

Hong Kong Bill

[AS INTRODUCED]

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THE SINO-BRITISH JOINT DECLARATION AND HUMAN RIGHTS

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B I L L

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Place requirements on the Government relating to the Sino-British Joint Declaration 1984 and human rights in Hong Kong; to make provision about immigration for Hong Kong residents including granting rights to live in the United Kingdom; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE SINO-BRITISH JOINT DECLARATION AND HUMAN RIGHTS

1 Reports on the Sino-British Joint Declaration 1984

- (1) The Secretary of State must lay before Parliament reports on how and to what extent the Sino-British Joint Declaration of 1984 (“the Declaration”) has been observed and implemented. 5
- (2) Reports under this section must—
 - (a) state whether there have been any changes in observation or implementation of the Declaration since the previous report was laid or, in the case of the first report, since this section came into force; and 10
 - (b) declare whether there has been any breach of the Declaration and, if so—
 - (i) what breach or breaches have taken place, and
 - (ii) in the case of every such breach and collectively, whether such breaches are minor or serious in nature. 15
- (3) In making a declaration under subsection (2)(b), the Secretary of State must consider all Articles of the Declaration and provisions under all its Annexes and, in particular, whether—
 - (a) a high degree of autonomy is enjoyed by the Hong Kong Special Administrative Region; 20
 - (b) independence of the judiciary is enjoyed by the Hong Kong Special Administrative Region;

- (c) the power of final adjudication remains with the judiciary of the Hong Kong Special Administrative Region;
- (d) the rights and freedoms of the person, of speech, of the press, of assembly, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief are ensured by law; and 5
- (e) the rights to private property, ownership of enterprises, legitimate right of inheritance and foreign investment are protected by law.
- (4) A report under this section must be laid before the end of each successive period of six months beginning with the day on which this section comes into force. 10
- 2 Duty to consider sanctions under the Sanctions and Anti-Money Laundering Act 2018**
- (1) The Secretary of State must consider whether it is appropriate in relation to the Hong Kong Special Administrative Region of the People’s Republic of China to exercise each of the powers to make regulations conferred by the sections of the Sanctions and Anti-Money Laundering Act 2018 listed in subsection (2). 15
- (2) Those sections are –
- 1(1)(c) and (3)(b) (purposes of sanctions regulations); 20
 - 3(1)(a) and (d)(i) (financial sanctions);
 - 4 (immigration sanctions);
 - 9(2)(a) (designated persons);
 - 10(2)(a) and (c), (3) and (4) (designation powers: general);
 - 11(2) to (9) (designation of a person by name under a designation power); 25
 - 15(2)(a) and (b), (3), (4)(b), (5) and (6) (exceptions and licences);
 - 16 (information);
 - 17(2) to (5) and (8) (enforcement);
 - 21(1) (extra-territorial application); 30
 - 54(1) and (2)(a) (regulations: general);
 - 56 (transitory provision);
 - 62(4) and (5) (definitions).
- (3) The Secretary of State must, no later than three months after this section comes into force, lay before Parliament a report setting out what plans the Secretary of State has to bring forward regulations under each of the sections listed in subsection (2). 35
- 3 Human rights and trade agreements**
- (1) Her Majesty’s Government may not enter into any trade agreement with the Hong Kong Special Administrative Region of the People’s Republic of China unless – 40

- (a) the human rights report condition is met, and
 - (b) the Parliamentary approval condition is met.
- (2) The human rights report condition is that the Secretary of State has laid before Parliament a report about—
- (a) the human rights situation in the Hong Kong Special Administrative Region, and 5
 - (b) the human rights implications of the proposed trade agreement.
- (3) The Parliamentary approval condition is met if—
- (a) both Houses of Parliament have passed motions of the form in subsection (4), and 10
 - (b) a period of 40 days or more days passed between the laying of the report under subsection (2) and the passing of the motion in each House.
- (4) The form of the motion is—
- “That the [title of report], laid before this House on [date], be approved.” 15

PART 2

IMMIGRATION

4 Extension of British National (Overseas) status

- (1) The Secretary of State must, on an application made for the purpose, register as a British National (Overseas) any person who is a permanent resident of Hong Kong. 20
- (2) The Secretary of State must, on request, issue to a British National (Overseas) a certificate of entitlement on behalf of the Government of the United Kingdom duly certifying that they have the right of abode in the United Kingdom. 25

5 British National (Overseas) status: entitlement to residency

- (1) Section 2 of the Immigration Act 1971 (statement of right of abode in United Kingdom) is amended in accordance with subsections (2) and (3).
- (2) After subsection (1)(a) insert—
 - “(aa) “he or she is a British National (Overseas)”.30
- (3) In subsection (2), after “relation”, insert—
 - “to British Nationals (Overseas) who have the right of abode in the United Kingdom by virtue of subsection (1)(aa), and”.
- (4) The Immigration Rules, as laid before Parliament under section 3(2) of the Immigration Act 1971, are amended as follows. 35
- (5) After paragraph 12 (proof of right to abode) insert—

“12A A person claiming to be a British National (Overseas) must prove they have the right of abode in the United Kingdom by producing a certificate of entitlement duly issued by or on behalf of the Government of the United Kingdom certifying that they have the right of abode.”

- (6) In paragraph 23B (leave to enter for a period not exceeding six months), omit “a British National (Overseas)”. 5

PART 3

REMAINING PROVISIONS

6 Judicial review

The Secretary of State’s exercise of powers and functions conferred under this Act are amenable to judicial review. 10

7 Financial provisions

There is to be paid out of money provided by Parliament –

- (a) *any expenditure incurred by the Secretary of State by virtue of this Act, and*
 (b) *any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money so provided.* 15

8 Interpretation

In this Act –

- “the Sino-British Joint Declaration of 1984” and “the Declaration” both mean the Joint Declaration of the Government of the United Kingdom and the Government of the People’s Republic of China on the Question of Hong Kong which was signed in Beijing on 19 December 1984; 20
- “permanent resident of Hong Kong” means a permanent resident of the Hong Kong Special Administrative Region according to Article 24 of Chapter III of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China. 25

9 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
 (2) This Act comes into force on the day on which it is passed.
 (3) This Act may be cited as the Hong Kong Act 2020. 30

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Ordered, by The House of Commons, to be
Printed, 25th February 2020.

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