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STATUTORY INSTRUMENTS

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**1990 No. 2292**

**BRITISH NATIONALITY**

**The British Nationality (Hong Kong)  
(Selection Scheme) Order 1990**

*Made - - - - 20th November 1990*

*Coming into force - - 1st December 1990*

(1) Whereas the Governor of Hong Kong has, in pursuance of paragraph 2 of Schedule 1 to the British Nationality (Hong Kong) Act 1990, submitted to the Secretary of State a scheme for the purposes of section 1(1) of that Act

And whereas paragraph 2 of that Schedule provides that the scheme set out in an Order in Council under the Schedule shall, in the case of the first Order to be made under it, be a scheme submitted to the Secretary of State by the Governor of Hong Kong with such modifications (if any) as the Secretary of State may think necessary or expedient:

And whereas the scheme set out in the Schedule to this Order is the scheme so submitted without any modifications:

And whereas a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by Schedule 1 to the said Act of 1990, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the British Nationality (Hong Kong) (Selection Scheme) Order 1990 and shall come into force on 1st December 1990.

2. The selection scheme submitted to the Secretary of State by the Governor of Hong Kong and set out in the Schedule to this Order shall have effect for the purposes of section 1(1) of the British Nationality (Hong Kong) Act 1990.

*G. I. de Deney*  
Clerk of the Privy Council

SCHEDULE

Article 2

SELECTION SCHEME SUBMITTED BY THE GOVERNOR OF HONG  
KONG TO THE SECRETARY OF STATE FOR THE PURPOSES OF  
SECTION 1(1) OF THE BRITISH NATIONALITY (HONG KONG) ACT 1990

PART I

GENERAL

**The scheme**

1. This scheme is submitted by the Governor of Hong Kong to the Secretary of State under paragraph 2 of Schedule 1 to the British Nationality (Hong Kong) Act 1990 for the purposes of section 1(1) of that Act (acquisition of British citizenship by up to 50,000 persons recommended to the Secretary of State for that purpose by the Governor of Hong Kong).

**Interpretation**

2.—(1) In this scheme—

“Act of 1981” means the British Nationality Act 1981(2);

“Act of 1990” means the British Nationality (Hong Kong) Act 1990 and any reference to a section or a Schedule is a reference to a section of, or a Schedule to, that Act;

“applicant” means an applicant for a recommendation under section 1(1) and “apply” and “application” shall be construed accordingly;

“common date”, in relation to an applicant, means the first day of the period specified in a direction during which his application is determined;

“direction” means a direction by the Secretary of State under section 1(3);

“Governor” means the Governor of Hong Kong;

“recommendation” means a recommendation by the Governor under section 1(1) and “recommend” and “recommended” shall be construed accordingly;

“registered” means registered under section 1(1).

(2) Where it falls to the Governor under this scheme to make any calculation he may for that purpose—

(a) use such statistics or information as appear to him to be appropriate;

(b) round up or down any figure to the nearest whole number.

(3) Any reference in this scheme to the Governor includes, in relation to any function which the Governor has authorised a public officer in Hong Kong to exercise on his behalf under section 3(3) (b), a reference to that officer.

(4) Unless the context otherwise requires, any reference in this scheme to a Part, Article or Annex is a reference to a Part or Article of, or Annex to, this scheme and any reference in an Article to a paragraph is a reference to a paragraph of that Article.

**Application of scheme**

3.—(1) This scheme applies to persons who are settled in Hong Kong and who—

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(2) 1981 c. 61.

- (a) are British Dependent Territories citizens by virtue of a connection with Hong Kong or who have, before the passing of the Act of 1990 or, as the case may be, before any later date specified for the purposes of paragraph 4(1)(a) of Schedule 1 by a direction, applied for registration or naturalisation as such citizens by virtue of such a connection and whose applications would have been successful in the absence of registration under that Act; or
- (b) are British Nationals (Overseas), British Overseas citizens, British subjects by virtue of Part IV of the Act of 1981 or British protected persons.

(2) References in paragraph (1) to a connection with Hong Kong shall be construed in accordance with Article 2 of the Hong Kong (British Nationality) Order 1986<sup>(3)</sup>.

### **Classes of applicant**

4.—(1) This scheme makes provision for applications to be made in the general occupational class and in three miscellaneous classes, namely the disciplined services class, the sensitive service class and the entrepreneurs class.

