



Restoration of Chinese Nationality

Nationality Law of the People's Republic of China

A Guide for Applicants

**Immigration Department
Hong Kong Special Administrative Region**

ID 878A (8/2006)

This guide and the application form are issued free of charge to former Chinese nationals who wish to restore Chinese nationality.

The guide will help you to decide whether you can restore Chinese nationality and tells you how to do so.

If you require more information, please contact:

Information & Liaison Section,
Immigration Headquarters,
2nd Floor, Immigration Tower
7 Gloucester Road
Wan Chai, Hong Kong

Tel : 2824 6111

Fax : 2877 7711

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Website of the Hong Kong Immigration Department:

<http://www.immd.gov.hk/>

What this guide contains

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1. The stipulated requirements and the factors for consideration

The requirements laid down in Article 13 of the Nationality Law of the People's Republic of China are as follows :-

Article 13

Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

(Appendices 1 and 2 show you the text of the Nationality Law of the People's Republic of China and the "Explanations of some questions by the Standing Committee of the National People's Congress concerning the implementation of the Nationality Law of the People's Republic of China in the HKSAR".)

It is not possible to set out all the circumstances in which the Director of Immigration would normally accept as having a legitimate reason but consideration will be given to :-

- whether you have the right of abode in Hong Kong
- whether you are living in Hong Kong
- whether you are of good character and sound mind
- whether it was necessary for you to renounce Chinese nationality or declare a change of nationality to enable you to retain or acquire some other citizenship or

nationality, and the reasons why you wish to restore Chinese nationality now

- whether you followed your parents' or one of your parents' nationality when you were under the age of 18, and the reasons why you wish to restore Chinese nationality now
- whether there are other legitimate reasons to support your application

2. The application form

You can apply to restore Chinese nationality by completing form ID 878.

The application form may be completed in either Chinese or English, but must be in black or blue ink.

Which parts you should fill in

All parts of the application form should be completed. Item(s) which is(are) not applicable should be crossed out and signed by the person making the declaration.

Sign and date the declaration of your application. The application will not be valid if the declaration part is not completed.

If you are unable to sign, please impress your left thumbprint.

The declaration at Part 5 has to be made by one of your parents or legal guardian if you are under the age of 18.

Before completing the application form, you are advised to note the statement of purpose for data collection printed at Appendix 3.

Notes about some parts of the form

Part 3 - *Reason for restoration*

You must fill in this part to support your application for restoration of Chinese nationality. Documentary proof may be required to support your application.

Part 4 *Criminal records*

You must give details of all convictions by a court of law in or outside Hong Kong of any crime or offence you have committed.

Part 5 *Declaration*

After you have completed this form, please remember to sign and date the declaration in Part 5. An application will not be valid unless it has been signed and dated.

Documents in support of the application

You should submit your application together with the following documents and photocopies:

- your Hong Kong identity card
 - your passport(s) or travel document(s) showing your travel records and length of residence in Hong Kong, or any of the following documents:
 - (i) letters from your employers certifying your period of employment with them
 - (ii) letters from schools or other educational establishments showing the periods you attended
 - (iii) tax returns or a letter from the Inland Revenue Department showing that you have paid taxes in the past years
 - (iv) any other document showing your residence in Hong Kong
- (If you cannot produce any of the above documents, please explain why.)

- proof of your relationship with the parent/legal guardian who submits the application if you are under the age of 18, e.g.:
 - (i) your birth certificate
 - (ii) your parents' marriage certificate
 - (iii) court order granting guardianship (if the application is made by your legal guardian)

- other proofs to support your application

Where to submit your application

You may submit the application form with the fee and supporting documents in person or by post to :

Nationality Sub-section
Immigration Department
4th Floor
Immigration Tower
7 Gloucester Road
Wan Chai, Hong Kong

(Original documents **should not be** sent by post. Only photocopies of supporting documents should be sent with the application by post. Original documents will be inspected at the time of interview.)

Application should normally be made while you are in Hong Kong.

