

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

**Research Response Number:** CHN30977  
**Country:** China (Hong Kong)  
**Date:** 14 November 2006

Keywords: CHN30977 – Hong Kong – British National Overseas – BN(O) – UK residency rights

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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**Questions**

- 1. Were all Hong Kong residents given UK passports before reunification and does this carry with it guaranteed residency rights?**
- 2. Did accepting a UK passport dissolve his right to hold a PRC passport?**
- 3. Do Hong Kong residents have dual citizenship?**
- 4. Do the UK passports have an expiry date and are they able to be renewed?**

**RESPONSE**

This is an update of question 3 in research request HKG23081.

- 1. Were all Hong Kong residents given UK passports before reunification and does this carry with it guaranteed residency rights?**

Hong Kong residents could apply for a British Dependent Territory passport, which between 1986 and 1997, were convertible to a British National (Overseas) passport. All Hong Kong residents who on the 30 June 1997 held no other citizenship, automatically became a British Overseas Citizen.

The British Overseas Citizen passport is held by those people, who were formerly British Dependent Territories citizens and who failed to register for a BN(O) passport before 1 July 1997 and who would otherwise be stateless ('Diplomatic Service Procedures – Entry clearance Volume 1 – General instructions (05/12/05)' 2005, UK Visas website, 5 December <http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1034348270424> – Accessed 13 November 2006 – Attachment 1).

The United Kingdom Home Office provides the following information:

**Hong Kong British Dependent Territories citizens**

Special rules were introduced in 1986 allowing British Dependent Territories citizens from Hong Kong to acquire the new status of British National (Overseas). Those who did not register as British Nationals (Overseas) and who, on 30 June 1997, had no other nationality or citizenship, became British Overseas citizens on 1 July 1997 ('BN1 – British citizenship' (undated) Home Office – Immigration and Nationality Website <http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn1> – Accessed 14 November 2006 – Attachment 2).

This is further explained:

### **Effects of the Hong Kong (British Nationality) Order 1986**

7. A person who was a British Dependent Territories citizen (see Note B) only because he or she was connected to Hong Kong when it was under British rule lost that citizenship automatically on 30 June 1997. However, the Hong Kong (British Nationality) Order 1986 says that if a person had no other nationality and would, as a result, have become stateless, he or she became a British Overseas citizen on 1 July 1997 (Article 6(1)). The 1986 Order also says (Article 6(2)) that a person who was born on or after 1 July 1997, who would otherwise be born stateless, will be a British Overseas citizen if, when the person was born, either of his or her parents was:

- a British National (Overseas); or
- a British Overseas citizen under Article 6(1) of the Order ('BN2 – General Information about British overseas citizenship' (undated) Home Office – Immigration and Nationality Directorate website <http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn2> – Accessed 14 November 2006 – Attachment 3).

Residency depends on the type of passport held (British Overseas Citizen versus British National Overseas):

### **Allowing certain United Kingdom passport holders to settle in the United Kingdom.**

10. The British Nationality Act 1981 does not affect the position, under United Kingdom immigration law, of British Overseas citizens whose passports show either that they have the right to come into the United Kingdom again or that their period of stay does not have a time limit on it ('BN2 – General Information about British overseas citizenship' (undated) Home Office – Immigration and Nationality Directorate website <http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn2> – Accessed 14 November 2006 – Attachment 3).

A holder of a British National Overseas passport can enter the UK for up to 6 months without a visa, but after that would need to apply for an extension of stay from the Home Office. After 5 years, they can apply for permanent residence/citizenship, but must not have been outside the United Kingdom for more than 450 days in the 5 year period, in the last 12 months not outside the United Kingdom for more than 90 days, and in the last 12 months was not subject to any time limits under immigration laws ('BN12 – Registration of someone who is a British overseas territories citizen, a British Overseas citizen, British subject, a British protected person or a British National (Overseas)' (undated) Home Office – Immigration and Nationality Directorate website <http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn12> – Accessed 14 November 2006 – Attachment 4).

Since 1 November 2005 there is also an English and Life in the UK test ('Knowledge of life in the UK' (undated) Immigration and Nationality Directorate website <http://www.ind.homeoffice.gov.uk/applying/nationality/knowledgeoflifeintheuk> – Accessed 13 November 2006 – Attachment 5).