(2) An applicant may only apply in one of the classes referred to in paragraph (1) in any single period specified in a direction.

### **Quotas for classes of applicant**

5. The quota of persons to be recommended in respect of each class of applicant shall be as follows—

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the general occupational class	—	36,200
the disciplined services class	—	7,000
the sensitive service class	—	6,300
the entrepreneurs class	—	500

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### **Transfer of application between classes**

6.—(1) Subject to paragraph (2), if it appears to the Governor that an application in one class could more appropriately be dealt with in another class he may treat the application as if it had been made in that other class.

(2) Where the Governor treats an application under paragraph (1) as having been made in another class but decides not to recommend the applicant in that class he shall reconsider the application in the class in which it was first made.

## **PART II**

### **THE GENERAL OCCUPATIONAL CLASS**

#### **Interpretation**

7. In this Part—

“approved occupation” means an occupation (other than a specified occupation) approved by the Governor as requiring such technical skills or professional qualifications as he considers necessary or desirable for the continued successful administration of Hong Kong;

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(3) S.I. 1986/948.

“British undertaking” means a company or firm which the Governor is satisfied has a close connection with the United Kingdom;

“emigration rate” in relation to any specified occupational group or approved occupation, means the percentage of persons in that group or occupation who appear to the Governor to have emigrated from Hong Kong during the period of three years preceding the common date;

“relevant occupation”, in relation to an applicant, means the specified or approved occupation in which the applicant has applied;

“relevant quota”, in relation to an applicant, means the quota determined by Article 10 for the specified occupational group or approved occupation in which the applicant has applied;

“specified occupational group” means an occupational group specified in Annex 1 and  
“specified occupation” means an occupation falling within a specified occupational group.

### **Restriction on applications**

8. An applicant may only apply in one occupation in any single period specified in a direction.

### **The points system**

9.—(1) Subject to the provisions of Part IV, an applicant shall be recommended if the total number of points allocated to him in accordance with this Part is sufficiently high to bring him within the relevant quota.

(2) Points shall be allocated to an applicant under the headings listed in the first column of the table below and the number of points to be allocated under Articles 11 to 17 in respect of each heading shall not exceed the number indicated in the second column of that table.

Age	200
Experience	150
Education and training	150
Special circumstances	150
Proficiency in the English language	50
Connections with the United Kingdom	50
Public or community service	50

### **Quotas within the general occupational class**

10.—(1) Subject to the provisions of this Article, the quota in relation to applicants in approved occupations shall be 500 and within that quota of 500 the quota for each approved occupation for any period specified in a direction shall be determined by—

- (a) multiplying the number of persons who appear to the Governor to be working in Hong Kong in each approved occupation on the common date by the emigration rate applicable to that occupation; and
- (b) allocating a proportion of the periodic quota for the approved occupations to each approved occupation in proportion to the number obtained for each approved occupation by subparagraph (a).

(2) If the Governor is satisfied that the application of the formula set out in paragraph (1) would be inappropriate in relation to a particular approved occupation because either

- (a) the information relating to the applicable emigration rate is unsatisfactory or unavailable;  
or
- (b) the number of persons who appear to the Governor to be working in Hong Kong in that occupation is so small that the emigration rate is an unreliable indication of the extent to which such persons are likely to emigrate from Hong Kong in the future,

he may, in relation to that approved occupation, calculate the quota in accordance with such criteria as he may determine.

(3) Where the Governor determines the quota for an approved occupation in accordance with paragraph (2), there shall for the purposes of the calculation to be made under paragraph (1) be subtracted from the periodic quota for the approved occupations the sum of the quotas determined by the Governor in accordance with paragraph (2) and the reference to “each approved occupation” in subparagraph (b) of paragraph (1) shall not include a reference to any occupation whose quota is so determined.

(4) The quota in relation to each specified occupational group for any period specified in a direction shall be determined by—

- (a) multiplying the number of persons who appear to the Governor to be working in Hong Kong in each specified occupational group on the common date by the emigration rate applicable to that occupational group;
- (b) allocating a proportion of the periodic quota for the specified occupational groups to each specified occupational group in proportion to the number obtained for each such group by subparagraph (a).