Fee

The application fee is HK\$1150 and is payable upon submission of the application. However, the collection of fee does not constitute any guarantee or assurance that the certificate of restoration will be issued. If payment is made by cheque, it should be crossed and made payable to 'The Government of the Hong Kong Special Administrative Region'. You should ensure that the date, payee and the amount are entered correctly on the cheque and that it is signed. **The fee paid is non-refundable in any circumstances.**

3. After you have submitted your application

A card will be given to you to acknowledge receipt of your application. (The card will be sent to you by post if the application is submitted by post.) Arrangement will be made to interview you at a later date. If you need to get in touch with the Immigration Department about any other aspect of your application, please write to the Nationality Sub-section, Immigration Department, 4th Floor, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong, and give your full name, date and place of birth and your application number.

The declaration in Part 5 includes an undertaking to inform the Director of Immigration in writing of any changes which may affect the accuracy of any information you put on the application form. It is important to do this while your application is being considered.

Certificate of Restoration of Chinese Nationality

A successful applicant will be granted a certificate of restoration of Chinese nationality. The Director of Immigration may cancel a certificate of restoration if the Director is satisfied on reasonable grounds that the certificate was obtained by fraud, false representation or the concealment of any material fact. Action may be taken against that person in accordance with law.

4. What will happen to your immigration status and foreign nationality if your application is successful?

Immigration Status

You will have the right of abode (ROA) in Hong Kong after approval of your application for restoration of Chinese nationality, if :-

- (a) you had the ROA in Hong Kong before 1 July 1997; or
- (b) you are able to meet the criteria applicable to a Chinese national, namely:-
 - (i) you were born in Hong Kong before or after the establishment of the HKSAR if your father or mother was settled or had the ROA in Hong Kong at the time of your birth or at any later time; or
 - (ii) you have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR; or
 - (iii) you were born outside Hong Kong to a parent who was a Chinese national having the ROA in Hong Kong at the time of your birth.

Foreign nationality

You cannot retain foreign nationality if your application for restoration of Chinese nationality is approved.

Appendix 1

Nationality Law of the People's Republic of China

(Adopted at the Third Session of the Fifth National People's Congress, promulgated by Order No. 8 of the Chairman of the Standing Committee of the National People's Congress and effective as of September 10, 1980)

Article 1 This law is applicable to the acquisition, loss and restoration of nationality of the People's Republic of China.

Article 2 The People's Republic of China is a unitary multinational state; persons belonging to any of the nationalities in China shall have Chinese nationality.

Article 3 The People's Republic of China does not recognize dual nationality for any Chinese national.

Article 4 Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.

Article 5 Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality.

Article 6 Any person born in China whose parents are stateless or of uncertain nationality and have settled in China shall have Chinese nationality.

Article 7 Foreign nationals or stateless persons who are willing to abide by China's Constitution and laws and who meet one of the following conditions may be naturalized upon approval of their applications:

- (1) they are near relatives of Chinese nationals;
- (2) they have settled in China; or
- (3) they have other legitimate reasons.

Article 8 Any person who applies for naturalization as a Chinese national shall acquire Chinese nationality upon approval of his application; a person whose application for naturalization as a Chinese national has been approved shall not retain foreign nationality.

Article 9 Any Chinese national who has settled abroad and who has been naturalized as a foreign national or has acquired foreign nationality of his own free will shall automatically lose Chinese nationality.

Article 10 Chinese nationals who meet one of the following conditions may renounce Chinese nationality upon approval of their applications:

- (1) they are near relatives of foreign nationals;
- (2) they have settled abroad; or
- (3) they have other legitimate reasons.

Article 11 Any person who applies for renunciation of Chinese nationality shall lose Chinese nationality upon approval of his application.

Article 12 State functionaries and military personnel on active service shall not renounce Chinese nationality.

Article 13 Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

Article 14 Persons who wish to acquire, renounce or restore Chinese nationality, with the exception of cases provided for in Article 9, shall go through the formalities of application. Applications of persons under the age of 18 may be filed on their behalf by their parents or other legal representatives.

Article 15 Nationality applications at home shall be handled by the public security bureaux of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China's diplomatic representative agencies and consular offices.

Article 16 Applications for naturalization as Chinese nationals and for renunciation or restoration of Chinese nationality are subject to examination and approval by the Ministry of Public Security of the People's Republic of China. The Ministry of Public Security shall issue a certificate to any person whose application has been approved.

