

Re-domicile of a Bermuda Company to Hong Kong 2025

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Re-domicile of a Bermuda Company to Hong Kong

A company incorporated in the Bermuda may make an application under section 820B of the Companies Ordinance (Cap. 622 of the Laws of Hong Kong) (the “**Hong Kong Companies Ordinance**”) to be registered as a company in Hong Kong. A successful application would result in the Bermuda company relocating its legal domicile from Bermuda to Hong Kong while preserving its corporate identity, operational continuity, and pre-existing legal obligations.

Note: The Bermuda company applying for continuation as a body corporate limited by shares under Hong Kong law is referred to in this note as the “Bermuda company” or the “company”, depending on the context.

Eligibility Requirements

Under the Hong Kong Companies Ordinance, the Bermuda company must meet the following requirements to be eligible to apply for re-domiciliation to Hong Kong:

- the Bermuda company must either be a private or public company limited by shares or an unlimited private or public company with a share capital;
- the Bermuda company has been incorporated for at least one financial year;
- compliance with requirements under Bermuda law to discontinue out of Bermuda and be continued in Hong Kong (note that approval is required from the Minister of Finance of Bermuda to be continued in Hong Kong);
- the re-domiciliation application is not intended to defraud creditors and is made in good faith;
- all shareholder approval and other consent requirements under Bermuda law, the Bermuda company’s constitutional documents (e.g. bye-laws of the company) and/or contracts or undertakings have been obtained or waived (as applicable);
- shareholder approval requirements under the Hong Kong Companies Ordinance are met;
- all creditors have been notified of the re-domiciliation proposal;
- the Bermuda company is able to pay its debts which fall due within the period of 12 months from the application date; and
- the Bermuda company (a) is not the subject of any petition, proceedings or order for the winding up or liquidation of the Bermuda company; (b) has not passed any resolution for winding up or liquidation; (c) has not been notified of the appointment of any receiver or manager with respect to the Bermuda company and/or its assets and there is no person acting as such; or (d) has not entered into any scheme, order, comprise or arrangement relating to the insolvency of the Bermuda company.

The Hong Kong Companies Registrar will refuse a re-domiciliation application if it is of the opinion that the company will be likely to be used for an unlawful purpose or a purpose contrary to public interest after re-domiciling to Hong Kong.

Application Process

The key documents required for the application include:

1. **Form NNC6** – Re-domiciliation Form;

2. **Copy of the proposed Articles of Association;**
3. **Documents to accompany the Re-domiciliation Form;**
 - a. if the Bermuda company was initially incorporated in Bermuda, a certified copy of the certificate of incorporation issued under Bermuda law;
 - b. if the Bermuda company was initially incorporated in another jurisdiction other than Bermuda, a certified copy of the certificate of incorporation or other equivalent document under that jurisdiction and a certified copy of the certificate of continuance issued under Bermuda law;
 - c. a certified copy of all constitutional documents of the Bermuda company;
 - d. a certified copy of the shareholders' resolution passed under Bermuda law and the bye-laws of the Bermuda company approved by a majority of at least 75% of eligible shareholders approving the continuation as a body corporate limited by shares under Hong Kong law (where required);
 - e. accounts or audited accounts of the Bermuda company as at a date no more than 12 months before the re-domiciliation application date;
 - f. certificate issued by the board of directors within 35 days before the application date and signed by a director;
 - g. legal opinion from a Bermuda legal practitioner issued within 35 days before the application date;
4. **IRBR5 – Notice to Business Registration Office;**
5. **Application and Registration Fee** (HK\$6,050 for electronic application; HK\$6,725 for paper application) and **Business Registration Fee**.

Timing

After submitting all required information and documents, it will generally take approximately two weeks for the Hong Kong Companies Registry to process the application.

After re-domiciliation

If the Hong Kong Companies Registry approves the application, the Hong Kong Companies Registrar will issue a certificate of re-domiciliation. The company will then be required to submit the following documents to complete the re-domiciliation process:

- a return setting out the particulars of the share capital and shareholders of the company within 15 days of the date of issue of the certificate of re-domiciliation; and
- for specific cases, a written consent from each director to act as a director of the company within 15 days of the date of issue of the certificate of re-domiciliation.

Deregistration in Bermuda

After obtaining the certificate of re-domiciliation, the company must deregister in Bermuda. Documentary evidence of deregistration from Bermuda must be submitted to the Hong Kong Companies Registry within 120 days of the date of issue of the certificate of re-domiciliation. If the company fails to fulfil this requirement, the re-domiciliation registration will be revoked by the Hong Kong Companies Registry.

Requirements to discontinue out of Bermuda

In Bermuda, re-domiciliation to another foreign jurisdiction is generally referred to as being “continued in a jurisdiction outside Bermuda” or to “discontinue out of Bermuda”. Under the Bermuda Companies Act (1981), exempted companies can apply to the Registrar of Companies in Bermuda (the “**Bermuda Registrar**”) to be discontinued out of Bermuda and be continued in a jurisdiction that is an “appointed jurisdiction” or a jurisdiction that is approved by the Minister of Finance of Bermuda. As at the date of this note, Hong Kong is not an “appointed jurisdiction”, accordingly, approval from the Minister of Finance needs to be obtained by submitting an application letter with a Hong Kong legal opinion to the Bermuda Registrar. For financial institutions, the application must also be submitted to the Bermuda Monetary Authority. To obtain such approval, it must be confirmed to the Minister of Finance that after continuation to Hong Kong:

- all property owned by the company while domiciled in Bermuda remains vested in the company;
- the company remains liable for all obligations incurred when it was a Bermuda company;
- any existing cause of action, claim, legal proceedings as well as civil, criminal, or administrative action or proceedings pending by or against the company may remain actionable by or against the company; and
- any conviction, ruling, order, or judgment for or against the company remains enforceable against the company.