(5) Within the quota determined under paragraph (4) in relation to the occupational group specified in paragraph 1 of Annex 1 (“the managers and administrators quota”) the number of managers and administrators in service with the Government of Hong Kong to be recommended shall be determined by the following formula—

$$\frac{A}{B} \times C$$

where—

- (a) A is the number of persons who appear to the Governor to be managers and administrators in service with the Government of Hong Kong on the common date;
- (b) B is the total number of persons in Hong Kong who appear to the Governor to be in that specified occupational group on the common date;
- (c) C is the number representing the managers and administrators quota,

and, within the managers and administrators quota, the number of managers and administrators in service with the Government of Hong Kong and the number of managers and administrators not in such service shall each constitute a relevant quota for the purposes of the scheme.

(6) An applicant who was a manager or administrator in service with the Government of Hong Kong but who ceased to be in such service before the common date shall not, if he applies in the managers and administrators occupational group, be treated for the purposes of paragraph (5) as a manager or administrator in such service.

(7) In this Article “periodic quota”, in relation to approved occupations or specified occupational groups, means the maximum number of applicants in all the approved occupations or, as the case may be, all the specified occupational groups who may, by virtue of a direction, be recommended in the period specified in that direction.

## Age

11.—(1) Subject to paragraph (2), an applicant shall be allocated points for his age on the common date in accordance with the table set out in Annex 2 and, where that table indicates that a negative number of points is to be allocated, the Governor shall, for the purpose of calculating the applicant's total score, subtract that number of points from the total score.

(2) The Governor shall—

- (a) add to the number of points allocated under paragraph (1) to an applicant aged 20 or over but under the age of 30 one twelfth of 20 points for each complete month elapsing between the applicant's last birthday and the common date (“a complete month”);
- (b) subtract from the number of points allocated under paragraph (1) to an applicant aged 41 or over but under the age of 51 one twelfth of 20 points for each complete month;
- (c) if the applicant is aged 51, subtract from the applicant's total score one twelfth of 20 points for each complete month;
- (d) if the applicant is aged 52 or over but under the age of 61, add to the number of points to be subtracted from the applicant's total score one twelfth of 20 points for each complete month.

(3) In paragraph (2) references to an applicant's age are references to his age on the common date.

## Experience

12.—(1) Subject to the provisions of this Article, an applicant shall be allocated 10 points for each year's service completed before the common date in the approved occupation or within the specified occupational group into which the specified occupation falls (in this article referred to as “relevant experience”).

(2) In relation to applicants in the managers and administrators occupational group specified in paragraph 1 of Annex 1 (other than applicants who are in service with the Government of Hong Kong) the points to be allocated for each year's relevant experience shall be determined by reference to the applicant's average earnings in accordance with the table set out in Annex 3.

(3) In determining the points to be allocated for experience—

- (a) only 15 years of relevant experience shall be taken into account;
- (b) periods of service on secondment from a relevant occupation shall be treated as relevant experience.

(4) There shall be added to the number of points allocated to an applicant under this Article, one twelfth of 10 points (or, in the case of applicants referred to in paragraph (2), one twelfth of the points determined by Annex 3 for a year's relevant experience) for each complete month's relevant experience between the date of the applicant's last completed year of service and the common date.

(5) The Governor may, if he thinks fit in the special circumstances of the applicant's case, treat an applicant's experience in service in an occupation or occupational group other than the one in which he has applied as relevant experience.

(6) For the purposes of this Article, a person is on secondment from a relevant occupation if he is for the time being serving temporarily in another capacity under arrangements whereby he is to return when his temporary service ends to service in the relevant occupation or, in the case of a specified occupation, in the occupational group in which his occupation falls.

(7) For the purposes of this Article, “average earnings”, in relation to an applicant in the managers and administrators occupational group, means the average annual earnings which the Governor considers the applicant to have derived from his activities in any occupation within that group during such recent period as the Governor may determine in the circumstances of the applicant's case.

### Education and training

13.—(1) Subject to the provisions of this Article, an applicant may be allocated up to 50 points in respect of each of the following—

- (a) general education;
- (b) professional or vocational qualifications;
- (c) further qualifications.