- 2. Did accepting a UK passport dissolve his right to hold a PRC passport?**
- 3. Do Hong Kong residents have dual citizenship?**
- 4. Do the UK passports have an expiry date and are they able to be renewed?**

Hong Kong residents are eligible for a Hong Kong Special Administrative Region Passport, which is separate from a PRC passport, one of 5 types of passports common in Hong Kong:

#### 4.9 – Hong Kong travel documents

Since July 1998 there have been five different types of Hong Kong travel documents:

- \* the Hong Kong Special Administrative Region (HKSAR) passport;
- \* the British National (Overseas) passport;
- \* the British Overseas Citizen passport;
- \* the Hong Kong Document of Identity for Visa Purposes.

The HKSAR passport is issued by the HKSAR Immigration Department on the authority of the Chinese Government, to all Chinese nationals who have right of abode in the HKSAR and hold the Hong Kong permanent identity card. BN(O) passport-holders who are eligible for the HKSAR passport can hold both passports simultaneously.

The BN(O) passport can be held and used as a travel document by Hong Kong residents. Some 3.4 million Hong Kong people (mostly Chinese nationals) are BN(O)s – a status held for life. BN(O) passports have a ten-year validity and are renewable at the British Consulate-General in Hong Kong, at UK passport offices and at other British Consular Posts overseas. BN(O)s have visa-free access for visits to the UK.

The British Overseas Citizen passport is held by those people, who were formerly British Dependent Territories citizens and who failed to register for a BN(O) passport before 1 July 1997 and who would otherwise be stateless.

The Hong Kong Certificate of Identity (HKCOI) was, before 1 July 1997, issued to Chinese nationals who qualified for right of abode in Hong Kong. It is valid until its expiry, when HKCOI holders will be eligible for the HKSAR passport.

Hong Kong Documents of Identity for Visa Purposes are issued to residents of Hong Kong, who do not meet the residence criteria to qualify for the right of abode and thus the HKSAR passport and/or cannot obtain a national passport ('Diplomatic Service Procedures – Entry clearance Volume 1 – General instructions' 2005, UK Visas Website, 5 December

<http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1034348270424> – Accessed 14 November 2006 – Attachment 1).

BN(O) Status is for life:

#### **Q2: Can I renew my BN(O) passport if it has expired already?**

A: The status of BN(O) once held, is for life. You may continue to renew your BN(O) passport ('Frequently Asked Questions on BN(O) Passport' (undated) British Consulate General Hong Kong website

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1091892961253> – Accessed 14 November 2006 – Attachment 6).

## **List of Sources Consulted**

### Internet Sources:

#### **Government Information & Reports**

UK Home Office <http://www.homeoffice.gov.uk/>

British Consul General Hong Kong <http://www.britishconsulate.org.hk/>

### **Search Engines**

Google <http://www.google.com.au/>

Yahoo <http://www.yahoo.com/>

### **Databases:**

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

### **List of Attachments**

1. 'Diplomatic Service Procedures – Entry clearance Volume 1 – General instructions' 2005, UK Visas Website, 5 December  
<http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1034348270424> – Accessed 14 November 2006
2. 'BN1 – British citizenship' (undated) Home Office – Immigration and Nationality Website <http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn1> – Accessed 14 November 2006
3. 'BN2 – General Information about British overseas citizenship' (undated) Home Office – Immigration and Nationality Directorate website  
<http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn2> – Accessed 14 November 2006
4. 'BN12 – Registration of someone who is a British overseas territories citizen, a British Overseas citizen, British subject, a British protected person or a British National (Overseas)' (undated) Home Office – Immigration and Nationality Directorate website  
<http://www.ind.homeoffice.gov.uk/applying/nationality/advice/bn12> – Accessed 14 November 2006
5. 'Knowledge of life in the UK' (undated) Immigration and Nationality Directorate website  
<http://www.ind.homeoffice.gov.uk/applying/nationality/knowledgeoflifeintheuk> – Accessed 13 November 2006
6. 'Frequently Asked Questions on BN(O) Passport' (undated) British Consulate General Hong Kong website  
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1091892961253> – Accessed 14 November 2006 –