number of persons who appear to the Governor to be working in Hong Kong in that approved occupation on the common date by the emigration rate applicable to that approved occupation;
- b B is the total number of emigrants in all approved occupations on the common date;
- c C is the estimated number of applicants in that approved occupation in the second period, determined by multiplying the number of persons who appear to the Governor to be working in Hong Kong in that approved occupation on the common date by the application rate of that approved occupation in the first period;

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- d D is the total number of applicants in all approved occupations in the second period, as determined by the Governor;
- e E is one half of the maximum number of applicants in the approved occupations who may be recommended in the second period.

(2) If the Governor is satisfied that the application of the formula set out in paragraph (1) would be inappropriate in relation to a particular approved occupation because either

- (a) the information relating to the applicable emigration rate is unsatisfactory or unavailable; or
- (b) the number of persons who appear to the Governor to be working in Hong Kong in that occupation is so small that the emigration rate is an unreliable indication of the extent to which such persons are likely to emigrate from Hong Kong in the future,

he may, in relation to that approved occupation, calculate the quota in accordance with such criteria as he may determine.

(3) The quota in relation to each specified occupational group for the second period shall be determined by the following formula—

$$\left(\frac{A}{B} + \frac{C}{D} \right) \times E$$

where—

- a A is the number of emigrants in that occupational group on the common date, determined by multiplying the number of persons who appear to the Governor to be working in Hong Kong in that occupational group on the common date by the emigration rate applicable to that occupational group;
- b B is the total number of emigrants in all occupational groups on the common date;
- c C is the estimated number of applicants in that occupational group in the second period, determined by multiplying the number of persons who appear to the Governor to be working in Hong Kong in that occupational group on the common date by the application rate of that occupational group in the first period;
- d D is the total number of applicants in all occupational groups in the second period, as determined by the Governor;
- e E is one half of the maximum number of applicants in the specified occupational groups who may be recommended in the second period.

(4) Such of the quota in the first period as was specified by direction to be applied to the general occupational class, and which remains unused at the end of the first period, shall be carried forward to the general occupational class quota in the second period.

(5) The Governor may, at any time in the second period, transfer such of the quota in an approved occupation or specified occupational group which remains unused, or which in his opinion is likely to remain unused, in the second period to one or more of the other approved occupations or specified occupational groups.”.

6. In Article 12(2) the words “(other than applicants who are in service with the Government of Hong Kong)” shall be deleted.

7.—(1) In Article 14(5) the maximum number of points which the Governor may allocate in each subparagraph shall be raised to “50 points”.

(2) In Article 17(2) for “4 points” there shall be substituted “6 points”.

(3) In Article 17(3) for “2 points” in each place where it appears there shall be substituted “3 points”.

(4) In Article 17(5) for “2 points” there shall be substituted “3 points”.

8.—(1) In Article 17(1) after the words “shall be allocated points for his” shall be added the words “service as a Justice of the Peace and for his”.

(2) For Article 17(7) there shall be substituted—

“(7) In this Article the “auxiliary services” means the Royal Hong Kong Regiment (the Volunteers), the auxiliary section of the Government Flying Service (which includes previous service with the Royal Hong Kong Auxiliary Air Force), the Royal Hong Kong Auxiliary Police Force, the Auxiliary Medical Services and the Civil Aid Services.”.

(3) After Article 17(7) there shall be added—

“(8) An applicant who is, or has been a Justice of the Peace appointed by the Governor, shall be allocated 3 points for each year of active service as a Justice of the Peace completed before the common date.”.

(4) For Article 18(c) there shall be substituted—

“(c) service as a member, other than as an auxiliary member, of the Government Flying Service;”.

(5) In Article 22(5)(b) for “(8)” there shall be substituted “(9)” and for “30 points” there shall be substituted “50 points”.