(2) The points to be allocated to an applicant for general education shall be those specified opposite the highest educational level attained by the applicant listed in the following table—

Educational level	Points
Primary 6	5
Secondary 3	10
Secondary 5	20
Secondary 6	25
Secondary 7	30
Post-secondary qualification other than a degree	40
Degree	50

(3) Subject to paragraph (4), the points to be allocated to an applicant for professional or vocational qualifications shall—

- (a) in the case of an applicant in a specified occupational group be the points indicated opposite the highest qualification attained by the applicant listed in Annex 4 in respect of that occupational group; and
- (b) in the case of an applicant in an approved occupation, be such as the Governor may determine in the case of each occupation.

(4) Under paragraph (3) points shall be allocated in respect of a professional or vocational qualification if the Governor is satisfied that—

- (a) in the case of an applicant in a specified occupation, the applicant's qualification is related to the occupational group in which he applied; and
- (b) in the case of an applicant in an approved occupation, the applicant's qualification is related to that approved occupation.

(5) The points to be allocated to an applicant for further qualifications shall be such as the Governor may determine in the case of each relevant occupation.

(6) The Governor, in determining the allocation of points under this Article, may—

- (a) treat a qualification not specified in this Article or Annex 4 as equivalent to a qualification which is so specified;
- (b) allocate fewer points for a qualification than those provided for by this Article or Annex 4, or no points, if he considers it appropriate in view of the standing of the institution which conferred the qualification or the circumstances in which the qualification was obtained;
- (c) disregard any qualification which he considers not to have been conferred by a bona fide institution.

### **Special circumstances**

14.—(1) The Governor may allocate up to 150 points for special circumstances in accordance with paragraphs (2) to (5) in respect of applicants in a specified occupation and in accordance with paragraph (6) in respect of applicants in an approved occupation.

(2) The Governor may allocate up to 75 points to an applicant if he considers that there is an exceptionally high propensity to emigrate amongst those serving in the relevant occupation or amongst a particular group of persons serving in that occupation.

(3) The Governor may, in relation to applicants in a relevant occupation or applicants of a particular description within a relevant occupation, allocate up to 50 points to such applicants to take account of—

- (a) the importance of the applicants' professional or vocational qualifications in the relevant occupation; or
- (b) the effect of the application of the provisions of this Part relating to age and experience if the Governor is satisfied that it does not adequately reflect the significance of those attributes in the applicants' cases.

(4) The Governor may, in accordance with paragraph (5), allocate up to 50 points to an applicant in a specified occupation in recognition of his exceptional merit or outstanding achievement.

(5) The Governor may under paragraph (4) allocate—

- (a) up to 30 points for the applicant's exceptional merit or outstanding achievement in the relevant occupation;
- (b) up to 30 points for unpaid service with such voluntary agencies or institutions in the social, medical or educational field as may from time to time be approved by the Governor for the purposes of this scheme;
- (c) up to 20 points for acts of bravery or gallantry.

(6) The Governor may allocate up to 150 points for special circumstances to an applicant in an approved occupation to take account of the extent to which his skills or expertise are of importance to the continued well-being of Hong Kong and, in those cases where he does so, he may, subject to paragraph (1), allocate up to 50 points in respect of the applicant's exceptional merit or outstanding achievement.

### **Proficiency in the English language**

15. An applicant shall either—

- (a) be allocated 50 points if he has obtained a Grade E level (or higher) in the Hong Kong Certificate of Education examination in English (Syllabus A) or a pass in any examination in English which the Governor considers for the purposes of this scheme to be equivalent to that level; or
- (b) be allocated 50 points if he has obtained a Grade A level in the British Nationality Scheme English Language Proficiency Test or 25 points if he has obtained a Grade B level in that examination.

### **Connections with the United Kingdom**

16.—(1) An applicant shall be allocated points for his connections with the United Kingdom in accordance with the provisions of this Article.

(2) In this Article “relevant service” means—

- (a) service with a British undertaking;
- (b) Crown service under the Government of the United Kingdom or Hong Kong;



(c) service of any description for the time being designated under section 2(3) of the Act of 1981.

(3) Subject to paragraphs (4) and (5), an applicant shall be allocated one point for every period of 6 months relevant service completed before the common date up to a maximum of 35 points.

(4) Paragraph (3) shall not apply to an applicant who is not in relevant service on the common date but such an applicant shall be allocated 5 points if, before that date, he had completed at least 3 years relevant service.

