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Course Title: Business Immigration to Hong Kong: A Practical Guide

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Course Presenter(s): Mr. Stephen D. Barnes

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Course Time: 14:30 - 17:45

Course Venue: Online via Zoom

CPD.HK™

Business Immigration to Hong Kong: A Practical Guide

by Mr. Stephen D. Barnes

OCTOBER 31, 2023

www.hongkongvisageeza.com/biz-immigration-2023

1 - Visitor Visa - 2023

2 - Visitor Visa Extension - 2023

3 - Travel Pass - 2023

4 - Indian Nationals PAR 2023

5 - Employment Visa - 2023

6 - Mainland Talents & Professionals - 2023

7 - Training Visa - 2023

8 - IANG - 2023

9 - Business Investment (Entrepreneur) - 2023

5 10 - CIES - 2023

11 - QMAS - 2023

5 12 - TTPS - 2023

🔂 13 - Legal Dependants - 2023

14 - Defacto Spouse - 2023

5 15 - ESLS - 2023

16 - ASSG - 2023

17 - TechTAS - 2023

18 - Working Holiday - 2023

19 - Right of Abode - 2023

9 20 - UCS - 2023

21 - Reconsideration - 2023

22 - Final Appeal - 2023



Entry Visas for Nationals Not Enjoying Visitor Status Upon Arrival

(or otherwise seeking a longer limit of stay)

Permitted Activity

- Genuine business or leisure visit 'do your thing' then finally depart
- Pre-relocation for business residence subsequently
- Trade fair participation, speaking at conferences

Has 'Intention to Reside' Crystallized?

- If so, your Visitor Visa is no longer appropriate.
- Need to approach ImmD and change status.
- Possible inadvertent breach of conditions of stay.

ImmD Ultimately Decide

- If challenged, they will assess your actions and intentions
- Prosecution, removal or cancellation of Visitor visa consents all possible
- Short Conditional Landing a real possibility





Visa Information













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Applying for an Extension to a Visitor Visa

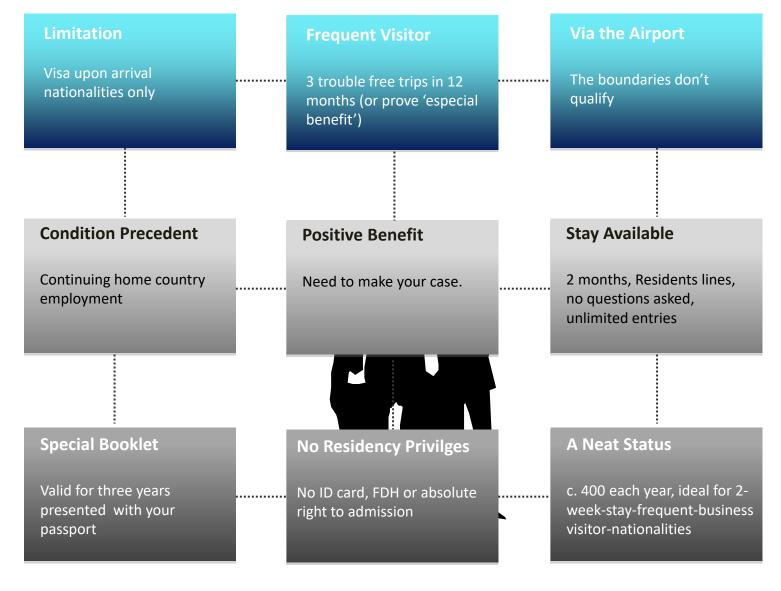


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The Hong Kong Travel Pass

(a super-charged Visitor visa)



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Pre-Arrival Registration for Indian Nationals

Who Can Apply

Indian nationals must apply for and successfully complete pre-arrival registration online before they can visit or transit the HKSAR visa-free (if seeking to enter the HKSAR during transit). Pre-arrival registration is not required for Indian nationals in direct transit by air and not leaving the airport transit area.

Eligibility Criteria

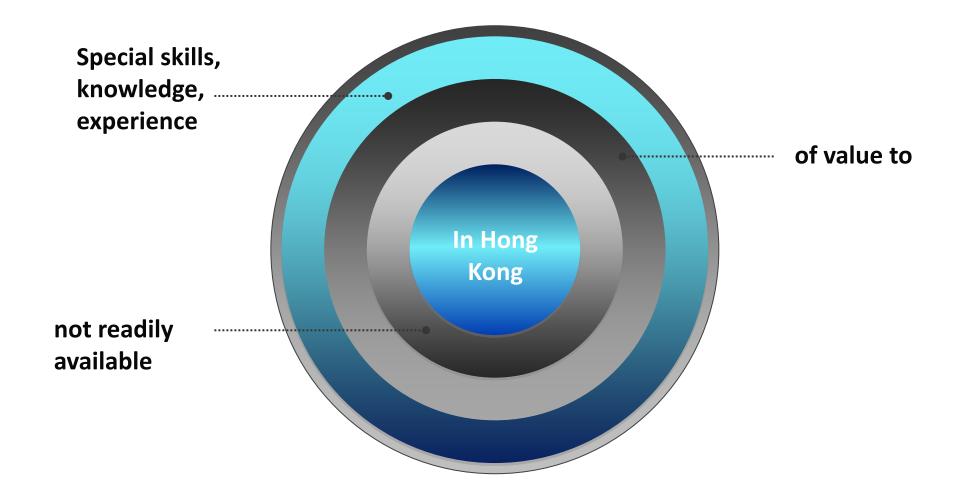
- The Indian national holds an Indian passport valid for at least six months; and
- The Indian national intends to visit or transit (except in direct transit by air and not leaving the airport transit area) the HKSAR for a stay not exceeding 14 days.

Exception

Pre-arrival registration is not applicable to Indian nationals who have the right of abode or the right to land in the HKSAR, are on unconditional stay in the HKSAR or have a valid permission to remain in the HKSAR for employment, study or residence.