9. For Article 21 there shall be substituted—

“21.—(1) Within the quota prescribed for the disciplined services class by Article 5(1), the quota for each disciplined service in the second period shall be determined by the following formula—

$$\left(\frac{A}{B} + \frac{C}{D} \right) \times E$$

where—

- a A is the number of persons who appear to the Governor to be in that disciplined service on the common date, minus the number of persons in that service whom the Governor has invited or intends to invite to apply in the sensitive service class;
- b B is the total number of persons who appear to the Governor to be serving in all the disciplined services on the common date, minus the number of persons in those services whom the Governor has invited or intends to invite to apply in the sensitive service class;
- c C is the estimated number of applicants in that disciplined service in the second period, determined by multiplying the number of persons who appear to the Governor to be serving in that disciplined service on the common date, minus the number of persons in that disciplined service whom the Governor has invited or intends to invite to apply in the sensitive service class, by the application rate of that disciplined service in the first period;
- d D is the total number of applicants in all disciplined services in the second period as determined by the Governor;
- e E is one half of the maximum number of applicants in the disciplined services class who may be recommended in the second period,

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f in this Article “application rate” in relation to any specified disciplined service means the percentage of persons in that disciplined service on the common date of the first period who have applied under the scheme in that disciplined service in the first period.

(2) Such of the quota in the first period as was specified by direction to be applied to the disciplined services class and which remains unused at the end of the first period, shall be carried forward to the disciplined services class quota in the second period.

(3) The Governor may, at any time in the second period, transfer such of the quota in any disciplined service which remains unused, or which in his opinion is likely to remain unused, in the second period to one or more of the other disciplined services.”.

10. For Annex 3 there shall be substituted the following—

“ANNEX 3

Article 12(2)

GENERAL OCCUPATIONAL CLASS

ALLOCATION OF POINTS FOR EACH YEAR'S RELEVANT EXPERIENCE FOR THOSE APPLYING IN THE MANAGERS AND ADMINISTRATORS OCCUPATIONAL GROUP

Average annual earnings (in Hong Kong dollars)	Points for each year’s experience
Under 200,000	1
200,000 — 224,999	2
225,000 — 249,999	3
250,000 — 274,999	4
275,000 — 299,999	5
300,000 — 349,999	6
350,000 — 399,999	7
400,000 — 499,999	8
500,000 — 599,999	9
600,000 — 999,999	10
1,000,000 — 1,999,999	11
2,000,000 or above	12”

11. Annex 4 shall be amended so that for paragraph 5, there shall be substituted—

“5. Accounting associate professionals	First level, London Chamber of Commerce and Industry Group Certificate	5
	O-level in accounting	15
	Preliminary examination of Association of Accounting Technicians (“AAT”)	30

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Intermediate examination of AAT	40
Final examination of AAT	50”

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1(1) of the British Nationality (Hong Kong) Act 1990 provides that the Secretary of State shall register as British citizens up to 50,000 persons recommended to him for that purpose by the Governor of Hong Kong under a scheme or schemes made and approved in accordance with Schedule 1 to that Act. Paragraph 1 of that Schedule provides that effect shall be given to any such scheme by an Order in Council setting out the terms of the scheme. The British Nationality (Hong Kong) (Selection Scheme) Order 1990 was the first Order to be made under the Act. This Order contains a new scheme which comprises of amendments to the original scheme.

This Order gives effect in the Schedule, without modifications, to a scheme submitted by the Governor. The scheme provides for amendments to be made to the original scheme for the second period of its operation, which is to start on 3rd January 1994 and is to finish on 30th June 1997.

Article 2 makes provision for the Governor to invite a second application in either the sensitive service class or the entrepreneurs class. Article 3 makes provision for the Governor to transfer places between classes if it appears to him that the number of persons to be recommended in any class will fall short of the quota allocated to it.

Article 5 substitutes a new Article 10 which sets out how the quota for each approved occupation and each specified occupational group in the general occupational class is to be determined. The special provisions in the original scheme for managers and administrators in service with the Government of Hong Kong are removed.

Article 7 makes various changes to the number of points allocated in the scheme. Article 8 provides that service as a Justice of the Peace shall attract points under the scheme in the same way as service with those public bodies mentioned in Article 17 of the 1990 Order. Article 9 substitutes a new Article 21 which sets out how the quota for each disciplined service within the disciplined services class is to be determined.

Article 10 substitutes a new Annex 3 which revises the points to be allocated for each year’s relevant experience for those applying in the managers and administrators occupational group of the general occupational class. Article 11 makes an amendment to Annex 4 in regard to the points to be allocated to accounting associate professionals.