(5) Notwithstanding paragraph (4), an applicant who was in Crown Service under the Government of the United Kingdom or Hong Kong but who has ceased to be in such service because the functions of the organisation in which he served have since the date of the passing of the Act of 1990 ceased to be performed on behalf of the Crown shall, if he was employed by that organisation on the common date, be allocated one point for each period of 6 months service with that organisation completed before the date on which the applicant ceased to be in Crown service.

(6) Subject to paragraph (8), an applicant who has any of the connections with the United Kingdom listed in paragraph (7), shall be allocated 5 points in respect of each connection which he has.

(7) The connections with the United Kingdom referred to in paragraph (6) are that the applicant—

- (a) has, by the common date, been educated in the United Kingdom at primary or secondary level for a period of at least 3 years;
- (b) has, by the common date, been educated at a university, polytechnic or other further education institution in the United Kingdom for a period of at least 2 years;
- (c) has, on the common date, a spouse, child, parent, sibling, grandparent or parent-in-law who is a British citizen or settled in the United Kingdom or has, on that date, a child being educated in the United Kingdom at primary, secondary or further education level;
- (d) owned investments or property in the United Kingdom on the date of the passing of the Act of 1990 worth at that date in excess of £100,000 or, in relation to an application made in any period specified in a second or subsequent direction, owns investments or property in the United Kingdom at the beginning of that period worth at that time in excess of £100,000.

(8) No applicant shall be allocated more than 15 points under paragraph (6).

### **Public or community service**

17.—(1) Subject to the provisions of this Article, an applicant shall be allocated points for his service with the Legislative Council, the Executive Council and such other public bodies as may from time to time be approved by the Governor for the purposes of this scheme and for his service with the auxiliary services.

(2) An applicant who is, or has been, a member of the Legislative Council or the Executive Council shall be allocated 4 points for each year of service completed within the period of 10 years preceding the common date.

(3) An applicant who is or has been a member of any body approved by the Governor under paragraph (1) shall be allocated 2 points for each year of service with that body completed within the period of 10 years preceding the common date and an applicant who is or has been the chairman of such a body (or who the Governor is satisfied holds or has held a comparable position in that body) shall be allocated an additional 2 points for each year of service as chairman of that body (or holder of that comparable position) completed within that period.

(4) In determining the points to be allocated for service with the public bodies referred to in paragraph (1) no account shall be taken of service with more than 6 such bodies.

(5) An applicant shall be allocated 2 points for each year of active service in the auxiliary services completed before the common date.

(6) An applicant shall not be allocated points under this Article for service arising from or connected with official duties performed by him in the course of his employment.

(7) In this Article the “auxiliary services” means the Royal Hong Kong Regiment (the Volunteers), the Royal Hong Kong Auxiliary Air Force, the Royal Hong Kong Auxiliary Police Force, the Auxiliary Medical Services and the Civil Aid Services.

## PART III

### THE MISCELLANEOUS CLASSES

#### **Interpretation**

**18.** In this Part “disciplined service” means one of the following—

- (a) service in the Royal Navy as one of the locally enlisted personnel of the British Garrison in Hong Kong;
- (b) service in the Army as one of the locally enlisted personnel of the British Garrison in Hong Kong;
- (c) service as a uniformed member of the permanent staff of the Royal Hong Kong Auxiliary Air Force;
- (d) service as a departmental grade officer of the Operations Department, Independent Commission Against Corruption;
- (e) service as a disciplined member of the Correctional Services Department;
- (f) service as a disciplined member of the Customs and Excise Service;
- (g) service as a disciplined member of the Fire Services Department;
- (h) service as a disciplined member of the Immigration Service;
- (i) service as a disciplined member of the Royal Hong Kong Police Force,

and, in relation to an applicant, “disciplined service”, unless the context otherwise requires, means the disciplined service in which the applicant has applied.

#### **Restriction on applications**

**19.—**(1) An applicant in the disciplined services class may only apply in one disciplined service in any single period specified in a direction.

(2) A person who has ceased to serve in the disciplined services before the common date shall be ineligible to apply under the scheme in the disciplined services class.

#### **The points system in the disciplined services class**

**20.** Subject to the provisions of Part IV, an applicant in the disciplined services class shall be recommended if the total number of points allocated to him in accordance with Article 22 is sufficiently high to bring him within the quota provided for in Article 21 and for these purposes Article 9(2) shall apply to applicants in the disciplined services class as it applies to applicants in the general occupational class.

