



# HONG KONG VISA

HANDBOOK



## Visa Information

Unconditional Stay



## Eligibility

To be eligible for Unconditional Stay you need to have had "*continuous residence in Hong Kong for a period of not less than seven years*" all the while holding a qualifying residence visa (this excludes Foreign Domestic Helpers and persons admitted under the Supplementary Labour Scheme.)

## Approvability Test

Subject to there being no security objection, if you have been continuously resident in Hong Kong for a period not less than seven years you should, *a priori*, be granted permission to remain in Hong Kong without the need to apply for any sort of visa and without any limitation imposed on your length of stay (thus making your residence 'unconditional').

## But Subject to One Condition

The term 'unconditional' is confusing as there is, in fact, one condition imposed along with Unconditional Stay. Namely, if you have been granted Unconditional Stay you must make yourself physically present in the HKSAR at least once in any given period of twelve months. This 'one entry' rule allows for the maintenance of continuing eligibility for Unconditional Stay status after it has been granted. Any failure to be physically present in Hong Kong for a period greater than twelve months will mean that your Unconditional Stay status will be relinquished by operation of law and you will once again have to apply to the HKID for a suitable visa covering your proposed activity in the HKSAR (employment, business investment etc).

## UCS is NOT the ROA

No sponsorship is required for Unconditional Stay. The rationale for this immigration status is the idea that after a lengthy period of trouble-free residence you should be allowed to escape the grip of the HKID as regards your reason for remaining in Hong Kong and also the time you ought to be allowed to remain here. This status is merely an administrative convenience and is NOT the same as Permanent Residence (aka the Right of Abode). Unconditional Stay has an important role to play for those long term foreign national residents of Hong Kong who have, for their own reasons, not taken Hong Kong as their place of permanent residence and who can not, in all good faith, make a declaration to that effect as part of the process of acquiring a Permanent Hong Kong Identity Card. Unconditional Stay is also the long term immigration status of choice for holders of Capital Investment Visas who have been resident on and off in Hong Kong all throughout the 7 years they have kept their investments in the HKSAR but who can not show they have been continuously resident in this time. Whilst such people will not be eligible for the Right of Abode, the HKID do afford them Unconditional Stay status without the need for unbroken continuous residence, the rationale being that having your HKD10 million (or HKD6.5 M if you received your visa before October 2010) invested in the HKSAR for not less than 7 years should afford you a long term residence visa without any conditions and thus allow you to liquidate your Hong Kong holdings, the Capital Investment visa programme having served its purposes in your circumstances.

## Structuring Your Argument

The key challenge is to be able to argue away any periods of missing residence. Absences from Hong Kong of more than 6 months will require proof that, irrespective of the length of absence, at the time of your departure from the HKSAR, your intention was to depart only temporarily.



**Preparing Your Case**

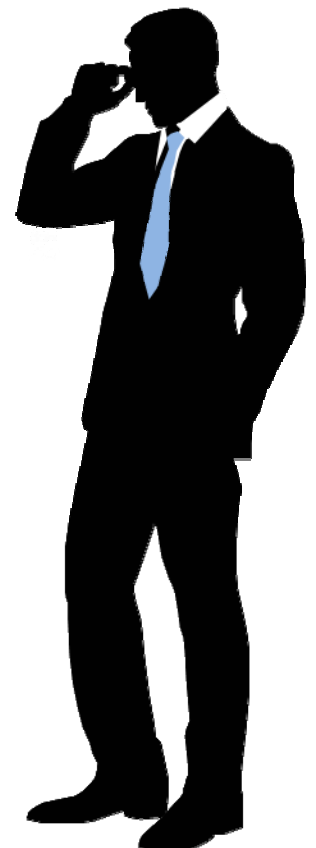
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### Highlights

- Continuous ordinary residence of not less than 7 years is required
- Any absences in that time to have been of a temporary nature
- Status is maintained if you enter Hong Kong at least once in 12 months
- Conditional Stay is not the same as Right of Abode



**Discussion**





## How to Apply

Application can be via the Extension of Stay procedures or by Mail. The method chosen is usually a function of whether you now have a need to secure an extension to your current period of stay or not. In both cases, the HKID will receive the application bundle from you and then contact you 6-12 weeks later with either a request for further information or notification of approval and an invitation to attend at Immigration Tower to complete the approval formalities.



## Approval Formalities

When you attend at the Immigration Tower, the HKID will issue you will a new visa label which states you now have Unconditional Stays status. At the same time, all limitations to your previous visa will be lifted, including sponsorship obligations and the finite period which you were previously allowed to remain in Hong Kong. You will also be advised to apply for a new Hong Kong Identity Card which will denote that you now have "U" status, now that you are a resident holding Unconditional Stay.

## Refusal & Appeal

If your application for Unconditional Stay is refused, you can request a Reconsideration in the first instance and, if that proves unsuccessful, you may make an application under the section 53 Immigration Ordinance 'Review of a decision of a public officer' process via the Chief Secretary's office.

## Documents & Approach Required

1. A copy of your resume (but not for children and spouse).
2. A full copy all passports held during the previous seven year period.
3. Copies of salaries tax returns for the last seven years (for all adults who have worked).
4. Copy of residential tenancy agreements (for renters) or land registry record of your residence in Hong Kong (for property owners) for the 7 years prior to submitting the application.
5. A testimonial from your current employer stating the length of time you have been employed by them.
6. Any other references you might have from previous Hong Kong employers which state your time of employment with them.
7. Copies of utilities bills, bank and credit card statements and other papers which attest to a consistent period of residence in Hong Kong for the requisite seven years.
8. Hong Kong Identity Card copies for all applicants who have them.
9. Detailed supporting letter which sets out the chronology of your life in Hong Kong.
10. Statement of Travel Records (HKID Form ID 697).
11. Forms SF/IM/1657 & ID91

Spouse and dependant children over seven years of age who have been in continuous residence with you in Hong Kong for a minimum of seven years will 'piggyback' their applications on yours. The presumption by the HKID is that your dependants will have been resident with you all throughout the 7 years but any further proof you can supply (such as school reports, fees invoices etc) will help tremendously. If your kids have spent time abroad in pursuit of a full time education their continuity of residence for visa purposes will not necessarily be broken but it helps greatly if they have maintained HKSAR dependant visa status throughout the time of their studies outside of Hong Kong. These privileges extend beyond the normal 18 years of age demarcation so long as the period of education was unbroken throughout and 'normal' residence in Hong Kong resumed immediately after the full time course of education overseas was completed.



Discussion

