

## NOTICE OF COMMITTEE STAGE AMENDMENTS

### THE IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

In accordance with the provisions of Standing Order 52(1) and (2), I the Honourable Premier and Minister for Home and Community Affairs, give notice to move the following amendments to the Immigration (Amendment) (No. 2) Bill, 2013.

That the Bill be amended as follows:

- (a) in clause 5, at section 15, by inserting after subsection (3) the following subsection-

“(3A) At a hearing on grounds under subsection (1) the Immigration Appeals Tribunal shall apply the Law that is or was in effect at the time of the Board’s or the Chief Immigration Officer’s decision”;

- (b) in clause 7, at section 18, by repealing subsections (1) and (2) and substituting the following subsections-

“(1) Decisions made under or by virtue of sections 7, 14, 15 and 16 shall be deemed to be administrative and not judicial decisions.

(2) Where the Board or the Chief Immigration Officer rejects an application either in whole or in part, it or he, if requested shall give the applicant brief reasons for that rejection and inform him of his rights under section 15.”.

- (c) in clause 15, at section 30(1), by deleting the words “The following persons who have been and are” and substituting the words “Any person who has been, and is,”;

- (d) in clause 25, at section 38(1)(f), by deleting the words “Mental Health Law, 2013” and substituting the words “Mental Health Law (1997 Revision)”.
- (e) in clause 31(b), at section 48, by deleting the word “and” at the end of subparagraph (i) and inserting after subparagraph (ii) the following subparagraphs-
  - “(iii) in paragraph (f) by inserting after the word “Board” the words “or the Chief Immigration Officer”; and
  - (iv) in paragraph (j) by deleting the words “section 52(1) and (20)” and substituting the words “section 52(1) and (14)”; and
- (f) in clause 34, at section 52-
  - (i) by deleting subsection (4) and substituting the following subsection-
 

“(4) Subject to subsection (5), where a person is eligible to apply, and has applied, for permission to reside permanently in the Islands under section 30 during the currency of a work permit, a Term Limit Exemption Permit or whilst working by operation of law under section 52A(11) he may apply to the Chief Immigration Officer for permission-

    - (a) to continue working on the same terms that applied to the work permit, the Term Limit Exemption Permit or those that applied to his working by operation of law; or
    - (b) to work for a different employer but in the same occupation as that in which he was authorised to work at the time of making the application,

and such permission may be granted or renewed until such time as his application or any appeal arising from it is determined.”;
  - (ii) in subsection (6) by deleting “52A(12)” and substituting “52A(11)”;
  - (iii) in subsection (10)(v) by deleting “52A(12)” and substituting “52A(11)”;
  - (iv) by inserting after subsection (16) the following subsection-
 

“(17) Subsection (16) does not apply to a person who, prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 was a key employee and who-

- (a) ceased to be a key employee after the end of his seventh year but before becoming eligible to apply for the right to reside permanently under section 30; and
  - (b) at the commencement of that Law was no longer residing in the Islands.”.
- (g) in clause 35, at section 52A, by repealing paragraph (d) and substituting the following paragraph-

“(d) by repealing subsection (11) and substituting the following subsections-

“(11) The holder of a Term Limit Exemption Permit on the cut-off date may continue to work by operation of law on the same terms and conditions until 9<sup>th</sup> December, 2013, but prior to doing so he shall comply with the requirements of section 52(6).

(12) Where the employer of the holder of a Term Limit Exemption Permit applies for the grant of a work permit in respect of that worker prior to the expiry of the Term Limit Exemption Permit on the cut-off date or while the worker is working by operation of law under subsection (11) the worker shall be entitled to continue working on the same terms and conditions as applied to his Term Limit Exemption Permit until the outcome of the application and any subsequent appeal.”;

- (h) in clause 37, at section 56, by repealing paragraph (a) and substituting the following paragraph-

“(a) by repealing subsection (3) and substituting the following subsections-

“(3) Subject to subsection (3A), where during the currency of a work permit an application has been made to the Board or the Chief Immigration Officer for the grant or renewal of a work permit with the same employer for a period to commence immediately upon its expiration, then if such application-

- (a) has not yet been determined by the Board or the Chief Immigration Officer; or
- (b) has been refused by the Board or the Chief Immigration Officer and that refusal has been appealed under section 15 to the Immigration Appeals Tribunal,

notwithstanding the fact that the original work permit has expired, it shall not be an offence for the worker to continue to be engaged in gainful occupation of the same kind and on the same terms and conditions of the original work permit while he awaits a notification of the determination of his application or his appeal, save that no worker shall be entitled to work under the provisions of this subsection beyond the date of his term limit unless he is a worker applying under the provisions of section 52(10).

(3A) Paragraph (b) of subsection (3) shall not apply where the original work permit was a temporary work permit unless the application for the grant of a work permit was made before the commencement of the Immigration (Amendment) (No. 2) Law, 2013.”; and

(i) in clause 39, at section 114, by inserting after subsection (6) the following subsection-

“(7) For the avoidance of doubt where an appeal to the Immigration Appeals Tribunal was made prior to the commencement of the Immigration (Amendment)(No. 2) Law, 2013, the procedure governing the making and determination of such an appeal shall be that which is in effect after the commencement of that Law, but the appellant shall have a period of sixty days from the commencement of that Law in which to file detailed grounds of appeal as required by section 15(6) and if no written submissions are received by the Tribunal during such period it may proceed to determine the appeal without further notice being given to the appellant.”.

MOVED BY:

The Honourable Alden McLaughlin, MBE, JP.,  
Premier and Minister for Home and Community Affairs

RECEIVED in the Office of the Clerk this      day of      ,  
2013.

PASSED/REJECTED by the Legislative Assembly this      day of  
, 2013.

Clerk of the Legislative Assembly.