### **Quotas in the disciplined services class**

21. Within the quota prescribed for the disciplined services class by Article 5, the quota for each disciplined service for each period specified in a direction shall be determined by the following formula—

$$\frac{A}{B} \times C$$

where—

- a A is the number of persons who appear to the Governor to be in that disciplined service on the common date minus the number of persons in that service whom the Governor intends to invite to apply in the sensitive service class;
- b B is the total number of persons who appear to the Governor to be serving in all the disciplined services on the common date minus the number of persons in those services whom the Governor intends to invite to apply in the sensitive service class;
- c C is the maximum number of applicants in the disciplined services class who may, by virtue of a direction, be recommended in the period specified in that direction.

### **Application of the points system in the disciplined services class**

22.—(1) Articles 11 to 17 shall apply for the purpose of allocating points to applicants in the disciplined services class subject to the modifications set out in paragraphs (2) to (5).

(2) For the purpose of allocating points for an applicant's experience, Article 12 shall apply with the following modifications—

- (a) in paragraph (1) for the words “in the approved occupation or within the specified occupational group into which the specified occupation falls” there shall be substituted the words “in any disciplined service”;
- (b) paragraphs (2), (5) and (7) shall be deleted;
- (c) in paragraph 3(b) for the words “relevant occupation” in both places where they occur there shall be substituted the words “disciplined service”;
- (d) the words in parentheses in paragraph (4) shall be omitted;
- (e) in paragraph (6) for the words “relevant occupation” in both places where they occur there shall be substituted the words “disciplined service” and the words from “or, in the case of a specified occupation,” to the end shall be deleted.

(3) For the purposes of allocating points for an applicant's education and training, Article 13 shall apply with the following modifications—

- (a) in paragraph (1) for subparagraph (b) there shall be substituted the following subparagraph—
  - “(b) professional training”;
- (b) for paragraph (3) there shall be substituted the following paragraph—
  - “(3) The points to be allocated to an applicant for professional training shall be such as the Governor may determine in the light of recommendations made by the head of the disciplined service.”;
- (c) paragraph (4) shall be deleted;
- (d) in paragraph (5) for the words “in the case of each relevant occupation” there shall be substituted the words “in the light of recommendations made by the head of the disciplined service”.

(4) For the purposes of allocating points to an applicant for special circumstances the following Article shall be substituted for Article 14—

“14. The Governor may allocate up to 150 points for special circumstances to take account of—

- (a) the need to maintain the quality and staffing levels of personnel in the disciplined services;
- (b) the applicant’s performance in service or any honours received by him in connection with that service;
- (c) the effect of the application of the provisions of Part II relating to age and experience if the Governor is satisfied that it does not adequately reflect the significance of those attributes in the applicant’s case.”.

(5) For the purposes of allocating points for an applicant’s public or community service, Article 17 shall apply with the following modifications—

- (a) in paragraph (1) for the words “and for his service with the auxiliary services” there shall be substituted the words “for his service with the auxiliary services and for his unpaid service with voluntary agencies or institutions in the social, medical or educational field.”;
- (b) at the end there shall be added the following paragraph—

“(8) The Governor may allocate up to 30 points for unpaid service with such voluntary agencies or institutions in the social, medical or educational field as may from time to time be approved by the Governor for the purposes of this scheme.”.

#### **The sensitive service class**

**23.** Subject to the provisions of Part IV, within the quota prescribed by Article 5 for applicants in the sensitive service class, the Governor may recommend an applicant if he considers that a recommendation is justified in view of the applicant’s service in the interests of the Crown (whether in the private or public sector) or the applicant’s other activities of a sensitive nature.

#### **The entrepreneurs class**

**24.—(1)** Subject to the provisions of Part IV, within the quota prescribed by Article 5 for applicants in the entrepreneurs class, the Governor may recommend an applicant if, having regard to the matters specified in paragraph (2), he considers that the applicant has made a special contribution to the economy of Hong Kong.

