

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2009
REVISION) TO PROVIDE IMMIGRATION AND EMPLOYMENT
INCENTIVES TO CERTAIN INVESTORS AND THEIR DEPENDANTS;
AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE IMMIGRATION (AMENDMENT) BILL, 2010

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Immigration Law to provide inducements that would attract potential investors to do business in the Cayman Islands.

Clause 1 recites the short title.

Clause 2 amends section 2 of the principal Law by inserting new definitions.

Clause 3 amends section 30 to exclude the holder of a Certificate of Direct Investment and his dependants from eligibility to apply for permanent residence.

Clause 4 introduces the new sections 37A and 37B to provide for the acquisition and revocation of the Certificate of Direct Investment, respectively.

THE IMMIGRATION (AMENDMENT) BILL, 2010

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Immigration Law (2009 Revision) – definitions
3. Amendment of section 30 – persons legally and ordinarily resident in the Islands for at least eight years
4. Insertion of sections 37A and 37B – acquisition of Certificate of Direct Investment; revocation of Certificate of Direct Investment

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE IMMIGRATION LAW (2009 REVISION) TO PROVIDE IMMIGRATION AND EMPLOYMENT INCENTIVES TO CERTAIN INVESTORS AND THEIR DEPENDANTS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Immigration (Amendment) Law, 2010. Short title

2. The Immigration Law (2009 Revision), in this Law referred to as the “principal Law”, is amended in section 2 by inserting in their appropriate alphabetical sequence the following definitions - Amendment of section 2 of the Immigration Law (2009 Revision) - definitions

““employment generating business” means business in which at least thirty per cent of the total number of employees are Caymanians;

“substantial management control” means control exercisable by the applicant by virtue of his being a director on the Board of Directors of each business entity in which he has invested or will be investing;”.

3. The principal Law is amended in section 30(1)- Amendment of section 30 – persons legally and ordinarily resident in the Islands for at least eight years
 - (a) by deleting the word “or” at the end of paragraph (b);
 - (b) by inserting after paragraph (b) the following paragraph-

“(ba)the holder of a Certificate of Direct Investment or a Certificate of Direct Investment Holder’s (Dependant’s) Certificate; or”.

Insertion of sections 37A and 37B – acquisition of Certificate of Direct Investment; revocation of Certificate of Direct Investment

4. The principal Law is amended by inserting after section 37 the following sections-

“Certificate of Direct Investment of 37A. (1) A person who has a personal net worth in the prescribed amount and who-

- (a) has made or proposes to make, an investment equal to or greater than the minimum prescribed amount in any licensed employment generating business or businesses in the Islands, whether already existing or a new venture, and in which he does or will exercise substantial management control;
- (b) has a substantial business track record or an entrepreneurial background, including specific professional, technical and other knowledge relevant and necessary to carry on the pertinent business or businesses;
- (c) can prove that his personal net worth meets the minimum prescribed requirements; and
- (d) can prove-
 - (i) that he has available to him and under his personal control funds to the value of the proposed investment amount; or
 - (ii) that he has already invested the minimum prescribed sum of money in a licensed employment generating business in the Islands,

may apply to the Chief Immigration Officer for a Certificate of Direct Investment but such Certificate shall not confer any right to a licence under the Local Companies (Control) Law (2007 Revision) or the Trade and Business Licensing Law (2007 Revision).

(2007 Revision)

(2007 Revision)

(2) Where the Chief Immigration Officer is satisfied that-

- (a) the applicant and his spouse (where applicable) have a clean criminal record;
- (b) the applicant, his spouse and dependent children (where applicable) are in good health and possess adequate health coverage; and
- (c) the applicant has provided satisfactory evidence with respect to subsection (1),

he may, taking into account the views of the Department of Commerce and Investment, issue an Approval-in-Principle Certificate of Direct Investment valid for six months.

(3) Where before the expiry of the Approval-in-Principle Certificate of Direct Investment the applicant can demonstrate that he has made the investment proposed and has obtained all required licences, then the Chief Immigration Officer may, upon receipt of the prescribed fees, and having taken into account the views of the Department of Commerce and Investment, issue a Certificate of Direct Investment valid for twenty-five years renewable on application and at the discretion of the Chief Immigration Officer.

(4) Where a Certificate has been issued under subsection (3) the holder is required to submit to the Chief Immigration Officer audited financial statements and details of the employment that has been generated at the end of the second and fifth year of his investment and at any time thereafter upon request by the Chief Immigration Officer.

(5) A Certificate issued under subsection (3) shall entitle the holder-

- (a) to reside in the Cayman Islands; and
- (b) to work in the business or businesses in which he has invested for the purpose of obtaining the Certificate in an occupation or in occupations approved by the Chief Immigration Officer.

(6) The spouse and dependent children (where applicable) of the holder of a Certificate of Direct

Investment shall be granted a Direct Investment Holder's (Dependant's) Certificate, the holder of which is permitted, subject to this section, to reside in the Cayman Islands.

(7) Upon the death of the holder of a Certificate of Direct Investment or upon the dissolution of the marriage, the right of the dependant spouse to reside in the Islands may be revoked at the discretion of the Chief Immigration Officer but the said surviving spouse may within a period of three months of any revocation apply for the grant of a Certificate of Direct Investment upon satisfying the requirements of this section.

(8) Where an application for a Certificate of Direct Investment has been made within the said period of three months from the date of the revocation, the applicant's right to reside in the Islands shall continue upon the same terms and conditions until the Chief Immigration Officer determines the application.

(9) The right of a dependant child to reside in the Islands as a dependant shall cease upon completion of his full time tertiary education or when he reaches the age of twenty-four years, whichever happens earlier, unless the Chief Immigration Officer is satisfied that there are special circumstances.

(10) Where there is a change in the number of children who are dependants of the holder of a Certificate of Direct Investment or where he marries, divorces subsequent to the issue of the Certificate, or changes his occupation within the business or businesses, he shall so inform the Chief Immigration Officer of the fact and the Chief Immigration Officer may amend the Certificate accordingly and subject to such conditions as he may, in his absolute discretion, determine.

(11) When paying the prescribed fee the holder shall also submit a declaration signed by him confirming that-

- (a) he has provided to the Chief Immigration Officer audited financial statements pertaining to his investments at the

- required intervals;
- (b) he maintains the prescribed level of investment;
- (c) none of his business licences has been revoked;
- (d) he was physically present in the Islands for a minimum of ninety days in aggregate in the preceding calendar year; and
- (e) the business or businesses are complying with the prescribed employment generating requirements.

Revocation of
Certificate of Direct
Investment

37B. The holder of a Certificate of Direct Investment may at the discretion of the Chief Immigration Officer have his right to reside in the Islands revoked if-

- (a) he fails to provide audited financial statements pertaining to his investments at the required intervals or when requested by the Chief Immigration Officer;
- (b) he fails to maintain the required prescribed level of financial investment;
- (c) any of his business licences has been revoked;
- (d) he was not physically present in the Islands for a minimum of ninety days in aggregate in any calendar year;
- (e) the business or businesses in which the investments are made cease to be employment generating;
- (f) he fails to pay the prescribed fees in respect of himself or his dependants; or
- (g) in the opinion of the Chief Immigration Officer, any of the matters referred to in section 38(1)(a) to (j) apply to the holder or his spouse.”.

Passed by the Legislative Assembly the day of 2010.

Speaker.

Clerk of the Legislative Assembly.