Article 17 The nationality status of persons who have acquired or lost Chinese nationality before the promulgation of this Law shall remain valid.

Article 18 This Law shall come into force as of the date of its promulgation.

Appendix 2

Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region*

(Adopted at the Nineteenth Session of the Standing Committee of the Eighth National People's Congress on 15 May 1996)

According to Article 18 of and Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the Nationality Law of the People's Republic of China shall be applied in the Hong Kong Special Administrative Region from 1 July 1997. Taking account of the historical background and the existing circumstances of Hong Kong, the Standing Committee gives the following explanations concerning the implementation in the Hong Kong Special Administrative Region of the Nationality Law of the People's Republic of China—

1. Where a Hong Kong resident is of Chinese descent and was born in the Chinese territories (including Hong Kong), or where a person satisfies the criteria laid down in the Nationality Law of the People's Republic of China for having Chinese nationality, he is a Chinese national.
2. All Hong Kong Chinese compatriots are Chinese nationals, whether or not they are holders of the "British Dependent Territories Citizens passport" or "British Nationals (Overseas) passport". With effect from 1 July 1997, Chinese nationals mentioned above may, for the purpose of travelling to other countries and territories, continue to use the valid travel documents issued by the Government of the United Kingdom. However, they shall not be entitled to British consular protection in the Hong Kong Special Administrative Region and other

parts of the People's Republic of China on account of their holding the above mentioned British travel documents.

3. According to the Nationality Law of the People's Republic of China, the British Citizenship acquired by Chinese nationals in Hong Kong through the "British Nationality Selection Scheme" will not be recognised. They are still Chinese nationals and will not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China.
4. Chinese nationals of the Hong Kong Special Administrative Region with right of abode in foreign countries may, for the purpose of travelling to other countries and territories, use the relevant documents issued by the foreign governments. However, they will not be entitled to consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China on account of their holding the above mentioned documents.
5. If there is a change in the nationality of a Chinese national of the Hong Kong Special Administrative Region, he may, with valid documents in support, make a declaration at the authority of the Hong Kong Special Administrative Region responsible for nationality applications.
6. The Government of the Hong Kong Special Administrative Region is authorised to designate its Immigration Department as the authority of the Hong Kong Special Administrative Region responsible for nationality applications. The Immigration Department of the Hong Kong Special Administrative Region shall handle all nationality applications in accordance with the Nationality Law of the People's Republic of China and the foregoing provisions.

* *This English translation text is prepared by Department of Justice, the Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.*

Appendix 3

Statement of purpose of data collection

Purpose of Collection

The personal data provided in the application form will be used by Immigration Department for one or more of the following purposes :-

- (a) to process your application for restoration of Chinese nationality;
- (b) to administer the Nationality Law of the People's Republic of China and the "Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region" adopted by the Standing Committee of the National People's Congress on 15 May 1996;
- (c) to administer/enforce relevant provisions of the Immigration Ordinance (Chapter 115) and Immigration Service Ordinance (Chapter 331), and to assist in the enforcement of any other Ordinances and Regulations by other government bureaux and departments through carrying out immigration control duties;
- (d) to process other person's application for immigration facilities in which you are named as a sponsor or referee;
- (e) for statistics and research purposes on the condition that the resulting statistics or results of the research

will not be made available in a form which will identify the data subjects or any of them; and

- (f) any other legitimate purposes as may be required, authorised or permitted by law.

The provision of personal data in the process of your application is voluntary. If you do not provide sufficient information, we may not be able to process your application.

Classes of Transferees

The personal data you provide may be disclosed to government bureaux, departments and other organisations for the purposes mentioned above.

Access to Personal Data

You have a right to request access to and correction of your personal data as provided for in sections 18 and 22 of and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided in this application form subject to payment of a fee.

Enquiries

Enquiries concerning the personal data collected by means of this application form, including the making of access and corrections, should be addressed to :

Chief Immigration Officer
Travel Documents and Nationality (Application) Section
4th Floor, Immigration Tower
7 Gloucester Road, Wan Chai
Hong Kong
Tel. No.: 2829 3093