

## UPDATES ON BN(O) PASSPORT STATUS

### ALFRED IP (PARTNER AT HUGILL & IP) GIVES AN UPDATE ON THE BN(O) IMMIGRATION ROUTE AND ANSWERS SOME COMMON QUESTIONS FROM A HONG KONG PERSPECTIVE

The BN(O) Passport immigration route was officially launched on 31st January 2021 online. The UK has estimated that nearly 3 million Hongkongers and their dependents will be eligible to move to the UK for five years and apply for full citizenship. A UK government report published last year put the number of people expected to take up the offer at about 300,000 in the first five years.

Two days before the official launch, the People's Republic of China stated that they will no longer recognise the BN(O) Passport as a travel document and ID document. The effects of this are that BN(O) passports cannot be used for immigration clearance and will not be recognised as any form of proof of identity in Hong Kong.

#### 1. How does the change to the recognition of BN(O) passports affect its holders?

In reality, most Hong Kong people can use their HK Identity Cards and their HK SAR passports when leaving the territory, while they can use the BN(O) passport when they arrive in the UK to settle down and start their path to full UK citizenship. Even if they cannot use these passports when entering Hong Kong or Mainland China, they can still use them when travelling to other countries.

The UK Government recently reiterated that it will continue to issue such passports and that countries have the right to make their own rules about acceptable travel documents – this includes applications related to working holiday visas in other Asian countries, North America and Europe.

This change effectively only impacts Hong Kong residents of South Asian origin who only carry BN(O) passports and are not considered Chinese nationals, hence making them ineligible to apply for HK SAR travel documents.

#### 2. What happens to MPF/ORSO accounts?

Those wishing to permanently leave Hong Kong are eligible to take out any MPF/ORSO scheme they may have. However, there is a requirement to provide documentary proof when doing so. The Mandatory Provident Fund Schemes Authority has said that MPF providers should not allow workers to use BN(O) as evidence to withdraw the fund early, as the Hong Kong government no longer recognizes the passport as legal travel documents.

Those with BN(O) Passports who are looking to take out their MPF may have to wait till the age of 65 until they can do so. However, if the intention is to obtain a UK visa or UK citizenship via the BN(O) Passport, the required documentary evidence might be attainable in the near future.

#### 3. How are insurance policies taken in Hong Kong affected?

If planning to leave Hong Kong, insurance policies should be taken into consideration. First and foremost, a permanent leaver should check any current insurance policies – does your current insurance policy apply worldwide? Will fees be added for moving countries?

When it comes to life insurance policies, these do not become payable until death. When moving from Hong Kong to the UK, if the intended beneficiary is Hong Kong based, it will be worthwhile checking that such beneficiary is specifically named in the life insurance policy. This will mean the life insurance policy never has to pass through the probate process. If there is no named beneficiary, the insurance policy will form part of the deceased's estate and be subject to the UK inheritance tax.

#### 4. Should individuals make a Will before moving from to the UK?

It is likely that individuals leaving Hong Kong permanently, will hold many Hong Kong assets. When leaving Hong Kong, individuals should consider how these assets will be dealt in the event of their death.

Drafting a Will to cover worldwide assets, will ensure a seamless process of administration in the event of death, particularly if executors are based in Hong Kong. Individuals should consider drafting a Will to cover their Hong Kong assets and any subsequent assets obtained in the UK. On death, a Grant of Probate obtained in Hong Kong can then be resealed in the UK for any UK assets.

One may wish to make separate Wills, one for Hong Kong and one for the UK. This has the benefit of allowing concurrent Grant of Probate applications. If separate Wills are to be made for different jurisdictions, it is important to expressly state the jurisdiction in which the Will is intended to cover and to state that the Will is not intended to revoke Wills made in other jurisdictions.