(2) The matters to which the Governor shall have regard in making a recommendation under paragraph (1) are—

- (a) the extent of the applicant’s investments in Hong Kong;
- (b) the annual turnover of any business in Hong Kong which the applicant controls (whether alone or jointly with others);
- (c) the number of persons employed in any such business;
- (d) the extent to which the applicant’s emigration would undermine confidence in the economy of Hong Kong;
- (e) whether there are, in the applicant’s case, special circumstances of the type referred to in Article 14;
- (f) whether the applicant has connections with the United Kingdom of the type referred to in Article 16;
- (g) whether the applicant has performed any public or community service of the type referred to in Article 17.

## PART IV SUPPLEMENTAL

### **Equally qualified applicants**

25. Where it appears to the Governor that two or more applicants are equally qualified under the scheme but he cannot recommend each of them without exceeding the relevant quota, he shall decide at his discretion which applicant or applicants to recommend.

### **Recommendations in respect of more than one family member**

26. Where two or more applicants qualify under the scheme to be recommended but the relationship between them is such that, by virtue of subsection (4) of section 1, only one of them can be registered under that section, the Governor shall, in the absence of any agreement between the applicants as to which of them should be recommended, determine for himself which applicant to recommend.

### **Applicants possessing a citizenship of a third country**

27. Where it appears to the Governor that an applicant possesses a citizenship which confers upon the applicant a right of abode in a country or territory outside Hong Kong or the People's Republic of China, he shall, where the applicant falls to be dealt with in either the general occupational class or the disciplined services class, deduct 200 points from the points allocated to the applicant and shall, where the applicant falls to be dealt with in either the sensitive service class or the entrepreneurs class, take that citizenship into account in deciding whether or not to recommend that applicant.

### **Effect of direction by Secretary of State**

28. Where the Governor is, for the time being, prevented from recommending the full quota of applicants of any given class or description under this scheme by a direction, the Governor shall determine which applicants to recommend and shall do so, where applicable, by reference to the total number of points allocated to applicants in each class or description to which the direction relates.

### **Applicants involved in the operation of the scheme**

29. Where an applicant is—

- (a) serving as
  - (i) a staff member on the establishment of Government House;
  - (ii) a member of the committee appointed under section 3(3)(a) to advise the Governor on matters arising under the scheme; or
  - (iii) a public officer authorised by the Governor under section 3(3)(b) to exercise functions on his behalf in respect of applications under the scheme, or
- (b) otherwise concerned with the implementation of the scheme in an official capacity, that applicant shall not deal in his official capacity with any matter concerned with, or arising from, his own application or any application in which he has a personal interest.

Submitted to the Secretary of State by the Governor of Hong Kong,  
12th October 1990.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 1(1) of the British Nationality (Hong Kong) Act 1990 provides that the Secretary of State shall register as British citizens up to 50,000 persons recommended to him for that purpose by the Governor of Hong Kong under a scheme or schemes made and approved in accordance with Schedule 1 to that Act. Paragraph 1 of that Schedule provides that effect shall be given to any such scheme by an Order in Council setting out the terms of the scheme. Paragraph 2(a) of the Schedule provides that the scheme set out in the Order in Council shall, in the case of the first Order to be made, be a scheme submitted by the Governor with such modifications (if any) as the Secretary of State may think necessary or expedient.

This Order is the first to be made under the Act and gives effect in the Schedule thereto, without modifications, to a scheme submitted by the Governor. The scheme provides that the Governor may make recommendations in respect of persons falling within four classes within a quota prescribed by the scheme. Those classes (with the respective quotas in brackets) are the general occupational class (36,200), the disciplined services class (7,000), the sensitive service class (6,300) and the entrepreneurs class (500).

Part II of the scheme makes provision for the general occupational class and provides for applicants to be recommended according to the number of points allocated to them within the quota prescribed by the scheme for the particular occupation or occupational group in which they apply. Under Part II points are allocated to an applicant for age, experience, education and training, special circumstances, proficiency in the English language, connections with the United Kingdom and public and community service.

Part III provides for the disciplined services class and makes provision for the points scheme set out in Part II to apply to applicants in the disciplined services with modifications. It also provides for the Governor to recommend applicants in the sensitive service class (in respect of the applicant's service in the interests of the Crown or other activities of a sensitive nature) and in the entrepreneurs class if the Governor considers that the applicant has made a significant contribution to the economy of Hong Kong.

Part IV makes provision for supplemental matters and, in particular, prevents any applicant who is concerned with the implementation of the scheme from dealing with any matter concerned with, or arising from, his own application or any application in which he has a personal interest.