Visa to Take Up Employment in the HKSAR

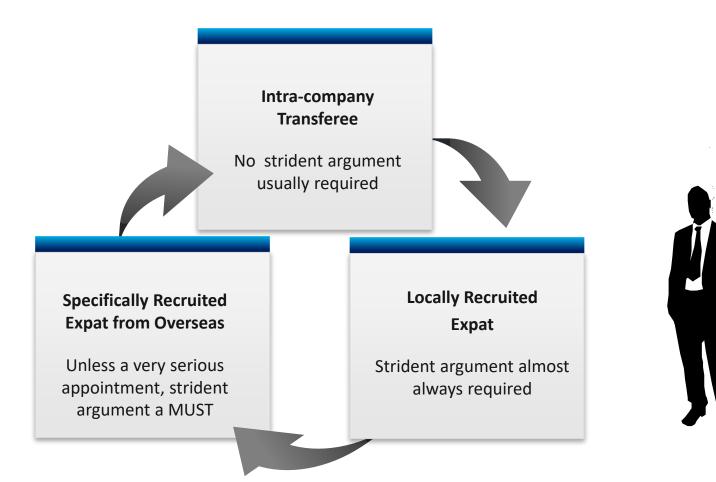


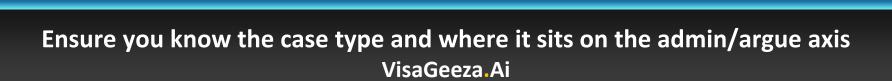
Your employer must be justified in engaging the services of an expatriate VisaGeeza.Ai



The Talent List = No Local Recruitment Exercise Needed

www.talentlist.gov.hk





Sponsorship

ID990B seeks to satisfy the 'justified' limb of the Approvability Test



New Companies

If the business is new, it too will be 'tested' as a valid sponsor

Submission

Change of status from visitor to employment is possible

Changing Employer

Unapproved employment is illegal employment (UNLESS Top Tier)

You cannot 'self sponsor' You are an 'investor' if you own 50%+ of the shares in your 'employer' 3 Don't play games with ImmD – they always get to the bottom of business ownership If the situation genuinely stacks up, you will receive an approval

Do you own the business or merely going to work for it?

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Enhancement Measure

New policy designed to attract and retain Entrepreneurs, Professionals and Talents

HKD2 million Assessable Income

Present your tax bill showing HKD2 million in income in the previous tax year, demonstrate you remain gainfully employed and you attain 'Top Tier' status

Ticket to Ride

Once assessed as Top Tier you get an immediate 6 year limit of stay with the only limit of stay in force being that of time and a requirement to notify ImmD of any change of employment in writing within 30 days



Employment Visas for Chinese Nationals Resident on the Mainland

To attract qualified Mainland talents and professionals who possess skills & knowledge not readily available locally.

Such talents must contribute with a view to facilitating Hong Kong's economic development, the arts, culture, sports and the culinary profession.

The objective of the Scheme = to enhance HK's status as an Asian world city

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Good Education Relevant Offer Competitive Package First degree in relevant Confirmed offer for a job Must be broadly discipline OR associated relevant to the applicant's commensurate with expertise and experience background prevailing market rates Special skills knowledge & experience of value to and not readily available in Hong Kong **No Security Objection Genuine Job Vacancy Local Sponsor** And no known record of Which a local person Validly registered local entity cannot reasonably be is required which is expected serious crime expected to perform to be a well-established business

There is no quota nor sector specificity for Admission of Mainland Talents & Professionals

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The Mainland Owner

- Comes as a business visitor
- Establishes a new company
- Leaves Hong Kong
- Applies for AMT&P Visa

Transfer to Hong Kong

- ImmD considers the application
- Applies the approvability test
- Owner must be 'skills eligible'
- If OK, AMT&P visa issued



Establishing a new Hong Kong operation & seeking to relocate to the HKSAR

Enter as a Visitor

Business visit brings the mainland executive to the HKSAR

Permitted Activity

Visitor visa allows preparatory work such as incorporating the company

Establish Company

Then return to the Mainland to progress the next stage



Apply Short AMT&P

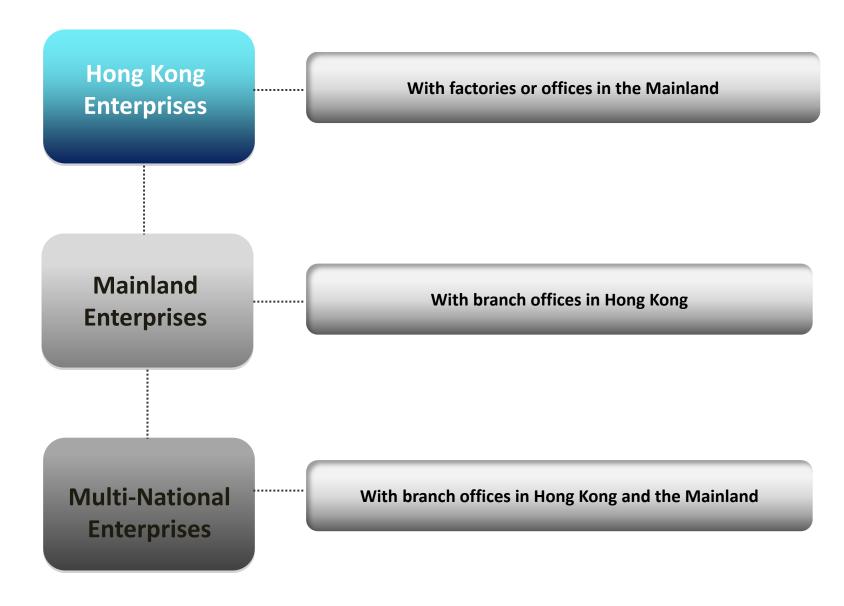
This will allow a return to HK to set up the office, start business, implement the plan

Implement Biz Plan

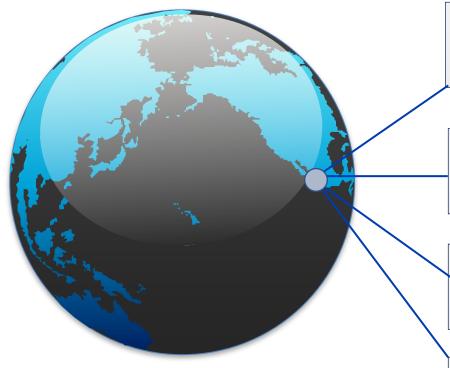
Once the start up plan has materialized, seek to extend the AMT&P visa

Apply Full AMT&P

Seek permission to remain in HK, but 'full' eligibility criteria must be met



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Managerial or Professional Staff

Supervisory duties, at a minimum, are expected and skills set must be high

12 Month Prior Employment on the Mainland

Necessary precondition for consideration under the MICT approvability criteria

Remuneration Package to be Competitive

Compensation to be broadly commensurate with prevailing market rates in Hong Kong