Additionally, the Minister of Finance will also consider whether Hong Kong belongs to any internationally recognised standard-setting bodies (e.g. Basel Committee for Supervision of Banking, IOSCO or IAIS), whether Hong Kong has legislation which allows re-domiciliation back to Bermuda, whether Hong Kong has a regulatory framework for its financial services sector, and whether the Bermuda Monetary Authority has raised any objections regarding Hong Kong. The processing time for such approval generally takes around three months and the Minister of Finance may also request further information when considering the application.

The discontinuance must also be approved by members of the company in a general meeting or according to the requirements under the bye-laws of the company. Additionally, the company is required to advertise the intention to discontinue out of Bermuda and continue in Hong Kong in an appointed newspaper in Bermuda and in a national newspaper in every jurisdiction in which the company carried on a substantial part of its trade or business activities at least 14 days before the discontinuance.

Under the Bermuda Companies Act (1981) the company will also be required to file the following documents on or before the effective date of the discontinuance to discontinue out of Bermuda:

1. a notice of discontinuance setting out the effective date of the discontinuance, the name of the jurisdiction in which the company will continue in, and the registered office or principal business address in Hong Kong;
2. a statutory declaration signed by a director of the company confirming that the company is solvent and can meet all of its liability and obligations, and that the discontinuance will not adversely affect the interests or rights of bona fide creditors and members of the company;
3. an irrevocable deed poll by the company and its directors acknowledging that:
 - a. the company and each of its directors can be served with legal process in Bermuda for proceedings in relation to actions or omissions prior to the discontinuance and a person is appointed as the agent for service of process for at least three years from the date of discontinuance;
 - b. the company and each of its directors can be served with legal process at a specified address in the United Kingdom, the United States of America or any “appointed jurisdiction” and the company

and directors will submit to non-exclusive jurisdiction of the court of these jurisdictions; and

4. fees equivalent to the applicable annual fee of the company.

The company must also file a copy of the certificate of re-domiciliation issued by the Hong Kong Companies Registry with the Bermuda Registrar within 30 days of its issuance. Upon receipt of the certificate of re-domiciliation, the Bermuda Registrar will issue a certificate of discontinuance indicating that the company has ceased to be an exempted company registered in Bermuda and will not be subject to the Bermuda Companies Act (1981) unless otherwise specified. The certificate of discontinuance must be then submitted to the Hong Kong Companies Registry within 120 days of the date of issue of the certificate of re-domiciliation to complete the re-domiciliation process in Hong Kong.

Effects of re-domiciliation

The company will be considered a company incorporated in Hong Kong from the date of re-domiciliation. Under the Hong Kong Companies Ordinance, the re-domiciliation will not create a new legal identity and all contracts, resolutions, functions, property, rights, privileges, obligations or liabilities that are owned, acquired or incurred by the company before re-domiciliation will not be affected after re-domiciliation.

The company must also comply with all requirements and filing obligations under the Hong Kong Companies Ordinance, including filing of an annual return before a prescribed deadline. Specifically, charges created by the company or charges on property acquired by the company before the re-domiciliation must be registered with the Hong Kong Companies Registry within one month of the date of issue of the certificate of re-domiciliation. Companies should therefore revisit their transactions to identify charges which are registrable under the Hong Kong Companies Ordinance even where these charges may not be registrable in the company's place of original domicile. Additionally, all companies, including those re-domiciling from jurisdictions that do not require companies to have a company secretary, will also be required to appoint a Hong Kong company secretary upon re-domiciliation pursuant to the Hong Kong Companies Ordinance. Although Bermuda companies generally already have a company secretary, the Hong Kong company secretary must either be a natural person ordinarily reside in Hong Kong or a body corporate with its registered office or place of business in Hong Kong.

Tax treatment of re-domiciled companies

Generally, the re-domiciliation process itself will not impact the company's tax obligations in its original domicile or in Hong Kong. However, there may be implications on the tax residency of the company given the change of place of incorporation. In each case specific tax advice should be sought.

Under Hong Kong tax law, unilateral tax credits are also available for re-domiciled companies (subject to certain requirements) to eliminate double taxation where the company is liable to pay tax in its original domicile that is of a similar nature to profits tax in Hong Kong for the re-domiciliation year or any subsequent year of assessment. Again, in each case, specific tax advice should be sought.

Other considerations

The registration status of a non-Hong Kong company registered under Part 16 Hong Kong Companies Ordinance applying to be re-domiciled to Hong Kong will cease to be effective upon re-domiciliation. However, registered non-Hong Kong companies will be allowed to retain their company names and business registration numbers.

In the case of insurance companies authorised under the Insurance Ordinance (Cap. 41 of the Laws of Hong Kong); and authorised institutions, holding companies of authorised institutions and approved money brokers

under the Banking Ordinance (Cap. 155 of the Laws of Hong Kong), approval from relevant Hong Kong and Bermuda authorities must be obtained before making a re-domiciliation application.

About Charltons

Charltons is one of Hong Kong's leading firms focused on corporate finance legal practices. Our firm provides comprehensive re-domiciliation services to successfully transition your company from its original jurisdiction to Hong Kong. We can manage the entire process—from preparing all requisite documentation and handling the Hong Kong registration to ensuring compliant deregistration in the BVI, Cayman Islands, Bermuda or other jurisdictions where the company is originally domiciled.

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