

Re: Application for Entry for Residence as a Dependant in Hong Kong
(Application No.:)

We refer to the captioned application for entry for residence in Hong Kong as the dependent spouse of Mr.

Entry of dependant under the General Employment Policy

Applicants admitted under the General Employment Policy may apply to bring in, *inter alia*, their spouse to Hong Kong as a dependant under the prevailing dependant policy (“**the Policy**”).

An application for entry for residence in Hong Kong as dependant of the sponsor admitted under the General Employment Policy may be favourably considered if:

- (a) there is reasonable proof of a genuine relationship between the dependant and the sponsor;
- (b) there is no known record to the detriment of the dependant; and
- (c) the sponsor is able to support the dependant’s living at a standard well above the subsistence level and provide him/her with suitable accommodation in Hong Kong.

Apart from the above, the dependant should meet normal immigration requirements (such as holding a valid travel document with adequate returnability to his/her country of residence or citizenship; be of clear criminal record and raise no security or criminal concerns to Hong Kong; have no likelihood of becoming a burden on Hong Kong, etc.) before he/she may be considered for the grant of a visa/entry permit. Each application will be considered on its own merits.

QT v Director of Immigration

The Policy has been judicially reviewed in the case *QT v Director of Immigration* (“**the QT case**”)¹. The Hong Kong Court of Appeal has found, *inter alia*, that the exclusion of same-sex married couples and same-sex partners under a civil partnership under the Policy constitutes indirect discrimination based on sexual orientation (“**the Court of Appeal’s decision**”). The Director of

¹ Court of First Instance Case No. HCAL 124/2014 (11 March 2016); Court of Appeal Case No. CACV 117/2016 (25 September 2017).

Immigration (“the Director”) has lodged an appeal against the Court of Appeal’s decision to the Hong Kong Court of Final Appeal and the final determination of the said appeal is pending.

Having considered all available information and circumstances of your application, and pending the final determination of the QT case in the Court of Final Appeal, the Director is prepared to grant you exceptionally, outside the Policy, permission to remain in Hong Kong for 12 months on time limitation only. During the validity of your permission to remain in Hong Kong, you will, as in the case of the holder of a dependant visa granted under the Policy, be free to take up employment, establish or join in business or study in Hong Kong *without* the need to seek prior permission from the Director.

In the event that the final determination of the QT case is not yet reached upon the expiry of your permission to remain in Hong Kong, you may apply to the Director for extension of stay. Such application may be favourably considered provided that: (i) Mr. _____ continues to have valid permission to remain in Hong Kong for employment under the General Employment Policy; (ii) there is no change in the relationship between you and Mr. _____, and Mr. _____ will support your application; (iii) there is no known record to your detriment; (iv) Mr. _____ is able to support your living at a standard well above the subsistence level and provide you with suitable accommodation in Hong Kong; and (v) you are able to meet normal immigration requirements.

In the event that the Court of Final Appeal finds in favour of the Director and overturns the Court of Appeal’s judgment in the QT case, the Director reserves the right of not granting you further extension of stay unless you can meet the eligibility criteria for admission/staying in Hong Kong under the established immigration policy or entry arrangement.

In case of doubt, you are advised to obtain your independent legal advice as appropriate.

Collecting the visa label

Please attend this office at your earliest convenience between 8:45 and 11:30 a.m. or between 2:00 and 5:00 p.m. (except Saturdays, Sundays and public holidays) for collection of a visa label. Please bring along your valid travel document, this letter and a fee of HK\$190. If a representative is attending on your behalf, he/she should produce his/her Hong Kong identity card, a letter of authorization from you, this letter and the fee.

For the avoidance of doubt, the Director’s present decision of granting you permission to remain in Hong Kong on time limitation only does not amount to, and should not be taken as any concession on his part in relation to any legal issues raised in any legal proceedings, including but not limited to the QT case.

Yours faithfully,