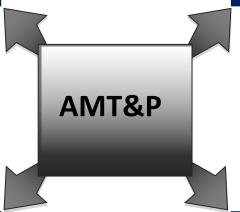
MICT Numbers to be Reasonable

When compared to the total employment and the nature of the business operations



Entry Visa Only

Strictly no change of status applications whilst visiting Hong Kong



Change of Employers

Once approved, such change is permitted but still have to satisfy eligibility criteria and approvability test

Dependants

Allowed to accompany and secure dependant visas subject to normal test

Extensions

Subject to continuing satisfaction of eligibility test and granted to normal 2-3-3 year pattern

Enhancement Measure

New policy designed to attract and retain Entrepreneurs, Professionals and Talents

HKD2 million Assessable Income

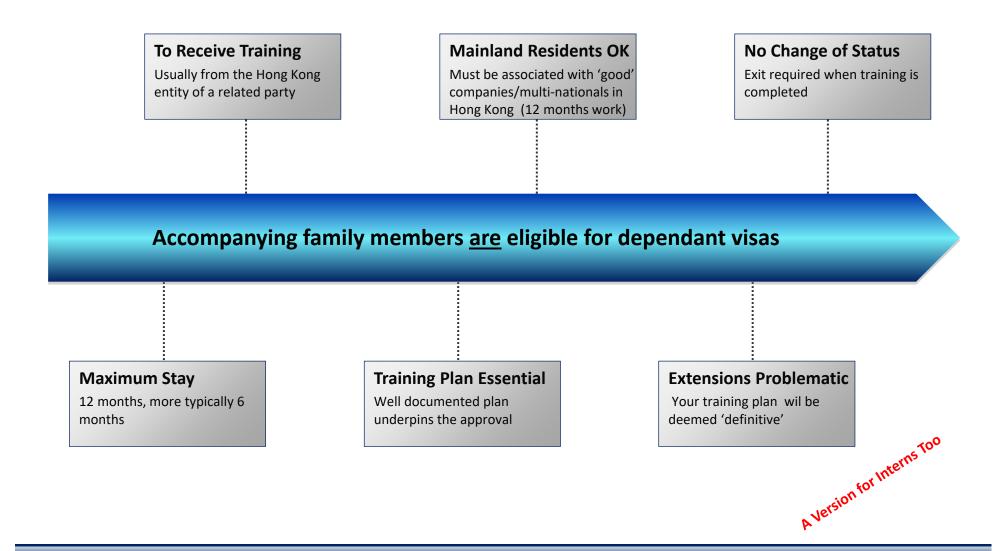
Present your tax bill showing HKD2 million in income in the previous tax year, show you are gainfully employed and you attain 'Top Tier' status

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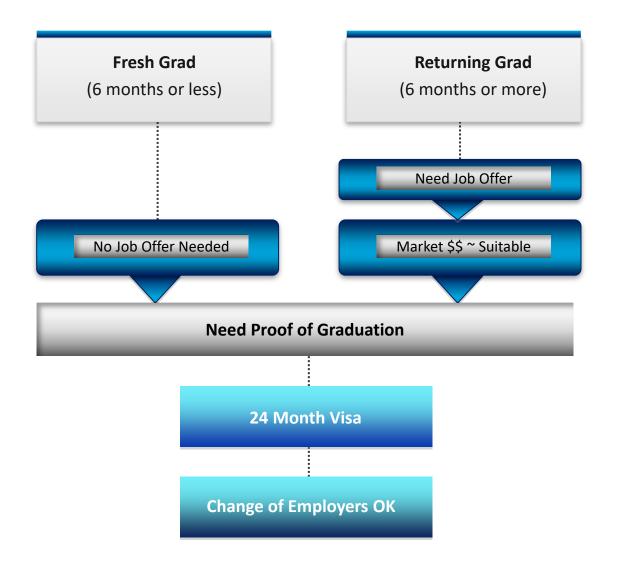
A Visa to Receive Training in Hong Kong



Undergo training in Hong Kong to acquire special skills and knowledge not available in the applicant's country/territory of domicile



Employment Visa for Non-Local Graduates of Hong Kong Universities



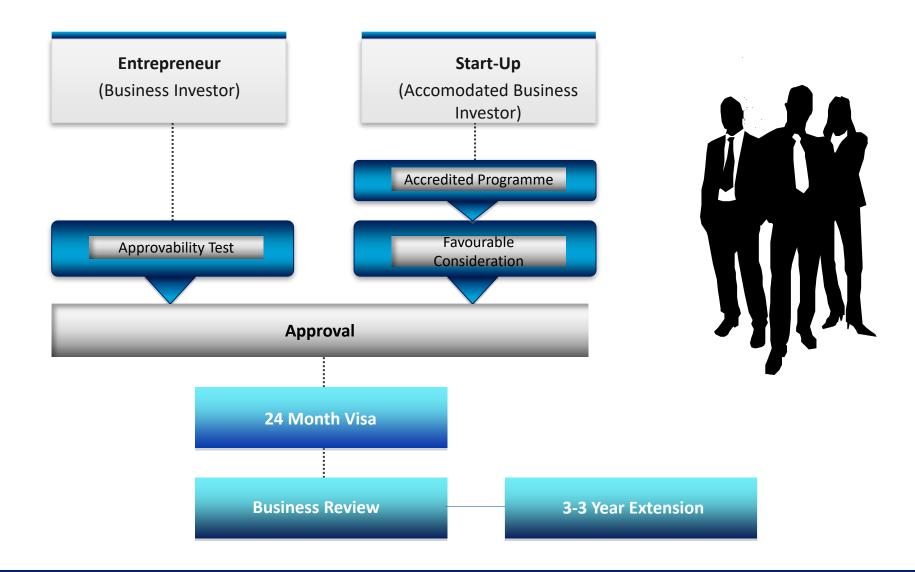


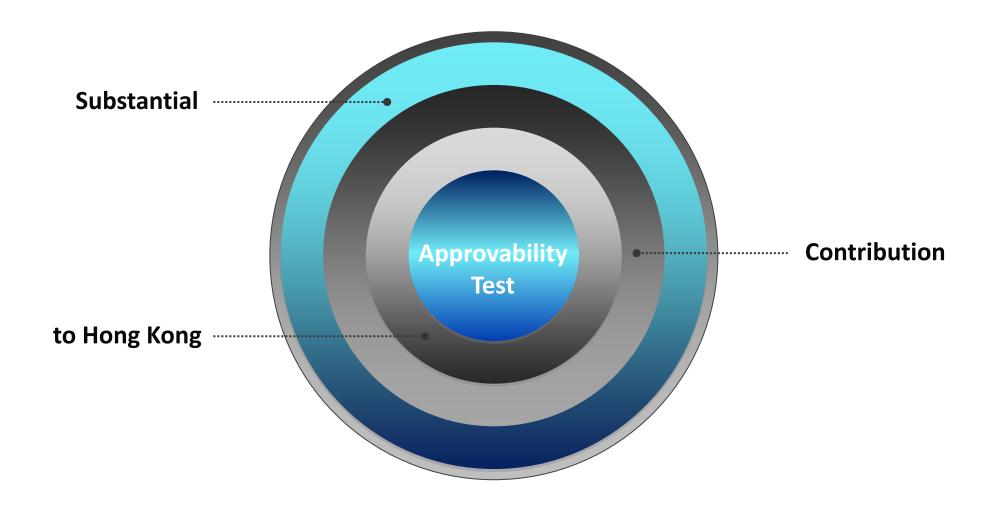


Vocational Professionals Admission Scheme



Visa to Establish or Join In a Business

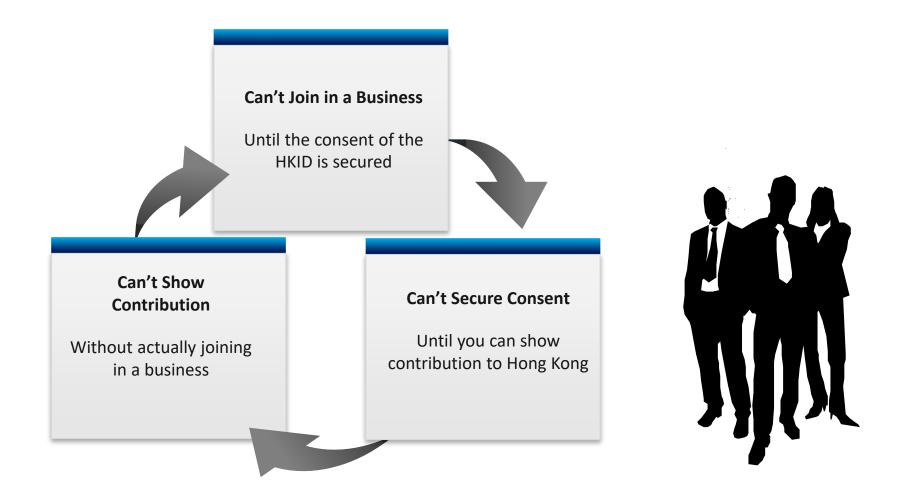


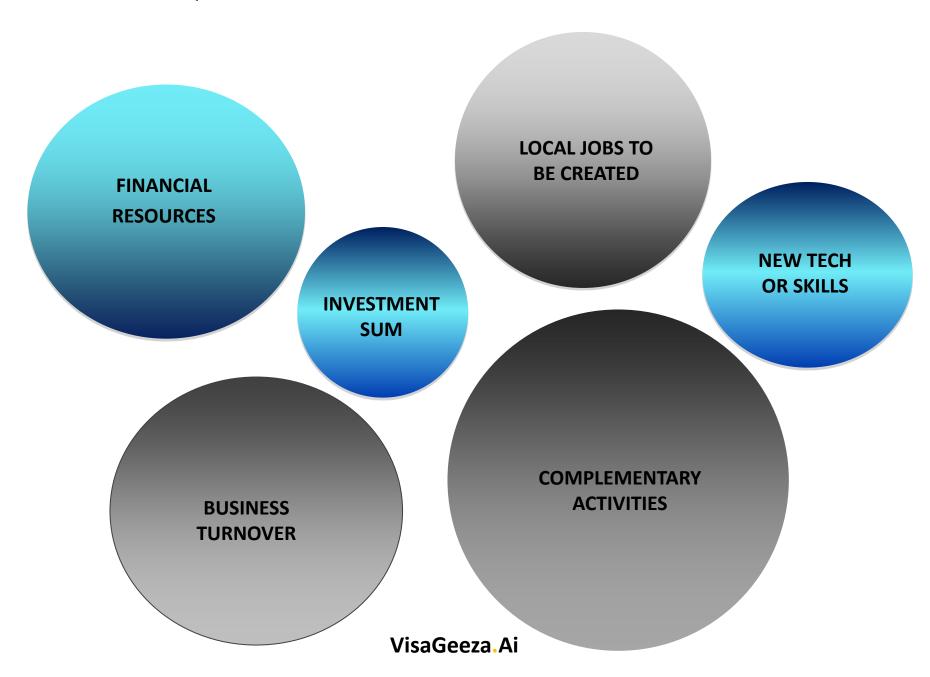


Will the applicant make a substantial contribution to the economy of Hong Kong?

(or how long is a piece of string?)

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PASSING THE APPROVABILITY TEST

Suitable Business Premises Local Recruitment Resources Must be suitable in all the Quality of jobs just as There are typically 4 types of important as the resources that need to be circumstances number of jobs available for deployment in the business **BEWARE SPARE BEDROOMS FUTURE JOBS CAN SUFFICE** THE RUBBER HITS THE ROAD

Obvious commitment to the business = manifest commitment to Hong Kong
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Financial

How is the business to be funded and where is the \$\$ coming from?



Commercial

Who are you doing business with and what support do you have?

Track Record

Have you done this before and if not how does your history advantage you?

Compliance

Licensed? Incorporated?
Registered? Current?
Any Security Cbjection?

"My Successful Business Will be Paying Tax"

"You Need HKD XXX,XXX Minimum"

"My Friend Got Approved &"

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CURRENT VISITOR

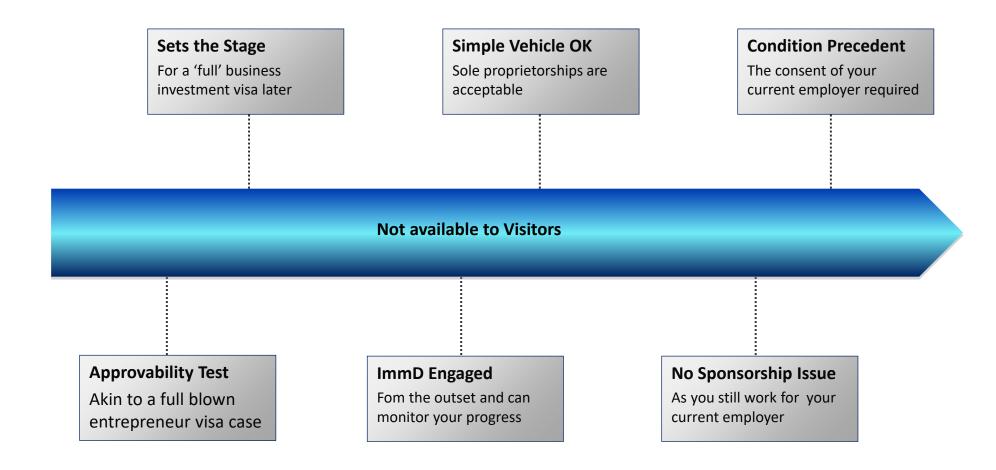
- Think BIG
- Behave BIG
- Take Advice
- Get a Good Sponsor

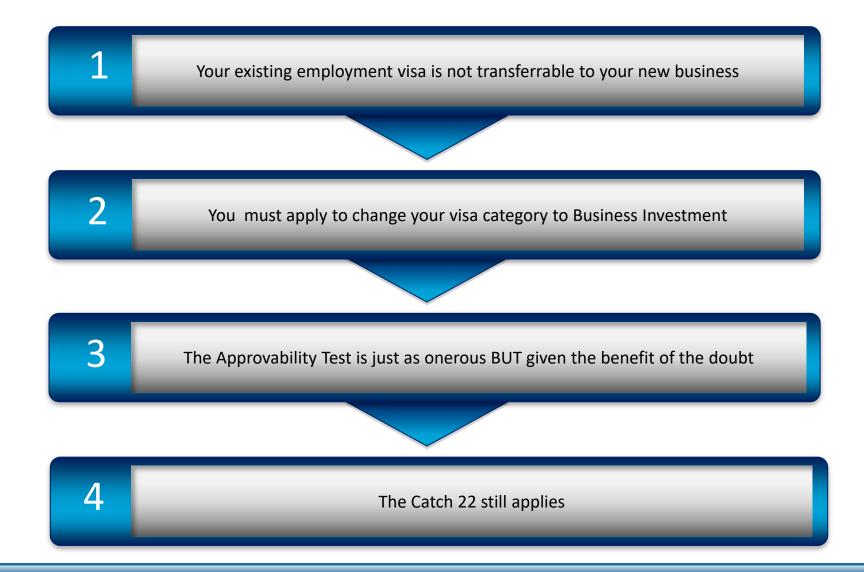
CURRENT EMPLOYEE

- Wait 3 Years
- Think BIG
- Behave BIG
- Take Advice
- Join In a Side Business First

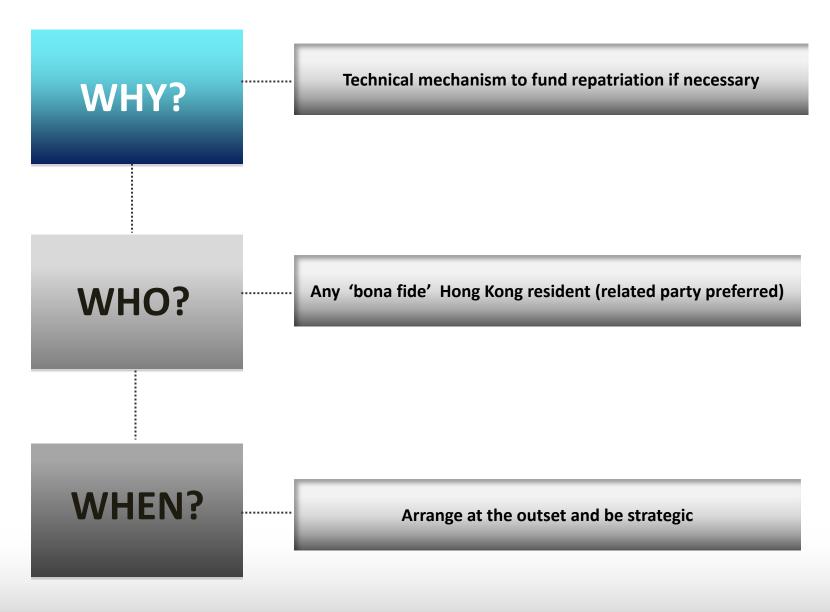


Beware the Catch 22





Currently Hong Kong resident with an Employment visa sponsored by another firm? VisaGeeza.Ai



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Enhancement Measure December 28, 2022

Updated policy designed to attract and retain Entrepreneurs, Professionals and Talents

Applicability

Does not apply to Business Investors

Need

When intention to join in a business has crystallized

Vulnerable

If no application in the system but business has started

Approvability Test

Single most difficult Hong Kong visa challenge



Think/Act BIG

'Substantial ' frequently rules out 1 man businesses

Lengthy Process

Will tax your emotional and time resources

Advice

Consider taking professional advice



















The Capital Investment Entrant Scheme



- 24,000 Approvals
- 23,000 From Mainland
- 20, 000 Applications Still Being Processed
- To Be Reinstated 'Soon'

HKD30 MILLION



Invest hard cash in Hong Kong and secure residency permissions VisaGeeza. Ai



Family

Legal spouse & unmarried children under 18 get dependant visas



Eligibility

Investment assets owned for 2 clear years prior; capable of self support

Investments

Hong Kong financial assets only (real estate now excluded)

Continuity

HKD10 million portfolio must be maintained throughout

Jake van der Kamp, Monitor, SCMP, October 1, 2004

"Let us get it straight about this initiative to give foreigners Hong Kong identity cards if they bring a certain amount of money with them. It represents a complete misunderstanding of how our balance of payments system works. Foreigners who come here do not bring Hong Kong dollars. They do not have them at home. They bring their own currencies and we then exchange them for Hong Kong dollars. This results in our holding their foreign currency denominated money, which we then spend or invest in their countries ...

... Net gain to us?

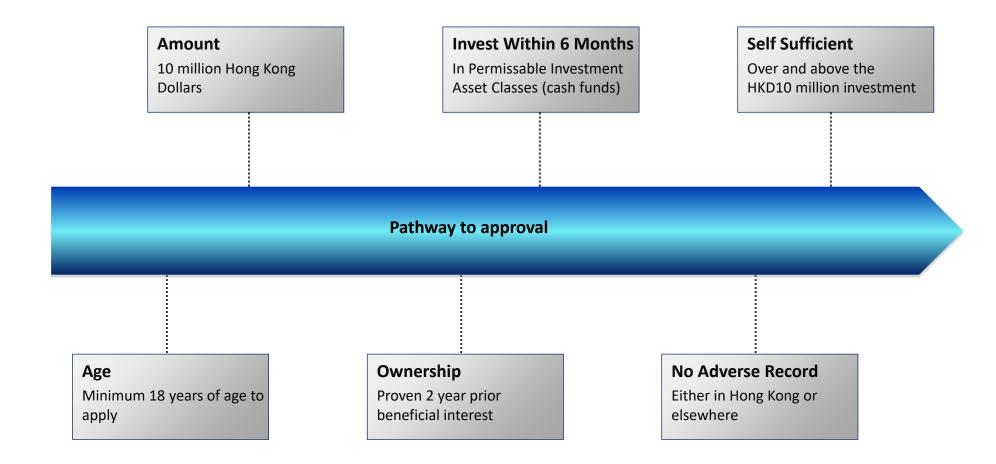
... Nothing. "

Qualifying Nationalities

- Foreign nationals (except Afghanistan, Cuba, North Korea & Albania)
- Residents of Macau & Taiwan
- Chinese nationals with PR overseas
- Stateless people holding PR overseas with proven re-entry facilities

FX issues preclude Mainland residents from inclusion in the programme





Equities

HKSE listed and HKD traded

Debt Securites

HKD denominated issued / guaranteed by HK Gov or HKSE listed companies

CoD

Issued by HK banks for a minimum of 12 months



HKD 10 M

Subordinated Debt

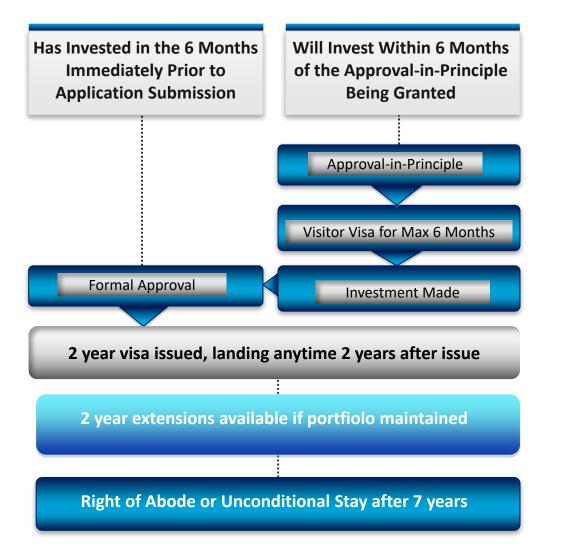
Issued by Hong Kong banks in HKD under the Banking (Capital) Rules (Chapter 155L)

Eligible Funds

As published by the HKID from time to time and authorised by SFC or Insurer

Combination

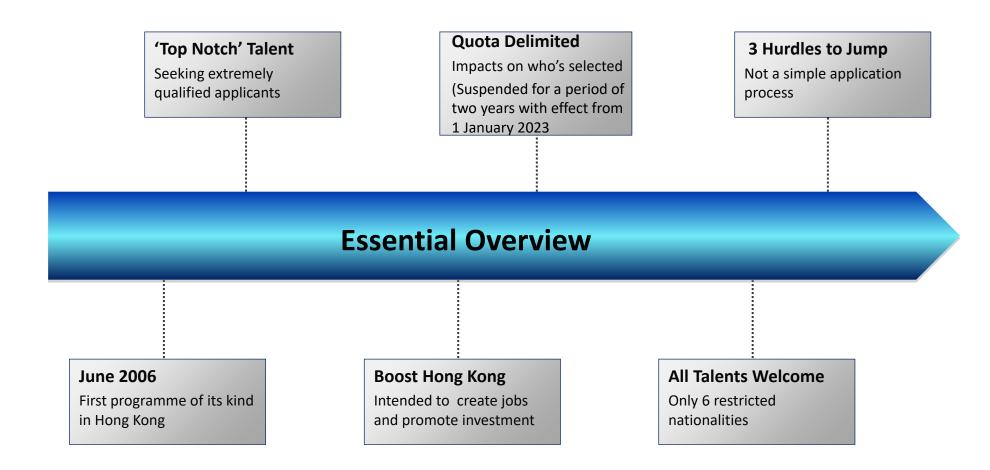
A mixture of all Permissible Investment Asset Classes is allowed







A Visa for 'Top Notch Talent' to Live & Work in Hong Kong



The programme undergoes frequent review to ensure it is meeting Hong Kong's needs

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3 Tier Approval Process

Must meet, then points, then 'Selection'

Issued Pro-forma

No specific purpose for residence needed post approval

8 or 2 Years Initially

.....

Under GPT - Has the Migrant 'taken steps' towards settlement?



'Settlement' Required

Next extension under GPT (3 years) need proof of business or employment

Dependants Included

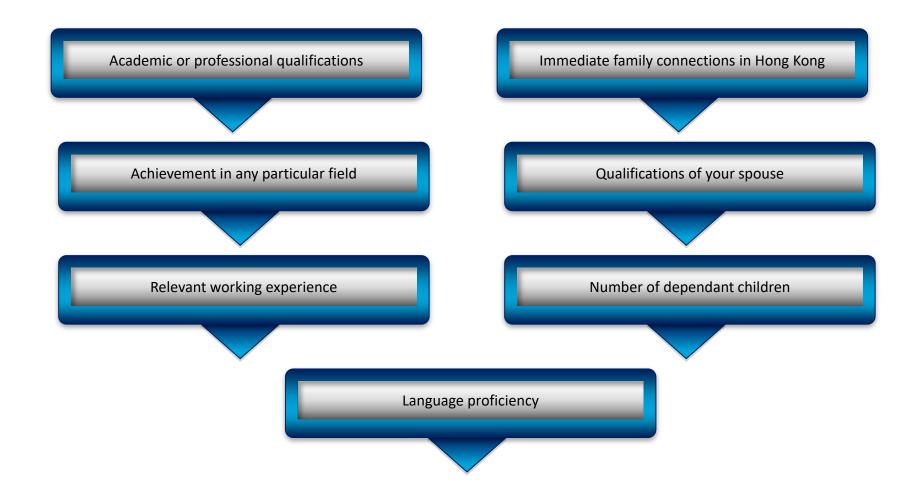
Family qualify and spouse's qualifications even count towards points

RoA After 7 Years

Continuous ordinary residence required

Age Must be aged between 18~50 years \$\$ Must have the financial means to live one year unsupported Must have no criminal record or adverse immigration history Character Must speak English, Cantonese or Mandarin Language Must have a first degree as a minimum, or Education or **Tech Quals** Must have good technical qualifications, or or Must have professional abilities, experience or achievement **Profession**

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The *General Points Test* tallies up VisaGeeza. Ai

(1) Additional 30 points awarded to graduates of renowned institutions recognized internationally and an additional 15 points to applicants with not less than 2 years of graduate or specialist level international work experience. Also, additional points on the basis of the professions under the Talent List.

(2) 2-3-3 Year under GPT OR 8 Year Pattern of Approval under APT

(3) Top Tier resident status available for HKS2 million income earners under GPT

Satisfy Must Meet Criteria & Score Sufficient Points...-

GPT's entered into 'approved pool' and ranked by points total



80 Points is the Minimum Pass Mark

Under the APT superior talents gets 225 maximum points (or fail outright)



Subsequently, GPT 'Settlement' is Demonstrated by...

Employment with duties and compensation commensurate with qualifications, or

Establishment of a business of a 'reasonable size'

APTs get a Slam Dunk 8 year limit of stay straight up





Top Talent Pass Scheme (TTPS)

TOP TALENT PASS SCHEME

'Top Talents' **No Employment Offer All Talents Welcome** Seeking talents with rich TTPS are not required to Only 6 restricted work experience and good have secured an offer of nationalities academic qualifications employment in the HKSAR upon application **Essential Overview Category C Applicants Category A Applicants Category B Applicants** Degree graduates of the world's top 100 Annual Income reaching Degree graduates of the world's top 100 universities in the past five years universities with at least three years of immediately preceding the date of HK\$2.5 million or above application with less than three years of work experience over the past five years work experience, subject to an annual quota which is to be allotted on a first-come, firstserved basis

The TTPS seeks to attract top talents with rich work experience and good academic qualifications from all over the world to explore opportunities in Hong Kong.



Visa to Join Your Heterosexual/Same-Sex Spouse or Your Parents in Hong Kong

Real?

Is there reasonable proof of a genuine relationship between the applicant and the sponsor?



Capability

Is the sponsor able to put a roof over their head and food on the table?

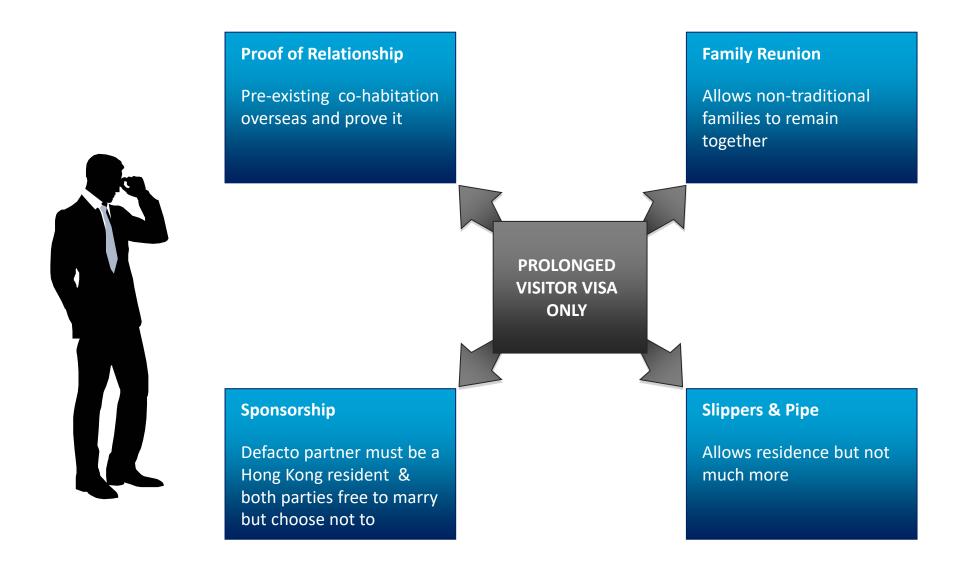
Family

Unmarried children under 18, dependant parents who are aged 60 or older, and legal spouse only unless sponsor is a long stay or permanent resident





Visa to Join Your Hong Kong Resident Defacto Spouse



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The Enhanced Supplementary Labour Scheme (ESLS)

Who Can Apply

All interested employers to import workers to fill vacancies which they have genuine difficulties in finding suitable staff locally

There Are No industry-Specific Quotas to import workers at technician level or below Employers must accord priority to fill available job vacancies with local workers

SLS was enhanced on 13 June 2023 in order to alleviate the manpower shortage across different sectors (ESLS)

Maximum Stay

24 months or the full term of the employment contract, whichever is shorter

Imported workers

admitted under this arrangement are NOT allowed to bring in their dependants

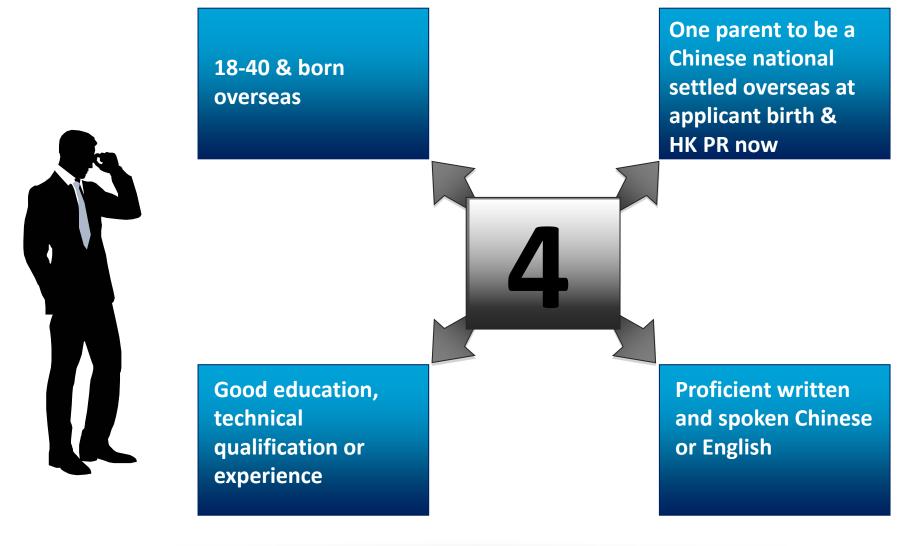
Extensions Are Not Granted

A new application for a visa/entry permit should be submitted for a new employment contract.

ESLS is a scheme which allows employers carrying on businesses in Hong Kong with genuine difficulties in finding suitable staff locally to import workers at technician level or below.



Admission Scheme for 2nd Generation of Hong Kong Chinese Permanent Residents (Commenced May 6, 2015)



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Technology Talent Admission Scheme (TechTAS)



(1) Eligible technology company/institute applies for a quota (apply through Hong Kong Science and Technology Parks Corporation (HKSTPC) or Hong Kong Cyberport Management Company Limited (Cyberport))

(by Innovation and Technology Commission)

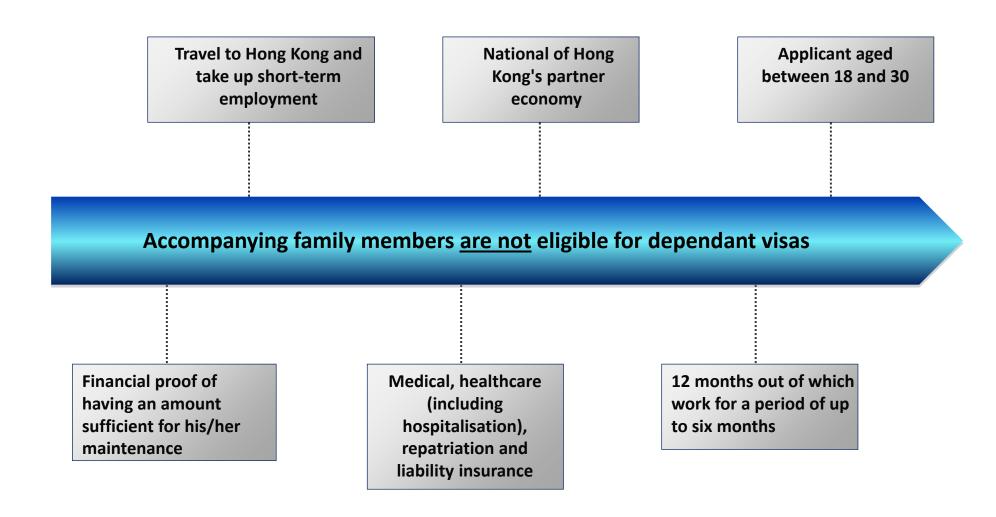
(2) Quota allotted

(4) Employment visa approved (by Immigration Department)

(3) Eligible technology company/ institute to use the quota: sponsor eligible person to apply for an employment visa (application to be submitted to Immigration Department)



Working Holiday in Hong Kong



Applicant must hold a valid national passport issued by the partner economy and is ordinarily residing in that partner economy



Permanent Residency After 7 Years Continuous Ordinary Residence in the HKSAR

Claim the RoA by applying to verify your eligibility for a HKPID Card For our purposes, you are a non-Chinese citizen resident in HK for not less than seven years Need to show 7 years continuous ordinary residence for a settled purpose No outstanding taxation liabilities nor security objections

The RoA is manifested in a Hong Kong Permanent Identity Card



Residence in Hong Kong With No Conditions Attached

(not entirely true)



UCS is an administrative convenience – it is NOT the same as RoA



Trying Again After Your First Application is Refused

Case Fatally Flawed From the Outset

Approval markers, incorrect relationships, security considerations, not approvable *ab initio*, previous denials, poor history with HKID

Very Poor Preparation & Approvability Analysis

Treating all cases the same, argument not persuasive, argumentative not adminstrative

Insufficient Supporting Documentation

Critical paperwork missing, laziness

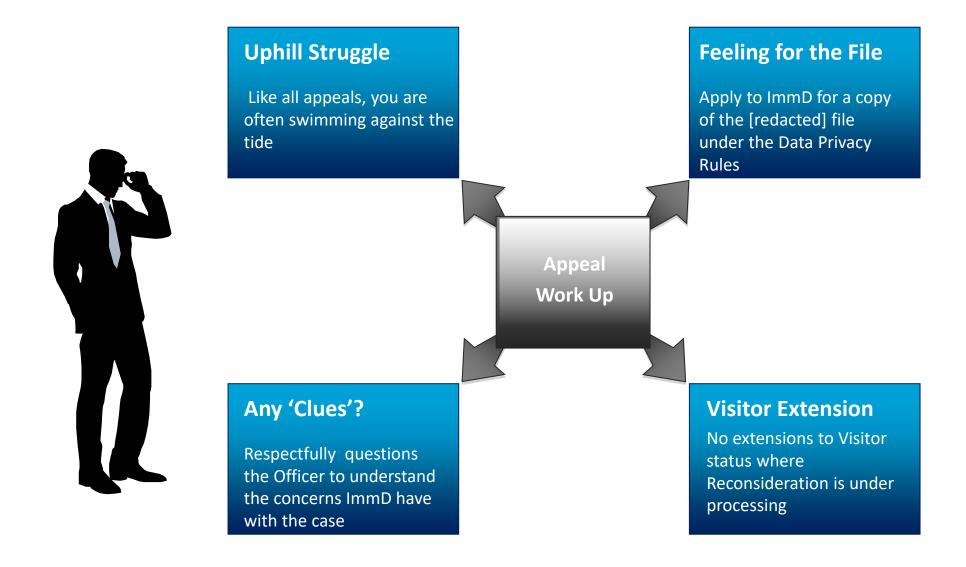
Requests of ImmD Not Afforded Significance

If ImmD request it, they need it – so get it to them – no questions asked!

Applicant Caught Breaching Conditions of Stay

During the application consideration process whilst remaining in Hong Kong as a Visitor or pre-taking up of unapproved employment

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New & Previously Unsubmitted Information

No emotional appeals

No rehash

No reshuffling

Local Chambers add no value



Comprehensive Documentation

Must be supplied to support the new information and/or facts

A Rock Solid Argument Must be Put Forward

Significant new information adding weight to the original application and/or relevant and important new facts which have come to light since the refusal



Reconsideration **Application Has Merit** **Reconsideration Application Without Merit**



~ 12 Weeks



Within 4 Weeks



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Appeal Options – When Reconsideration Fails

s.53 Review

Any person aggrieved by a decision, act or omission of any public officer taken, done or made in the exercise or performance of any powers, functions or duties under this Ordinance may by notice in writing lodged with the Chief Secretary for Administration within [14 days] object to that decision, act or omission.

Direct Intervention by the Chief Executive

BUT ONLY IF THERE IS
A SIGNIFICANT
MATTER OF PUBLIC
INTEREST AT ISSUE

Both are problematic!



Alternatively you can instruct a solicitor and seek a Judicial Review of Administrative Action





Visa Information













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